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NOTES

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Manning 5/5/80

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SHM8001

Trial Testimony of
Sheldon Manning
May 5, 1980

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Educational Background p. 1983	Sheldon Manning, the deponent, graduated with a B.S. Degree in Commercial Chemistry from Pennsylvania State University in 1943.
Employment Background p. 1983	After graduating from Pennsylvania State University, Manning worked for Hooker Electro-Chemical Company in Niagara Falls, New York for approximately 3 years. Manning then worked for a brief period as a truck driver for George Weaver in Harrisburg. From 1947 until 1961, Manning worked as a chemist for Bethlehem Steel Corporation in Steelton, Pennsylvania.
Employment Background in Industrial Hygiene pp. 1982-1984	From September of 1961 until February 1967 Manning was employed by the Pennsylvania Department of Health as an industrial hygienist. While with the Pennsylvania Department of Health Manning took a course in January of 1962 entitled "Fundamentals of Industrial Hygiene," which course was given by the U.S. Public Health Service. From March 1967 until February 25, 1974 Manning worked at the Long Beach Naval Shipyard as the shipyard industrial hygienist. Manning did not have any previous training or education in the field of industrial hygiene before he began working for the Pennsylvania Department of Health.
Discussions With Employers Prior To Beginning Duties as Industrial Hygienist at the Long Beach Naval Shipyard p. 1984	Before he went to the Long Beach Naval Shipyard, Manning was interviewed by Naval personnel at the Long Beach Naval Shipyard. During the course of the interviews that took place there were no discussions about the staff that would be supplied to Manning. Manning was led to believe that he would be the only industrial hygienist at the shipyard. This, in fact, proved to be the case when Manning began work.
Predecessor of Manning at the Long Beach Naval Shipyard pp. 1984-1985	Manning's predecessor in the position of industrial hygienist at the Long Beach Naval Shipyard was a man named Bill Marr. Marr had left this position in the Fall of 1964. There had not been a hygienist at the shipyard from the Fall of 1964 until Manning began work in March of 1967.
Industrial Hygiene Equipment pp. 1985-1986	When Manning began work at the Long Beach Naval Shipyard there was no equipment that was of any use to him as an industrial hygienist. However, there was a collection of instruments in the custody of the

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Industrial Laboratory such as an antiquated noise instrument and an electrostatic precipitator. Neither of these instruments were in proper working order or of any use to Manning. Manning requested equipment so that he might conduct dust studies, which studies he was not able to conduct until July of 1968, a little over a year after he arrived at the shipyard.

Frequency of Dust Studies
p. 1986

Manning took dust samples and conducted dust studies as frequently as his other duties would permit. Depending on what ships were in the shipyard, Manning tried to focus on the "rip-out" procedure, which procedure posed the greatest danger to workers.

Records Left by Marr
p. 1987

When Manning began work at the Naval shipyard, no records concerning Marr's work were provided to him for the period during which Marr had been the industrial hygienist. During the period that Manning was the hygienist, he accumulated records of the dust studies and his findings.

Percentage of Time Spent on Asbestos as a Hazard
p. 1987

Manning spent approximately 10%-15% of his time as an industrial hygienist at the Long Beach Naval Shipyard working with asbestos as a health hazard.

Wet Down Procedures
p. 1987

When Manning began work as the industrial hygienist at the naval shipyard, he inspected the pad shop and found that hoses and equipment to wet down asbestos cloth were installed but were not being used. Manning notified his superiors and thereafter asbestos cloth was dampened before it was cut or fabricated.

Memorandum Drafted By Manning and Directed to His Superior, Commander Jose Smith
pp. 1987-2001

After Manning had been the industrial hygienist at the Long Beach Naval Shipyard for several years, he drafted a memorandum directed to his superior, Commander Jose Smith, which memorandum was dated June 30, 1970. This memorandum was basically an official navy request for further assistance in his job as industrial hygienist. The memoradum recounts some of the history of what is referred to as the billet or the position of industrial hygienist as it existed at the Naval shipyard. Manning points out that the program, since its inception, has always been run by one man without any secretarial help and/or very little equipment and that the time [illegible]

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officers that the hygienist deals with seemed to lack an understanding of what the program was all about. It was Manning's understanding that the industrial hygienist's billet had been abolished for some period of time after Bill Marr left and prior to when Manning began his duties as the industrial hygienist. Several portions of the memorandum were read in court which portions Manning was asked to respond to. When Manning began his work as the industrial hygienist at the naval shipyard he was confronted with an empty desk, filing cabinet, bookcase and storage space. There were no technical journals and no reference books of any kind. Many documents had in fact been thrown out. The equipment that was in storage at the Quality Control Laboratory was either broken, obsolete or otherwise of no value to the program. Reference books and journals were acquired through the library and after some delay necessary equipment was slowly acquired. No secretarial help was supplied on a regular basis. The medical officers required that all reports be delivered verbally and that they be able to clear all actions taken by the industrial hygienist. Manning requested that he be allowed to write up clear, concise written reports such that any health hazard might be properly evaluated and that the person receiving the report could properly understand it. Manning felt the program was effectively surpressed by this and other tactics and that the medical officers did not really want an industrial hygienist except for window dressing. Manning also felt that the medical officer had no respect or interest in the program and would summarily dismiss the industrial hygienist at the slightest provication. Manning also made certain requests and recommendations in this memorandum. He requested a promotion, a secretary, additional staff and, in case he ever left, that some continuity in the position should be maintained. Prior to the time when he wrote this memorandum, Manning had requested the assistance of a pharmacist, which request had not been responded to. The memorandum further pointed out that a number of environmental health people had been hired by other Navy shipyards. Manning suggested that he be relieved of some of his duties such as writing the quarterly report

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for the medical director. He also requested a private telephone, a budget and some control over it and that he be allowed to attend the Annual Conference of the American Industrial Hygienist Association and training courses offered by the Navy, universities and other agencies in the industrial hygiene field. He also sought to pin down the aims and goals of the Industrial Hygiene Program through communication with shipyard personnel.

Competition for Work at Naval Shipyards
p. 2001

During the period that Manning worked at the Long Beach Naval Shipyard he was not aware of any competitive basis between the various Naval shipyards for work at the shipyards.

Navy Order 5100
pp. 2001-2002

Manning did not recall when Navy Order 5100 was issued which order stated that asbestos should not be used any further on Navy ships.

Navy Order Requiring Insulators and Pipecovers to Wear Special Clothing
pp. 2002-2004

In 1969 a communication came from NAVSHIPS that required all pipecovers and insulators to be issued clean coveralls every day. There were some difficulties in implementing this order because of the expense involved and because of the fact that Captain Chapman and Frank Neese doubted the value of this particular measure. Captain Chapman was the production officer and Frank Neese was the group superintendent of a mechanical group of which pipe coverers and insulators were a part. Despite this opposition this measure was substantially accomplished sometime in 1971, approximately a year and a half after the original communication was received.

Differential Pay Plan for Those Exposed to Asbestos Dust
p. 2004

Around 1970, a plan for differential pay was developed for those exposed to asbestos dust. Manning recommended this plan, which plan was implemented and is still in effect.

Education Program
pp. 2004-2005

When Manning began work he implemented an educational program and gave lectures on a periodic basis to pipe coverers and insulators. The first indoctrination course was given in February of 1968 and the second in the summer of 1971. The second indoctrination course was directed to all foremen, the first line supervisors in the shipyard and was concerned with the dangers of asbestos. There were two courses given in

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1972, probably the Spring and the Fall. The last course was given in November of 1973. There was a directive that these indoctrination courses be given twice a year. However, there was some resistance to taking men of the job and Manning had other duties to perform that restricted his time. Sessions increased as the situation became more critical. It would be fair to assume that the shipyard management did not want the workers taken away from their work schedule for these training sessions.

Records Left By Manning p. 2005

When Manning left his job as industrial hygienist at the Long Beach Naval Shipyard in February of 1974, he left files indicating the efforts he had made during the seven years he had been at the Naval shipyard.

Manning's Replacement pp. 2005-2006

A replacement for Manning was not hired before he left. Eventually James Unmack was hired as an industrial hygienist at the shipyard.

Cross-Examination by Norby

Dust Counts Conducted by Manning/Generally pp. 2006-2007

While employed as an industrial hygienist at the Long Beach Naval Shipyard, Manning had occasion to run dust counts in various areas, including the pad shop. From 1968 until 1971 these dust counts were performed by use of the midget impinger collection method. The standard that Manning was measuring dust counts against was 5 million particles per cubic foot of air.

Comparative Study of Dust Counts in the Pad Shop Before and After Renovation pp. 2007-2013

Sometime during either 1968 or 1969, renovation work was done to the pad shop. The ceiling was lowered in the pad shop to below the rafters so that the rafters would not act as a dust collection location and allow dust to be redistributed in the air. Additional ventilation was not added at that time.

Certain questions were directed to Manning with respect to a comparative study he made of dust counts conducted by him before and after the renovation of the pad shop. One chart in the study was broken down into various categories. The first category was layout, marking, cutting of 80% asbestos

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cloth. Manning obtained a reading of .7 million particles per cubic foot of air as against the standard of 5 million particles per cubic foot of air. The reading obtained after the renovation was .26. The second category indicated on the chart was sewing asbestos cloth. The dust count reading obtained before renovation was 1.0. The figures obtained after renovation were .30, .08 and .14. A third category indicated on the chart was trimming asbestos cloth. The pad shop fabricated insulation that was similar to pillows. Fibrous glass was covered by asbestos cloth, pieces of cloth were sewn together and the edges were cut oversized. The excess amount of cloth would have to be trimmed off the edges by a cutter. The cutter was a cylinder type cutter that the workers would run over the material and the revolving blade would cut the asbestos cloth. The cutter was either electrical or airpowered. The dust count reading in the trimming asbestos category before renovation was .8, the reading obtained after renovation was .25. The final category was cutting fabric with glass blanket and filling pads. The reading obtained before renovation was .1, and after it was .32.

Certain categories of evaluation were made of different activities engaged in by the insulators, which categories were reflected in a chart in the comparative study compiled by Manning. One of the categories was rip-out. The range of fiber reading on the rip-out activity was .85 to 51.0. The average was 5.3. On the installation activity, the range was .62 to 4.0 and the average was 1.9; and for the installation of prefabricated pads, asbestos cloth, fiberglass, plastic foam and asbestos cement activity the range was .17 to .70 the average being .36. Another activity was transportation of materials going to and from the worksite, coffeebreak and similar activities. Manning didn't take reading with respect to these activities but concluded that there was no exposure during these activities. Manning recommended the replacement of asbestos with substitute products as a result of the dust counts

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obtained during this study. Manning generally found that rip-out was far and away the heaviest dust producer.

Captain Barboo
p. 2014

Sometime in the Spring of 1969, Captain Barboo visited the Long Beach Naval Shipyard. At that time he was a Commander and was with the environmental health section in the Bureau of Medicine and Surgery. His office was in Washington, D.C.

Cross-examination by Steinberg

Questions Regarding Numbers Contained In Charts In Comparative Study Undertaken By Manning
pp. 2015-2016

The numbers previously discussed all referred to millions of particles per cubic foot of air. In addition, the particles referred to are gross particles in the air.

Standard of 5 Million Particles per Cubic Foot of Air
pp. 2016, 2018, 2019

The standard of 5 million particles per cubic foot of air that Manning used when conducting his study is now an outmoded standard and has been so probably since 1970. The standard that is currently used is the exact number of asbestos fibers per milliliter of air. This standard reflects fiber size as well. The standard that replaced the outmoded 5 million particles standard was 12 fibers per cubic centimeter of air, 5 microns or longer. This count was reduced to 10 fibers per cubic centimeter of air, then 5 and finally 2 fibers per cubic centimeter of air. The reason for the change in the standards to reduce the numbers of fibers that occurred over this period of time was that evidence indicated that these standards were not adequate to protect the working man in the workplace because of the appearance of asbestosis and cancer in these people.

Midget Impinger Method
pp. 2017-2018

A midget impinger is made out of glass. Ten milliters of water are put in the bottom of the impinger and a measured rate of surrounding air is pulled through a tube into the impinger by means of a suction pump. The air bounces off the bottom of the impinger and is pumped out of the machine. There is a point at which there is no movement when the air is in the impinger and particles in the air are trapped in the fluid. The sample with the measured amount of air having been drawn in

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is taken and counted within 24 hours. A 1 cc sample of the fluid taken out of the impinger is put into a Sedgewick rafter cell with a cover plate. This cell is exactly 1 millimeter in depth and the particles in the fluid placed in the cell are allowed to settle for a period of 30 minutes. The cell is then put under a microscope and the particles are counted using what is known as a whipple disk. A whipple disk is a grid configuration. When the cell is observed through the microscope, one counts the particles that you can see inside each square of the grid configuration of which there are 25.

Education Program
pp. 2019-2021

The educational program that took place in February of 1968 involved two sessions in the morning of the first day, each about an hour and half in duration. On the following day a repeat session was given in the morning to those people who were not present the day before, such as the night shift and any absentees. This was the only session that Manning participated in or knew of that was given to pipecovers and insulators.

Respirators
pp. 2021-2028

There were some limitations on the ability of workmen to use respirators. The respirators were reported to be highly uncomfortable. In warm weather they were hot and sweaty. A good part of the time it was hot in the engineering spaces and firerooms below decks of the ships where the men worked. Based on his education and experience with respirators, Manning believes that respirators cannot be totally depended upon as a device to protect workers from airborne contamination in the working environment. It is the opinion of people in the industrial hygiene field that respirators can only be depended upon for short periods of time in an emergency situation until proper engineering or other controls can be installed. Respirators can also cause some resistance to breathing. After being worn for a period of time, respirators cause respiratory fatigue. Many times workers would rather put up with the contamination rather than wear a respirator. With older people who might already have respiratory problems, wearing of respirator might possibly induce a heart attack. In 1972 mask type respirators became

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available at the shipyard. Mask type respirators were better accepted by the employees and offered less resistance to breathing. They were issued every day and were therefore relatively clean. The opposite was true with respect to the old type respirators which people had to carry in their tote bag. It was also very difficult to keep the replaceable pads clean in the older respirators. Mask type respirators were issued every day with clean coveralls and were more available and acceptable to the worker.

Work Performed By Manning at the Naval Shipyard Not Related to Asbestos
pp. 2028-2029

As part of his duties as the industrial hygienist at the Longbeach Naval Shipyard Manning dealt with other contaminants besides asbestos. He also wrote the quarterly medical report, installed earplugs and did simple routine tests on urine. In addition, Manning responded to all types of requests that came his way that might be related to his work. Part of Manning's responsibility included dealing with the noise problem by taking noise readings.

Awareness of Warning Labels on Containers of Asbestos-Containing Insulation Products at the Shipyard
pp. 2029-2030

From time to time Manning observed containers of asbestos-containing insulation products at the shipyard. In 1971, perhaps 1972, Manning noticed containers for asbestos-containing thermal insulation products that were supplied by J-M and observed a caution or warning label on these containers. The product in question was Thermobestos. Manning had observed Thermobestos product containers at the shipyard prior to 1971 and did not recall seeing a caution or warning label on these products at that time.

Assistance of Asbestos Product Manufacturers in Educating Employees About the Health Hazard Posed By Asbestos Exposure
pp. 2030-2033

Manning never had any assistance in educating any of the people at the shipyard about the asbestos health hazard from any asbestos product manufacturer, including J-M and/or Raybestos-Manhattan. No manufacturer of asbestos insulation products ever came to the shipyard to monitor asbestos dust levels or what was being told to the workers at the shipyard. Mr. Reitze came to the shipyard on one occasion as part of a group that Manning called the Selikoff group. Dr. Selikoff himself was not there. However, Dr. Hammond, Dr. Nickerson and Duncan Holaday accompanied Mr. Reitze. These gentlemen took a tour of the shipyard and observed some of the

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shipyard insulation applications. No recommendations were made by these people at that time.

Re-direct Examination by Haight

Visit By Selikoff Group p. 2033	When the Selikoff group visited the Long Beach Naval shipyard everyone was warned about the impending visit and cleaned up their act.
NAVSHIPS Instruction 5100.26 pp. 2033-2034	NAVSHIPS instruction 5100.26 contains a series of recommendations for the control asbestos dust. Manning recognized this document as an official Navy directive that came out on or about the date indicated on the directive.

Recross Examination by Norby

Testing of Asbestos Cloth Under the Newer Standard of 5 Fibers Per Cubic Centimeter pp. 2034-2038	After the 5 fiber per cubic centimeter standard was adopted, Manning had occasion to perform tests on asbestos cloth under the new standard. Manning's deposition of February 28, 1979 refers to a testing operation done with respect to application of asbestos cloth on an open deck. The asbestos cloth was not wetted during this application procedure. The results of tests performed indicated .4 and .3 fibers per millimeter of air. This figure was compared to the then existing either 12 or 5 fibers per millimeter of air standard. These levels were not taken on a time-waited average. If they had been taken on a time-waited average, they would have been less. Manning also took readings during cleanup and rip-out using the standard of 5 fibers per millimeter. The terms of millimeter and centimeter for all intents and purposes are interchangeable. Manning also had occasion to run some tests using the standard on cleanup in a fire room. Operators exposure during cleanup in the No. 2 fireroom is 23.8 fibers per millimeter. The general air 12 feet away from that situation was 4.9. The operators exposure when removing pipecovering from a fire room was 17.2 fibers per millimeter. The general air 15 feet away from this reading was 8.6. Operators exposure during rip-out and cleanup of the No. 3 fireroom was 9.0. The machinists exposure in the same area was 6.9. The general air 8 feet from this location was 3.2. None of these figures are

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on a time-waited average. If they were on a time-waited average the figures would be lower.

Recross Examination by Steinberg

Validity of Dust Count Figures pp. 2038-2039

For that particular time and that particular place and condition, the dust count figures obtained were fairly valid figures. Conditions aboard ship varied considerably and depending on what was happening, what the ventilation was and the workman's methods. The results obtained might vary widely from dust count to dust count.

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SHM8001 MR. HAIGHT

Sheldon Manning 003-0002177

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 4 HON. EARL F. RILEY, JUDGE

FILE COPY

RICHARD J. HOGARD,

Plaintiff,

vs.

JOHNS-MANVILLE PRODUCTS CORPORATION, Etc., et al.,

Defendants.

No. C 137 466

REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

Monday, May 5, 1980

APPEARANCES:

(See Volume 1)

VOLUME NO. 15

Pages 1925 - 2073, Incl.

COPY

DIANA R. GRACE, CSR #1672

and

THELMA A. ROBERTS, CSR #785

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539 - Memorandum dated 6-30-70	1987
540 - NAVSHIPS Instruction 5100.25	2033

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safety inspectors.

MR. NORBY: I have nothing further.

MR. HAIGHT: Nothing further, Your Honor.

THE COURT: Mr. Steinberg.

MR. STEINBERG: Nothing further.

THE COURT: Thank you, sir. You may step down.

THE WITNESS: Thank you, sir.

MR. HAIGHT: Your Honor, Mr. Sheldon Manning, would you take the stand.

SHELDON H. MANNING,

called as a witness by the defendant Johns-Manville, was sworn and testified as follows:

THE CLERK: Would you please state and spell your name for the record.

THE WITNESS: My name is Sheldon H. Manning, M-a-n-n-i-n-g.

THE CLERK: Would you spell your first name.

THE WITNESS: S-h-e-l-d-o-n.

DIRECT EXAMINATION

BY MR. HAIGHT:

Q Mr. Manning, during the period of time in the Sixties and Seventies did you work at the Long Beach Naval Shipyard?

A Yes.

Q What were the years that you worked there?

A I worked from early March, 1967, to February 25,

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1974.

Q All right. And what was your position at the shipyard?

A I was industrial hygienist for the shipyard.

Q Now, before you went to the Long Beach Naval Shipyard you had other occupations; is that correct?

A Yes.

Q What was your background in industrial hygiene before you went to the shipyard?

A I was employed by the Pennyslvania Department of Health as industrial hygienist.

Q What years?

A From September, 1961, till February, 1967.

Q And did you have any previous training, education, in the field of industrial hygiene before you went with the Pennsylvania Department of Health?

A No.

Q What education did you complete, college?

A I graduated with a B.S. degree in commercial chemistry from Pennsylvania State University in 1943.

Q And without going into detail, between 1943 and 1961 can you just briefly sketch your occupations?

A I worked for Hooker Electro-Chemical Company, Niagara Falls, New York, for approximately three years. A brief period I worked for a George Weaver concern in Harrisburg as a truckdriver. From 19 -- early 1967 -- beg your pardon. From early 1947 till 1961 I worked as a chemist for Bethlehem Steel Corporation in Steelton, Pennsylvania.

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Q All right. Did you take any special courses in industrial hygiene when you went with the Pennsylvania Department of Health?

A Yes.

Q What courses did you take?

A I took a course entitled "Fundamentals of Industrial Hygiene" that was given by the U.S. Public Health Service. I attended that in Pittsburgh in January of 1962.

Q All right. Let me move ahead to 1967.

Before you went with the Long Beach Naval Shipyard, were you interviewed by persons in the shipyard or with the Navy?

A Yes.

Q And didyou have any discussions during that interview process about the staff that you would be supplied?

A No.

Q What was your understanding of your staff support that you would received as industrial hygienist, or did you have any?

A It wasn't discussed. I was led to understand that I would be, at the time, the only industrial hygienist there.

Q And when you arrived in March of 1967, you were the only industrial hygienist there?

A Yes.

Q Your predecessor had been whom?

A Bill Marr.

Q And did you learn that he had left sometime in

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the fall of 1964?

A Yes.

Q And had there been a hygienist at the shipyard between the fall of 1964 and when you went there in March of 1967?

A No.

Q What type of equipment were you supplied with or provided with when you arrived at the shipyard?

A There was nothing -- nothing there that was of any use to me.

Q Did you have any equipment to take dust samples?

A No.

Q And was there any testing equipment whatsoever when you arrived?

A There was a collection of instruments in storage. I think they were in custody of the industrial laboratory and I found there was nothing at all there that was of any use.

There was, for instance, an antiquated noise instrument that was broken and later it was discovered by somebody that Bill Marr had left an electrostatic precipitator stored somewhere in the pad shop, and that was delivered to me sometime after I arrived, and this was not a useful instrument regarding dust.

Q All right. Did you make requests for equipment, so you could do the dust study?

A Yes.

Q How long after you arrived did you receive that

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equipment?

A. I finally was set up to count dust sometime approximately in July of 1968.

Q. So it was a little over a year after you arrived that you did get the equipment to take dust studies; is that correct?

A. That's true.

Q. And did you begin taking dust studies at that time?

A. Yes.

Q. How frequently did you take them?

A. Well, as frequently as time would permit. I, of course, had to find out where the work was. I tried to concentrate on the worst problem, which was ripout, where the insulation was removed, and this was a sporadic thing depending on what ships came into the shipyard and what the schedule was; and over a period of time I took quite a number of samples, I would say in a period of about nine months, analyzed them and counted them. And, of course, there were other duties interspersed.

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12A

Q When you arrived were there any records provided to you from Mr. Marr's period showing what he had done or what dust samples or readings he had obtained?

A No, there was nothing.

Q And did you, during your tenure as the hygienist, accumulate records or make records rather of your dust studies and your findings?

A I did.

Q What percentage of your time did you spend on asbestos as a hazard?

A Approximately 10, 15 percent.

Q When you first arrived, do you recall if there were any wet-down procedures going on in the various areas?

A When I arrived, I inspected what is known as the pad shop or the laggers' shop and I found installed hoses and equipment to wet down asbestos cloth but it wasn't being used, and I pointed this out to the management, and this was rectified and from that point on the cloth was dampened and wet down before it was cut or fabricated.

Q After you were there for several years -- and I'm in the area of 1970 -- did you draft and direct a memorandum to your superior, Commander Jose Smith?

A Yes.

Q And that was dated June 30, 1970?

A That is correct.

MR. HAIGHT: Your Honor, could we have a number? I think it is 539, as I recall.

539

THE COURT: 539 is right.

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Q BY MR. HAIGHT: I show you exhibit 539 and ask you if you recognize that as a memorandum you directed to Commander Smith?

A Yes.

Q And was that a request for further -- that was an official Navy request for further assistance in your job?

A That is true.

Q And in that memorandum you recounted some of the history of what I think you referred to as a billet; is that correct?

A I did.

Q You pointed out that since the inception, the program has always been run by one man without any secretarial help or very little equipment?

A That's true.

Q And the three medical officers seem to lack an understanding of what the program should be?

A Yes.

Q You go through Mr. Bessmer, who was the first hygienist, and Mr. Sheehan, who followed him, and then you discuss Mr. Marr; is that correct?

A Yes.

Q And referring to Mr. Marr, you say -- and this was after Mr. Sheehan -- "The billet was not filled for some time but in 1958 Bill Marr was recruited from the Navy gun factory in Washington, D.C., and served until the end of 1964. His program lacked support, with little equipment and no secretarial help. He did manage to alert supervisors and

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PC and I" --

What is PC and I?

A Pipe coverers and insulators.

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Q Thank you.

"-- employees to the hazards associated with the inhalation of asbestos dust. Control measures were put in effect that for years were the most effective in the Navy. He completed an extensive survey on asbestos and wrote a paper on the subject. He was one of the first men in the field to recognize the seriousness of the hazard. The lack of appreciation of his contribution in this field by management can be judged by the fact that when a great conference of experts from all over the world reported their findings on the effects of asbestos at the American Academy of Science in New York City in 1964, the safety director attended and the shipyard expert stayed home. Bill Marr left the shipyard soon after this and transferred to the Canal Zone Government where at long last he was promoted to GS-12 rating --"

MR. STEINBERG: Your Honor, may I interrupt. I am not sure this is a question; and if it is, I would like to approach the bench.

MR. HAIGHT: This is his official report, and I am just reading --

MR. STEINBERG: Just a minute, counsel.

MR. HAIGHT: All right. Let's go to the bench.

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I am sorry, Your Honor.

THE COURT: Bring it with you.

(The following proceedings were held at the bench:)

MR. STEINBERG: A lot of it is hearsay. Whether he wrote it or didn't write it, I think that a lot of the material contained in there, this man has no personal knowledge of. A lot of it is opinion. And I think we are entitled to know what he is going to use out of that document in the form of a question so that we have an idea what is proper to come in and what isn't proper to come in.

Just because it is in his report doesn't mean it is all admissible.

MR. HAIGHT: Your Honor, it is an official Navy request, official Navy memorandum, that this man authored. I am not going to read the whole thing. I am going to read the part that relates to Mr. Marr and probably that would take us down to the middle of that paragraph.

MR. STEINBERG: I don't know --

MR. HAIGHT: If I may, let me finish.

THE COURT: Let him finish.

MR. STEINBERG: I am sorry.

MR. HAIGHT: After that I am going to generalize the fact that he requested some secretarial help, a promotion and some changes in the program, and also pointed out the number of hygienists present in the other shipyards around the country.

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That is the extent I am going to use at this time.

We have a procedure here whereby the exhibits are identified and marked but are not shown to the jury, and --

MR. STEINBERG: That's right.

MR. HAIGHT: I think it is the only way to get it to the jury and then develop the questions from it, is to read this report and then go into the questions that will lead off of this reading.

It has been done by all of us; and I submit it is about the only way you can do it where the man has a written report and made complaints.

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MR. STEINBERG: Well, Your Honor, I don't think we have all done it. What we have done is framed questions based upon what was in the documents. The documents have not been shown to the jury. And to the extent that questions we have framed call for objectionable hearsay or other objectionable material, those questions have been objected to and I assume the objections have been properly sustained.

Here we have got a procedure whereby he wants to take the whole report under the guise of asking a question, read the whole report to the jury, where there may be material in there that is not admissible. I haven't had a chance to review the entire document. I am generally familiar with it. Right now I am stumbling to find it.

In the meantime, Mr. Haight is up there reading off the whole document which contains inadmissible hearsay.

MR. HAIGHT: Well, I submit it is not hearsay when it is part of an official Navy request. He is here. You can cross-examine him on the basis of his report, and that is a proper way to go.

MR. STEINBERG: But to the extent that he talks about what Marr did or didn't do, we have got Marr's testimony under oath; and he has already -- some of that stuff is already in error. Marr wasn't even there in 1964. So I don't think that we can really use this witness's report as any factual basis. And to the extent that he is describing things that he was told or heard, I don't think that is admissible. It is hearsay, even though it is contained in some document he prepared. Just because he puts it into a written form and sends it to his

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superior doesn't mean that is the truth.

MR. HAIGHT: I think where it is an official Navy memorandum requesting action and it is in this man's handwriting that this is the way you get it in. If some of it is based on hearsay, you can certainly develop the basis of that. But it is still admissible. It doesn't cease to be admissible when it is in part of the official naval report. And that is what we are dealing with.

MR. NORBY: He is employed by the United States Navy.

MR. STEINBERG: There is nothing in the Code that permits inadmissible hearsay to come in evidence just because somebody put it in some kind of official report. It is subject to exclusion. Now, all I am saying is that I don't have any objection to this going into evidence if it contains relevant and material information and is not subject to other exclusionary rules, such as hearsay. I just object to counsel trying to get it in this way by just reading it in the form of a question when it calls for hearsay answers. That is all I am objecting to.

THE COURT: It is five minutes to 12:00 right now. Why don't I send the jury to lunch. Why don't you show him specifically what you want to read and then let's take a specific thing, and we will take that up after lunch as to what specific areas that he wants to object to.

MR. HAIGHT: Okay.

(The following proceedings were held in open court in the presence of the jury:)

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THE COURT: Why don't you take your lunch break. 1:30, please.

(At 11:55 a.m. a recess was taken until 1:30 p.m. of the same day.)

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THE COURT: All right, Mr. Haight.

MR. HAIGHT: Thank you.

SHELDON H. MANNING,

resumed the stand and testified further as follows:

DIRECT EXAMINATION (Resumed)

BY MR. HAIGHT:

Q Mr. Manning, let me refer back to this report. On page 2 -- and I'm going to have to stand here because this is my only copy.

I'm going to read this and see if that's an accurate statement of your report.

MR. STEINBERG: Counsel, may I inquire which report you are referring to?

MR. HAIGHT: 539, the one we were talking about this morning. Okay?

MR. STEINBERG: Just a moment.

MR. HAIGHT: I'm going to start at "The present industrial hygienist."

MR. STEINBERG: Okay.

Q BY MR. HAIGHT: (Reading:)

"The present industrial hygienist reported aboard 6 March 1967 to be confronted by an empty desk, filing cabinet, bookcase and

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storage space."

Incidentally, had the position been vacated, to your knowledge before you -- had it been abolished before you took it over?

A It was my understanding that the industrial hygienist billet had been abolished for some period of time after Bill Marr left.

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15

Q So between the time Mr. Marr left and you took the job the position had been abolished, to your understanding?

A Yes.

Q All right.

(Reading:)

"There were no collection of back issues of technical journals, no collection of reference books and nothing in the files to indicate past industrial hygiene activity. The dispensary had passed through a traumatic experience of going from a military to a civilian basis, and everything was taken or thrown out. After all, the billet was abolished. Some equipment was in storage at the quality control laboratory but proved to be broken, obsolete or otherwise of no value to the program and later most of it was returned. Reference books and subscriptions and journals were acquired through the library and after some delay the most necessary equipment was slowly acquired over a period of two years."

Is that what occurred in that time frame?

A Yes.

Q (Reading:)

"No secretarial help was supplied on a regular basis; none would be needed. It was the medical officer's wish that all reports be delivered verbally; all actions were to be

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cleared by him."

Was that your instruction at that time?

A Yes.

Q (Reading:)

"The most valuable service that an industrial hygiene program can render is the recognition, evaluation and control of health hazards at the work site. This is to be reported to cognizant supervision in a clear, concise written report that may be of a technical nature with enclosed data. The written report allows the recipient to refer to it later and offers less chance for misunderstanding. The program was effectively suppressed by this and other tactics. It was the feeling of the incumbent that the medical officer did not really want an industrial hygienist except for window dressing, had no respect or interest in the program and would summarily dismiss the industrial hygienist at the slightest provocation."

Did you so report?

A Yes.

Q All right. Now, after that you made some requests for -- some recommendations; is that it?

A Yes.

Q The first one was for a secretary, as I understand it?

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A Yes.

Q And then you asked for a promotion to, I think it was, GS-12?

A Yes.

Q The third was that you be given some additional staff; correct?

A Yes.

Q What staff did you request at this time? Do you remember?

A I probably requested another industrial hygienist.

Q Did you suggest that should you be disabled or lured away by a better offer there should be some continuity in the position?

A Yes.

Q Incidentally, had you previously made a request for some assistance in that position? Did you ask for a pharmacist, or did they offer to supply you with one?

A Yes, there was a request possibly within the year prior to writing that.

Q Within a year after or before?

A Before.

Q All right. Had they responded to that?

A Not up till that time, no.

MR. HAIGHT: Now, Counsel, I am on page 7, paragraph D in the middle, starting with "Following."

"Following is a list of the number of environmental health people hired by other shipyards in the Navy from the membership roles

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of the Navy Industrial Hygiene Association -- "

MR. STEINBERG: Your Honor, the plaintiff will object to that as irrelevant.

THE COURT: Overruled.

Q BY MR. HAIGHT: And I'm going to read these. I'll start at the bottom --

MR. STEINBERG: May I interrupt you, Mr. Haight?

For the purpose of continuity, may it be understood the question pending before the noon recess was withdrawn?

MR. HAIGHT: Yes.

THE COURT: Yes.

Q BY MR. HAIGHT: These are the number of environmental health people hired by other shipyards in the Navy and you get this by looking at the membership rolls of the Navy Industrial Hygiene Association?

A Yes.

Q (Reading:)

"Philadelphia, one; Hunters Point, two; Boston, two; Norwalk, three; Charleston, four; Mare Island, four; Portsmith, five; Puget Sound, five; Pearl Harbor, seven."

Is that correct?

A Norfolk. I think you said "Norwalk."

Q It is Norfolk; Norfolk?

A Yes. That's a mistake.

Q Thank you.

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You suggested you be relieved of some of the duties, such as writing the quarterly report for the medical director?

A. Yes.

Q. You'd like to have a private telephone; correct?

A. Yes.

Q. You'd like to have a budget and some control over it?

A. Yes.

Q. You'd like to attend the annual conference of American Industrial Hygienist Association every year?

A. Yes.

Q. You would like to be sent to training courses offered by the Navy, universities, and other agencies in industrial hygiene?

A. Yes.

Q. And you'd like to have some communication within the shipyard as to what the aims and goals of the industrial hygiene program were?

A. Yes.

Q. To your knowledge, while you were there at Long Beach, was there a competitive basis between the various Navy shipyards for the work?

Do you have any knowledge of that?

A. No, not really.

Q. All right. Now, sometime while you were there, a Navy order -- I think it was 5100 -- came out indicating that asbestos should not be used further on Navy ships; is

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that correct?

A. I believe there was an order in some period to this effect.

Q. Do you have any recollection when that order was issued?

A. No.

Q. You stayed there until, I think you said, February of 1974?

A. Yes.

Q. And had that order been issued some months or years before you left?

A. I'm not -- Without reading it, I'm not too familiar with that particular order. I don't know whether it was issued before or after I left.

Q. I see.

A. I don't know.

Q. All right. Now, around 1970 there was an order to use special clothing for the insulators and pipe coverers; is that correct?

A. In 1969 I think there was communication from, I believe, the NAVSHIPS that required all pipe coverers and insulators to be issued coveralls, clean coveralls every day.

Q. And was there any difficulty in implementing that order?

A. Yes.

Q. And what was the reason for that?

A. My best recollection is that it was the expense

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involved and certain people doubted the value of this particular measure.

Q Who were the people that doubted the value of the method?

A I recall that production officer, Captain Chapman, and it is my belief it came -- I obtained knowledge that Captain Chapman and Frank Neese were going to oppose this particular measure.

Q Who was Frank Neese?

A He's the group superintendent, 930 , a mechanical group, and he was the top of the supervision that contained Shop 56, in which the pipe coverers and insulators were a part.

Q Despite this opposition, was this substantially accomplished?

A Yes.

16af

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16a

Q How long after the initial order?

A I believe that came about sometime in 1971.

Q Two years later, approximately?

A Yes. It might have been a year and a half later.

Q Now, at some point around 1970 did they develop a plan for differential pay for those exposed to asbestos dust?

A Yes.

Q And did you recommend this pay differential on behalf of the asbestos workers?

A I did.

Q And did they receive it?

A Yes.

Q How long did that last, to your knowledge? Was it still going on when you left the shipyard?

A It was.

Q Now, you had an education program there. When you started did you give periodic lectures and education programs to the pipe coverers and insulators?

A This was done on a sporadic basis and the first indoctrination was performed in, I believe, February of 1968; and later, the next indoctrination course was in 1971 in the summer, and this was an indoctrination of all the foremen, the first-line supervisors in the shipyard, about the dangers of asbestos. And following this, there were two sessions given in 1972, probably the spring and fall; and the last session was given in possibly November of 1973.

17f

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Q Was there some directive over this time period that you would give these directions and instructionsand programs twice a year?

A Yes.

Q And what was the reason you did not give them twice a year?

A Well, it was a question of initially there was some resistance to bringing -- taking men off the job. Time-wise, I had other things to do. These sessions increased as the situation became more critical, I believe.

Q Well, is it a fact that the shipyard management did not want the workers taken away from their work schedules for ~~these training sessions?~~

A This would be a fair assumption, yes.

Q And you had no capacity to order them to such a meeting without the support of the shipyard management?

A I did not.

Q You left in February of 1974; is that correct?

A That's correct.

Q And at the time that you left did you leave files indicating the effort that you had made in the almost seven years that you were there?

A I left all my files there.

Q And you also left your equipment there?

A Yes.

Q Was your replacement hired before you left?

A No.

Q Do you know who your replacement was?

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A Yes.

Q Who was it?

A James Unmack.

MR. HAIGHT: I have nothing further at this time, Your Honor.

THE COURT: Mr. Norby.

MR. NORBY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. NORBY:

Q Mr. Manning, during the time you were at the Long Beach Naval Shipyard did you have occasion to run dust counts in various areas?

A Yes.

Q And did any of those dust counts take place in the pad shop?

A Some of them.

Q And elsewhere, also?

A Yes.

Q And the dust counts were performed with what kind of unit, Mr. Manning?

A Well, in 1968 to '70, or actually into '71 we used the midget impinger collection method --

Q At that time -- excuse me.

A -- for collecting the dust.

Q Okay. At that time what standards were you measuring dust counts against, Mr. Manning?

A The standard was 5 million particles per cubic

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foot.

Q And at one time was there some renovation during the period '68, '69 -- was there some renovation work done to the pad shop?

A Yes.

Q And did you participate in a study of the tests of the dust counts before renovation and after renovation?

A Yes.

Q Mr. Manning, you recall in your deposition we photocopied some of your records?

A Yes.

Q I am going to place in front of you an exhibit to the deposition of Sheldon Manning, Volume 1, taken February 27, 1979; and I am going to refer to page 24 and ask you if that's a, albeit poor, copy of the comparative study you made of dust counts before and after the renovation?

A Yes.

Q First of all, can you tell us when the renovation work was done in the pad shop?

A It was done, I think, sometime in 1969, probably early in '69.

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Q Okay. The chart is broken down into various categories; is that correct?

A Yes.

Q And the first category is what, Mr. Manning?

A It says, "Layout, Marking, Cutting of 80 Percent Asbestos Cloth."

Q Can you tell me what reading you obtained on that before the renovation work was done?

A 0.7 million particles per cubic foot of air.

Q And that is as against the standard of 5 million particles per cubic foot; is that correct?

A Yes.

Q What type of renovation work was done in the pad shop?

A I think the most -- Most of the work was just lowering the ceiling in the pad shop below the rafters, so that the rafters were not a source of where dust could collect and be redistributed in the air. I think this was the most -- what the renovation amounted to.

Q Was any ventilation added at the time, additional ventilation?

A I don't think so, no.

Q And was ventilation, additional ventilation, ever added to the pad shop, Mr. Manning?

A No.

Q What was the reading after the renovation?

A It was 0.26.

Q Again, without repeating it, every time we are

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referring to a reading it is based on the same standard of 5 million particles per cubic foot; is that correct?

A. Yes.

Q. And, incidentally, in the pad shop from time to time you took other dust counts than are simply represented by this chart; is that correct?

A. There were other dust samples taken. I believe that the samples after renovation were all the samples I took in the pad shop up until the time this was published, were in these figures.

I suspect there were samples taken before, yes, before this happened; and they are all here, yes.

Q. Are other samples that you may or would have taken generally consistent with your ideas of the figures in this chart?

A. Oh, yes.

18f

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Q The pad shop was fairly constant and it stayed about the same. Is that a fair statement?

A Yes.

Q Okay. Now, what is the second category that you dealt with, Mr. Manning?

A Sewing asbestos cloth.

Q And what was the before rating on that?

A The before figure is 1.0.

Q And what were the after figures?

A There's three figures there, 0.30, 0.08, and 0.14.

Q Then there is another -- your third category is what?

A Trimming asbestos cloth.

Q What does that mean, Mr. Manning?

A The pad shop fabricated insulation that could be -- it was similar to pillows. There was padding inside.

It consisted of, at the time I was there, fibrous glass and covered by cloth that was asbestos cloth. These were sewn together and when they were cut, they were cut oversized; and after they were sewn together, there was an excess amount of cloth that needed to be trimmed off, and that was trimmed by a cutter, and this is what we are talking about here.

Q What was used to cut the cloth or trim it?

A A cutter. It was a cylinder-type cutter that they would just run over the material and the revolving blade cut the cloth.

Q Was it powered or --

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A Powered, yes, electrical power -- or it might have been air-powered. It could have been either one.

Q What was the reading for trimming asbestos cloth before renovation?

A 0.8.

Q And what was the reading after renovation?

A 0.25.

Q Now, there's another category saying, "Cutting fabric with glass blanket and filling pads," is that correct?

A Yes.

Q And what was the reading for renovation?

A 0.1.

Q And after?

A It is 0.32.

Q Now, were there some categories of evaluation made --

I'm turning to page 25.

-- some evaluations made of varying activities engaged in by insulators?

A Yes.

Q And are we now looking at a chart that reflects the various categories of activities?

A Yes.

Q And is ripout one of those categories?

A Yes.

Q And would you tell me what the range was of fiber readings on ripout activity?

A The range was 0.85 to 51.0.

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Q And the average?

A Was 5.3.

Q On the installation, what was the range?

A The range was 0.62 to 4.0.

Q And the average?

A Was 1.9.

Q And installation of prefabricated pads, asbestos cloth, Fiberglas, plastic foam, and asbestos cement, what was the range?

A The range was 0.17 to 0.70.

Q And the average?

A Was 0.36.

Q In addition, there's a category down here marked "Transportation of Materials Going To and From the Work Site, Coffee Break and Similar Activities"?

A I consider that there was no exposure during that time.

Q Did you take a reading or did you just consider there was no exposure?

A I didn't take a reading.

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Q I think I asked you, but did you say -- were there any other renovations besides what you already told us about?

A No, not that I can recall.

Q Was there a time when a saw was removed from the pad shop?

A Yes. There was a saw placed in there for cutting preformed insulation on occasion and it was removed.

Q One of your recommendations, I believe read by Mr. Haight, was the replacement of substitute products as part of the program.

A Yes.

Q And was there some difficulty with Fiberglas for awhile being a substitute for high temperature insulations?

A In your question you are referring to the utlization of the product?

MR. NORBY: Yes, that's correct.

MR. STEINBERG: Objected to, Your Honor, as being beyond this witness's expertise, no foundation.

Q BY MR. NORBY: Do you have any expertise in the areas of these uses?

A I have no expertise in the utilization of the products.

Q Okay. Generally speaking, at the shipyard, in your investigation of dust and conducting dust studies, did you generally find that ripout was far and away the heaviest dust producer?

A Yes.

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18a2

Q Did Captain Barboo, B-a-r-b-o-o, ever visit the Long Beach Naval Shipyard?

A Yes, he did.

Q Can you tell us when?

A He made a visit sometime in the spring of 1969.

Q Do you know what his position was with the Navy? Or was it with the Navy or was he a civilian?

A At the time he was a commander. He was with the environmental health section in the Bureau of Medicine and Surgery.

Q Where was his office?

A His office would have been in Washington, D.C.

MR. NORBY: That's all I have.

THE COURT: Mr. Steinberg.

MR. STEINBERG: One moment, Your Honor.

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THE COURT: Excuse me one second. Did you want to mark that chart that you were reading from?

MR. NORBY: No. My copy is pretty illegible. I would like to mark it if I could -- may I substitute a copy, try to get a better copy? I would like that marked as an exhibit.

THE COURT: Any objection?

MR. STEINBERG: No objection to being marked, Your Honor.

THE COURT: Okay. We will mark that 1009.

1009id MR. NORBY: Thank you, Your Honor.

THE COURT: All right, Mr. Steinberg.

CROSS EXAMINATION

BY MR. STEINBERG:

Q Mr. Manning, while we are discussing the parts Mr. Norby has shown you, do you have those in mind?

A Yes.

Q You testified to some numbers; right?

A Yes.

Q And I think you mentioned that the number is supposed to stand for so many particles per cubic foot; is that correct?

A Per cubic foot of air.

Q Of air. And when you mentioned the number four, for example, on installation of molding insulation, 15 percent asbestos products, was that supposed to be four million?

A That would be four million particles per cubic foot of air.

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Q When you mentioned the number 51, does that mean 51 million particles per cubic foot of air?

A Yes.

Q And the particles you are talking about are just gross particles in the air?

A Gross particles.

Q Now, Mr. Norby asked you about a standard that you were using at that time; and you told us, I believe, that it was a standard of 5 million particles per cubic foot of air?

A Yes.

Q It is a fact, is it not, that that is now an outmoded standard?

A Now it is an outmoded standard, yes.

Q In fact, it has been an outmoded standard since about 1972; isn't that correct?

A It had been an outmoded standard before that, I think.

Q At least 1972?

A Yes.

Q 1970 probably sounds closer to it?

A Yes.

Q Now the standard that is used is the exact number of asbestos fibers per milliliter of air; is that correct?

A That is correct.

Q It includes the fiber size as well?

A Yes.

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Q Now, in 19 -- When did you take these readings? I am sorry.

A The readings there were taken in the summer of 1968 till around early 1969.

Q And at that time you were using, I believe you told us, a midget impinger?

A For our collection device.

Q Those are just a couple of words to me. Would you tell us what you mean by midget impinger?

A A midget impinger is a device that's made out of glass; and the principle of the thing is that a measured amount of water is put in the bottom of the impinger, ten milliliters, and through a suction pump a measured rate of flow is allowed of the surrounding air, is pulled through the impinger; and this is pulled down through a tube. And the air then bounces off the bottom of the impinger. And when the air bounces off the bottom, there is a point at which there is no movement. It stops and goes back.

At this point the particles that are in the air are entrapped in the fluid. And then the air, minus the particles, is pulled through a pump.

19af

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19A

Q Is there some way of then measuring the particles that are drawn?

A Yes. This sample with the measured amount of air having been drawn through it is taken and counted within 24 hours. The method is to put generally a one cc sample of fluid in the impinger in what is known as a Sedgwick rafter cell with a cover plate. Now, this is a cell that is exactly 1 millimeter in depth and the fluid is allowed -- the particles are allowed to settle in this 1 millimeter for a period of 30 minutes. Then the cell is put under a microscope and microscopically counted using what we know as a Whipple disc, which is --

Q A Whipple disc?

A Yeah, a Whipple disc, which is a grid configuration; and the way they do this is look through the microscope and count the particles that you can see inside of each square, and there are 25 small squares. That way you come up with a total count.

Q Are you sure there was no shorter answer to that question?

A You asked the question.

Q All right. Well, in that procedure that you have outlined was there any -- I take it there was no way of measuring the number of asbestos fibers per given volume of air; is that correct?

A We did not count asbestos fibers. We counted gross count.

Q Okay. But since then the standard has been changed a couple of times, hasn't it?

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19A.2

A Yes.

Q And the standard included a count of 12 fibers per cubic centimeter of air, 5 microns or longer; is that correct?

A Yes.

Q And that has been reduced to 10 fibers per cubic centimeter of air?

A That went from there to 5.

Q Then it went from there to 2?

A To 2. And now the standard is much lower.

Q And what is the reason for the reduction of these standards? Strike it.

What was the reason for the change in the standards to reduce the numbers over a period of time?

A Well, the evidence that these standards were not adequate to protect the working men in their work place because of the appearance of asbestosis and cancer in these people. That exposure is far less and for shorter periods of time than the prior standards were set to protect people.

Q Now, Mr. Manning, you indicated that there was some kind of an education program after you came to the shipyard in 1967, I believe you said; is that correct?

A I came aboard on March 7, 1967.

Q You mentioned a program that took place in February of 1968. Do you recall that one?

A Yes.

Q And that involved one day or was it a half a day?

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A We called in the pipe coverers and insulators, and my best recollection is there were two sessions in one morning, about an hour and a half in duration. And the following day in the morning we gave a presentation to the people who were not there the day before, such as the night shift and the ones absent, et cetera.

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20.1

Q. All right. That lasted for what, an hour or two, something like that?

A. I think the sessions lasted about an hour and a half each.

Q. And it is true, is it not, that between the period 1966 and 1970 you don't recall any other sessions given to pipe coverers and insulators, other than the one that occurred in February of 1968; is that correct?

A. That was the only one I participated in and the only one I know of.

Q. And I assume in the session that you mentioned the advisability of respirators was again mentioned?

A. Yes.

Q. However, it is true, is it not, that there were some limitations on the ability of the workmen to use respirators; is that correct?

A. Yes.

Q. The fact is you knew at the time that they were reported highly uncomfortable?

A. Yes.

Q. In warm weather they were hot and sweaty; is that correct?

A. Yes.

Q. And the fact is in the engineering spaces and fire rooms below decks of the ships, where the men worked, it was always hot; is that correct?

A. A good part of the time it was hot. Of course, we have cool weather in the winter here in Southern California, but

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there was a good bit of heat.

Q The respirators that were used had a good deal of resistance to breathing; is that correct?

MR. HAIGHT: Your Honor, might we approach the bench on that?

THE COURT: All right.

(The following proceedings were held at the bench:)

MR. HAIGHT: My purpose in requesting this, Your Honor, is we have not developed other cases in this lawsuit, other cases of asbestosis in litigation, and it just occurred to me that this particular witness is a client of Mr. Steinberg's and has a claim for asbestosis.

I have asked Mr. Steinberg to caution him not to mention it, but to sit here and allow Mr. Steinberg to take leading cross-examination of his own client seems a little bit beyond the rules of evidence.

I don't mean that I should have raised it earlier, but --

MR. STEINBERG: He's not my witness.

MR. HAIGHT: I know, but he is your client. Is that correct, he is your client?

MR. STEINBERG: He is my client, yes.

MR. HAIGHT: And I think under those circumstances I would ask for the court to instruct counsel to limit himself to direct questions.

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MR. NORBY: Not leading.

MR. STEINBERG: I repeat, he's not my witness and he was called here as an adverse witness, hostile to the interests which I represent in this particular case, and I think under the circumstances I am entitled to cross-examine him.

Just because I happen to represent him, I don't think that means that I can't cross-examine him in this particular case when he's called as an adverse witness.

THE COURT: There is no question about you can cross-examine him, but I just don't think -- I think he ought to be cautioned he is not to talk about his own litigation.

MR. STEINBERG: I have done that.

MR. HAIGHT: We have done that. I am not concerned about that. I am concerned about leading questions to his own client, Your Honor.

I have not had the capacity to talk to this man. We have not done so, although, candidly, he did call us some time ago and offered to confer at length and we declined the invitation, pointing out he was represented by counsel.

But I still feel -- under these circumstances to allow counsel to lead him I submit is not within the rules of evidence and I request a declaration that he is not an adversary witness as far as Mr. Steinberg is concerned.

Cross-examination is proper, but I object to the leading questions and I think that is something that can't be done here. I am correct. I'll go get the book if

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20Rax

you want me to.

THE COURT: Only lead him part way. Okay?

MR. NORBY: That's a Solomon-like ruling.

MR. STEINBERG: I don't know how to do that.

MR. HAIGHT: I'll help you.

20af

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20A

(The following proceedings were held in open court in the presence of the jury:)

MR.STEINBERG: Is there a question pending?

THE COURT: Yes.

MR. STEINBERG: I'll withdraw that question.

Q Mr. Manning, do you have an opinion as to the workability of respirator programs?

A Yes.

Q What is that?

A Well, it is my feeling, based on my education and experience with respirators, that respirators cannot be depended on as a device to prevent -- cannot be depended on totally as a device to protect workers from airborne contamination in their environment.

Q Why?

A Well, first of all, it has been the experience of people who are knowledgeable in industrial hygiene that respirators can only be depended upon for short periods of time in an emergency situation until proper engineering or other controls can be installed.

Respirators could cause some resistance to breathing. After they are worn for some length of time, the type you are talking about, and then used, the disposable replaceable pad type, there was resistance to breathing.

After they were worn for a period of time, they caused respiratory fatigue; and after that happened, people,

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20A.2

the workmen, simply wouldn't wear them. They would rather put up with the contamination, unless there was something that was irritating, and in that case they would get out of it.

In a case of a nonirritant, like asbestos, they would rather accept the risk than put up with the respirator fatigue and all the nuisance that was connected with wearing respirators. The fact is with older people who have already had respiratory problems maybe and had maybe some beginning heart problems, the wearing of a respirator might possibly induce a heart attack among other things.

My feeling is people, being people, don't like to be muzzled. They resist it. It is the same as a dog doesn't want to be muzzled and neither does a person.

Q Were you at the shipyard when the mask-type respirators became available?

A Yes.

Q About when did that occur; do you recall?

A That happened, I think, in 1972.

Q There seemed to be some more acceptability of the use of respirators with the mask-type respirator being available?

A Yes. I felt that these were better accepted. I saw more of them being worn. They offered less resistance to breathing.

They were issued every day and, therefore, were relatively clean, the opposite being true of the other situation where people carried respirators in their tote bag

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20A.3

and out on the piers, and they became dirty and filthy.

The replaceable pads, it was very difficult to keep them clean; and when you are working in an environment like these people were, why, the respirators themselves become dirty and filthy, and the replacement pads might become filthy.

In the case of the replaceable mask, they were issued every day with the coveralls and they were available more often if needed, and they were acceptable to the worker and, therefore, were better.

21

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21

Q Mr. Manning, you had some other responsibilities at the shipyard when you were there other than asbestos; is that correct?

A Yes.

Q And it was your job to deal with other contaminants that presented themselves in the shipyard?

A Yes.

Q What did they include?

Let me withdraw that question.

How much of your time was spent dealing with asbestos problems?

A I testified about 10 or 15 percent.

Q Was the rest of your time concerned with other contaminants at the yard?

A Contaminants as well as other duties. I early wrote the quarterly report. I installed earplugs. I did simple routine tests on urine. I responded to all requests that came my way for things that involved my work and looking into contamination of various kinds and various complaints. It might even involve a dead cat, which really wasn't my problem; but I would get the complaint and respond.

Q Was there a problem out there at the shipyard with noise levels?

A Very large problem.

Q And were there noise level readings to be taken?

A Many noise readings to be taken.

Q Was that part of your responsibility?

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A That's right.

Q Did that take up a good portion of your time?

A It did.

Q Now, did you from time to time observe containers of asbestos-containing insulation products at the shipyard?

A Yes.

Q And did you from time to time observe those containers from the standpoint of seeing whether or not they contained any warnings?

MR. HAIGHT: Your Honor, this is beyond the direct.

MR. STEINBERG: Well, I will take him as my own witness.

THE COURT: All right.

MR. STEINBERG: I am not leading.

MR. HAIGHT: Just as long as you declare it.

THE COURT: Go ahead, Mr. Steinberg.

THE WITNESS: I observed the containers and in passing would probably see if there were any warnings.

Q BY MR. STEINBERG: And did you notice any containers for asbestos-containing thermal insulation products that were supplied by the Johns-Manville Company?

A Yes.

Q And did you at some time observe a caution or warning label on one of their containers?

A Yes.

Q And do you know when you first observed that in the shipyard?

A About '71, possibly '72.

Q Did you observe -- Strike that.

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Was that a Thermobestos product?

A Yes.

Q And did you observe Thermobestos product containers at the shipyard in the years prior to 1971?

A Yes.

Q And did you observe any caution or warning labels on those products?

A If I did, it doesn't stick in my memory.

Q '71 is about the first time you noticed it?

A Yes.

Q Mr. Manning, did you ever have any assistance in educating any of the people at the shipyard regarding the asbestos health hazard from any asbestos product manufacturer, including Johns-Manville or Raybestos-Manhattan?

A No.

Q Did any manufacturer of asbestos insulation products ever come to the shipyard to monitor what was going on there, the asbestos dust levels, what was being told to the workers at the shipyard?

A No.

Q I believe you did meet Mr. Reitze; is that correct?

A That is correct.

Q And he came to the shipyard on one, or is it more than one occasion?

A My best recollection, he came there on one occasion.

Q And that was as a representative of the

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industrial insulators -- the IIHHRP? Do you know what that is?

MR. HAIGHT: One H.

MR. STEINBERG: One H.

Q Do you know what that is?

A He was a part of a group that I called the Selikoff group. Dr. Selikoff wasn't there. It was a Dr. Hammond and a Dr. Nickerson and Duncan Holaday, and Mr. Reitze was with them. And they took a tour of the shipyard and observed some of the shipyard insulation application.

21A

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21a1

Q I take it they made no recommendations to you at the time?

A No, they made no recommendations.

Q And Mr. Reitze, to your knowledge, was appearing at the shipyard at that time as a member of the Selikoff group and not as a representative of the Johns-Manville Company; is that correct?

A That is correct.

MR. STEINBERG: I have nothing further of Mr. Manning, Your Honor. Thank you.

THE COURT: Mr. Haight.

REDIRECT EXAMINATION

RDX BY MR. HAIGHT:

Q When the, what you call, Selikoff group came through, is it a fact everybody was warned about it and cleaned up their act?

A Yes. This was a fair assumption.

MR. HAIGHT: Your Honor, could I have this marked as exhibit 540, I believe it is?

THE COURT: 540 is next.

Q BY MR. HAIGHT: Mr. Manning, let me show you a document called "NAVSHIPS Instruction 5100.26."

Do you recognize that particular document? To help you, I think it contains a whole series of recommendations for the control of asbestos dust.

A Yes.

Q Do you recognize that as an official Navy

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21a2

directive that came out at or about the date indicated?

A Yes.

MR. HAIGHT: That's all I have. Thank you.

THE COURT: Mr. Norby.

MR. NORBY: Yes.

RCX

RECROSS EXAMINATION

BY MR. NORBY:

Q Mr. Manning, Mr. Steinberg asked you some questions about the 5 million particles per cubic foot; and you indicated that is an outdated standard; is that correct?

A Yes.

Q And the standard that came in later was five fibers per cubic centimeter; is that correct?

A Yes.

Q And did you have occasions -- you recall when I was asking you questions, we talked about the charts before and after the modifications to the pad shop?

A Yes.

Q And did you sometime after the five fiber per cubic centimeter then have occasion to do any testing of the cloth under those standards?

A Yes.

Q And do you recall a time when you had occasion to check out the cloth in an unwetted situation?

A Would you repeat the question?

Q Yes. Sometimes cloth was worked wet and sometimes it was worked without it being wet; is that correct,

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21a3

sir?

A After I arrived in the pad shop all the cloth was wetted.

Q I am talking about outside the pad shop.

A Outside the pad shop, aboard ship it was not wetted.

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22.1

Q And, sir, to help you with your memory, I'm going to show you a portion of your deposition.

Let me identify it first, please. It is February 28, 1979, page 120.

Does that refresh your recollection as to whether there's a testing operation consisting of application of asbestos cloth on an open deck?

A Yes.

Q And what were the results of those tests?

A It says,"Found in fibers per millimeter of air, 0.4 and 0.3."

Q And that's as compared to the once existing standard of five fibers per milliliter; is that correct?

Well, the current standard, the current standard is two fibers?

A At that time it may have been 12, it may have been five, the limit, the --

Q And --

A -- threshold limit value.

Q I don't mean to interrupt you. I'm sorry. Were you through?

A Yes.

Q And these levels were not taken on a time-weighted average; is that correct?

A That's correct.

Q Andif you had taken them on a time-weighted average, they would have been less; is that correct?

A That is correct.

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22.2

Q At the same time, turning over -- I'm turning to page 123 -- did you have occasion to take some readings during cleanup and ripout, according to the -- then using the standard of five fibers per --

Well, let me interrupt for a moment. Millimeter and centimeter, for all intents and purposes, are interchangeable terms. Is that a fair statement?

A Yes.

Q Did you have some occasion to run some tests by that standard on clean up in a fire room?

A Yes.

Q What was the reading then?

A Operator's exposure during cleanup, No. 2 fire room, in fibers per millimeter, 23.8.

Q And did you check the general air 12 feet away from that situation?

A Yes.

Q And what was the reading there?

A That was 4.9.

Q And did you also check out the operator's exposure removing pipe covering from a fire room?

A Yes.

Q What was the reading?

A 17.2 fibers per millimeter.

Q What was the general air like 15 feet from that reading?

A It was 8.6.

Q Then did you also check out operator's exposure

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during ripout and cleanup of the number three fire room?

A. Yes.

Q. What was it?

A. 9.0.

Q. Did you check out the machinist's exposure in the same area?

A. Yes.

Q. What was that?

A. 6.9.

Q. And what was the general air eight feet from that location?

A. It was 3.2.

Q. All these figures are not on a time-weighted average; is that correct?

A. That's correct.

Q. And if they were time-weighted studies, the figure would be lower; is that correct?

A. Yes.

MR. NORBY: That's all I have, Your Honor.

THE COURT: Mr. Steinberg.

RECROSS EXAMINATION

BY MR. STEINBERG:

Q. Mr. Manning, these type of dust counts are just really a crude way of determining exactly what the level of airborne fiber is in the air; isn't that correct?

A. Well, it depends on what you mean by "crude." For that particular time and that particular

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place, that particular condition, it was a fairly valid figure for that space of time.

Conditions aboard ship varied considerably and depending on what was happening and what the ventilation was, and the workmen's methods, all these things enter in, and the results would vary widely from place to place and time to time.

MR. STEINBERG: Nothing further.

MR. COURT: Mr. Haight.

MR. HAIGHT: Nothing further.

THE COURT: Thank you, sir. You may step down.

Let's take our afternoon break. Fifteen minutes, please.

(Recess.)

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SHELDON MANNING VOLUME XII (March 14, 1979) Page One

3 Counsel discusses re: documents to be attached to original of Mr. Manning's depo

5 Attorney's stipulations

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

WALTER C. RIGSBY,
JOSEPH K. KLOSE and
SHELDON H. MANNING,

Plaintiffs,

vs.

JOHNS-MANVILLE, etc., et al.,

Defendants.

No. C 151 947

BRACKET LA COVER

VOLUME 12

CONTINUATION OF DEPOSITION OF SHELDON H. MANNING, a plaintiff, taken by defendant Johns-Manville at 9:15 a.m., Wednesday, March 14, 1979, at 111 North Hill Street, Los Angeles, California, before Lucia Moskal, CSR, a Notary Public.

Reported by:
Lucia Moskal, CSR 1222
Registered Professional Reporter

No. LA-892-79

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MT-PWHD-013278

APPEARANCES OF COUNSEL:

For Plaintiff Manning:	ROSE, KLEIN & MARIAS BY ROBERT B. STEINBERG
For Johns-Manville Sales Corporation:	HAIGHT, DICKSON, BROWN & BONESTEEL BY APRIL HASKELL
For J. P. Stevens:	ANDERSON, McHALE & CONNOR BY JAMES M. TILLIPMAN
For Pittsburgh Corning Corporation:	BREIDENBACH, SWAINSTON, YOKAITIS & CRISPO BY JAMES S. VAN DAM
For Fibreboard Corp.:	CHASE, ROTCHFORD, DRUKKER & BOGUST BY HENRY E. KAPPLER
For Celotex Corp., successor to Philip Carey Corporation:	COYLE, MARRONE & ROBINSON BY RICHARD B. COYLE
For Combustion Engineering:	MARTIN & STAMP BY CALVIN D. BAYLES
For Nicolet, Inc.:	McKAY, BYRNE & UDKOVICH BY BRUCE B. NEFT
For Armstrong:	MORGAN, WENZEL & McNICHOLAS BY JOSEPH A. MAHONEY
For Crown Cork Seal:	MORRIS & POLICH BY KIM M. DUNNING
For GAF:	PAUL, HASTINGS, JANOFSKY & WALKER BY MICHAEL SANDERS
F.r H. K. Porter, Inc.:	SCHELL & DELAMER BY KENNETH B. PRINDLE
For Unarco Industries, Inc.:	SHIELD & SMITH BY LAURA DIANE KOTSIRIS
For Eagle-Picher Industries:	YUSIM, CASSIDY, STEIN & HANGER BY ANDY STEIN

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MS. HASKELL: Before we get started, the court reporting service needs to make some decision on what needs to be done with documents to be attached to the original of Mr. Manning's deposition.

I'd like to offer the following stipulation, that rather than attaching the original documents that Mr. Manning has produced at this deposition, that a copy of all of the exhibits as we have all been provided be kept by the court reporting service, rather than being attached to the original of Mr. Manning's deposition, and that copy which will be retained by the court reporting service can be used for all purposes for which the original documents could be used in the event that Mr. Manning is unable to produce them at a time when we would like to use the documents.

Is there anyone who has a problem with that stipulation?

MR. KAPPLER: I'd like to think about it.

MR. STEIN: I'll tell you the truth, April. I didn't understand it.

MS. HASKELL: What part didn't you understand?

MR. STEINBERG: All it is is that instead of Mr. Manning relinquishing custody of all of the stuff that he brought here, he can take it all home, and everything has been photocopied. We can have the court reporter retain a copy of everything that is photocopied as an original, and in the event he has a fire in his garage or something and can't produce the originals, we can use the copy as the original.

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MR. STEIN: Why can't we just use any copy as the

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original?

MR. STEINBERG: That's all right.

MS. HASKELL: That's fine.

MR. STEINBERG: Use your copy, my copy --

MR. STEIN: Yours, mine, anybody's.

MR. VAN DAM: Can't use mine.

MS. HASKELL: The court reporter simply needs to know she need not attach a copy of the exhibits to the original of the deposition. Is that all right with everyone?

MR. STEIN: That's fine.

MR. STEINBERG: We all agree.

MS. KOTSIRIS: Are you still debating on whether or not to stipulate?

MR. KAPPLER: No. I'm satisfied.

MR. STEIN: Mr. Mulligan has authorized me to inform the assembled group that he has no further questions and yields the floor.

MR. STEINBERG: Yes, but where is he? I have to have a copy -- I gave him Mr. Manning's volumes of those 1964 New York Academy proceedings, which he promised to return to me.

MR. STEIN: Oh, we'll have them returned.

MR. STEINBERG: Oh, "we"? I will hold you jointly responsible.

MR. STEIN: No. I am never responsible for Mulligan. But Coyle is.

MR. STEINBERG: Okay. Can we stipulate that the deposition may be signed before --

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MR. STEIN: As far as I'm concerned, you can stipulate that the deposition can be signed before any notary.

MR. KAPPLER: I will stipulate the signature could be waived.

MR. STEINBERG: All right. I will accept that stipulation.

Do we have any more questions?

MS. HASKELL: Does anyone have any more questions of Mr. Manning?

MS. DUNNING: I do.

MR. COYLE: Just a moment.

(A discussion is held off the record.)

MS. DUNNING: I'm sorry. I have no questions.

MS. KOTSIRIS: Does anybody else have any questions?

MR. STEIN: Not that I can see.

Mr. Steinberg, by your offering to have your client waive the signature, are you agreeing that a copy of this deposition can be used for all purposes for which the original would have been used, assuming that it had been read and signed?

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MR. STEINBERG: Well, I think at this point I'd rather have him read over the deposition, now that I think about it.

MS. HASKELL: Let me offer an alternative stipulation.

MR. COYLE: I'm terribly sorry. Would you restate that, please. This deposition may be used for all purposes. What do you mean by "all purposes"?

MS. HASKELL: I have some Law and Motion matters that I want to use this deposition for, and I want to know whether

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we can use it now or whether we are going to have to wait.

MR. STEINBERG: I'd prefer he read it over.

MR. STEIN: Are those Law and Motion matters relating only to Mr. Manning's case?

MS. HASKELL: Yes.

MR. STEIN: So I'm clear, you want signature waived for the use of Law and Motion matters in this case only?

MS. HASKELL: No, I don't want signature waived at all. My feeling would be that we stipulate that he can sign it under penalty of perjury, and that we will relieve the court reporter of her obligations, assuming that Mr. Steinberg will have his client read it and sign it and advise defendants of any changes within 90 days.

MR. STEINBERG: I will accept that stipulation.

MS. HASKELL: Is there anyone who objects to that? Ninety days from today, because I think he is going to have all of the transcript within six days, virtually.

MR. STEINBERG: Stipulated.

MR. STEIN: So stipulated.

MS. KOTSIRIS: Stipulated.

MR. NEFT: Stipulated.

MR. VAN DAM: If it's good enough for Andy, it's good enough for me.

MR. STEIN: Does that conclude the deposition, Mr. Steinberg, Ms. Haskell?

MR. STEINBERG: Yes. If everyone is finished, I can catch a 10:30 plane.

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MS. KOTSIRIS: Thank you very much, Mr. Manning.

(The deposition concluded at 9:25 a.m.)

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STATE OF CALIFORNIA) SS

I, Lucia Moskal, CSR, a Notary Public in and for the State of California, do hereby certify:

That the foregoing six (6) pages contain a full, true and correct transcript of the deposition proceedings held at the time and place herein mentioned.

That said proceedings were taken down by me in shorthand at the time and place herein named and thereafter reduced to typewriting under my direction.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 19th day of March, 1979.

OFFICIAL SEAL
LUCIA MOSKAL
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires JUN 25, 1982

Lucia Moskal

LUCIA MOSKAL, CSR 1222
Registered Professional Reporter
Notary Public in and for
the State of California.

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Manning 3/13/79

MT-PWHD-013285

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7	In order to become familiar with products, referred to Trade Names Index published by ACGIH
9	Became aware of the differential pay plan in December, 1970
9	Was asked to read it and comment by personnel director of shipyard
10	Originated by Civil Service Commission
10	Was to go into effect in other shipyards
[illegible]	Directed itself to various hazardous substances
[illegible]	Metal Trades Council demanded hazardous duty pay for workers in shop 56
12	At times, was requested to go out and sample air in order to implement differential pay plan
12	50% of air samples MANNING took were result of requests to receive differential pay
14	Believed that differential pay was extra money given to workers around hazards which couldn't be 100% controlled.
14	Felt that Workers using asbestos and people working in electroplating fell under this definition
14	Recommended, in 1970, that all pipe coverers and insulators receive differential pay--recommendation was carried out
19-21	Discusses formal presentation given in February 68 for foremen and workers warning them of asbestos dangers
21	Explained, at presentation, that Asbestos could cause cancer and fibrosis-noone took issue
22	Meeting was designed to reach the people that were working with asbestos materials primarily
23-24	Describes actual trade names index
26	Representatives from J.M. only toured the shipyard once--doesn't know if any other reps of asbestos manufacturers have toured shipyard
37	Heard that asbestos caused cancer by word of mouth at Harrisburg meeting--may have looked at Selikoff report at meeting but has never read entire report
41	Learned of problems of heavy metals in 1961 when studying to become industrial hygienist
44	When studying of asbestos in 1961---fact that it was inherently dangerous had been known in literature for many years

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45 Read Drinker and Hatch which had references going back to the early days

46 Industrial hyienist is not as concerned with exact machaism of injury as the fact that it must dealt with and guarded against

48 Is certain that places where conducted tours were going on, workers were forewarned and someone made an effort to see that everyone wore their respirator

51 MARR was one of the first people in the Navy to sound the warning about asbestos--hygienists didn't believe him much

58 BESSEMER told MANNING that he had had the beginnings of a decent lab and someone had picked it up and taken it somewhere else.

58 Lab went to Port Hueneme

60 After conversations with BESSEMER and MARR, became aware that information was available shortly after WWII to make industrial hygienists at LPNS knowledgable of asbestos' potential hazards

68 Situation occurred in January 1974---workers felt that sandblasting on drydock was out of control and dangerous to their health

77 From time he arrived at LPNS until hearing loss compensation cases were filed, only asbestos orientation meetings were held
Didn't hold hearing orientation meetings until after comp claims were filed

78 MARR was never issued equipment to do noise level work

79 Doesn't recall any particular warnings on any particular products -- was not concerned with warnings because he already knew of asbestos hazards

80 Felt that a few words on a package couldn't fully cover the real extent of the danger

90 In guided tour situation, men wore respirators while tour was in sight, tour wasn't shown worst conditions------while touring alone, saw men without respirators

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92 Was responsible to advise and inform---had no enforcement responsibilities

94 Personnel exclusion signs were made up in approx. 1973

95 No permanently fixed signs on ship warning of asbestos dangers

98 Describes methods of asbestos control other than respirators--drop cloths, vacuum suction

99 Supervision and safety people were skeptical about wet down on ships--dangers of wet floors and possible short circuits

100 More than half of the workers wore respirators when MANNING was present at ripout

102 Selikoff's group toured in 1970 to observe operations in ship repair situations

104 Mr. REITZE was present, this was part of SELIKOFFs group

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

WALTER C. RIGSBY,
JOSEPH K. KLOSE and
SHELDON H. MANNING,

Plaintiffs,

vs.

JOHNS-MANVILLE, etc., et al.,

Defendants.

No. C 151 947

VOLUME 11

CONTINUATION OF DEPOSITION OF SHELDON H. MANNING, a plaintiff, taken by defendant Johns-Manville at 9:05 a.m., Tuesday, March 13, 1979, at 111 North Hill Street, Los Angeles, California, before Lucia Moskal, CSR, a Notary Public.

Reported by:
Lucia Moskal, CSR 1222
Registered Professional Reporter

No. LA-871-79

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I N D E X

WITNESS: Sheldon H. Manning — VOLUME 11

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SHELDON H. MANNING,

a plaintiff herein, having been previously sworn, testified further as follows:

EXAMINATION

BY MR. McKAY:

Q. Mr. Manning, you understand that you are still under oath, don't you?

A. Yes.

Q. You understood through each of these sessions that you have been under oath and are testifying under oath?

A. Yes.

Q. And all questions you have answered, you have understood, haven't you?

A. I certainly hope so.

Q. If sometime during my examination today I ask you a question you don't understand, would you please tell me that you don't understand that question?

A. Yes.

Q. I don't want you to guess or speculate at any answer, but I'm entitled to your best estimate, should I ask you a question of fact. Do you understand that?

A. Yes.

Q. Some of the questions I will ask you today may seem repetitious to you, and for that reason, I will ask you to listen to the questions carefully, because they involve your prior testimony, and answer the question I ask you

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directly, because in the long run, we will save time, rather than trying to refer to some prior statement. Do you understand that?

A. Yes.

Q. Are you able to finish your testimony here today?

A. Yes.

Q. Do you feel like you are physically well and able to communicate with us?

A. Yes.

Q. If at any time you don't feel well, will you tell me, and we'll take a break.

A. Yes.

Q. Initially, several days ago, Ms. Haskell, representing Johns-Manville, read to you a list of products. Do you recall that day?

A. Yes.

Q. There are some 60 or 70 products on that list. Do you recall?

A. Yes.

Q. In response to several of those products, I believe you testified you had no recollection of the product.

A. Yes.

Q. When you said you had no recollection of the product, does that mean you do not recall seeing it while at the Long Beach Naval Shipyard?

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A. Yes.

Q. When you said that you had, quote, no recall,

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did that mean that you did not recall seeing that product while you were employed at the Long Beach Naval Shipyard?

A. Yes.

Q. In other words, you have no present recollection of seeing any product that was identified by Ms. Haskell unless you said that you definitely saw the product and recalled the product. Is that correct?

A. Yes.

Q. Isn't it a fact that one of your jobs as the industrial hygienist for the Long Beach Naval Shipyard was to acquaint yourself with the various products?

A. Yes.

Q. And you did that primarily by observation of what the men were working with. Is that correct?

A. My --

MR. STEINBERG: Why don't you try to answer yes or no.

THE WITNESS: Well, give me the question again.

Q. BY MR. McKAY: Isn't it a fact that as part of your responsibilities as the industrial hygienist for the Long Beach Naval Shipyard from 1967 to 1974, that you were required to acquaint youself with the various products being used at the shipyard?

A. Yes.

MR. STEINBERG: He's already answered that as "Yes."

THE WITNESS: Yes.

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MR. McKAY: I didn't realize you were sworn, Mr. Steinberg, but I'd be happy to have you sworn and testify,

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if you like.

MR. STEINBERG: I could object to the question because you just asked it and he answered it, but it's already in, so let's go on.

Q. BY MR. McKAY: Mr. Manning, the method by which you acquainted yourself with the products was your own observation. Is that correct?

A. In part, yes.

Q. Did you refer to some manuals or directories or products list to also familiarize yourself with what products were being used at the shipyard?

A. Yes.

Q. What manuals, directories or literature did you refer to?

A. I referred to Trade Names Index published by the American Conference of Governmental Industrial Hygienists.

Q. How would you get a name to refer to the trade names index?

A. I would take it off of the container, generally.

Q. So, actually, then, your knowledge developed from your own observations of containers at the Long Beach Naval Shipyard. Is that correct?

A. Yes.

Q. You observed not only the containers that were in use, but you also observed containers in storage in various places around the naval shipyard. Is that correct?

A. Yes.

Q. It is based upon your own observations that you

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testified earlier that approximately 70 percent of the products used at the naval shipyard were manufactured by Johns-Manville. Is that correct?

A. This is my testimony, yes.

MR. MULLIGAN: Mr. Manning, we can't hear you.

THE WITNESS: Yes.

MR. MULLIGAN: Thank you.

MR. COYLE: Speak up.

Q. BY MR. McKAY: You first became aware of the fact that there was some hazard in the use of asbestos in 1961. Is that correct?

A. Yes.

Q. That's when you actually entered the industrial hygienists field. Is that right?

A. Yes.

Q. And the initial hazard that you learned about with asbestos was fibrosis. Is that correct?

A. Yes.

Q. In approximately 1965, you first learned that cancer is also a problem associated with inhalation of asbestos. Is that correct?

A. Yes.

Q. You were aware when you first took the job with the Long Beach Naval Shipyard that the inhalation of asbestos dust could create fibrosis and could cause cancer. Is that right?

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A. Yes.

Q. Because of the fact that you've testified for a

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number of days, Mr. Manning, I may skip around. If the question I ask you isn't perfectly clear to you because of the way I'm skipping around, would you please tell me?

A. Yes.

Q. I'd like to ask you some questions now about the hazardous duty pay or the differential pay plan. All right?

A. Okay.

Q. When you first went to the Long Beach Naval Shipyard, was there a hazardous duty pay plan?

A. No.

Q. Was there a differential pay plan?

A. No.

Q. Can the terms "hazardous duty pay" and "differential pay plan" be used interchangeably?

A. Yes.

Q. When was there first a recommendation or first came to your knowledge some movement toward a hazardous duty pay plan?

A. I became aware of the differential pay plan, in my best recollection, in December 1970.

Q. Did you become aware of the plan because of its proposal by Mr. Webster Ay?

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A. No.

Q. How did you first become aware of the movement toward a differential pay plan?

A. I was informed about it and asked to read it and make some comment on it by Frank Meyers, who was, in essence, the personnel director at the shipyard.

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MR. COYLE: Sheldon, you're muttering into that phone. Will you speak up, please.

MR. MULLIGAN: Miss Reporter, could you read that answer loud enough for us to hear it, please.

(The answer referred to is read by the reporter.)

Q. BY MR. McKAY: I assume from your answer there was some written document requesting a differential pay plan. Is that correct?

A. Yes.

Q. Was this a document that originated with the Navy or with the union?

A. This was a document that was written by the Civil Service Commission.

Q. Was this Civil Service Commission in Washington or someplace other than the naval shipyard?

A. This was in Washington.

Q. Was it your understanding that this differential pay plan was to go into effect in shipyards other than Long Beach Naval Shipyard?

A. Yes.

Q. Did this plan address itself specifically to work around asbestos?

A. No.

Q. Did it direct itself to work around hazardous substances?

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A. Yes.

Q. Were you at some time contacted by Webster Ay relative to the recommendations for the implementation of the

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differential pay plan?

A. No.

Q. Were you ever contacted by any member of the union, the pipe fitters and insulation workers union, relative to the implementation of the differential pay plan?

MR. STEINBERG: I think you mean "pipe coverers."

MR. McKAY: Pipe coverers and insulation workers, then.

THE WITNESS: No.

Q. BY MR. McKAY: At some time did members of the Metal Trades Council make a demand upon the Long Beach Naval Shipyard for hazardous duty pay for workers in Shop 56?

A. Yes, I think so.

Q. Who on behalf of the Metal Trades Council made that demand?

A. I can't remember his name. Webster Ay was no longer president, and it was some other person. I can't remember his name.

Q. It was the gentleman who took Webster Ay's place?

A. That's correct.

Q. When you first went to work at the Long Beach Naval Shipyard, Webster Ay was in fact president of the union, wasn't he?

A. He was the Metal Trades Council president, yes.

Q. That included the pipe coverers and insulation workers?

A. Yes, I think so.

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Q. How long did he remain president of the union?

A. Up until the time he became general foreman.

Q. Do you recall when that was?

A. Sometime, I think, '69 or '70, somewhere like that.

Q. Did you conduct some studies on behalf of the Long Beach Naval Shipyard in order to implement a differential pay plan?

A. Yes.

Q. What studies did you conduct?

A. From time to time, I was requested to go out and sample air in different locations, in search of different contaminants, and generally, this was motivated by some complaint by some employee or possibly by the union that this situation be included in the differential pay plan.

Q. Isn't it a fact that over 50 percent of the occasions on which you took air samples were directly related to individuals' requests to receive differential pay?

A. This may be an accurate estimate, yes.

Q. That is your best estimate as you sit here today and testify, isn't it?

A. Today, 50 percent would be an accurate estimate, as far as air sampling was concerned. There were other things that were measured.

Q. Were there other things that were measured in developing the differential pay plan?

A. No.

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Q. Was there some process that you were aware of

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whereby individual workmen at the Long Beach Naval Shipyard would apply for differential pay?

A. Mr. Minks was in charge of implementation in the shipyard. He was within the personnel setup, in a division called Wage and Classification. And from time to time, he would request sampling, and he wanted all the raw data that I collected on asbestos and asbestos sampling, and he or somebody else would request that I look into certain situations. And I did. And what he used the material for and how he used it, I don't know.

Q. What's Mr. Minks' first name?

A. I don't know.

Q. To your knowledge, is he still employed by the Long Beach Naval Shipyard?

A. Yes.

MR. KAPPLER: How do you spell his last name?

THE WITNESS: M-i-n-k-s.

Q. BY MR. McKAY: Is he still employed in the Wage and Classification Department of the Long Beach Naval Shipyard?

A. I don't know that.

Q. Was it your understanding that differential pay was granted to workers in an area or workers on an individual basis?

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A. My concept of the thing was that what they were trying to do was pay employees who worked on jobs where there were hazards that could not be 100 percent controlled. The language was very hard to understand, and I had to --

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anybody that read it had to do a lot of interpretation, and I initially recommended that two trades or two different circumstances in the shipyard seemed to fit into the category they were looking for, and I specified that these were the people that worked in the trades using asbestos, pipe coverers and insulators specifically, and the people that worked in the electroplating shop.

Q. Was it your recommendation in 1970 that all pipe coverers and insulators receive differential pay?

A. Yes.

Q. Do you know if this recommendation was carried out?

A. Yes.

Q. To your knowledge, then, all pipe coverers and insulators sometime in 1970 received a bonus to their check called "differential pay." Is that correct?

A. I'm not sure about the "all," but yes, they did. And how Minks divided this up, I'm not certain, because this was out of my area of expertise and real good knowledge, and I had no real good firsthand knowledge of it.

Q. But you were made aware of the fact that differential pay was granted to pipe coverers and insulators working at the Long Beach Naval Shipyard in 1970?

A. Yes.

Q. It was based in part upon your recommendation that all trades that worked with asbestos receive differential pay. Is that correct?

A. Yes.

Q. Did the union ever request a blanket differential

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pay plan for all workers in Shop 56?

A. I don't recall much conversation between me and the union in this regard. Nearly all of my communication was between Frank Meyers and myself and Mr. Minks and myself, and there may have been some other conversations around, but this was mostly the people I talked to.

Q. You were aware of the fact that the union was initiating the inquiry into differential pay, weren't you?

A. They were certainly involved very heavily.

Q. Do you recall who was involved other than the head of the Metal Trades Council who took Mr. Webster Ay's place?

A. No.

Q. Did you ever attend any union meetings where the question of differential pay was discossed?

A. No, I didn't attend union meetings.

Q. I believe you testified several days ago there were approximately four union meetings that you had attended over your tenure at Long Beach Naval Shipyard. Is that correct?

A. These were not business meetings of the union. I think we're going to have to differentiate between -- business meetings and presentations that were sponsored by the union are two different things in my mind.

Q. Did you ever attend a business meeting of any union?

A. No.

Q. Were you ever invited to speak at any union meeting?

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A. No.

Q. You did attend four meetings or four presentation meetings by the union, though. Is that correct?

A. Yes.

Q. When we talk about "the union," are we talking about the pipe coverers and insulators, or are we talking about the Metal Trades Council?

A. The meetings that I attended outside were sponsored by the pipe coverers and insulators.

Q. At any of these meetings, was the issue of differential pay discussed?

A. No.

Q. Did you ever receive a handout from any union source or from any source whatsoever that embodied in part the caption, "You are entitled to differential pay"?

A. No.

Q. At any time after 1970 when differential pay was granted to the pipe coverers and insulators, were you ever called upon to do an additional survey for any other workers at the Long Beach Naval Shipyard?

A. Yes.

Q. What other workers were you required or requested to make a survey for?

A. Well, I recall I took samples for zinc fume in some reefer compartments that somebody wanted pay for that. I think I took some samples for ammonia vapor --

MR. MULLIGAN: I can't hear you, Mr. Manning.

THE WITNESS: Ammonia vapor.

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MR. STEIN: What was the one before that?

THE WITNESS: Zinc fume.

I took samples in the electroplating shop at the request of the people in Wage and Classification, to document my belief that hazardous pay should be paid here.

MR. MULLIGAN: I can't hear you.

THE WITNESS: That hazardous pay should be paid here.

Q. BY MR. McKAY: After you made your initial recommendation in 1970 relative to hazardous pay for pipe coverers and insulation workers, did they continue to get hazardous pay until you left the shipyard?

A. Some of them didn't, and maybe it was cut off and not called hazardous pay.

Q. Were they compensated for working around asbestos in some other manner?

A. At some point late in my time at the shipyard, the Office of Civilian Manpower Management, which is an office in the Navy that deals with civilian personnel, sent a memorandum into the shipyard that this -- the people working with asbestos should not be paid this differential pay because of the health hazard, that they should be paid dirty pay.

Q. Was dirty pay again a source of additional income to the gentlemen who worked around asbestos?

A. Yes.

Q. At some time while you were working at the Long Beach Naval Shipyard, did you meet Charles Ay?

A. Yes.

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Q. When did you first meet Charles Ay?

A. Probably out on the waterfront. I don't have any specific recollection of meeting him. He became a foreman. I certainly knew him then.

Q. Do you recall when he became a foreman?

A. He was a foreman, oh, sometime '69, thereabouts.

Q. While he was a foreman, he still retained his union affiliation, didn't he?

A. I would not know that for certain.

Q. Did you ever attend any union meetings, any of these display meetings that you went to, where Charles Ay was present?

A. Yes.

Q. Was he present at all four of the meetings that you attended?

A. My best recollection is that he attended the meeting at Anaheim where Cooper and Balzer were showing off the display that they made for the union, and I think he was at the meeting held at the Elks Lodge in Long Beach, or auditorium, where Selikoff and his group made their presentation.

The other two meetings, he was not present.

Q. Was he present at the first training session that you ran in February of 1968?

A. Yes.

Q. It was during that training session that you first warned the foremen and various personnel at the Long Beach Naval Shipyard of the dangers involved in working with

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asbestos. Is that correct?

A. In a formal presentation, yes.

Q. Prior to February of '68, had you spoken with the foremen and various workers at the Long Beach Naval Shipyard in an informal manner, warning them of the dangers of asbestos?

A. Yes.

Q. But the first time that you got everybody together and made a formal presentation regarding the dangers of asbestos was in February of 1968. Is that correct?

A. Yes.

Q. Webster Ay took a part in that presentation. Is that correct?

A. Yes.

Q. When you first spoke with Mr. Ay, Webster Ay, when you got to the Long Beach Naval Shipyard in approximately -- in 1967, Mr. Webster Ay was already aware of the dangers of working with asbestos. Is that correct?

A. Yes.

Q. The reason that he was part of the training session was that he in fact was one of the most knowledgeable people in the shipyard relative to the dangers of working with asbestos. Is that correct?

MR. STEINBERG: I didn't understand the question. Would you repeat it?

MR. McKAY: Be happy to repeat it, sir, or would you like it read back?

MR. STEINBERG: I'd like to have it read b[illegible]

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(The question referred to is read by the reporter.)

MR. STEINBERG: The question refers to Mr. Webster Ay?

MR. McKAY: Yes. The question refers to Mr. Webster Ay.

Q. You understand that, don't you, Mr. Manning?

A. Yes.

MR. ROBERSON: Yes, he understands the question?

MR. McKAY: Yes, he understands the question. Now he's going to answer it.

THE WITNESS: Yes. Webster Ay was very knowledgeable in this field.

Q. BY MR. McKAY: Charles Ay was not a member of the group that put on the training session in February of '68, was he?

A. No.

Q. He was just there in attendance with the other foremen that were working at the naval shipyard. Is that correct?

A. Yes.

Q. I understand at this first training session, Mr. Webster Ay made a presentation and you made a presentation also. Is that correct?

A. Yes.

Q. Who else made presentations at this February 1968 training session?

A. My best recollection is, Cliff Krieger talked, the Safety Director. Art Raymond talked. He was the

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superintendent at that time of Shop 56. Frank Nease also was there and talked. There may have been others, but I can't recall.

Q. During your talk in the February 1968 training session, you presented the facts developed from the Selikoff report of 1964. Is that correct?

A. Yes.

Q. You did in fact explain to the gentlemen present at the training session that cancer can be the result of working with asbestos. Is that correct?

A. Yes.

Q. Did you also explain to them the fact that fibrosis is an anticipated result of working with asbestos?

A. Yes.

Q. Did Mr. Webster Ay, Mr. Cliff Krieger, Mr. Art Reynolds, and Mr. Frank Nease all concur in your portions of the presentation? In other words, did anybody take issue with what you said regarding the dangers of asbestos?

A. Art Raymond didn't like some of the things I said. He had no faith in the sampling that I was doing, or I actually didn't do any -- I presented some of Bill Marr's findings and some of his concentrations in air, just to show the employees and give them some idea of where the hazard lay and emphasize the fact that ripout was indeed the most dangerous procedure. And he made some kind of comment that he had no faith in the air sampling. That was about the only issue.

Q. No one took issue with the fact that working with

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asbestos can result in fibrosis, did they?

A. No.

Q. No one took issue with the fact that you explained to the accumulated group there in 1968 that working with asbestos can result in cancer?

A. No.

Q. You, in your own estimation, got those points across to the assembled working men there. Is that correct?

A. Well, I presented it the best way that I could.

Q. Approximately how many foremen and workmen were present at this first orientation program in February of 1968?

A. It was given in several sessions, I think. My best estimate, it would have been about 125.

Q. Was the program designed to reach as many workers at the Long Beach Naval Shipyard as possible?

A. No. It was designed to reach the people that were working with asbestos materials primarily.

Q. In other words, the program itself in February of 1968, the program was designed to get to the actual workers who suffered dangers from working with asbestos. Is that correct?

A. Yes.

MR. KAPPLER: Did they sign in when they attended the meeting, do you know?

THE WITNESS: No, I don't believe there was a sign-in procedure.

Q. BY MR. McKAY: Did this meeting occur during normal working hours?

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A. Yes.

Q. Were the men excused from their jobs to come to this meeting?

A. Yes.

Q. At various times during your deposition, you've identified a trade name file. Do you recall that?

A. Yes.

Q. This was an index of trade names that you had prepared over the period of time that you were working at the Long Beach Naval Shipyard. Correct?

A. Yes.

Q. You also identified some books that were put out by some national organization that was also present in your place of work. Is that correct?

A. Yes.

Q. When you left the Long Beach Naval Shipyard, you left your trade name file in your office. Is that correct?

A. Yes.

Q. How was this trade name file identified? Was the trade name file contained in a box of some sort?

A. Yes. It was file cards. It was put on file cards.

MR. STEIN: I'm sorry. I didn't hear the answer.

THE WITNESS: File cards that were about 2-1/2 inches by 3, about like that, by that, whatever that is.

Q. BY MR. McKAY: So it was an index card box that contained this trade name file. Is that correct?

A. Yes.

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Q. Have you ever been back to the Long Beach Naval Shipyard at any time since you retired?

A. Yes.

Q. Is your trade name file still there?

A. I didn't notice.

Q. Have you ever been contacted by anyone relative to the trade name file that you developed while you were employed at the Long Beach Naval Shipyard?

A. No.

Q. Approximately how many cards were in this file?

A. Oh, 300, as a guess.

Q. That is your best estimate, isn't it?

A. Yes.

Q. Was it identified just solely as the trade name file?

A. Yes.

Q. Who presently, if that file is still maintained, would have the file at the Long Beach Naval Shipyard?

A. I believe the present industrial hygienist's name is Borkowski. I've never met the man, and I've never --

Q. Would you spell Borkowski for us?

A. Borkowski, B-o-r-k-o-w-s-k-i, I think.

Q. He is presently the industrial hygienist at the Long Beach Naval Shipyard?

A. Yes.

Q. That was the position you occupied from '67 to '74?

A. Yes.

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Q. Max Rudolph was actually in charge of the respirator program at the shipyard. Is that correct?

A. Yes.

Q. That was during the entire period of time that you were employed by the Long Beach Naval Shipyard?

A. No. The latter part -- Max Rudolph retired about 1972. And then somebody replaced him. I can't remember his name.

Q. What was Max Rudolph's title?

A. He was superintendent of -- it was called Shop 906, and that was the Maintenance Department.

Q. Do you know where Mr. Rudolph is at the present time?

A. No.

Q. Do you know where he was last living when he retired?

A. No.

Q. In addition to the trade name file that you developed while you were employed at the Long Beach Naval Shipyard, you also prepared a notebook listing the names of the asbestos products that were used. Is that correct?

A. No, I didn't have a notebook of that description.

Q. Did you ever prepare a listing of all products containing asbestos at the Long Beach Naval Shipyard during the period of time that you were there?

A. No.

Q. Do you know where Mr. Carmines is at the present time?

A. I think he is deceased.

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Q. What was his job title at the Long Beach Naval Shipyard?

A. He was general foreman, Shop 56.

Q. Was that during the entire period of time that you were there?

A. No. I think when Charles Carmines retired, Webster Ay took his job.

Q. So Charles Carmines was Webster Ay's predecessor in Shop 56?

A. That's correct.

Q. Was Webster Ay still the general foreman of Shop 56 when you left the naval shipyard in '74?

A. Yes.

Q. Referring to this tour of the naval shipyard by the Johns-Manville personnel -- do you understand where we are now?

A. Yes.

Q. Did representatives of Johns-Manville tour the naval shipyard on more than one occasion?

A. No. To my knowledge, no.

MR. STEIN: I'm sorry. I didn't hear the full answer, Mr. McKay.

THE WITNESS: I have no knowledge of any other tour than the one tour that we're speaking about.

Q. BY MR. McKAY: But on one occasion, three representatives of Johns-Manville took a tour of the Long Beach Naval Shipyard. Is that correct?

A. There was one person who was employed by Johns-Manville

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and the other person was Duncan Holaday, who was with Selikoff's group, and a Dr. Heilman that I have in my notes, and it is possible I may have misspelled that. It could have been Dr. Hammond, but I'm not certain. I have "Heilman" in my notes.

Q. Was this tour by Reitze and Holaday a separate tour from the tour made by the Selikoff group later?

A. I'm not certain of that.

Q. I believe your notes reflect on two separate occasions. First there was a tour by Johns-Manville personnel, and later there was a tour by Dr. Selikoff's group, following which Dr. Selikoff gave an address. Do you recall that?

A. You've jogged my memory. Yes, I believe, since you brought it up, there was a tour by the Selikoff group prior to the presentation, that I'd forgotten.

The other tour was quite a few years prior.

Q. This was the Johns-Manville tour?

A. There was only one person there from Johns-Manville, Mr. Reitze.

Q. Mr. Reitze identified himself as a representative of Johns-Manville, didn't he?

A. Yes. I knew him to be an employee of Johns-Manville.

Q. One of the reasons that he made the tour was because Johns-Manville was such a large supplier to the naval shipyard, wasn't it?

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MS. HASKELL: Argumentative. No foundation.

MR. STEINBERG: You can answer the question, if you can.

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THE WITNESS: Yes.

Q. BY MR. McKAY: As a matter of fact, Johns-Manville had directed Mr. Reitze to make the tour of the Long Beach Naval Shipyard, hadn't they?

MS. HASKELL: No foundation.

THE WITNESS: I don't know.

Q. BY MR. McKAY: Mr. Reitze did in fact make this tour, didn't he?

A. Yes.

Q. To your knowledge, has any other manufacturer of an asbestos product ever made a tour of the Long Beach Naval Shipyard?

A. No.

Q. Has any other representative, to your knowledge, of any asbestos manufacturer other than Johns-Manville ever made a tour of the Long Beach Naval Shipyard?

A. I have no knowledge of it, no.

Q. Now, you and Mr. Webster Ay accompanied Mr. Reitze along with his inspection of the shipyard, didn't you?

A. Yes.

Q. During that inspection, did Mr. Reitze make any comments relative to dust levels in the Long Beach Naval Shipyard?

A. I didn't hear any comments. Most of the talking was done by Webster Ay.

Q. Did Mr. Ay actually lead the group through the shipyard?

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A. Yes.

Q. And you accompanied the group?

A. Yes.

Q. While you were going through with the group, did you see various Johns-Manville products being used at the shipyard?

A. Yes.

Q. Was this pointed out to Mr. Reitze that in fact Johns-Manville products were being used at the shipyard?

A. I don't know that this was pointed out.

Q. Did Mr. Reitze point out to you that "These are Johns-Manville products"?

A. I have no recollection of that.

Q. You just recall that in fact there were Johns-Manville products there being used. Is that right?

A. Yes.

Q. Early in your deposition, you discussed something called BU specs. Do you recall that, where the products are listed by the Navy or something on an approved book?

A. We're talking about military specifications. It would be mil. specs, m-i-l s-p-e-c, for short. It's military specifications.

Q. There was somewhere at the Long Beach Naval Shipyard a mil. specs book. Is that correct?

A. The technical library had a file of all these military specifications.

Q. Where is the technical library located?

A. Then it was -- I believe it was located somewhere

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in the Administration Building.

Q. Was there more than one technical library at the Long Beach Naval Shipyard?

A. Yes.

Q. How would you distinguish one library from another if you wanted to find the mil. specs relative to asbestos?

A. This was a general technical library. There were some other technical libraries connected with, for instance, people who dealt with weapons, would have their own technical library, that I know of. But the one located in the Administration Building would have all the mil. specs that applied to the Navy.

Q. Did you at any time while you were serving as the industrial hygienist at the Long Beach Naval Shipyard ever check a product to see that it was in fact on the military specifications list, the mil. specs list?

A. The military specifications had no product by trade name. There was nothing mentioned there at all. This was a specification that laid down how this particular product was expected to perform. There was no composition mentioned, and there were no specific trade names mentioned or any supplier mentioned in these military specifications.

Q. Was there somewhere a book that listed the approved suppliers for asbestos?

A. I don't have any knowledge of this at all.

Q. When the Selikoff group made its tour of the naval shipyard prior to Dr. Selikoff giving his address -- do you understand where we are now?

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A. Yes.

Q. This tour was also led by Webster Ay. Is that correct?

A. Yes.

Q. And Dr. Selikoff personally went on a tour of the Long Beach Naval Shipyard. Is that correct?

A. Yes.

Q. Was Charlie Ay also present during Dr. Selikoff's tour?

A. I have such a poor recollection of this tour that I am not certain whether I was there or not. I really am not.

MR. McKAY: Move to strike the answer as being nonresponsive to the question that was asked.

Q. The question, Mr. Manning, is: Was Charlie Ay on the tour, if you know?

A. I do not know this.

Q. You don't know whether he was or was not?

A. That is right.

Q. When Dr. Selikoff and his group went on their tour of the Long Beach Naval Shipyard, was Mr. Reitze also present?

A. I don't recollect him being there, no.

Q. You have no recollection of his being present. Is that correct?

A. No.

Q. Do you know where Dr. Owenby is at the present time?

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A. Approximately.

Q. Where is he, approximately?

A. It was reported to me that he's living in Huntington Beach.

Q. Has he retired from the Navy?

A. Yes.

Q. Do you know where Jose C. Smith is at the present time?

A. No, but I understand he's practicing medicine in Los Angeles.

MR. COYLE: Owenby's first name?

Q. BY MR. McKAY: What is Dr. Owenby's first name?

A. E. K. Edwin, I think, was his first name.

MR. COYLE: Thank you.

Q. BY MR. McKAY: Where is Robert Manning at the present time?

A. I don't know.

Q. Has he left the Long Beach Naval Shipyard?

A. Yes.

Q. Do you know where he went from the Long Beach Naval Shipyard?

A. Somebody said he might have gone to Santa Barbara.

Q. Has he retired?

A. As far as I know, yes.

Q. Cliff Krieger, you believe, is deceased. Is that right?

A. No.

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Q. Where is Cliff Krieger at the present time?

A. He lives in Huntington Beach.

Q. Is he retired?

A. From the Navy, yes.

Q. Do you know where he works?

A. Yes.

Q. Where does he work?

A. He works at Long Beach State College.

Q. Does he teach there?

A. Yes. Yes, I think so.

Q. Do you know where Dr. Daniel Amato is at the present time?

A. No.

Q. Do you know where he was when you last heard of him?

A. Yes.

Q. Where was he then?

A. He was in uniform, a doctor at the Naval Regional Medical Center located at the hospital, the Naval Hospital in Long Beach.

Q. Do you know where Dr. Eisteadt is at the present time?

A. Yes.

Q. Where is he?

A. He's at Memorial Hospital in Long Beach.

MS. HASKELL: Excuse me. Is that Dr. Ellsteadt?

THE WITNESS: Ellsteadt is his name.

Q. BY MR. McKAY: Do you know where Terry Miller is

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at the present time?

A. Yes.

Q. Where is Terry Miller?

A. He's in Vacaville, California.

MS. HASKELL: I'm sorry. Where?

THE WITNESS: Vacaville.

Q. BY MR. McKAY: What is he doing in Vacaville, California?

A. He's retired.

MR. ROBERSON: Is he inside or outside the walls of Vacaville?

THE WITNESS: Outside.

MR. McKAY: I don't have any more questions at the present time.

MR. MULLIGAN: Why don't we take a break. The next one might be a little longer.

MR. STEINBERG: Okay.

(Recess taken from 9:55 a.m. to 10:15 a.m.)

EXAMINATION

BY MR. BOGAN:

Q. Mr. Manning, during your period of employment at the Long Beach Naval Shipyard and also during your employment at the Department of Health for the State of Pennsylvania, did you ever become aware that for years and years, Johns-Manville was aware of asbestos-related diseases, but company officials regularly told their medical consultants not to publish this information?

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MS. HASKELL: Objection. Argumentative.

THE WITNESS: While I worked at the yard, or before?

Q. BY MR. BOGAN: In either case.

A. No, I don't have any specific knowledge of this, no.

Q. Were you ever informed during this same period of time that the plant physician at the Johns-Manville plant and the consulting radiologist were told to keep quiet about the medical information that they accumulated in reviewing employees' records?

MS. HASKELL: Objection. Vague and ambiguous as to what is meant by a Johns-Manville plant.

MR. BOGAN: In Manville.

THE WITNESS: No, I didn't have any knowledge of this.

Q. BY MR. BOGAN: During this same period of time, that is, with the Department of Health in Pennsylvania and at the Long Beach Naval Shipyard, did you ever receive information that the employees at the Manville plant were gasping for breath and were told they had other physical problems like bronchitis and nothing related to asbestos?

A. No, I didn't hear that.

Q. Did you ever receive any information during this same period of time that as far back as 1954, Johns-Manville company officials told their consulting radiologists and plant physicians not to publish any data whatsoever on the subject?

MS. HASKELL: Vague as to what is meant by Johns-Manville officials.

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THE WITNESS: No, I didn't know that.

Q. BY MR. BOGAN: During the same period of time, did you ever become aware that there was no doubt as far back as the 1950's as to what was going on at the Manville plant, and that every dog, cat and rat in Manville had asbestosis?

MS. HASKELL: Objection. Argumentative.

THE WITNESS: No, I don't have any knowledge of that.

MR. BOGAN: That's all I have.

EXAMINATION

BY MR. MULLIGAN:

Q. Mr. Manning, my name is Tom Mulligan, and I represent the Keene Corporation.

The questions that I'll be asking you, for the reason that we have been here about three weeks, will be in the areas upon which you've commented before, for the most part. Now, when I ask you a question in an area that you've heard before, I'm not testing your memory. I'm not going to go back and compare with what you might have said at some earlier time. The reason for asking the question is to begin an area of inquiry.

A. Yes.

Q. So I'm not calling you on your earlier answers. I'm not challenging you on your earlier answers or hoping that you will testify inconsistently. It is only in hoping to get a start on an area of inquiry.

A. Okay.

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Q. A few minutes ago, in talking with Mr. McKay, you told us that you first became aware of the hazards of asbestos in 1961, in your training and preparation for your entry into the field of industrial hygiene. Is that correct?

A. Yes.

Q. Somewhere around 1965, you became aware of the cancer potential of asbestos as a result of having read the New York Academy of Science report. Is that correct?

A. No, that is not entirely correct.

Q. Will you explain that to us.

A. I heard the cancer aspect by word of mouth. My supervisor then was a man by the name of Paul Gronka, and he had been to a staff meeting in Harrisburg, and this subject had been brought up probably by Dr. Jan Lieban, who had attended that meeting, and it came by that way; and to my knowledge, I never -- I may have looked into that report of that meeting, but I never read it in its entirety. I know it was available. I don't think to this day that I've read that book in its entirety.

Q. I'd like to return to the time of 1961 with you for a few minutes. That was when you were training for entry into the field of industrial hygiene, wasn't it?

A. Yes.

Q. You were already a chemist. Is that correct?

A. Yes.

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Q. And you had during your college days some acquaintance with the effect that some substances had on human tissue.

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Is that correct?

A. No.

Q. Did you take any anatomy classes when you were in college?

A. No.

Q. Any physiology?

A. No.

Q. Biology?

A. No.

Q. So when you determined to go into the field of industrial hygiene, you then had to learn the effect that certain substances had on the human body. Is that correct?

A. Yes.

Q. How did you undertake to do that?

A. Well, the first introduction that a beginning industrial hygienist has about toxicity and the effect is probably -- in my case, was reading the TLV list, which is just a bare list, and concentrations in air, above which an employee is not expected to work.

Q. You went much deeper than that, though, didn't you, Mr. Manning?

A. After that, yes, of course.

Q. You began to study various literature that told you the effects that various substances have on human tissue. Is that correct?

A. Yes.

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Q. That was through the reading of certainly magazine articles. Is that correct?

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A. Yes.

Q. And newsletters. Is that correct?

A. Yes.

Q. Of course, reading medical or hygienists-type textbooks. Is that correct?

A. Yes.

Q. So some of the ways that you learned about toxicity was through textbooks that in fact had been written many years before 1961. Is that correct?

A. Yes.

Q. Now, part of the area concerns or which concerns the industrial hygienists are with chemical agents, is that correct, that cause a physical toxicity?

A. Yes.

Q. Some of the areas that concern the industrial hygienists are sound or noises that do not directly and chemically affect the tissue, but do it in another manner. Is that correct?

A. Yes, physical agents.

Q. And then there are, of course, bright lights which can also cause not a chemical reaction, but something like a noise reaction that causes a physical reaction without a direct input. Is that correct?

A. Yes.

Q. Now, some of these things, such as noise and bright lights, you learned partly through common sense. Is that correct?

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A. No. There's a highly sophisticated technology

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involved in many of these things. Noise. I think you're trying to get into radiation. Light is just one type of radiation which is of minor concern, I think.

Q. So, then, did you study textbooks to learn even about sound and light --

A. Yes.

Q. -- problems that workers have?

A. Yes, and attended courses.

Q. When you attended courses, were there textbooks which were prescribed for those courses?

A. Yes.

Q. Did you read them?

A. Yes.

Q. Were you tested on what you read?

A. Yes.

Q. And what you learned in class?

A. Yes.

Q. And experiments that you might have done?

A. Yes.

Q. Did you feel that your background of chemistry helped you in your understanding of the effects of these various chemical agents on human tissue?

A. No.

Q. Is a particular area of concern to the industrial hygienists the heavy metals?

A. Yes.

Q. Some of those are gold, mercury --

A. Lead.

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Q. -- and lead?

A. Yes.

Q. Can you think of any others?

A. Well, I could go down the list of metals. Chromium is a heavy metal. Zinc. Zirconium. Cobalt. There are no doubt others. My memory -- there's a list of TLV's, as you well know.

Q. Did you learn of the problem of heavy metals when you were studying in 1961?

A. Yes.

Q. What are the basic problems with heavy metals, Mr. Manning?

A. Well, some of them, it's systemic intoxication, especially lead.

In the case of mercury, it's systemic intoxication, that especially affects the central nervous system.

Different ones have somewhat different effects, I think.

Q. You learned of those problems when you were studying in 1961, but in your reading, you learned that they had been a problem to the human system since before the time of The Borgias. Isn't that correct?

A. Yes.

Q. The heavy metals as poisons had been listed in literature for hundreds of years. Is that correct?

A. Yes.

Q. So there was no mystery about the danger of heavy metals to the worker. Is that correct?

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A. Among certain people who had knowledge of this. It was not common knowledge with the worker, I'm certain.

Q. The question I'm asking you, though, Mr. Manning, while you read about it in 1961, after you read about it, you then learned that it had been commonly known among hygienists or physicians for hundreds of years?

A. Yes.

Q. Now, the same was also true, was it not, for loud or violent sounds, that while you learned about their problem in 1961, it in fact had been known in medical literature for many years before that?

A. Yes.

Q. Was the same thing true with reference to various bright lights, that while you learned concerning the danger that they might cause to the worker in 1961, it in fact had been known in the literature for many, many years?

A. Yes.

Q. In fact, you were questioned or counseled as a boy that you shouldn't look at eclipses of the sun even through photographic plates because you might burn your eye permanently. Isn't that correct?

A. Yes.

Q. So when you started learning about this industrial hygiene area in 1961, you were in fact learning things that had been known in the field for many, many years. Is that correct?

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A. In many cases, yes.

Q. The same is true with various gases that you

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studied. Is that correct?

A. Yes.

Q. And the same would be true for many acids. Is that correct?

A. Yes.

Q. In 1961, you learned and studied, for instance, sulfuric acid. Is that correct?

A. Yes.

Q. Did you learn in 1961, Mr. Manning, that it had been part of medical literature for many, many years that there were certain products or certain chemicals or certain agents that had inherently dangerous characteristics --

A. Yes.

Q. -- to the human tissues?

A. Yes.

Q. And that those inherently dangerous characteristics were something that the industrial hygienist had to deal with as best he could. Is that correct?

A. Yes.

Q. Now, you did learn that there were certain agents you dealt with that could be neutralized. Is that correct?

A. Yes.

Q. There were also certain substances that, while being used, could not be made safe for the worker, is that correct, such as sulfuric acid?

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A. It was the attitude of the best-informed people in industrial hygiene at that time that any agent could be used as long as proper control methods were installed, and

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in some of the cases, why, of course, this had to be very elaborate and expensive, like for radiation.

Q. The question that I have, Mr. Manning, you were not dealing with the problem so much that you were trying to make the product safe, but you were trying to protect the worker against the product that had these inherently dangerous characteristics. Is that correct?

A. Yes.

Q. This would certainly be true with radiation?

A. Yes.

Q. Uranium or X-rays, or something like that?

A. Yes.

Q. That there would be no way that that inherently dangerous product could be used unless the worker were protected against it. Is that correct?

A. Yes.

Q. Mr. Manning, was that in fact the task of the industrial hygienist, to protect the worker against these products with their inherently dangerous characteristics?

A. It was his job to devise and recommend means to control this, yes.

Q. So when you began to learn about asbestos in 1961, you also learned that it was a product that had inherently dangerous characteristics. Is that correct?

A. Yes.

Q. And the fact that it had inherently dangerous characteristics had been known in the literature for many years. Is that correct?

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A. Yes.

Q. In fact, you read articles that indicated as far back as the early 1900's, there was a suggestion and a starting of the knowledge that there were certain inherently dangerous characteristics about asbestos. Is that correct?

A. I read Drinker and Hatch, which I think is the title, "Industrial Dust," which is a well-known text in this field, and they probably had references going back to the early days, yes.

Q. Now, since the time of 1961, especially since you have become more directly involved, you learned a great deal more about the inherently dangerous characteristics of asbestos, have you not?

A. Yes.

Q. Mr. Manning, in all of your reading, have you seen anything that tells you the exact mechanism by which asbestos dust causes injury?

A. Yes. I've seen some speculative kind of things in this regard.

Q. The question that I asked is: Have you learned the exact method by which asbestos causes injuries, or have you learned that there are many different theories as to the mechanism by which injury is caused by asbestos?

A. Yes.

Q. Which is true, sir?

A. Yes, to my knowledge, there is no certain knowledge exactly what the mechanism is, and there are theories in this regard.

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Q. Is that also true with many of the other substances with which you learned to deal starting in 1961? That is, that a substance might cause injury, you might not know exactly how or the mechanism by which it causes the injury, but the industrial hygienist still has to deal with the problem that it causes injury in fact?

A. Yes.

Q. So, then, to the industrial hygienist, the exact injury that is caused or the exact mechanism by which it is caused is not quite as important as the fact that it must be dealt with and must be guarded against. Is that correct?

A. Yes.

Q. Is that what you proceeded to do as you were an industrial hygienist?

A. Yes.

Q. Now, Mr. Manning, during the time that you were in Pennsylvania -- by the way, for the record, can you tell us the other two counties?

A. Clinton and Clearfield Counties.

Q. Okay. At the time you were working in Pennsylvania, and you visited the two plants that you told us about, one was a brake lining plant, if I recall.

A. Yes.

Q. And the other, the name of which now escapes me. Could you tell me again?

A. Pittsburgh Corning plant in Port Allegany, Pennsylvania.

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Q. At the time you visited those plants, you were then

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aware that asbestos had an inherently dangerous characteristic and could cause some damage to human lungs. Is that correct?

A. Yes.

Q. My recollection was that you told us that you didn't wear a respirator when you went to those places because to the industrial hygienist it would not be, quote, in good form. Do you remember that comment?

A. Yes.

Q. I believe you told us early on in this deposition that what you meant by "would not be in good form" was that you didn't want to alarm the workers. Is that correct?

A. The reason that it was poor form for an industrial hygienist to go into a plant while measuring the contaminant, and the plant people were not, was, first of all, it would be begging the question, and I would be indicating that it was out of control before I knew in fact that it was. Management in cases of this kind would be probably highly indignant if in fact I would come in there and put on a respirator in these kind of circumstances. In Patty's book, "Industrial Hygiene and Toxicology," if you want to read that, he makes some kind of disparaging remarks about industrial hygienists going into plants and wearing all kind of protective equipment, and therefore begging the question that industrial hygienists were expected to accept some risk in this regard. It was not regarded as a large risk, considering that we went in for a number of days or hours, and the employees worked there eight hours a day.

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Q. In some of your testimony about the Long Beach

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Naval Shipyard, you talked to us about these times when you would arrive on board ship or something, and you believed that the workers knew you were going to get there, and everybody would, I think you used the term, clean up their act. Do you remember your testimony in that area?

A. Yes.

Q. When was it you first learned that that was the way of the worker? Was that when you were in Pennsylvania? Did you learn then that when an industrial hygienist would appear on a scene, somehow the workers would know ahead of time and would be quite prepared and everything would be in good order and cleaner than it normally was?

A. Well, early on in my experience with the industrial scene, I was well aware that whenever an inspection of any kind occurred, that there would be a fairly rapid cleanup and putting on a good face, and this sort of thing. I learned that a long time before.

The reference I think I made at Long Beach was that when a conducted tour was made, I'm certain that the places where the conducted tour was going to go, that they were forewarned, and somebody made an effort to see that everybody was wearing their respirators, for instance, and this sort of thing.

Q. Kind of like the idea, when somebody is coming over to your house, you fold up the paper and don't leave it on the floor?

A. That's right.

Q. When you arrived on the scene at the Long Beach

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Naval Shipyard -- I'd like to direct your attention to that time -- you found that the office of the industrial hygienist was in somewhat of disrepair. Is that correct?

A. My understanding was that the job had been abolished and there had been nobody aboard as an industrial hygienist for two years at least. There was nothing there.

Q. When you arrived on the scene of the Long Beach Naval Shipyard, you well knew that asbestos had inherently dangerous qualities about it, did you not?

A. Yes.

Q. That, from the day you arrived, was an area of interest to you and an area of concern. Is that correct?

A. Yes.

Q. At one point or another, you had some conversations with Bill Marr, didn't you?

A. Yes.

Q. I've forgotten how you first got into contact with him. Will you tell us again?

A. He made a visit to the shipyard in the spring of 1967.

Q. That was right, then, shortly after you arrived?

A. Yes.

Q. Do you recall the reason for his visit?

A. He had some relatives in town or nearby, I think, and he, I guess, as anybody would, came back to his place of employment to see the people there.

Q. Mr. Manning, is the time of his visit mentioned in your diary?

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A. I don't know. It was definitely -- I have definite recollection it probably was about May of 1967.

Q. Was it at that visit that you learned about Mr. Marr's efforts in the area of asbestos during his tour of duty at the shipyard?

A. Yes. In large part, I learned about it. I think his name was brought up and his work mentioned before he arrived.

Q. In your memorandum or your communication of November 1973, where you're talking about or writing about the office you hold and that you would like it upgraded, do you recall that memo? I think it was November 7th, 1973, that you wrote it.

A. No. This was a memo -- if you're referring to the memo from myself to Dr. Smith --

Q. Yes.

A. -- that was a memo, I think, sometime in August of 1970.

MR. STEIN: Excuse me, Mr. Mulligan. Could you identify that? Was that Jose Smith or Kenneth Smith?

MR. MULLIGAN: Jose.

Q. I'll get it out later if it becomes relevant, Mr. Manning. But at one time or another, you remarked that Mr. Marr had come onto duty at the shipyard in 1956 or 1958. Is that correct?

A. Yes. I think in that memo it was mentioned when he came aboard.

Q. I'll get that out in a little bit.

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In your conversation with Mr. Marr, he evidenced to you a knowledge that he also had been aware of and concerned with the inherently dangerous characteristics of asbestos. Is that correct?

A. Yes.

Q. He had been concerned with the danger to the worker of asbestos during his entire tour of duty there. Is that correct?

A. No. I don't know that.

Q. Tell us what he told you in that regard.

A. He somewhere along the line, when he was there, developed his knowledge and suspicion that this was a very large problem in the shipyard, and it is my understanding that he was one of the first people in the Navy, at least a Navy industrial hygienist, that raised the question and sounded the warning, and later I heard from other industrial hygienists that they first didn't believe him much.

Q. The United States Navy did not believe him?

A. Well, the other industrial hygienists, people involved in this area. So that I would believe that Bill Marr was one of the first people to sound a warning of any consequence in the Navy.

Q. Did he tell you when he began to sound that warning?

First of all, Mr. Manning, would it help if you had that memo in front of you?

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A. I don't think so. He did publish a paper, had a paper published where he did go sort of public in that

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matter, and it was probably some years prior to the publishing of the paper that he had to do some work to do it.

Q. Do you know when he published the paper?

A. Sometime, I think, September or October, I believe -- we have a copy -- of 1964.

Q. All right. So, as far as you actually knew, at the Long Beach Naval Shipyard, the industrial hygienist knew and was proclaiming publicly that asbestos had certain inherently dangerous characteristics toward workers. Is that correct?

A. Yes.

Q. Since that time, 1964, he was undertaking to protect the worker more especially from those actual dangers that he learned about. Is that correct?

A. Yes.

Q. Even before 1964, based on the reading that you did in Pennsylvania in 1961, the hazards of asbestos were already known. However, not the cancer aspect of it. Is that correct?

A. Yes.

Q. So even before 1961 it was well known in medical literature and you would assume in California as well as Pennsylvania, that there were hazards to asbestos use?

A. Yes.

Q. Did you find in your reading in 1961 that there had ever been an effort to hide the dangers of asbestos in medical literature?

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MR. STEINBERG: Could I have that question back?

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MR. MULLIGAN: Please don't. It was terrible. I'll ask another one.

Q. Did you find the literature that you read in 1961 to be freely available?

A. What I read, yes.

Q. Now, did Mr. Marr discuss with you at all the response of his superiors to his warnings about the danger of asbestos?

A. I don't recall anything in regard to the response of his superiors, except that they had some response to his publishing, which they didn't like.

Q. That was his superior who didn't like the fact that he published the paper. Right?

A. That's correct.

Q. Let's get something cleared up, if we can. At the time you arrived, who was the commanding officer of the base?

A. Commanding officer was Admiral Dolan.

Q. Who was the supervisor in your department, the head of your department?

A. Captain George Watkins.

Q. Do you know who the commander of the base was before the one who was in charge at the time you arrived at the base?

A. Captain Robbins.

Q. Who was in charge before that?

A. I don't know.

Q. Do you know who the superior was at the time Mr.

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Marr was at the base?

A. I thought that was the question you asked me the prior. The superior -- Bill Marr's superior was Captain Robbins, a doctor.

Q. Who was the superior after Captain Robbins left?

A. Captain Watkins.

Q. And who was the superior after Captain Watkins left?

A. There was an interim acting director, E. K. Owenby, for three months.

Q. And then who?

A. And then Commander Jose C. Smith.

Q. Who after Commander Smith?

A. Well, after Smith, Robert Manning interposed between me and Smith on his arrival.

Q. Now, I'd like to talk, if we might digress a little bit, about Mr. Robert Manning. You used the term, he interposed between you and Jose Smith.

A. Yes.

Q. What do you mean by the term "interposed"?

A. Well, formerly, before his arrival, I reported directly to Commander Smith, who was then by then captain. And Robert Manning informed me by memorandum which you have that he was my superior, the memorandum, I think, of November 28th.

Q. Yes.

A. And during that period, I was administratively under the Naval Regional Medical Center, and he informed me

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that he was head of the Industrial Hygiene Branch, Naval Regional Medical Center, and that I was head of the section, industrial hygienist for the Naval Regional Dispensary, Shipyard.

Q. You mean, "Congratulations. You just got demoted" kind of thing?

A. I was not demoted. I still was a GS-12 in the federal setup.

Q. Before Mr. Robert Manning arrived, had there been anybody doing his function or in that position on any kind of an organizational chart, whether or not they actually did it?

A. No. This was created.

Q. Did you ever learn or hear any rumors or any thoughts or any comments or see any writings that told you the reason for the creation of Mr. Robert Manning's position or his arrival at the shipyard?

A. Yes. There was reorganization in the Industrial -- in the Occupational Health setup in the Navy, where all the medical facilities that were attached to shipyards were being transferred into Naval Regional Medical Centers, and this was a large organization that, in the case of the Long Beach Medical Center, included the facilities at Seal Beach, the Naval Station, the Naval Supply Center, several other facilities around here, satellite facilities, and this was the concept, I think, in the Navy throughout the country, and there were positions created at a higher level. For instance, Robert Manning came in as a GS-13, and there was a position made available in most Naval Regional Medical Centers, Director of

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Occupational Health, or something to this effect, which was sometimes held by civilian, sometimes by a naval officer.

Q. I'd like to refer to your memo of June 30th, 1970, and I'll give it to you before I ask you any questions about it.

You talk about background in your first paragraph. This is your memo to Commander Jose C. Smith from Sheldon Manning, Industrial Hygienist, Code 725, 30 June 1970. And you talked about Dan Bessemer -- I'll read the paragraph that I'm interested in.

"Dan Bessemer was the first man to fill the billet when he came aboard soon after World War II, but left when the shipyard shut down, and went to Puget Sound Naval Shipyard where he has developed one of the most effective and most respected Industrial Hygiene programs in the Navy."

How did you find out about Dan Bessemer?

A. Yes. I had forgotten.

Q. Do you want this while we're talking?

A. No. I know about it.

I found out about that when I spent a week in Puget Sound Naval Shipyard in May of 1967. Captain Watkins sent me there to be indoctrinated in naval industrial hygiene and become more acquainted with the naval setup, the naval bureaucracy, their way of doing things.

Q. Did you meet Dan Bessemer there?

A. Yes.

Q. Did you have a chance to talk with him?

A. Yes.

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Q. Did he seem to be a knowledgeable fellow?

A. Yes.

Q. Did he seem to understand industrial hygiene?

A. Yes.

Q. Did he seem to understand that there were certain products and certain agents that had inherently dangerous characteristics and were toxic to human tissue?

A. Yes.

Q. When you talked with him, did he appear to have understood the problem at the Long Beach Naval Shipyard concerning asbestos dust when he was on board that billet?

A. I don't recall.

Q. In 1967, you were already very concerned with asbestos dust, were you not?

A. Yes.

Q. Did you have a chance to talk with him about your concern with asbestos at the Long Beach Naval Shipyard?

A. I'm certain that we touched on it. We touched on a lot of areas and had many conversations.

Q. Did you gain the impression from him that he was ignorant or lacking in knowledge concerning the dangers of asbestos when he was at that billet after World War II?

A. No.

Q. So, because of your concern with asbestos and asbestos dust in 1967, that's a subject that you would cover with Mr. Bessemer, was it not?

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A. Yes.

Q. It was a subject that you would talk to him

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about and did talk to him about concerning your concern with it at the Long Beach Naval Shipyard. Right?

A. Yes.

Q. Have I jogged your memory at all about what his recollections were and his concerns were with asbestos dust when he was at the Long Beach Naval Shipyard?

A. No, I can't recall anything in that regard.

Q. It's something you know you talked about, but you don't remember the detail?

A. He talked at that time -- the only thing that really sticks in my memory, he said he did have the beginnings of a fairly decent laboratory, and somebody picked it up and took it somewhere else.

Q. They always do that in the Navy, don't they?

A. It appears this is something that happens frequently.

Q. Did he tell you that he had acquired the dust-gathering devices and measurement devices, and somebody had carted it off?

A. He certainly did, and he did say where it went. I think it went up to Port Hueneme or somewhere like that. They just come down and took everything after he left.

Q. With that in mind, Mr. Manning, you do recall having conversation with Mr. Bessemer about his efforts to work on the asbestos dust problem after World War II when he was at the Long Beach Naval Shipyard. Is that right?

A. I don't recall specifically getting into it, but since he had a lab and he was a knowledgeable industrial

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hygienist, I would infer from that that he was into it, yes.

Q. The laboratory went to Point Mugu, I think you said in your report.

A. All right.

Q. Then you talked in that memo about Mr. J. R. Sheehan filling the billet for a time during the early 1950's after the shipyard reopened. Do you remember that?

A. Yes.

Q. You never met him, did you?

A. No.

Q. You said in that memo, he was reported to be ineffective, unpopular and eccentric.

A. Yes.

Q. Sounds like Mr. McKay. That's kind of an inside slam at a friend. All right?

Who told you that?

A. Cliff Krieger, mostly.

Q. When you talked with Mr. Krieger, did you talk about Mr. Sheehan's time on the base?

A. Yes, we had some --

Q. Sorry.

A. He filled me in on some of the background.

Q. Did Mr. Krieger ever tell you whether Mr. Sheehan had an understanding of the asbestos dust problem on the base?

A. I pointed out there, he was not very active. Cliff Krieger said he spent most of his time in the office. I know he made a dust survey, because that was the only thing

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I ever found.

Q. By "dust survey," are you talking about asbestos dust?

A. No. It was silica dust.

Q. Is that the only papers you ever found on the subject?

A. Yes.

Q. Okay. Then the billet was not filled for some time, but in 1958, Bill Marr was recruited and so forth, in your memo. Is that right?

A. Yes.

Q. So it was in 1958 that Bill Marr came on the scene. Is that correct?

A. Yes.

Q. Mr. Manning, would it be correct that by reason of your conversations with Dan Bessemer and Bill Marr, you became of the opinion that since shortly after World War II, personnel in the industrial hygienist's level at the Long Beach Naval Shipyard were aware of the potential health hazards of asbestos at the Long Beach Naval Shipyard?

A. Well, if they were not, they should have been.

Q. Because the information and literature was well available to them?

A. Yes.

Q. And based on your knowledge of both Bill Marr and Dan Bessemer, they were knowledgeable and this was something you would know they would know about. Is that correct?

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A. Yes.

Q. Especially recalling that Dan Bessemer told you that the laboratory that he had set up included dust-sampling equipment. Is that right?

A. I don't recall him saying that he had specifically dust-sampling equipment, but by any stretch of the imagination, I would assume that he had it.

Q. Did either Bill Marr or Dan Bessemer tell you of the reactions of the management of the shipyard, if we can use such a term for the Navy, to their efforts at protecting the workers generally?

A. Well, I think Bill Marr indicated to me that he received less than wholehearted support from management at various levels.

Q. Dan Bessemer came in before the Korean conflict, right after World War II, didn't he?

A. Yes.

Q. And he was there during the Korean conflict. Is that correct?

A. The shipyard closed the day that the Korean conflict began.

Q. And then Bill Marr was there between Korea and Vietnam. Is that correct?

A. He was there up -- I think he left in early 1965.

Q. Isn't it terrible when we have to approximate times with wars?

A. Yeah. Right.

Q. He said that he got less than total commitment

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from management. Is that correct?

A. I believe that he indicated this.

Q. Did he tell you what he meant by that?

A. Well, it is, to me, self-explanatory. I was seeing the same thing, really.

Q. Tell us what Bill Marr told you about it.

A. I don't have any sharp recollection of this, no.

Q. Did he appear to be frustrated, to you?

A. No, he didn't seem to be frustrated. Maybe he didn't have high expectations.

Q. But he did tell you that he had informed the hierarchy at the Long Beach Naval Shipyard?

A. Yes.

Q. Did Dan Bessemer tell you that he was a writer of memos, and did he inform his superiors about conditions he found at the shipyard?

A. No, I didn't get into that.

Q. You didn't find any articles that Dan Bessemer wrote, did you?

A. Nothing, no.

Q. But you did talk about that with Bill Marr, that he had informed the United States Navy about the dangers of asbestos while he was on board, didn't you?

A. Yes.

Q. Now, at the time you arrived on the scene, you were aware that various craft unions were working at the Long Beach Naval Shipyard. Is that correct?

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A. Yes.

Q. And you talked with us about a fellow named Webster Ay of the Metal Trades Council. Is that correct?

A. Yes.

Q. Now, did the Metal Trades Council have various unions working within it, that you knew about?

A. Yes.

Q. Were those various unions working at the Long Beach Naval Shipyard?

A. Yes.

Q. Which unions do you recall having been on the Long Beach Naval Shipyard during the time that you were there?

A. Well, the only one that really sticks in my mind is the pipe coverers and insulators and refrigeration workers. I knew that there were other unions for other crafts, but I paid very little attention to it.

MR. COYLE: I'm very sorry, Miss Reporter. Would you read back the name of that union?

(The answer referred to is read by the reporter.)

Q. BY MR. MULLIGAN: There was a time after your arrival on the scene when I think you told Mr. McKay that you learned that Webster Ay seemed very well informed on the subject of asbestos and its danger to the workers.

A. Yes.

Q. Did you reach that opinion very shortly after you arrived on the scene at the Long Beach Naval Shipyard?

A. Yes.

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Q. Did you have, in fact, discussions with Mr. Ay about asbestos and its dangers to the worker?

A. I certainly very soon after I arrived somewhere -- he either got in touch with me or I got in touch with him.

Q. Do you remember who he told you he was? Did he announce himself? And I'm asking you for a meeting that I know is difficult to bring back, but did he announce himself as a union official or as a foreman?

A. He would have identified himself as a foreman.

Q. In your conversations with Webster Ay, did he appear to you to have done some reading on the subject, or at least did he have knowledge of the technical information concerning asbestos?

A. He had some reading, and he had talked to Bill Marr, and Bill Marr had talked to him, I'm sure.

Q. Did he tell you that he had talked to Bill Marr when Bill Marr was on the scene?

A. Oh, yes. He mentioned Bill Marr repeatedly.

Q. Bill Marr left in 1965?

A. '5.

Q. Did Webster Ay tell you that he had talked with Bill Marr about asbestos when Bill Marr was there?

A. Yes.

Q. So, sometime before 1965, the president of the Metal Trades Council told you that he was informed about the dangers of asbestos to the worker. Is that correct?

A. Yes.

Q. Did he tell you whether he had undertaken to do

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anything in his position as president of the Metal Trades Council to protect the worker from the hazardous effects of asbestos?

A. Yes.

Q. What did he tell you that he did?

A. I would not know in which capacity, but --

Q. Of course.

A. He had a dual capacity. He was trying on a local level -- I think his main thrust at that time when I came aboard was to get amosite-type materials out of the supply system. And I think he worked with the local supply people and tried to use his influence there, and he probably went as far as the Naval Supply Center.

Q. You don't know in what capacity he went there. Is that correct?

A. No, I don't.

Q. Now, tell me a little bit about the union that Mr. Ay headed. Had you been informed while you were there that there were other officers of the union besides Mr. Ay present?

A. Yes, I knew this.

Q. Who were some of the other officers that you knew about? Let's talk about on the management level of the union, if they'll permit us to use that term.

A. I had very little contact with these people. There were some people that I knew that I may have mentioned in my log --

Q. Mr. Manning, I'm not going to ask you details of the conversation. Right now I'm interested in names.

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A. I don't have any recollection of any of the names.

Q. Okay. At the Long Beach Naval Shipyard, however, you were aware there was a local union. Is that correct?

A. Yes.

Q. And that local union had officers. Is that correct?

A. Yes.

Q. You, through all your work, came to know that local unions have presidents and vice presidents and secretary-treasurers and things like that. Is that correct?

A. Yes.

Q. In addition to the officers, they also had something called stewards. Is that correct?

A. Yes.

Q. Do you recall approximately how many stewards there were at the Long Beach Naval Shipyard while you were there?

A. No, I have no -- couldn't even hazard a guess.

Q. Did anyone ever tell you at any time while you were there what the function of the steward was?

A. Well, the steward was the man that was working at the worksite, and he was there to protect the interests of the workmen in the shop or whatever he represented, and would probably receive initial complaints and this sort of thing, and take them upstairs. He was the first-line representative of union management.

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Q. Was your recollection as you would visit the various jobsites on the base that there was a union steward in

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place at each jobsite?

A. Yes, I knew that.

Q. Were you aware as to the union steward's position concerning working conditions?

Do you want me to ask that question a different way? It was not a good question.

A. Ask it again.

Q. Was it your understanding that the purpose of the union steward was to be certain that the working conditions were tolerable for the worker?

A. That would be one of his functions.

Q. If the working conditions were not tolerable for the worker, it was your understanding that the steward could do something about that. Is that correct?

A. Yes.

Q. In fact, you saw instances where the union steward would cause complaints to be filed or even work to be stopped if working conditions became intolerable or dangerous. Is that correct?

A. Yes.

Q. During the time you were present at the Long Beach Naval Shipyard, was there ever a time when a strike was called?

A. No formal strike that I know of.

Q. There were work stoppages, though, were there not?

A. Yes.

Q. What were some of the reasons you recall work stoppages occurring?

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A. There was only one work stoppage that I can recall, that people were walking off the job, and this happened in, I think, January 1974. It was a situation in dry dock where there was sandblasting going on, and the workers felt it was out of hand, and it wasn't being controlled, and some of them were walking off the job, I know. It wasn't anything formal.

Q. What do you mean by "out of control," Mr. Manning?

A. The workers felt that the situation was dangerous to their health.

Q. Following that, do you recall any reprisals against any of the workers that walked off when they felt that the working conditions were dangerous to their health?

A. I have no knowledge of this.

Q. Did you gain some information that this walk-off was led by either the stewards or some officers of the union?

A. I don't know who was involved.

Q. How did you find out about it?

A. That they walked off?

Q. Yes.

A. Somebody called me up and complained -- there was quite a few complaints, I think.

Q. Were these stewards that called you?

A. I don't know, but they said the men were walking off the jobs, and when I went to look the situation over, why, it looked like the work force looked kind of sparse to me.

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I, from that, inferred they walked off somewhere.

Q. After your observation of the scene, did it appear to you that the conditions were hazardous to the health of the workmen?

A. I don't know that for certain, but the fact that they were walking off the job and there was quite a bit of -- many people were complaining, I took action and went -- along with the safety man, went to the production officer's office, a Captain Frank Miller, I think, at that time, called him from a meeting and explained the situation, and he took corrective action.

Q. You mean he got rid of the health hazard to the workmen. Is that correct?

A. He stopped the job.

MR. MULLIGAN: You're looking tired, Mr. Manning. We'll stop. Why don't we take 10 minutes.

(Recess taken from 11:15 a.m. to 11:30 a.m.)

Q. BY MR. MULLIGAN: Mr. Manning, can you tell us who Captain Frank Miller was?

A. He was the production officer at the shipyard at the time that I left there.

Q. It was Captain Miller that stopped the job because of the health hazard. Is that correct?

A. Well, he went to the window and looked out, and saw the cloud of dust, and I told him that people were walking off the job. I had taken samples the day before, and this thing broke while I was counting the samples, and I didn't know what exactly the situation was, healthwise. But

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it was causing a work stoppage and was of grave concern to Captain Miller, and he saw the cloud, and he says, "I don't blame them for walking off," and he then proceeded to close down the sandblasting, and the following day, there was some other methods used.

Q. Captain Miller was a United States Navy officer, was he?

A. Yes.

Q. So far as you knew, he had the authority to stop work?

A. Yes.

Q. His title again?

A. Production officer.

Q. What does a production officer do, so far as you knew?

A. Well, probably he's second highest officer next to the shipyard commander. He is responsible for seeing that the work on the ships is carried forward, and in the shops, and has charge of all production.

Q. Was his a desk job, or would he travel around the shipyard?

A. It would be primarily a desk job.

Q. But so far as you knew, he had the authority to instruct the foremen or other personnel to stop work. Is that correct?

A. Yes.

Q. Had there ever been any other instance where Captain Miller or anyone occupying a like position had ordered

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work stopped by reason or because of a health hazard?

A. This is the only case that I can recall happening.

Q. Was there ever another time when you had gone to Captain Miller or a person of like position and discussed with them health hazards or dangers to workers?

A. I had gone to -- accompanied by other officers, to as high as the shipyard commander. There were times, I think, that we did talk to the production officer. He may have been in attendance in these sort of things.

As an employee of the shipyard, when I was an employee of the shipyard, it would have been very difficult for me to have gone directly to that office, because I had -- my superior was Commander Smith, Captain Watkins, and I would have been expected to work through him and not around him and over him.

Q. The chain of command was very important at the shipyard, was it not?

A. Yes.

Q. At any time when you went to either Captain Miller or someone of like position, were you ever attended by a union steward or a person from the union?

A. No.

Q. Were there times when union stewards or officers of the union would come to you and tell you of health hazards, that you knew them to be either stewards or officers of the union?

A. Yes.

Q. Was it ever with reference to asbestos?

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A. Yes. I can recall some occasions.

Q. Do you recall who it was that came to you, by name?

A. I can recall in the latter part of my stay there, job career there, a man by the name of Andy Abbott, who in the latter few months that I was there was the Metal Trades Council president. He came to my office.

Q. Did he want to talk about health hazards?

A. My recollection is, his primary concern was to see that the boilermakers who worked with asbestos were put on the coverall program, that they received coveralls.

Q. I'd like to refer back, if we can, to -- was it Admiral Dolan that was commander of the base when you arrived there?

A. Yes.

Q. How do you spell his name?

A. D-o-l-a-n.

Q. Do you know who was commander before he was?

A. No. This, of course, is a matter of record that could be easily found out.

Q. Do you recall who was commander after Admiral Dolan?

A. Yes.

Q. Who was that?

A. That would be Captain Hart. Later Admiral Hart.

Q. How do you spell his name?

A. H-a-r-t.

Q. When did he arrive?

A. His arrival was, I think -- it was approximately

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sometime in the summer of 1967, I think.

Q. How long was Admiral Hart there?

A. Three years.

Q. Who succeeded him?

A. Captain Fay.

Q. Did he become an admiral, too?

A. I don't know.

Q. Was he still there when you left?

A. No.

Q. Who succeeded him?

A. Captain Duchek.

Q. Do you know Captain Duchek's first name?

A. No, I do not.

Q. Captain Fay's first name?

A. No.

Q. Admiral Dolan's first name?

A. No.

Q. I'd like to refer you to the orientation meeting that you had in 1968.

A. Yes.

Q. And you talked with Mr. McKay a little earlier about that meeting, but I'll try not to plow that same ground that he talked with you about.

Did you discuss other subjects besides the danger of asbestos?

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A. No.

Q. At that meeting, the union officials who were there and present seemed fully aware and knowledgeable about the

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subject. Is that correct?

A. Webster Ay was the only union official that I could identify that was there. There may have been others, stewards and the like, among the audience.

Q. Did you ever see any union newspaper wherein asbestos was mentioned while you were at the Long Beach Naval Shipyard?

A. Yes.

Q. Were there from time to time articles in the union newspaper that discussed the danger from asbestos to the workmen?

A. Yes.

Q. Did you ever author any of those articles?

A. No.

Q. On about how many occasions did you see articles in the union newspaper which would discuss the dangers of asbestos to the workmen?

A. Well, I'd like to correct this. You're using "newspaper," and I'm thinking about a periodical that was published by the national union, the pipe coverers and insulators and refrigeration workers. This was the publication that I saw that crossed my desk.

Q. That was a slick-type magazine, was it not?

A. Yes.

Q. On how many different occasions did you see reports from the national union concerning the dangers of asbestos to the workers?

A. Well, it was at least once or twice.

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Q. Do you recall approximately the earliest time you ever saw such an article?

A. Probably 1968 or '69.

Q. Do you remember the next time you ever saw one?

A. Well, these publications crossed my desk. I think probably Webster Ay or somebody would provide me with a copy if they thought there was something in there that would interest me.

Q. To return to that orientation session that you had in 1968, at that time were the workmen instructed to wear respirators at the time they were doing ripout operations?

A. Yes.

Q. Were they at that meeting at all told that that requirement or regulation would be enforced?

A. No.

Q. During your tenure at the Long Beach Naval Shipyard, did you ever have any other orientation with any other workers on any other subject?

A. Yes.

Q. How many other orientation meetings did you have?

A. Oh, there may have been 50.

Q. You would discuss the dangers of mercury with some workers. Is that right?

A. No. This was done on a one-to-one basis.

Q. I'm talking about a group meeting now. I'm sorry, Mr. Manning. I should have been --

A. Yes. The other orientation meeting, I think, in its entirety concerned hearing conservation, and all the

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shipyard workers in groups of 30 to 50 were called in, and I gave a presentation.

Q. Was that at the time that the hearing cases were being filed by the workers asking for compensation for hearing loss?

A. Yes.

Q. And after the compensation cases were being filed, did you have some meetings with some of the shipyard officials about complaining of the cost of the litigation and the cost to the government of the compensation cases about hearing?

A. No.

Q. What was the reason for the orientation of all the workers about hearing loss, if you were told?

A. Well, about this period, of course, the fact that there were a lot of claims filed got the attention of some people in Washington. This, however, did not affect the shipyard costwise, because each shipyard specifically did not pay these claims. As you know, the claims were paid by the Department of Labor. And therefore, it did not cut into the shipyard budget, these claims. So that they were not punished moneywise.

But to get back to your question, the people in Washington, BUMED, were alerted. We had many claims. There had been an instruction sent out that was in great detail, and there was a lot of concern, at least in BUMED in Washington and in my office, and other people in the shipyard. So that -- and there was a demand by our union people, as I

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recall it, to have some kind of education program.

Q. Did you ever see any articles in any union periodicals concerning hearing loss?

A. No.

Q. So, aside from the hearing loss orientation meetings and the asbestos-type orientation meetings, were there ever any other group meetings of shipyard personnel that you would classify as orientation concerning the dangers or hazards of any substance that was injurious to health?

A. There were several meetings indoctrinating shipyard workers about the dangers of ionizing radiation.

Q. When were those, approximately?

A. 1973.

Q. Any other group meetings?

A. Not given by myself. I don't think there probably were any other group meetings, no.

Q. So, from the time that you arrived there in 1967 until the hearing loss compensation cases were filed, the only orientation meetings that were held were held as a reaction to the problems created by asbestos. Is that correct?

A. That's true.

Q. And you didn't hold the orientation meetings or you weren't instructed to hold the orientation meetings about hearing loss until the compensation cases were being filed and somebody finally paid attention in Washington. Is that correct?

A. Yes.

Q. But before that time you had announced to your

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superiors the problem of noise pollution or noise levels in the shipyard, had you not?

A. Yes.

Q. At all times that you knew about, the Navy was informed as to the danger of noise to the human ear. Is that correct?

A. Yes.

Q. That was part of Bill Marr's problem, as well, was it not? You talked to him about the problem he had with getting noise levels reduced or noise protection for the workmen. Is that correct?

A. I don't recall any conversation in this area. I know that he didn't have any equipment to do noise level work.

Q. In the orientation meetings, I think you told Mr. McKay there were about 125 men present.

A. Yes.

Q. There were a lot more than that working around asbestos, weren't there?

A. Around, yes.

Q. I'd like to talk to you about the asbestos that you saw in the shipyard. The other day, Ms. Haskell began a series of questions which have been touched upon by other attorneys concerning products that you saw around the shipyard. Do you recall the conversation in that regard?

A. Yes.

Q. And after you told us that you saw certain products with certain names on them, you noticed various

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attorneys would get very attentive when you would deal with certain names. You noticed that?

A. Yes.

Q. Then after that time, you were asked some questions about any warnings that you saw on the product. Do you recall that?

A. Yes.

Q. Would it be correct, Mr. Manning, that you don't recall any particular warnings on any particular packages, that is, what they said or whether they even in fact existed?

A. This would be a fair answer, yes.

Q. Now, you, as an industrial hygienist, knew at the time you saw those products that they might have a warning on them. Is that correct?

A. Yes.

Q. That's because in the area of industrial hygiene, many times a product will in fact have a warning on it to warn the user of a particular problem or hazard of that product. Is that correct?

A. Yes.

Q. Would it be correct, Mr. Manning, to say that you didn't particularly have any concern for those warnings because you already knew the hazards of asbestos?

A. Yes.

Q. So, for you to go around studying warnings that might or might not appear on various packages would not tell you anything more than you already knew. Is that correct?

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A. That's correct.

Q. You had been on an educational program since at least 1967 to inform the workers of the hazard and dangers. Is that correct?

A. Yes.

Q. You could tell from seeing the union periodicals that the union had been on a campaign to inform the workers of the dangers of asbestos since early in your tenure at the shipyard. Is that correct?

A. Yes.

Q. And you had been informed that Mr. Marr before you had attempted to inform and advise the workers of the dangers of asbestos. Is that correct?

A. Yes.

Q. Was that part of the reason that you weren't terribly concerned with the exact wording on the packages, because you and others at the shipyard already knew the dangers of asbestos?

A. In part. The other part is that most packages, containers that come aboard the shipyard or anywhere else, contain warnings whether they have any real toxicity or not, seemingly. And as you've pointed out, both the people who worked with asbestos and the people who worked to control asbestos, we both were fully informed and very easily identified what the product contained by visual inspection. And if that wouldn't do the trick, I had available a microscope that I could -- and other means, and the trade name index. All kind of material.

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So that there was not a great concern about the warnings,

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although there was an OSHA Act that specified that certain language be used, and I think at the end of my tenure there that some of these packages did contain what they considered a proper warning.

My feeling is that a few words on a package does not fully cover the real extent of the danger.

Q. And couldn't. Is that correct?

A. That's about -- that's true, yes.

Q. You told us that during your tenure at the shipyard, you had had what I think you called many one-on-one orientation discussions with various workers. Is that correct?

A. Yes.

Q. Did you ever in all of your tenure at the shipyard instruct a worker who was working around asbestos that there was danger of asbestos where that worker didn't evidence to you that he already knew that he should wear a respirator?

A. We put an orientation course on for foremen about asbestos in 1971, and these were all kind of foremen, and this meant that we at that time had concern about other trades being exposed to asbestos in a collateral way, walking through or working side by side, and this sort of thing. And the purpose of that, those orientations, was to inform the foreman, with the understanding that he would then transmit that information to the people that worked for him.

Q. The question that I've asked you --

MR. STEIN: Excuse me, Mr. Mulligan. Could I have an answer to your last question?

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MR. MULLIGAN: An answer, or that answer?

MR. STEIN: No, an answer.

MR. MULLIGAN: I'm going to follow up on it.

Q. The question, however, that I asked you, Mr. Manning, is: Did you ever have one worker tell you that he didn't know that he was to wear a respirator when working around asbestos during your tenure at the shipyard?

A. I never had a worker come up to me and say that he didn't know, no.

Q. There were times when you would speak to workers or to their foremen about workmen not wearing respirators. Is that correct?

A. Well, it was policy in the shipyard, that pipe coverers and insulators wear respirators. It was not policy or there was no instruction out that people that worked around that should wear respirators.

Q. Did you ever hear one worker tell any foreman, any lead man, any union steward, or any union official while working around asbestos that he did not know he was to wear a respirator?

A. I never heard that, no.

Q. Now, I believe you told Mr. McKay -- I know you told Mr. McKay, and I think you told others, as well, that in your judgment, most of the dust or a greater quantity of dust was involved in the ripout operation than in any other operation. Is that correct?

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A. Yes.

Q. Those ripout operations normally with, I think,

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one exception you told us about, would occur aboard ship. Is that correct?

A. Yes.

Q. The one operation you told us about, they were working on a boiler or on a furnace in one particular shop, if you remember that, and if you don't, we'll just go on.

A. I don't remember that, no.

Q. Okay. During the time those ripout operations were taking place on ships, were they sometimes in dry dock?

A. That's possible. Generally they were not.

Q. Were they at pierside?

A. Yes.

Q. While they were at pierside, they still had the ship's forces on board those ships, did they not?

A. Sometimes, yes.

Q. Well, as a matter of fact, at any time the ship was afloat, wasn't there some type of a duty officer on the ship that you understood was in charge and in command of that ship --

A. Yes.

Q. -- even though the commanding officer was gone from the ship?

A. Yes.

Q. So at any time a ship was at pierside, you knew, by reason of your knowledge of Navy protocol, that the man in charge of that ship and what went on that ship was a duty officer while it was at pierside. Is that correct?

A. Yes.

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Q. Did you ever at any time speak to any of the duty officers on board any of those ships while ripout operations were going on, who evidenced to you any ignorance of the need for a respirator during ripout operations while the men were working around asbestos?

A. No.

Q. You told us about an instance where there seemed to be a jurisdictional dispute between ship's forces and shipyard personnel. Do you recall that conversation that we had about that?

I think you had it with Ms. Haskell.

A. Yes.

Q. Other than that time, do you recall ever seeing ship's forces wearing respirators?

A. Yes, I saw them other times.

Q. Were you informed or aware of whether the ship's forces were provided on the ships with respirators that could be used?

A. Yes, on occasion they were provided with respirators.

Q. Were those respirators provided by the ship's forces?

A. I don't know where they got them.

Q. They got them from the ship, though, didn't they? They didn't get them from the shipyard?

A. I don't know where they got the respirators.

Q. Did you ever hear any duty officer instruct his men to wear respirators working around the ripout

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operations?

A. No.

Q. Now, Mr. Manning, anytime a ripout operation was occurring that you observed, you could not identify the manufacturer of the asbestos that was being ripped out, could you?

A. No.

Q. It all looked the same. Is that correct?

A. There was -- it didn't look the same, but there was nothing to identify the source or the manufacturer of the material.

Q. But as you saw asbestos before it was being ripped out, you knew that it was in fact asbestos that was going to be ripped out on any particular operation. Is that correct?

A. Not always.

Q. Did you think sometimes it could be glass?

A. Yes.

Q. How would you learn what the product was that was going to be ripped out?

A. Well, I couldn't be certain beforehand, because it was -- for instance, glass blanket was generally covered by some kind of cloth, and you couldn't see it. But after it was opened up and ripped out, you could see what it was.

Q. Did you ever learn whether the ships arrived with various documents and papers that would tell where they had been, what they had done, and what materials had been used, when they had last been overhauled, when they had last been

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repaired, or things of that sort?

A. I certainly think that these papers exist, but I had no -- I never dealt with these papers. I probably would not have had access to them.

Q. So you never saw them?

A. That's right.

Q. So when a ripout operation would begin or would be going to happen, would you be informed that it was going to occur?

A. No.

Q. How, Mr. Manning, would you learn that a ripout operation was taking place?

A. The way I operated -- sometimes, when I first came aboard and first started sampling, I tried to work through the shop and find out what was happening where, and I found that several things happened. First of all, the men were maybe forewarned, and I wanted to enter a situation where my presence wouldn't interfere with their work habits or as little as possible. I wanted to try to get at the truth of exactly what was happening. And there was no way of getting around the fact that my presence maybe would alter the situation. But I did not want to go to a place announced.

So that in all my work, in the interests of getting at the truth and getting samples that were not either cut down by the workers being overly careful, or to the other extent, somebody putting on a big show and so forth. However, I won't say that this didn't happen. But I

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went unannounced, and I would follow the workers aboard ship. I could identify pipe coverers and insulators, and would go out on the pier and I'd see them around, and when they went aboard, I went aboard, and I would follow them to the worksite.

Q. How would you find out that a ripout operation was going to occur? Would you just watch the shop and leave when they left?

A. I didn't watch the shop. I worked by watching what was happening on the piers. At times, I would ask the workers about what they were going to be doing later on, and sometimes they would let me know. I would know that certain machinery was going to be uncovered sometime, and I would try to make sure that I was there.

The big ripouts generally came sometime soon after the ship came to the shipyard. I mean, in other words, the taking off was one of the first things that happened.

MR. STEIN: Excuse me, Mr. Mulligan. Wasn't the original question, "How were you informed of the ripout operations?"

MR. MULLIGAN: I'll stay with that, Andy.

MR. STEIN: Thank you, sir.

Q. BY MR. MULLIGAN: How would you physically get around the shipyard? Did you walk, or did you have a golf cart, or how did you get around?

A. I generally walked.

Q. How far was it from your office to dockside?

A. Oh, half a mile at the most, three-quarters of a mile, maybe, to Pier 6.

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Q. Was there any type of a ship's arrival list that you would be provided so you would know when a ship was coming in?

A. Yes. This was available.

Q. Would it regularly be sent to you?

A. It was at least regularly sent to the dispensary, and it was available.

Q. In that ship's arrival list -- is that what you called it?

A. Yes.

Q. In that ship's arrival list, would you be informed as to what work was going to be done on the ship when it arrived at the shipyard?

A. No.

Q. So the fact that you knew what ships were coming in wouldn't tell you in fact whether they were going to paint the captain's quarters or they were going to rip out the boiler room. Is that correct?

A. No.

Q. How would you then find out?

A. Well, generally, the ships that come into the shipyard didn't come in for the purpose of just painting the captain's wardrobe. They would come in to overhaul ships. And when a major overhaul occurred, why, the same things happened over and over again. And this was in engine rooms and machinery spaces that contained insulation that contained asbestos. This material had to be ripped off so that the other trades could get at their work, the pipe fitters

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could get at the pipe, and the people that had machinery to overhaul could get to the machinery, and the boilermakers could get to the boilers. So this is a repetitious thing, and I didn't have to really know any kind of workup to know there was going to be ripout aboard a ship.

Q. I don't want to tire you on this one subject, Mr. Manning, but when the ship would come in, it would be probably in, if it was there for an overhaul, more than one day, wouldn't it?

A. Yes.

Q. Sometimes it would be there for months. Is that correct?

A. Yes.

Q. So when it came into port, on one day a ripout was going to occur. Is that correct?

A. This, no doubt, would extend over a length of time. It didn't happen always in one day, no. This was impossible to rip out everything in one day on large ships.

Q. Did you attend other events on the ship during the overhaul period, than ripouts?

A. Yes.

Q. You would attend sometimes when it was being painted, would you not?

A. Yes.

Q. You would attend when welding was going on, major welding. Is that correct?

A. Yes.

Q. And other events of that sort?

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A. Yes.

Q. Were you in fact on board those ships all the time, looking for any health hazard, not just asbestos dust?

A. Aboard all the time, no.

Q. Were there any particular occurrences on board the ship that was being overhauld that you would attempt to attend and monitor?

A. Well, my principal concerns, of course, were the asbestos trades and the sound levels, were my principal concerns. There were other concerns, but those were the two largest ones.

Q. When you would visit the scene of a ripout unannounced would you notice a difference in the work that was going on or the manner in which the work was being done from, for instance, a guided tour when Dr. Selikoff was watching a ripout?

You're under oath, sir.

A. Yes. Well, yes, there was some difference. The guided tour situation -- the men all wore respirators while we were in sight, and as I recall, they weren't shown possibly the worst conditions, and sometimes, you know, ripouts vary, depending on how much was being ripped out and where it was being done. And I observed situations when I was working alone where initially they weren't wearing respirators, and this has been explained.

Q. How many total, estimate, total guided tours did you observe or take part in during your tenure?

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A. Well, let's make a guess and say 10, 12.

Q. And the guided tours were always announced in

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advance. Is that correct?

A. They were set up by -- generally by Webster Ay, who knew where the work was, and I have no doubt in my mind that these people were prewarned.

Q. Whenever a guided tour occurred, the men were always wearing their respirators. Is that correct?

A. The only exception is the time that we talked about where the fellow -- it was on a guided tour and there was a worker mixed a bucket of mortar containing asbestos, and he wasn't wearing a respirator.

Q. And you said you were embarrassed about that?

A. Yes.

Q. But with that one exception, every guided tour that you saw or participated in or were a part of, the men always wore their respirators?

A. Yes.

Q. Do you know who it was that made sure those men had their respirators on at the time the guided tours took place?

A. No.

Q. Did the men appear to already know that they should have their respirators on?

A. They appeared to know. Somebody told them the tour was coming through. I would not know specifically who told them. I may have some ideas about it, but I wouldn't know exactly.

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Q. What ideas would you have?

A. I would assume that Webster Ay informed the

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foremen that they were coming, and, you know, straighten up.

Q. So far as you understood it, Mr. Manning, the purpose of the respirator was to protect the health of the worker. Is that correct?

A. Yes.

Q. So if the respirator's hung around the neck, it doesn't do a whole lot of good for the worker, does it?

A. No.

Q. Then if it's hung around the neck and he later puts the respirator on, he's still breathing all the bad stuff he is not supposed to breathe in the first place. Is that correct?

A. The possibility is it would be dirty, yes.

Q. It would be contaminated if it was around his neck and the asbestos fibers were in the air. Is that correct?

A. Yes.

Q. Did you ever have any discussion with either the foremen, with union official Ay, or with your superiors about this practice of the men snatching up the respirators and putting them on when they thought somebody might be coming around to look at them?

A. There was some passing comment about it. I'm certain that we discussed it. It was no great surprise that this went on, no. I had no enforcement responsibilities.

Q. I know. Your responsibility was to advise and inform. Is that correct?

A. Yes.

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Q. Such as you did with Captain Miller with the sandblasting incident. Is that correct?

A. Yes.

Q. Now, were there times when you would go on board a ship that was being ripped out and observe the workmen see you and then pick up or put on their respirator over their face?

A. Yes, it did happen.

Q. Was there ever a time when you went through a ship during a ripout operation when you saw workmen working in the room where the asbestos was being ripped out, who did not wear respirators?

A. Yes.

Q. Now, after seeing you or apparently seeing you or turning toward you, did you ever see a workman continue to work without his respirator?

A. Yes.

Q. How do you know, then, that that worker that you would see working without a respirator knew of the danger of asbestos?

A. A possibility he didn't know.

Q. Did you ever speak to his foreman, when you would see a workman working without a respirator?

A. No.

Q. Did you ever speak to a union steward when you would see a man working without a respirator?

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A. No.

Q. At the time you went on these guided tours

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during a ripout operation, would you ever go into that room where ripout was being done, without a respirator, yourself?

A. I think, on the guided tour situation, we had respirators, and if we got near a situation where the work was being done, we'd put them on. Otherwise, we wouldn't.

Q. Mr. Manning, did you get to know these men who were the pipe coverers and insulators?

A. Yes.

Q. Did you get to know them to recognize them?

A. Some of them, yes.

Q. Did you ever see a man working when you would arrive unannounced, without a respirator, and then later see that man at a guided tour time wearing a respirator?

A. I have no recollection of that, no.

Q. But you never on a guided tour, with the exception of the one that you told us about, saw a man not wear a respirator, is that correct, during ripout?

A. That's correct.

Q. To return again to the idea of the warning on the packages, there were no signs on board the ship that were carried on during ripout operations, were there?

A. There were signs made up sometime like 1973. They were heavy, and they had a pedestal-type thing, and they were red, and they were carried aboard ship and placed in compartments.

Q. Were those the personnel exclusion signs?

A. Yes.

Q. They were temporary signs that were placed there

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by the workmen. Is that correct?

A. Yes.

Q. Now, there were no permanently fixed signs on the ship, were there, that warned of the danger of asbestos?

A. No.

Q. With reference to the danger of asbestos during the ripout operations, were you depending on the orientation meetings and the knowledge of the foremen and the union officials to warn the men of the danger of asbestos?

A. Yes.

Q. Were you also counting on your presence there to enforce the knowledge that you believed the men already had about the danger of asbestos during ripout?

A. I could enforce nothing.

Q. Well, you did notice, Mr. Manning, when you showed up, they had their respirators on, didn't you?

A. Yes.

Q. When you say that, I gain the impression, and I want you to tell me if my impression is right or wrong, that when you showed up, they would be wearing their respirators, but when you weren't around, you weren't so sure they were wearing them or not. Is that correct?

A. That's true.

Q. What was it that gave you that thought, that impression?

A. Well, I had conversations with other people who observed them when I wasn't there.

Q. What kind of people?

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A. People on maybe other crafts or people who worked around pipe coverers. Webster Ay himself did not believe that they wore them all the time. Just conversations with people that were there when I was not there would lead me to believe this.

Q. Did Webster Ay or any other union official ever tell you whether the union had any kind of an enforcement program that would enforce the wearing of respirators?

A. No.

Q. Mr. Manning, do you have an opinion, based on your experience at the shipyard and your training and experience as a hygienist, why, if you had no enforcement authority, those men would wear their respirators when you were around?

MR. STEINBERG: Well, it really calls for speculation.

MR. MULLIGAN: I'm asking if he has an opinion. He may not have one.

MR. STEINBERG: Even if he did, it is speculative. You can draw your own conclusions. His expertise isn't required.

Q. BY MR. MULLIGAN: Leaving his expertise out: Do you know why those men wore respirators when you were around, if you didn't have any authority to enforce?

MR. STEINBERG: Go ahead and answer the question.

THE WITNESS: The best guess that I can make is that they may not have known that I didn't have any way of enforcing anything, and probably they were maybe ashamed not

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to wear them after seeing me indoctrinate them. Possibly they just wanted to please me.

Q. BY MR. MULLIGAN: You kind of doubt that latter, don't you?

A. No. I don't know.

Q. Mr. Manning, I have the impression, as a comment, that not everybody in that shipyard spent a whole lot of time trying to please you.

You had never informed anybody that you had no enforcement authority. Is that correct?

A. No, I never got to that point.

Q. Did Webster Ay or any other union official ever tell you what the union was doing to make the men wear their respirators?

A. No.

Q. Mr. Manning, we've talked a lot about respirators, but there were other methods of controlling dust at the scene of a ripout. Is that correct?

A. Yes.

Q. What other methods were there besides respirators?

A. The methods that were used, these people did -- and I observed this -- sometimes they used drop cloths to gather the material to keep it from drifting all the way down. They would gather the material and put it in plastic bags and remove it.

Q. That was later on during your tenure, though, wasn't it?

A. Yes. It developed that way. Initially, they

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probably, as I recall, were putting it in large, round cardboard barrels. I'd see a lot of that. And then they would put it in plastic bags. There was an attempt to get as much ventilation into the compartments as possible.

Q. What was the form of that ventilation? Was it a vacuum or a blower?

A. This was vacuum suction.

Q. Was the vacuum suction effected by the use of hoses?

A. These were metal ducts, flexible ductwork.

Q. Would the effect of those vacuum ducts be to draw off the dust that was being generated by the ripout operation?

A. It would remove air from the compartment, to be replaced by air from some other source, presumably not as contaminated. These ducts were heavy, and I never saw them used as local exhaust ventilation. They were not intended for this. And it was impossible for it to be used in this way. It was the type of ventilation that we call in industrial hygiene general dilution ventilation.

Q. There were no smaller vacuum units which would draw off the local dust?

A. No.

Q. During your early tenure, were saws used often to cut off -- I think you told us saws were used often to cut off insulating material.

A. All through my tenure, there were saws used.

Q. During the orientation meetings that you held with the asbestos workers, did you discuss with them the various

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methods of ripping out asbestos materials?

A. Yes.

Q. Did you ever discuss with them the use of water spray to hold down dust?

A. No.

Q. Was that ever discussed, so far as you knew, during your tenure at the shipyard?

A. This was discussed between supervision people and myself and safety people, and we had grave doubts about the idea of inserting water of any kind in a situation aboard ship, and we went over this before, where the danger of slipping and falling and the danger of causing short circuits in temporary electrical setups were very great. And the fact that there was paint on all surfaces would make it impossible for water to soak in before it was ripped out. For these reasons, why, they never recommended wet methods aboard ship.

Q. Because it would create more danger, in your judgment, than it would alleviate. Is that correct?

A. At least as much, if not more.

Q. So you could not use a water spray because of the danger it would have created; you did not have available to you as industrial hygienist the appropriate vacuum methods to draw off the dust. Is that correct?

A. That is correct.

Q. So you were left, then, with respirators in order to guard the health of the workers. Is that correct?

A. That is correct.

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Q. Do you have an opinion as to what percent of the workers would wear respirators during ripout operations?

A. No.

MR. BOGAN: When he was present, or all the time?

MR. MULLIGAN: Any time he knows about.

I think he would have to be present, because he couldn't have an estimate of any other time.

MR. STEINBERG: He's already said "No."

Q. BY MR. MULLIGAN: Did more than half the men wear respirators when you were present during ripout?

A. When I was present?

Q. During ripout, yes.

A. When I was present, yes.

Q. Did more than 75 percent wear respirators when you were present during ripout?

A. The people actually engaged in ripout, yes.

Q. I think you told --

MR. BOGAN: Tom, could I ask one question along that line?

MR. MULLIGAN: Sure.

MR. BOGAN: Mr. Manning, you said other people told you about occasions they had noticed when you weren't around, workers were not wearing respirators. Is that correct?

THE WITNESS: Yes.

MR. BOGAN: Did they ever tell you during those observations of theirs what percent of the workers generally

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were not wearing their respirators in the ripout operation?

THE WITNESS: I have no knowledge about breaking it down into ripout and -- these people would not -- that knowledge would not come to me in that form, that these people were not doing this while they were sawing or whatever it was, but it would come in the form of, "Well, you know, when we're out there, we see them carrying them around their necks and not on their mouth or across their nose," and this is the kind of form that would come to me. I would not have a great deal of detail with it.

MR. BOGAN: They didn't say how many?

THE WITNESS: No.

MR. BOGAN: Thank you.

Q. BY MR. MULLIGAN: You told us earlier that from the time you arrived at the shipyard, and thereafter, respirators were available at the safety store, I think you called it, to workmen who worked around dust or other materials that were toxic. Is that correct?

A. Yes.

Q. Did you ever, by either your reading or your conversations with Bill Marr or Dan Bessemer, gain any knowledge or insight as to when the respirator program came into effect at the shipyard?

A. No.

Q. But, so far as you knew, it had been in existence for at least two years before you arrived. Is that correct?

A. No doubt, more than that. I had some slides of

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Bill Marr's -- I found of Bill Marr's, and these slides had pictures that depicted workers in the shipyard wearing respirators. So it was at some time.

Q. Did Bill Marr ever tell you that he had had problems getting the asbestos workers to wear their respirators?

A. Not specifically, I can't remember.

Q. Now, during the time that you went on the tour with -- you don't recall the tour with Dr. Selikoff, do you?

A. This, I'm very hazy on this. I tried to look through my book to see if I have a recollection. To my best recollection, I was not along on that tour. I was part of the Naval Regional Medical Center at that time.

Q. But you do remember the tour with Mr. Reitze?

A. Yes.

Q. What year was that again, now?

A. We found it here. I think it was 1970, I believe.

Q. During that tour, it was one of those already announced, where everything's going to look good and shipshape. Is that correct?

A. Yes, I'm certain.

Q. Do you know what the purpose of that tour was, Mr. Manning?

A. This was Selikoff's group, and they were coming in to observe operations in the ship repair situations. Apparently the people that wanted to come in had not observed this, or wanted to observe more of it.

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Q. You told us that you believed that that tour had been set up by Webb Ay.

A. Yes.

Q. What was it that led you to believe that?

A. Most of these -- all these tours were set up by Webb Ay.

Q. In his position as president of the Metal Trades Council?

A. In his position of foreman and general foreman of the pipe coverers and insulators.

Q. Did you understand from talking to Mr. Ay that he wanted other people to know the hazardous conditions under which his men worked?

A. Yes.

Q. Did he ever tell you if he wanted people to look at his men as they were working, to see the hazardous conditions, what sense it made to tell the men ahead of time so that the people who came there would get a false impression of what was going on?

A. I don't know.

Q. Now, Mr. Ay was one of those people who told you that he knew that when you weren't around, the men didn't wear their respirators. Is that correct?

A. I think his statement would have been that a lot of them don't wear their respirators and carry them around their neck.

Q. Did Mr. Ay ever tell you why he was asking Dr. Selikoff's group and Mr. Reitze to come and see

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conditions which he knew were not accurate and true?

MR. STEINBERG: Well, that's totally argumentative.

MR. MULLIGAN: I think it is, too, Bob. I will ask it a different way.

MR. STEIN: I didn't think it was argumentative, Mr. Mulligan.

MR. MULLIGAN: Okay. I agree with Bob on that.

Q. Did Mr. Ay ever discuss with you why those tours that he took with the Selikoff group were announced in advance?

A. No.

Q. Did you participate in any discussions with the tour group after it was over?

A. Yes, that's possible.

Q. During those discussions, did Mr. Ay or anyone else advise or inform the tour members that at other times when tours were not announced, that the workmen worked without the use of respirators?

MR. STEINBERG: I'm not sure I understand that question. In the first place, Mr. Manning has testified that he doesn't recall being present on the tour that Dr. Selikoff and his group had taken through the shipyard.

MR. MULLIGAN: I'm sorry. Let's clear that up.

Q. There were two tours, right? One with Dr. Selikoff, and you don't remember that?

A. Right.

Q. There was another tour where Mr. Reitze was present, that you understood was part of Dr. Selikoff's group, though?

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A. Yes.

Q. That one, you remember?

A. Yes.

Q. I'm talking about that one, Mr. Manning.

A. Yes.

Q. After that tour occurred, there was a conversation or meeting or perhaps luncheon or coffee or something afterwards. Is that correct?

A. Yes.

Q. During that debriefing or conversation or conference after the tour, you talked about what you'd seen, and the men who were on the tour talked about what they saw. Is that correct?

A. Yes.

Q. Did the subject at all occur or come up that when a tour is not announced, the workmen will not wear their respirators?

A. No.

Q. Did Mr. Ay have any conversation of that sort with the tour members that a pre-announced tour really wasn't quite the same thing as an unannounced tour?

A. No.

MR. MULLIGAN: Bob, I've been told by several people that they have something they have to do this afternoon. Would this be a convenient time to stop?

MR. STEINBERG: We all have things to do. It's

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always convenient for me to stop.

MR. MULLIGAN: Shall we come tomorrow at 9:00?

MR. STEINBERG: Yes.

(The deposition recessed at 12:35 p.m.)

(I certify under penalty of perjury that the foregoing is true and correct.)

_____ _____

DATE SHELDON H. MANNING

AT _____, California.

CITY

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STATE OF CALIFORNIA) SS

I, Lucia Moskal, CSR, a Notary Public in and for the State of California, do hereby certify:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction.

I further certify that it was stipulated by and between counsel that said deposition may be read, corrected and signed by the witness under penalty of perjury.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 16th day of March, 1979.

Lucia Moskal

LUCIA MOSKAL, CSR 1222
Registered Professional Reporter
Notary Public in and for
the State of California.

OFFICIAL SEAL
LUCIA MOSKAL
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires JUN 25, 1982

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MT-PWHD-013396

Manning 3/12/79

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SHM.7901I

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SHELDON MANNING VOLUME X (March 12, 1979) Page On

4-11	Discusses products MANNING saw at LPNS
11	Explains cement mixing process
19	Wore an improper respirator for 18 months because the filter was issued intact with the respirator--he was careless and didn't look at it thoroughly
20	Through own carelessness, wore a totally useless respirator for 18 months
21	Employees in Safety Issue store were responsible for inserting filter pad
24	Written as early as 1958 in "The Industrial Environment, Its Evaluation and Control," that industrial hygienists should not put their faith in respirator programs.
24-25	Respirators should only be recommended for use for a short period of time until engineering controls can be applied
25	This is due to uncomfortableness
27	Captain CHAPMAN stated that wearing of respirators was mandatory in March or April of 1969
29	Felt that trying to strictly enforce wearing of respirators would be an exercise in futility due to his relationship with superiors
30	Suggested to WEPPAY that men might be paid extra money for inconvenience and hardship of wearing the respirator--made recommendation early in tenure
33	Two workers were diagnosed by radiation technician as having adverse findings on their x-rays. They were sent to Dr. OWENBY, who wouldn't have anything to do with them, and sent them to Captain Watkins
34	WATKINS listened to their chests with a stethoscope and told each of them to go back to their jobs, they were all right
35	At no time thereafter were they called in and told of their condition
36	Felt that naval officers wanted their money spent on getting their ships ready for combat. There was competition among various shipyards to keep overhead low
37	SOFOL of Alameda Naval Air Station stated at IHA meeting that the reason LPNS overhead was so low was that it didn't have much of an industrial hygiene and medical dept.

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39 Wrote report in 1969 recommending that asbestos free products be used at LPNS

39 1972---40% of insulation work being done involved asbestos

44-47 J.P. Stevens supplied thread and glass-cloth-backed aluminum product--describes product

54 First saw a Pabco product in the early 70s
Does not recall warning label on product

57 Men were indoctrinated as to asbestos in 1968--since they worked with the material, they were most aware of distinctions between asbestos and non-asbestos materials

60 Discusses ripout process--when chopped with hatchet or knife, process was very dusty

62 In some instances, would walk into ripout area, would see that workers were not wearing respirators, and would walk out again without recommending respirators

63 Was LPNS policy not to inform men that they had Asbestosis

68 As to filter incident, there were both larger and smaller size respirator filters for lage and small respirators, they just got mixed up in MANNINGS case

69 Lists of ships in for ripout operations would be at LPNS

71 Was first aware of Pittsburgh Corning when he inspected the Pennsylvania plant--when he went to plant, he familiarized himself with Unibestos

75 AY was outraged when Unibestos arrived as product at LBNS

76 AY told MANNING the pipe coverers and insulators were not going to use it.

77 Does not know what happened to the 30 cartons of Unibestos

77 Describes finished product--Unibestos

85 WEPP AY continued to push for elimination of amosite products from LPNS from MARRs employment to end of MANNINGs employment

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85 Total elimination of amosite from LRNS was not accomplished

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MT-PWHD-013401

SHM 7901 I

COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FILE COPY

WALTER C. RIGSBY,
JOSEPH K. KLOSE and
SHELDON H. MANNING,

Plaintiffs,

vs.

JOHNS-MANVILLE, etc., et al.,

Defendants.

No. C 151 947

VOLUME 10

CONTINUATION OF DEPOSITION OF SHELDON H. MANNING, a plaintiff, taken by defendant Johns-Manville at 9:05 a.m., Monday, March 12, 1979, at 111 North Hill Street, Los Angeles, California, before Lucia Moskal, CSR, a Notary Public.

Reported by:
Lucia Moskal, CSR 1222
Registered Professional Reporter

No. LA-855-79

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RENDEL B. HUTCHINGS
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MT-PWHD-013402

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For Johns-Manville Sales Corporation:	HAIGHT, DICKSON, BROWN & BONESTEEL BY APRIL HASKELL
For J. P. Stevens:	ANDERSON, McHALE & CONNOR BY JAMES M. TILLIPMAN
Also Present:	BOLTON, HEMER & DUNN BY KENNETH W. DRAKE
For Pittsburgh Corning Corporation:	BREIDENBACH, SWAINSTON, YOKAITIS & CRISPO BY JAMES S. VAN DAM
For Fibreboard Corp.:	CHASE, ROTCHFORD, DRUKKER & BOGUST BY HENRY E. KAPPLER
For Celotex Corp., successor to Philip Carey Corporation:	COYLE, MARRONE & ROBINSON BY RICHARD B. COYLE
For Amitex:	GILLILAND, ROBERSON & MOSER BY WILLIAM ROBERSON
For Combustion Engineering:	MARTIN & STAMP BY CALVIN D. BAYLES
For Nicolet, Inc.:	McKAY, BYRNE & UDKOVICH BY JOHN P. McKAY
For Armstrong:	MORGAN, WENZEL & McNICHOLAS BY JOSEPH A. MAHONEY
For Crown Cork Seal:	MORRIS & POLICH BY ROBERT WISHNER
For Raybestos Manhattan:	NORBY & BRODEUR BY THOMAS E. SMURRO
For Keene Corporation:	PATTERSON, RITNER & LOCKWOOD BY THOMAS S. MULLIGAN

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APPEARANCES OF COUNSEL (Continued):

For GAF:	PAUL, HASTINGS, JANOFSKY & WALKER BY MICHAEL SANDERS
For H. K. Porter, Inc.:	SCHELL & DELAMER BY KENNETH B. PRINDLE
For Unarco Industries, Inc.:	SHIELD & SMITH BY LAURA DIANE KOTSIRIS
For Owens-Corning Fiberglas Corp.:	WATERS, McCLUSKEY & CORCORAN BY JOSEPH BOGAN
For Flintkote:	VIRGIL R. WELLS BY ELLEN C. O'NEILL, Law Clerk
For Eagle-Picher Industries:	YUSIM, CASSIDY, STEIN & HANGER BY ANDY STEIN

I N D E X

WITNESS: Sheldon H. Manning — VOLUME 10

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SHELDON H. MANNING,

a plaintiff herein, having been previously sworn, testified further as follows:

EXAMINATION

BY MR. STEIN:

Q. Good morning, Mr. Manning.

A. Good morning.

Q. How are you this morning?

A. I'm surviving.

Q. Mr. Manning, at any time during your tenure at the Long Beach Naval Shipyard, did you see a Johns-Manville asbestos-containing product called Asbestocel (aircell)?

A. No.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you see a Johns-Manville product called Asbestocite?

A. Not to my knowledge, no.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you see a Johns-Manville asbestos-containing product called Aertite, A-e-r-t-i-t-e?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you see a Johns-Manville product called Insulkote, I-n-s-u-l-k-o-t-e, with the initials S-G after it, with the initials S-T after Insulkote, or with the initials E-T after Insulkote?

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A. I have no memory of it, no.

Q. It is possible you did, but you don't have any memory?

A. That's correct.

Q. Thank you.

At any time during your tenure at the Long Beach Naval Shipyard, did you see a Johns-Manville asbestos-containing product called Asbestos Roll Fire Felt?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard -- and by "tenure," I mean when you were employed there -- did you see a Johns-Manville asbestos-containing product called DC Flexstone, F-l-e-x-s-t-o-n-e?

A. No.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you see a Johns-Manville asbestos-containing product called Asbestos Firetard, F-i-r-e-t-a-r-d?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you see a Johns-Manville asbestos-containing product called Number 50 Asbestos Weatherproofing Felt?

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A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you see a Johns-Manville asbestos-containing

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product called Commercial Grade Asbestos Paper?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe or see a Johns-Manville asbestos-containing product called 15-A Asbestos Jacket?

A. No.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called 45-A Asbestos Jacket?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called 7700 Coated Asbestos Jacket?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called Asbestos Turbine Blanket?

A. I may have, but I have no sure recollection of it.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called Asbestos Fire Felt?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called Asbestos Sponge Felt?

A. No, not to my knowledge.

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Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville

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asbestos-containing product called Asbestos Pipe Blanket?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called Engineers Insulation Tape?

A. I may have, but I'm not certain.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called White Surface Asbestos Jacket?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called Thermowrap?

A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called Thermotape?

A. I may have seen this, but I'm not certain.

Q. When you say you may have seen a product but you're not certain, would it be proper for me to assume that you couldn't tell when you observed it, or where you observed it?

A. That's correct.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called Superex Cement?

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A. No, not to my knowledge.

Q. At any time during your tenure at the Long Beach

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Naval Shipyard, did you observe a Johns-Manville asbestos-containing product called Thermobestos Cement?

A. Yes, I think I probably did, but I'm not sure.

Q. If I were to ask you when you observed this product, could you tell me, other than sometime during your tenure?

A. I doubt it.

Q. Do you know how many times you observed it?

A. No.

Q. Do you know where in the shipyard you observed it? That is, Thermobestos Cement.

A. It probably would have been on the piers, if I saw it.

Q. Can you tell me in what type of container you saw Thermobestos Cement? By that, I mean carton, bag.

A. I think it probably was a bag.

Q. Can you tell me whether or not that bag had any warning of any nature on it, or any words or lettering that purport to be a warning?

A. I don't recall any, no.

Q. Do you recall whether or not that bag had any description of the product on it, or what was alleged to be a description of the product?

A. No.

Q. During your tenure at the Long Beach Naval Shipyard, did you ever observe a product by Johns-Manville and containing asbestos called Laptite Cement?

A. No, I don't recall that.

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Q. During your tenure at the Long Beach Naval Shipyard, did you ever observe a Johns-Manville asbestos-containing product called Fibrous Adhesive?

A. No, not to my knowledge.

Q. Did you ever during your tenure at the Long Beach Naval Shipyard observe a Johns-Manville asbestos-containing product called 302 Cement?

A. No.

Q. What about 352 Cement? Did you ever observe that?

A. No recollection of it.

Q. 301 Cement?

A. No recollection.

Q. 450 Cement?

A. No recollection.

Q. Spelled C-e-m-e-n-t.

A. I have no recollection of that.

Q. 450 Cement?

A. I have no recollection.

Q. 500 Cement?

A. I have no recollection.

Q. Did you ever observe a Johns-Manville asbestos-containing product called 85 Percent Magnesia Cement?

A. I don't recall seeing that.

Q. What about 300 Cement by Johns-Manville?

A. I don't really recall. Probably.

Q. You couldn't tell me where or when you observed that cement, could you?

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A. No.

Q. 304 Cement?

A. I have no recollection of that.

Q. 340 Cement?

A. No recollection.

Q. 0352 Cement?

A. I have no recollection of that.

Q. 364 Cement?

A. No recollection.

Q. 400 Cement?

A. I don't remember seeing that.

Q. When you observed what you have described as Eagle-Picher products, did you observe any Eagle-Picher products other than cement?

A. This is the only thing I recall for sure.

Q. Where was the cement kept or stored?

A. Mostly I saw it in the open on the piers, and I saw it on what we call the laggers barge.

Q. Did you see it anywhere else but the piers or the laggers barge?

A. I may have, but I don't have any real recollection of it.

Q. In what type of container was this Eagle-Picher cement contained?

A. Paper-type bags.

Q. Did the inside of the paper have any type -- was there any type of inside covering to the bags other than paper?

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A. There may have been some coating in there when it was ripped open. It is difficult to say.

Q. How big were the bags?

A. I believe they were hundred-pound bags. May not have been, but I never lifted one.

Q. Was this cement to be mixed with water?

A. Yes.

Q. Once the cement is mixed with water, the asbestos fibers are not airborne; is that correct?

A. That's correct.

Q. Where was the cement mixed in the yard?

A. When I observed the mixing, it was mixed aboard ship.

Q. Where aboard ship?

A. At the site where it was used.

Q. Would that be in the hold of a ship, upstairs, downstairs, on the pier?

A. It would be in a compartment, in a ship, generally the fireroom or the engineering spaces.

Q. Describe the procedure by which this was mixed.

A. I observed the employee would carry a bucket partially full of water aboard ship, and then he would dump the material in the bag into the bucket and stir it, and stir it until it was of proper consistency. Generally it ended up about three-quarters of a bucketful of wet material.

I think later they had some kind of mixing device aboard the barge. I never observed this.

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Q. When did the mixing device aboard the barge come into being?

A. Oh, I suppose sometime late, about '72, probably.

Q. One employee would mix this cement?

A. I think so. As I say, I've never observed this operation.

Q. One employee would prepare the other operation, putting the cement into the bucket?

A. Yes.

Q. With what would he mix the cement?

A. Oh, I think they had a stick, paddle.

Q. Did the employee mixing the cement have a job title, usually?

A. He was a pipe coverer and insulator.

Q. I'm sorry. I didn't hear you.

A. Pipe coverer or insulator -- and insulator.

Q. Any insulator?

A. Any, I suspect.

Q. You're not sure about that?

A. They had no -- I don't think there were too many specialists in this business. They had to know how to do everything.

Q. What color were the bags of Eagle-Picher cement?

A. Brown.

Q. Brown?

A. Brownish-gray, like that.

Q. Were the words "Eagle-Picher" on the bag?

A. Yes.

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Q. Or was the word "Eagle" on the bag?

A. I think it had "Eagle-Picher Company" in small letters, and probably the "Eagle" was in large letters.

Q. I see. Did you ever see any other cement other than "Eagle" in large letters?

Strike that.

Did you ever see the name of any other cement other than "Eagle" in large letters, "Eagle-Picher" in small letters, in a brown bag?

A. This is all I really have recollection of.

Q. You arrived at the shipyard in 1967; is that right?

A. Yes.

Q. On all the times you observed this Eagle-Picher cement, did you ever see a warning on that?

A. I don't recall seeing one, no.

Q. Did you ever read the bag?

A. Yes, I no doubt read the bag.

Q. In reading the bag, you were looking for warnings and instructions?

A. Not necessarily.

Q. If there would have been a warning on this bag bigger than the words "Eagle-Picher," do you assume you would have seen it?

A. I could assume that I saw it, yes.

Q. But you never saw a warning. Correct?

A. I have no recollection of seeing a warning.

Q. Or any instructions?

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A. That's correct.

Q. How many times did you observe these aforementioned described Eagle-Picher cement bags?

A. Oh, fairly numerously, I would think. I think there was always some in stock in the barge, and these sacks could be observed on the piers, and often they were carried aboard ship.

Q. When you saw them on the barge, they were not -- the asbestos or the material itself was not airborne, because it was enclosed. Is that right?

A. That's right.

Q. When you saw them on the piers, they were also enclosed, so the asbestos or any material in the sack was not airborne. Is that correct?

A. That's correct.

Q. So the only time you saw any of that material airborne would have been the time from the time the man -- during the period of which the man was pouring the material out of the sack and into the water. Is that correct?

A. That would be correct.

Q. That operation takes about two minutes. Right? Or less.

A. That would be cutting it very short, I would say. He would do it under 10 minutes, 5 to 10 minutes, I think.

Q. How many times in your tenure at the Long Beach Naval Shipyard did you see the Eagle-Picher cement as you described it being mixed?

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A. Not many times. I recall catching a sample,

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which is on the record, and I only remember that because -- well, I must have seen it several times. I did catch a sample at least one time, and a man performed this operation during a time when there was a guided tour going on, and I recall one of the people being guided, pointing this out and, to my great embarrassment, "Why isn't the man wearing a respirator," and this sort of thing.

Q. When was this guided tour?

A. This, I think, was what we called the NAVSHIPS guided tour, which may have occurred sometime in 1970.

Q. Was that with Reitze?

A. No.

Q. Who was present with this tour?

A. I would have to check back and find that out.

MR. KAPPLER: Who was wearing the respirator? I couldn't hear you.

THE WITNESS: He wasn't wearing a respirator.

Q. BY MR. STEIN: Was this man mixing this cement in a place where there was less than adequate ventilation, in your opinion?

A. There probably would have been very little ventilation.

Q. Describe where the cement was being mixed.

A. Oh, it was right on the --

MR. STEINBERG: Let me interrupt a moment. I think you started out this series of questions by directing it to the mixing of the Eagle-Picher bag of cement.

MR. STEIN: Yes.

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MR. STEINBERG: Your questions are dealing with that.

You understand his initial question referred to Eagle-Picher. Is that your recollection on this incident, that it was Eagle-Picher?

THE WITNESS: Yes.

MR. STEINBERG: I'm sorry. Go ahead. Forgive me.

THE WITNESS: Now what's the question?

Q. BY MR. STEIN: Where was this man who was mixing this Eagle-Picher cement on this guided tour mixing the cement?

A. It was aboard ship, and it was in one of the engineering spaces. It was either a fireroom or an engineering engine room.

Q. Do you know what that cement was used for after it was mixed?

A. Oh, it was used for irregularities. It was used to smooth out the surface, and in a lot of cases, or in some cases, it was used to fill in an irregular surface. It was put on with a trowel, much as plaster would be put on. And this was before the cloth was applied.

Q. Was it a generally accepted fact, in your opinion, by the insulators you talked with, that aboard ship provided inadequate ventilation?

A. Yes, this is true.

MR. MULLIGAN: Mr. Manning, were these dry-docked ships, or were they tied up someplace?

THE WITNESS: It may have been either case. There was work done at both places.

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Q. BY MR. STEIN: Getting back to -- I think you may

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have explained this to me, but I'm not sure. How many times did you see Eagle-Picher cement used?

A. Actually, a very minimal number of times. Two times that I recollect distinctly, and there may have been other times that I have no real recollection of it.

Q. One time you recollect a NAV tour in 1970. When was the second time you saw it used?

A. Well, there was some other time. I know I took a sample of the operation from beginning to end. It's in the record somewhere. It may have been -- it may have been in '68, '69.

Q. Of all the Eagle-Picher cement you saw used, would you say that it accounted for less than one percent of the asbestos-containing material in the Long Beach Naval Shipyard?

MR. STEINBERG: I'm not sure he has any basis for answering that question. I'm going to object to it as beyond his expertise, knowledge, as he's testified to it in the last couple, three weeks.

Do you think you have any real basis for estimating how much Eagle-Picher was used, compared to the others?

THE WITNESS: Not really, no.

MR. McKAY: That's a leading question and a proper response thereto.

MR. STEIN: That's okay. We're just seeking the man's knowledge, Mr. McKay. I appreciate that. In fact, I'm not too sure I didn't like your question better than mine.

MR. MULLIGAN: Excuse me, Counsel.

Mr. Manning, during that tour when you saw the cement

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being used, and to your embarrassment the question was asked, why wasn't that man wearing a respirator, directing your attention to that time, did the party you were with have respirators on?

THE WITNESS: No.

MR. MULLIGAN: Did you have one on?

THE WITNESS: No.

MR. MULLIGAN: Did you have them with you?

THE WITNESS: I don't remember. I think we probably -- I'm not certain. I'm really not certain. There was a lot of talking going on, and you can't talk with a respirator on, I know. The probabilities were, I didn't have it on and wasn't wearing it.

Q. BY MR. STEIN: When you took this sample in 1968 or 1969, did you read the Eagle-Picher bag on that date?

A. No.

Q. Did it contain any warning?

A. I didn't see any, no.

Q. Did it contain any instruction?

A. No, as far as I know.

Q. Did you see any other cements used in the shipyard other than Eagle-Picher?

A. That's the only one I have a real good recollection of.

Q. It always said "Eagle." Right?

A. I think that's correct.

Q. Did you ever see a cement called Super "66"?

A. I have no recollection of it, if I did.

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Q. When you first arrived at the Long Beach Naval Shipyard, respirators were available for the use of the personnel?

A. Yes.

Q. What type of respirator was available in 1967?

A. The MSA Dust Foe respirator.

Q. What did you do to familiarize yourself at any time with the workings of a respirator, you know, how they work, from '66 till you left the shipyard?

MS. HASKELL: Excuse me, Mr. Stein. Do you mean '66 or '67?

MR. STEIN: Thank you.

Q. '67.

A. Oh, I took them apart, I suppose, looked it over.

Q. When was the first time you took one apart?

A. Well, I don't recall, really, when I did. I certainly knew from previous experience how they work. I could have looked into the workings of the respirator long before I came to the shipyard.

Q. You were familiar with the workings of a respirator?

A. These dust type of small canister-type respirators, yes.

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Q. How did it come into being, sir, that you wore a respirator for 18 months that was improper?

A. It was issued intact with the respirator, and as I say, I was apparently careless and didn't look at it

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thoroughly, and wore it.

Q. So that through your carelessness and failure to look at it properly, this respirator was totally useless for you, was it not?

A. Yes.

And the prior question -- I don't know whether it was 18 months or not.

Q. I remember you told us who pointed out the fact that the respirator was useless, but I forget that man's name.

A. Charles Ay.

Q. What procedure did the Long Beach Naval Shipyard have, if any, that you know of, to be sure that proper respirators were issued?

A. Actually, the procedure was that the foreman actually issued a requisition, and the man went to the store or Safety Issue store and requested the respirator.

Q. What I'm asking you is this: Was there any procedure to ensure that the Safety Issue store issued a proper respirator?

A. No. There eventually came in being a placard where various types of respirators were depicted, and underneath, the type of exposure that they protected against, for the benefit of the store. This happened, and the safety people made this up with my help and advice.

Q. When?

A. Oh, this was -- had to be in '71.

Q. What year was it that you were wearing an improper

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respirator?

A. Long prior to that. I was probably wearing that respirator in -- probably issued in '68, and went on through until it was finally discovered.

Q. You were not the only person wearing an improper respirator in '68; is that correct? By that, I mean an ineffective respirator.

A. I have no certain knowledge of this, but probabilities were very high that somebody else was getting the same kind of treatment.

Q. From whom was that respirator purchased?

A. Mine Safety Appliance Company.

Q. Was it purchased intact, or was it put together at the shipyard?

A. The respirator, no doubt, was -- at least the filter pad was inserted at the shipyard.

Q. Who was responsible for inserting the filter pad at the shipyard?

A. The employees in the Safety Issue store.

Q. Who was responsible for overseeing the employees in the Safety Issue?

A. Supervision and Maintenance Department.

Q. What was --

A. Headed by Max Rudolph, the superintendent.

Q. When you discovered the improper respirator, did you replace the filter yourself?

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A. My recollection is that I went over to see Max Rudolph about it and wanted to know, you know, how much of

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this has gone on. By that time, I couldn't find any evidence that this thing any longer was going on.

Q. Did you find any evidence about how long it went on?

A. No, I didn't.

Q. Did you find out who replaced the filters for the people that had these ineffective respirators due to having an improper filter in the respirator?

A. No, I didn't track them down. It happened a good long time prior, and it was somebody that worked in the Safety Issue. It would be very hard to pin them down. More than one person, actually.

Q. What I want to know is: Some people came in with the wrong filter and the right respirator or the wrong respirator having the right filter. Right?

A. That's correct.

Q. That made the filter ineffective. Right?

A. That's correct.

Q. I want to know who replaced the filter to put a good filter into the respirator.

A. I don't follow that question. What actually happened --

Q. Tell me what happened.

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A. What actually happened was that the Dust Foe respirator was supplied and used at the time I came to the shipyard. The filters were supplied as needed to employees on demand. And sometime later, a Dust Foe Number 66 was used, and the only difference between the two respirators was

the size of the filter holder, and, of course, along with it, the size of the filter.

And what happened was that there were -- probably at the same time, there were filters for both types of respirator in the shipyard and in the store at the same time. And whoever assembled my respirator, which was the Dust Foe 66, they put in the small type Dust Foe filter, which was inadequate. And how many times this happened, I would not know, but if they did not make a complete change, which apparently they didn't -- they didn't call in all the small ones apparently and send out the big ones, and this sort of thing. There was no recall program, as far as I know.

Q. When you found out that you were without a proper apparatus to filter the dust due to the mistake you have described, did you at that point recommend to anybody, "Let's have a recall program and find out who's breathing dust and who's breathing filtered air"?

A. Well, as a matter of fact, I didn't; but Max Rudolph assured me that this already had been done. They knew the mistake in the shop long before I did, because it was called to their attention, but they never mentioned it. They didn't recall mine. Maybe they forgot I had one.

Q. What was Max Rudolph's title?

A. He was the superintendent of the maintenance shop.

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Q. What were his duties?

A. Well, he was the head of the shop. He was the head supervisor. And he had other supervision under him on

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several other levels: General foreman, foreman, and he administered that job.

Q. Do you know if he had any background or training or education of any nature in how to check filters?

A. I have no knowledge of his background. I know he went to a lot of conventions.

Q. A number of times you have said, in essence, people are people, and they just don't use respirators. Is that correct?

A. That's correct.

Q. Amongst other things that have confused me over the past few days is that term. What does that mean?

MR. STEINBERG: What does what mean?

Q. BY MR. STEIN: "People are people, and they just don't use respirators."

Why do you think people don't use respirators?

MR. STEINBERG: Do you want to explain it again?

THE WITNESS: Shall I do it again? It's okay with me.

MR. STEINBERG: Go ahead.

THE WITNESS: It is well known in the industrial hygiene field, and it is taught in courses put on by the U.S. Public Health Service, and written in their manuals as early as 1958 in a syllabus called "The Industrial Environment, Its Evaluation and Control," that industrial hygienists should not put their faith in a respirator program for any length of time and expect it to work. They're only recommended for use for a short period of time

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until engineering controls can be applied.

The reason for this is that respirators, number one, of this type that I'm talking about are very uncomfortable. They prevent people from talking back and forth. After a short period of time, they cause respiratory fatigue, especially in older people. In fact, in an older person with an already debilitating heart and lung condition, it may possibly trigger a heart attack. People just naturally do not like to be muzzled, and they fight it, and they resist it. It's been my observation that this is true.

Q. BY MR. STEIN: Would you tell us everything you did or suggested to your superiors to attempt to have people wear their respirators, starting with 1967.

A. Most of this work was done in our indoctrination sessions, starting with 1968, where everybody urged them -- and pointed out the problems and urged the men to wear the respirators, and with special emphasis on ripout. Pointed out there's high danger in these situations. On every occasion that this happened, why --

Q. I'm listening, sir. Go ahead.

A. And there's no doubt that the men were aware that they should -- they were expected to wear them, because of my observations when I went aboard ship unannounced; sometimes I would see them without, and then they'd put them on when they'd see me, although I had no enforcement capacity whatsoever. They were probably embarrassed not to wear them in front of me.

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I have had one-on-one conversations with people about this

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situation. However, recognizing the difficulties of having people wear respirators for long periods of time, I tried and finally succeeded in getting a respirator in the shipyard that was at least lightweight, fairly easy to breathe through, and required no filter other than what was provided in the throwaway type; so this eliminated that problem. It could be issued daily, so that there was no problem with supply. And I found, to my mind, this was far superior to what we had been doing, because I believed the men wore them for longer periods of time and were more faithful in wearing their respirators of this type. So that at least it worked to some extent; whereas, the other type, you might say as an overall picture, it just did not work.

Q. Who indoctrinated these men?

A. Myself, together with many other people, including Webb Ay, Cliff Krieger, Art Raymond, Frank Nease. I think that's about the extent of it.

Q. These were regular meetings?

A. These meetings were not irregular meetings. There was one in 1968. There was one in 1970. There was, I think, one -- maybe not -- '71. Two times in '72, and once in '73.

Q. At whose suggestion were these meetings held?

A. Well, these generally were things that occurred that Cliff Krieger says, "About time to have a meeting," and he generally organized the thing and saw that everybody was there, and like this. Whenever they wanted a meeting, why, I was available.

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Q. To your knowledge, was it ever recommended that some type of punishment program be instituted for men who were not wearing their respirators in respirator-designated areas?

A. Well, if some naval officer says, "The wearing of respirators shall be mandatory," that infers to me that he thought there might be some enforcement possibilities.

Q. Who said that?

A. I heard Captain Chapman say that.

Q. Do you know of anybody that was ever punished for not wearing a respirator?

A. No.

Q. What about the civilian employees? Was there any punishment program initiated for them?

A. No.

Q. When did Chapman say wearing the respirator is mandatory?

A. This occurred in, oh, March or April of 1969.

Q. To whom did he say this?

A. He said it to Commander Sam Barboo, and I was with Commander Sam Barboo at the time.

Q. How did that get disseminated to the people in the Long Beach Naval Shipyard who were working with asbestos?

A. I don't know how that became disseminated, if it did.

Q. In fact, you don't know whether it ever was disseminated?

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A. No.

Q. Did you ever ask for measures to be taken that were not taken in regard to forcing these workers to use a respirator?

A. I had no enforcement authority, and I well knew what the situation was --

Q. No, no. I know you didn't have enforcement authority. I asked you, did you ask a superior to use some type of enforcement mechanism?

A. No.

Q. At no time?

A. No.

Q. Why?

A. Because I knew that the enforcement authority or initiation of any kind of adverse action had to be initiated by the immediate supervisor, and the immediate supervisor, of course, needed the cooperation of his men to get the work done, and they simply did not initiate adverse action for disobeying safety regulations. And to my knowledge and, I think, many other people's knowledge, I don't think anybody in the shipyard was ever given -- or any adverse action was started because of violating safety regulations. So this was an exercise in futility.

Q. So you didn't recommend that an enforcement program against people who failed to use their respirators be initiated, because you felt it was an exercise in futility?

A. Yes.

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Q. That was due to the relations you had with the

people to whom you've made other recommendations to, that you've told us about for the last two weeks. Right?

A. Yes.

Q. You had discussions with people who were union officials, regarding respirators, did you not?

A. No doubt.

Q. Did you ever have a discussion with Webb Ay on the use of respirators other than when he told you you were wearing the wrong one?

A. Yes.

Q. What was the general reaction of union officials to forcing these people to wear respirators?

MR. STEINBERG: The question is vague. It assumes facts not in evidence. I'll object to it and instruct him not to answer.

MR. STEIN: You're right, Mr. Steinberg. I was trying to cut time short.

Q. What union officials did you have conversations with regarding the use of respirators?

A. Well, Webster Ay.

Q. Anybody else?

A. I think that would be it.

Q. When did you have these conversations with Webster Ay regarding forcing the workers to use their respirators?

A. Well, I think your question was whether we had conversation regarding respirators. I didn't understand anything about the forcing.

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Q. What was the substance of your conversations with

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Webster Ay regarding the use of respirators?

A. Well, we both recognized and had conversations maybe along this line. We both recognized that despite all our efforts and despite anybody's efforts, that really the men were much of the time wearing their respirators around their neck for the reasons that I've stated.

Q. Did he ever suggest to you or you ever suggest to him that some penalty program be instituted?

A. Penalty program, no.

Q. What was suggested by him to you?

MR. STEINBERG: That assumes facts --

MR. STEIN: In order -- well, all right.

Q. Did he ever suggest to you -- okay -- that some program be initiated in order to have these men wear the respirators on their face rather than around their neck?

A. Not him to me.

Q. Did you to him?

A. Yes.

Q. When?

A. Sometime early in my tenure there, I made some suggestions.

Q. What were those suggestions to Webb Ay?

Q. Well, first, what were they to Webb Ay?

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A. That a possibility was that maybe we could have a better respirator program if we started the habit of paying these men extra money for the inconvenience and hardship of

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wearing a respirator; and if they didn't, of course -- were caught not wearing it when they should have been or we thought they should have been, they wouldn't be paid. I thought this would maybe be incentive enough for some people.

Q. When did you make that recommendation?

A. Oh, that was early.

Q. That was to Webb Ay?

A. Webb Ay and Cliff Krieger and several other people.

Q. When you say "early," you mean '67, '68?

A. In that period, yes.

Q. That fell on deaf ears?

A. Yes.

Q. What was the general reaction, other than deaf ears, and by whom?

A. Well, negative. You know, this was an impossible thing to do this.

Q. It was impossible to convince men to make more money to protect themselves?

A. Well --

MR. STEINBERG: Well, objected to as not an accurate paraphrasing of the testimony.

MR. MULLIGAN: A little rhetoric never hurts anything.

MR. STEINBERG: That's what it is, rhetoric. Good objection.

MR. STEIN: Me thinketh the counsel protests too much.

MR. STEINBERG: Well, what's wrong with that?

MR. STEIN: Nothing.

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I'll sustain your objection, Mr. Steinberg.

MR. STEINBERG: Good.

Q. BY MR. STEIN: Tell me when you're ready, Mr. Manning.

A. Yes.

Q. To whom or whom else did you make suggestions of a similar vein, and when?

A. To my recollection, I've covered what occurred.

Q. Did you make any further suggestions to union officials except the one --

MR. COYLE: I can't hear you, Mr. --

MR. STEINBERG: Stein's the name.

MR. COYLE: -- Mr. Stein.

I'm sorry. We can't hear you. You're down in the pit.

MR. STEIN: It's the hole down here.

Q. Did you make any other suggestions to union officials other than what you've told us about?

MR. STEINBERG: You mean about the use of respirators?

MR. STEIN: Yes. It's Monday morning, Mr. Steinberg.

THE WITNESS: No. This is all I can recall.

MR. COYLE: Would this be a good time to take a morning recess?

MR. STEIN: Yes. I think so.

(Recess taken from 10:05 a.m. to 10:23 a.m.)

Q. BY MR. STEIN: Based upon your relationships with the officers at the Long Beach Naval Shipyard, those officers, of course, being officers of the Navy, did you ever have the opinion that they did not wish to advise the

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civilian workers of the dangers of asbestos, collectively or --

A. Well, one officer.

Q. Who was that?

A. Captain Watkins, George Watkins.

Q. What year was he there? Years.

A. He was there when I came aboard, and he was there up until the end of February of 1969.

Q. That's about two years of your tenure?

A. Yes.

Q. What led you to the opinion that he did not wish to advise the workers of the dangers of working with asbestos?

A. Well, on one specific occasion, the rad radiation technician, Terry Miller, on his own called up the shop, because he recognized, or from the reports, that these men had some adverse findings on their X-rays, and this disturbed him. And he was concerned about it, and he called up the shop and told them to send two individuals over. And one was Buck Hathaway --

MS. HASKELL: Was the other man Mr. DeLuca?

THE WITNESS: At that time, I'm not certain it was DeLuca.

The fact is, I'm sure it wasn't. It was some other old gentleman who was there for quite a while thereafter, and I can't recall his name.

They were sent -- when they arrived, they were sent in to see Dr. Owenby, and Dr. Owenby apparently wouldn't

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have anything to do with them, and he sent them up to see the captain, and the story that I got was that the captain came out and listened to both of them's respiration with a stethoscope and told each of them to go back to their job, they were all right. Terry Miller called these men in so that they would be informed.

Q. BY MR. STEIN: Who was Terry Miller?

A. He was the X-ray technician.

Q. He was trying to inform them they were suffering from asbestosis?

A. Well, it was not his job, and he certainly would have been fired if they had found out about it, or something adverse would have happened.

Q. He wanted them to be informed by the doctor?

A. Yes.

Q. Who was Dr., who?

A. Well, first they were sent in to Owenby, E. K. Owenby, O-w-e-n-b-y. And Owenby wouldn't have anything to do with them, and he sent them up, and they waited outside the captain's office. I saw them there. And the captain, as I described, sent them back to work.

Q. Watkins, that is?

A. George Watkins.

Q. He had no medical expertise in anything, did he?

A. He was a medical doctor.

Q. He was an M.D., and he just said, "Boys, go back to work"?

A. He put the stethoscope upon their chest and

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listened to them breathe awhile, and said, "Okay, boys. Go back to work."

Q. Are there any other facts upon which you base your opinion that officers of the United States Navy did not wish to advise the workers of the dangers of dealing with asbestos?

A. Well, at no time thereafter while I was there were they ever called in and informed by a doctor about their condition.

Q. Well, let's not only talk about their condition, but you were well aware in 1967 that there was some danger in dealing with asbestos, a health hazard. Right?

A. Yes.

Q. Did the Navy do anything to inform these people of the health hazards that you know of, any officer of the Navy, during your tenure there?

A. You mean any kind of place on any kind of information?

Q. Yes.

A. No, I don't recall that happeneing. No.

Q. The Navy itself didn't run classes, did they?

A. Not -- well, I was part of the naval establishment, a civilian, and, of course, I ran the courses. Without the officers' approval, I'm sure it couldn't have happened. Let's put it that way. I don't think the officers initiated anything.

Q. Do you have any other facts upon which you base your opinion that the naval officers, any of them or

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collectively, did not wish to advise the workers of the dangers of asbestos?

A. No, there was no other information.

Q. Do you have an opinion that any naval officer, singularly, or officers collectively, did not wish to spend the money to fully protect these men from the dangers of asbestos?

A. Yes, I have the opinion that these naval officers in charge of the shipyard felt that their money should be spent in pursuing their primary mission, combat mission, the mission of getting the ships ready for combat, what they call combat-readiness, and that was the mission of the shipyard, the primary mission. And there was competition among the various shipyards to keep overhead low. This was information that was circulated and information that people at higher authority would use. Possibly when it come to forcing a shipyard to shut down, they would probably use this information to select the ones that were going to be closed. It meant a great deal to the shipyard to have low overhead.

Q. Upon what facts do you base this opinion? Like, did you ever have a discussion with a U.S. Naval officer who said, "We won't spend the money for a certain type of respirator, or protective clothing, or for radiological exams," or for what-have-you, "because it's just too expensive"?

A. Well, the strongest recollection I have in this regard is a fellow industrial hygienist working at a different facility made the remark in a meeting of the Naval

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Industrial Hygiene Association that the reason that Long Beach Naval Shipyard had such a low overhead, one of the reasons was, for instance, that they didn't ever have very much of an industrial hygiene and medical department. And I had to go along with it, that this probably was so, that there were other shipyards that spent a lot more money in this area, and of course, this had to be charged to overhead.

Q. Who made that remark and where was that remark made?

A. I have poor recollection of exactly where it was made. I think it was probably made in Toronto by an industrial hygienist that was stationed at the naval air station in Alameda, California, in the San Francisco Bay area.

Q. Do you recall that gentleman's name?

A. I think that it was Oscar Sobol, S-o-b-e-l -- S-o-b-o-l.

Q. Do you have any other facts upon which you base your opinion that a naval officer at the Long Beach Naval Shipyard, or any group of them, did not wish to spend the money to protect the people working with asbestos?

A. I can't point my finger at any specific officer. I could only look at the results, and my feeling was at the time that at least in the industrial hygiene activity, there was an attempt to contain it and restrict it by their curtailing the budget and limiting the amount of personnel, and these certain devices. I certainly tried to work in the opposite direction, and I met resistance, which would lead me to believe that they didn't

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want to have an elaborate program that I thought was necessary.

Q. Would all those facts you've told us about over the last two weeks when you were refused certain equipment support that conclusion? Is that right?

A. Yes.

Q. Do you have any knowledge of whether or not the Navy purchasing departments were given alternative products and requested to use alternative products by any of the manufacturers you've sued?

In other words, products that the manufacturer said can do the same job, and the Navy requested asbestos?

A. I have no firsthand knowledge of this, but based on my desire and others', I think, to have asbestos-type insulation replaced by glass types, I know there was some effort made to secure later on this type of material, and indeed, we did have quite a bit of it.

Q. Did you ever take it upon yourself to ascertain alternative products, that is, asbestos-free products that would do the same job that the asbestos-containing products were doing, and recommend to some superior to use that product?

A. There was some effort, I think, to look over the existing materials. Generally, I probably looked in the trade names index for materials that contained glass that I could find. The shops themselves had pretty good knowledge of what was available.

Q. On what occasions did you, yourself, recommend or

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request that asbestos-free products be used?

A. Well, in writing, I put that in writing and the report was delivered in 1969.

Q. What was the reaction to that report?

A. Well, I think eventually the reaction was to substitute glass for asbestos-containing insulation.

Q. Had that been done by 1974?

A. Not in its entirety. There was -- a very large part of the insulation material was material that contained glass.

Q. In 1974, do you have any estimate as to weight volume of insulation material in the Long Beach Naval Shipyard that contained asbestos as opposed to glass?

A. I would not have any certain knowledge of this.

Q. How could we find that out?

A. Well, my thinking is, there would have to be some kind of survey done of the volume of purchases done in the supply area. I would only be guessing, as far as knowing exactly. I think maybe I had a little inkling of information that maybe around that time, at least around the time that the coveralls came into being, there was some talk about only 40 percent of the insultation work at that time being with asbestos.

Q. That would have been '72?

A. Somewhere in that era.

And I think -- yeah.

Q. When did you first recommend coveralls?

A. I have no real recollection of when I did that.

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It came into being, I think, as a result of this being in the OSHA standards.

Q. But you had recommended them before they were OSHA standards, hadn't you?

A. I don't really know. I don't remember.

Q. Correct me if I'm wrong, but didn't you testify that you didn't wear your respirator until approximately 1968?

A. Yes, I didn't wear a respirator till -- or one was issued to me in about the middle of 1968, when I started sampling.

Q. Why didn't you wear a respirator before then when you were around asbestos?

A. Well, I felt at that time that the exposure of people who worked around and not with asbestos products, the exposure was minimal. I certainly was probably relying in the back of my mind on the thing we discussed, dose relationship, and like this. I had no knowledge of my physical drawbacks at the time. I felt I certainly at that time was average and could withstand the average amount before any adverse effects.

Of course, I might point out that industrial hygienists walking around the shipyard in places where it was not required or customary to wear respirators, somebody would probably throw a net over me pretty quick.

Q. Don't you think rather than throw a net over you, somebody might have wondered why, and it might have helped that whole shipyard to protect themselves?

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A. In retrospect and hindsight, I can make all kind of conjectures. It was not very sensible to wear respirators. I had to be free to talk to people. A respirator wasn't the main concern in my mind at a lot of these times. It's just not good form for an industrial hygienist to go around wearing a respirator all the time. That would make me an alarmist immediately. You know, "Why is he wearing a respirator? He's inferring that we have a situation where a respirator is needed."

Q. In hindsight, a little alarmism is what this shipyard needed, isn't it?

A. It needed some kind of booster. I doubt if me wearing a respirator around where it was not expected and not needed would have much effect. It would probably identify me as some kind of a screwball more than I already was known as a screwball.

MR. KAPPLER: You don't think you would have been setting a good example?

MR. STEINBERG: I'm not sure I understand the question. Setting a good example wearing a respirator?

MR. KAPPLER: Sure, in a place where it should be worn.

MR. STEINBERG: I think, in the context of what's been testified to here, that question is argumentative. It requires a long explanation and repetition of things he's already gone over. So go on to the next question.

MR. KAPPLER: I just interspersed that. I'll withdraw it if you want me to.

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MR. STEINBERG: Fine. You're next.

MR. STEIN: Am I next?

MR. STEINBERG: Right.

Q. BY MR. STEIN: You remember, I think it was 1969, you did some work with Eagle-Picher cement. Is that right?

A. I think I said I took one sample.

Q. What was the purpose of that sample?

A. The purpose of the sample was part of the evaluation to measure the exposure of employees to asbestos dust.

Q. When you took that sample, did you put a mask on, or respirator?

A. Yes, I was wearing a respirator at that time.

Q. Is that because the bag said, "Do not use without" -- or in essence said, "Do not use without using the U.S. Bureau of Mines-approved respirator"?

A. No. I don't recall seeing that. It may have been there, but I wore the respirator because at that time, whenever I took a sample, I thought I was exposed to possibly dangerous concentrations of asbestos, and to set a good example.

Q. If in fact in 1967 the products had warnings on saying, when using the product, use a respirator approved by the U.S. Bureau of Mines, would you have used the respirator?

A. In when?

Q. '67.

A. I would have worn the respirator if I had been sampling next to the man doing the work. I think at any time after I came aboard the shipyard and knew respirators

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were required, that I would have worn it, yes.

Q. That requirement I pointed out to you just now was a warning on the bag, saying use the U.S. Bureau of Mines-approved respirator. Is that correct?

A. I don't recall seeing it on the bag. It may have been there, and it would not have made too much influence. I would have worn the respirator because of the things I've told you.

Q. Well, let's go back to '64 -- '65, rather, just subsequent to the Selikoff or New York Academy report. Suppose for a minute, sir, that the products at that time had said, "While using this product, use a U.S. Bureau of Mines respirator." Would you have used it while sampling?

MR. STEINBERG: I'm going to object to the form of the question. It assumes facts not in evidence --

MR. STEIN: No, it doesn't.

MR. STEINBERG: -- that he saw bags with such warnings or directions on them. His testimony was that he had not, and the rest then is speculative, which I don't think he is required to answer.

MR. STEIN: No, it is not speculative.

MR. STEINBERG: I think it is speculative. "If something happened at some time, would you have done this?" I think it's just an empty question. I think it calls for speculation.

MR. STEIN: Do you really believe that?

MR. STEINBERG: I sincerely and truthfully and honestly believe that.

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MR. STEIN: Being as honest with me as you can possibly be?

MR. STEINBERG: As I can possibly be.

MR. STEIN: Okay. I have no further questions.

You're not letting him answer that question?

MR. STEINBERG: I'm instructing him not to answer that question, and he will decline to answer on the advice of counsel.

MR. STEIN: Okay. Thank you.

MR. MULLIGAN: Off the record.

(A discussion is held off the record.)

EXAMINATION

BY MR. TILLIPMAN:

Q. Mr. Manning, my name is Jim Tillipman. I represent J. P. Stevens in this lawsuit.

A. Yes.

Q. During your tenure of experience at the Long Beach Shipyard, did you ever encounter any asbestos products which you believed to be manufactured by J. P. Stevens?

A. I think I made some previous remarks about that, and on further reflection, I am not sure that I did, really. My recollection is that J. P. Stevens, I think, supplied the thread and some glass-cloth-backed aluminum product. I think Webb Ay showed me this, and he mentioned J. P. Stevens at the time, and that's why J. P. Stevens stuck in my memory. And that is about the extent of J. P. Stevens.

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Q. By the way, it is my understanding, based upon your deposition testimony, that your experience with asbestos prior to going to the shipyard as a hygienist were the two factories you inspected in Pennsylvania.

A. Yes.

Q. One being the Pittsburgh Corning factory --

A. In Port Allegany, Pennsylvania, yes.

Q. -- and the other was -- it was the brake lining manufacturer.

A. Molded Materials in Ridgway, Pennsylvania.

Q. Did you have any familiarity prior to coming to the Long Beach Naval Shipyard of any J. P. Stevens product, any asbestos product produced by J. P. Stevens?

A. No.

Q. Did you ever observe a container at the Long Beach Naval Shipyard which purportedly held a J. P. Stevens product?

A. I have no recollection, really, of that.

Q. Your one recollection of J. P. Stevens was with respect to the conversation with Webb Ay that you had?

A. Yes. I was called over to the pad shop, and the best recollection I have is one week they were using an aluminum-backed asbestos cloth in the manufacture of spray shields, and about the following week, I was called back, and Webb Ay was showing me this other material that they were using as a substitute, and I think he put the label J. P. Stevens, and he asked me if I knew the company, and I said I didn't believe so. He said, "Well, your mother

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would probably know it, because they made a lot of thread."

Q. This was in the pad shop?

A. Yes.

Q. About what year was this?

A. Well, I have it noted in my log, and I would be only guessing. It was sometime in maybe the early seventies.

Q. Was this on one occasion that you saw this product?

A. One occasion, yes. At least it was pointed out. There may have been other times.

Q. This was pointed out to you as being a substitute for a product, an aluminum-backed asbestos cloth product?

A. Yes.

Q. Do you know who the manufacturer of that product was?

A. No.

Q. With respect to the product that was point out to you by Webb Ay, was it in a container?

A. I didn't see any containers that I can recall.

Q. Do you remember what color it was?

A. The cloth?

Q. Yes.

A. It was very light gray. It had a luminescent sheen to it.

Glass cloth is readily recognized by its appearance.

Q. Was this a glass or asbestos?

A. The glass. It was a light gray with a little bit

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of pink or something. Asbestos cloth generally is a definite dull gray color, and the glass has a little reflection there, a little luminescence.

Q. Do you know if this was an asbestos product or just a glass product?

A. The first material was an asbestos product that I saw the week prior, and the second material that was pointed out by J. P. Stevens was glass.

Q. So this second product that was pointed out, was it your understanding that it was not an asbestos product?

A. Yes.

Q. Did you ever see an asbestos product which was purported to have been produced by J. P. Stevens?

A. Not to my knowledge, no.

Q. In your earlier testimony, you listed several sections of the shipyard, including ships where asbestos products were used. Which areas of the shipyard were asbestos fabrics used? You've mentioned the pad shop. Were there any other areas?

A. The pad shop, aboard ship.

Q. Do you recall by manufacturer who produced any of the asbestos products that you saw, either in the pad shop or aboard the ships?

A. I previously testified, I believe I saw some Raybestos Manhattan products, specifically cloth, that I recall.

Q. Anything else that you recall specifically?

A. This is all I recall specifically.

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Q. In questioning by Mr. Stein, there was a mention of an asbestos turbine blanket product. Was that something that you saw or you think that you may have seen?

A. Something that I believe that I saw. I'm kind of vague on it.

Q. Where do you feel that you saw that?

A. Well, this may have been aboard ship. It would have been where it would be installed.

Q. The same question with respect to this Thermotape product that was earlier noted.

MS. HASKELL: Which same question? Where he saw it?

Q. BY MR. TILLIPMAN: Do you recall seeing it, and if so, where did you see it?

A. Some vague recollection that there was some Thermotape used that I made some previous testimony about, where some kind of heat-sensing device was wrapped in Thermotape and installed, and I come out -- was sent out to look at it. And this is my main recollection of Thermotape.

Q. Other than the one product you said was glass that was pointed out to you by Webb Ay in the pad shop, do you have any recollection of hearing J. P. Stevens associated with any of the products you encountered while at the shipyard?

A. This was the extent of J. P. Stevens.

Q. Now, at the time that you started at the shipyard, was the pad shop using all asbestos or a combination of asbestos and glass?

A. They were using all asbestos cloth.

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Q. And then they made a gradual transition so they eventually used only glass?

A. Well, the transition came in all at once, and it was my understanding that this was the way it was going to be handled, but on occasion, I had knowledge that they lapsed back to asbestos cloth.

Q. Did you play any part in suggesting glass alternatives to the various asbestos products they were using in the pad shop?

A. Yes.

Q. Other than the general proposition that glass was suggested to replace asbestos, were you specific as to what you recommended?

A. Well, how specific can you get?

Q. Did you suggest a manufacturer or a trade name of a particular manufacturer?

A. No.

Q. You just suggested generally to use glass for those purposes that asbestos was being used for?

A. Yes.

Q. In Exhibit O -- I'll show you my copy. I don't think you have all your exhibits with you today -- Item Number 1 of the Exhibit O. It refers essentially to some J. P. Stevens glass being used to be evaluated as an asbestos substitute. Is that correct?

A. Yes.

Q. Did you have any recollection of that?

A. Apparently I did not. I see that I wrote it and

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therefore recommended it. This would be standard procedure and a very routine sort of thing that I would have done in all cases. This is the way I felt about it.

Q. What would have been the standard procedure on evaluating asbestos substitutes?

A. I would have in all cases recommended substitution of glass-containing products.

Q. Did you, yourself, correspond with one or more manufacturers to obtain samples?

A. No. This was out of my -- the supply of materials in the shipyard was completely out of my jurisdiction. I had no control whatsoever of what the Supply Department bought.

Q. During your tenure at the shipyard, was there one person in whose bailiwick that would have been to suggest alternatives to the supplies?

A. First of all, it would have been the shop planner's job to order the material. The material that was available -- and this, we went over before -- was brought into the system through the supply channels. I think that all government materials -- a lot of government materials was acquired by bids. And the mil. specs, military specifications under which these materials were bought was a performance specification, and these specifications had no mention of what the content should be.

Q. Can you tell me by name who would have been in charge of that, the evaluating of alternatives?

A. Well, who would have been in charge of changing the

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military specifications? Is this what you're trying to get at?

Q. Now, like, for example, on Exhibit O, it indicates a glass product was going to be evaluated, a certain glass product. Correct?

A. Well, apparently this Jules Rothman acquired a sample somewhere, or was made aware that this was available, and wanted to know whether it was okay.

MR. STEINBERG: I think you've answered the question.

Q. BY MR. TILLIPMAN: When you started there at the shipyard, the pad shop used all asbestos, and they made a transition, whether in whole or in part, to glass?

A. Yes.

Q. During that time, certain glass products were evaluated. Is that correct?

A. There was no evaluation needed. It was either asbestos or it was glass, and it was easily identified whether it was one or the other; and when it was glass, it met my approval, and when it was asbestos, it did not meet my approval.

Q. Who was responsible for making the decision to go to glass?

A. Shop management would have made that decision.

Q. Who was in charge there?

A. Frank Nease.

Q. You measured samples in the pad shop on occasion. Is that correct?

A. I took air samples.

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Q. This was of asbestos from fabric that was being cut. Is that right?

A. Yes.

Q. Can you identify any of the asbestos that was being cut on those occasions?

A. Well, I previously testified that I thought that I saw packages of Raybestos Manhattan cloth earlier on. I have no recollection of any other type of material that contained asbestos, but there may have been.

Q. Would it be fair to assume that you wouldn't recall one way or another whether you were exposed to particles of asbestos manufactured by J. P. Stevens in the pad shop?

A. That is correct.

Q. Do you know one way or another if in fact there were asbestos products manufactured by J. P. Stevens in the pad shop?

A. No.

Q. How about on ship, when you took samples? Are you aware of the manufacturer, other than perhaps Raybestos Manhattan, of any of the asbestos products?

A. I have no knowledge whatsoever firsthand of what was applied on ships. All I would see would be the cloth and have no way of identifying it.

Q. Would it be fair to assume once again you wouldn't know one way or another if you had been exposed to a J. P. Stevens asbestos product on a ship?

A. Yes.

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Q. To your knowledge, are there records in existence which would indicate where the particular asbestos products were used after purchase at the shipyard?

A. I doubt very much whether there's any records as to trade name of materials that went where. They would certainly -- all the records would probably pertain to what material with a certain military spec was applied on a certain ship. Otherwise, there would be no identification of trade names or anything.

Q. So there's no records that you're aware of that would indicate -- let me withdraw that question.

In this matter, you've sued a number of manufacturers, including the client I represent. Are there any records that you are aware of that would indicate where the products produced by those manufacturers, if in fact they were sent to the shipyard, would have been used?

A. I don't think there's any record of that.

Q. What was the date, again, that you left the shipyard?

A. February 25, 1974.

Q. And you were aware prior to that time that Dr. Balchum had made a diagnosis which included, in part, asbestosis?

A. Yes.

MR. TILLIPMAN: Thank you. I have nothing further at this time.

MR. STEIN: Mr. Kappler, is it now time for a break? As I understand, you're going to be awhile.

MR. KAPPLER: Anything you want.

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MR. STEIN: Thank you, sir.

(Recess taken from 11:00 a.m. till 11:27 a.m.)

EXAMINATION

BY MR. KAPPLER:

Q. Mr. Manning, you were asked a question by Ms. Haskell about whether or not you had seen any Pabco products, and you said at first, as I recall your testimony, that you didn't know, but probably, or something like that. Do you recall that?

A. Yes.

Q. Do you recall seeing any Pabco products?

A. Yes.

Q. When was the first time that you ever saw a Pabco product?

A. I have no certain recollection on that.

Q. Approximately.

A. Possibly the early seventies.

Q. When you saw that Pabco product, whatever it may have been, isn't it true that it contained a warning label -- I'll show you a photostat of it -- which is contained in the answers to Fibreboard's interrogatories, which contains the following language: "Caution: This product contains asbestos fiber. If dust is created when this product is handled, avoid breathing the dust. If adequate ventilation control is not possible, wear respirator approved by U.S. Bureau of Mines."

I hand you the document.

A. Well, I'll say this. It could very well have

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been on the package. I have no recollection of it, and if you say it was there, it was there.

Q. Well, let's put it another way.

MR. STEINBERG: I'm not sure we all want to go that far.

Q. BY MR. KAPPLER: Did you ever see a Pabco product that did not contain a warning of the type which I have just shown to you?

A. I have poor specific recollection of the exact warning. It may have been there and I missed it and have no recollection of it.

MR. STEINBERG: You've answered the question.

THE WITNESS: Yes.

Q. BY MR. KAPPLER: Where a product is on the dock or wherever there, and you observe the box or package or bag, or whatever it may be, and you observe as a hygienist down there that that package or box does not contain a warning of the type and character which I have referred to here in my previous question, don't you undertake to then warn the men yourself in some fashion?

A. Both the men and myself could readily, by inspection, identify a product that contained asbestos or contained glass. And it would have been ridiculous on my part to point out to the men using the material that it contained one thing or the other. As far as these warning signs were concerned, as I say, the men knew from inspection, as well as myself, what they contained.

MR. COYLE: Is the answer to the question "No"?

Would you read the question back to the witness, please.

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(The question referred to is read by the reporter.)

MR. STEINBERG: I think the question is a little vague and ambiguous, and I think the answer is consistent in every respect with the specificity of the question.

MR. MULLIGAN: You read that kind of thing the other day and I read that, too.

MR. ROBERSON: Would counsel for plaintiff please state in what manner the question is vague and ambiguous.

MR. STEINBERG: Warn them of what?

MR. KAPPLER: Warn them of the danger of the ingestion of asbestos, something which he has known about ever since his arrival at the naval shipyard, if not before.

MR. STEINBERG: Your question is, if the package did not contain a warning, would he do something about warning the men that it is asbestos and they should do something about it?

MR. KAPPLER: That's basically it, yes.

MR. STEINBERG: Well, I think the question is vague and ambiguous, if it is not tied down as to when, the circumstances and time and so on. We've gone through three weeks -- or two weeks of testimony here in which in various ways Mr. Manning has answered that question about six different times, and unless you want to pin it down and make it more specific, I just don't think it's something that he should be required to answer at this point in any further or more specific way than he's already handled the question.

MR. KAPPLER: Are you instructing him not to answer it?

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MR. STEINBERG: He's already answered your question.

Mr. Coyle's question was, does that mean the answer is no. It is that question to which I object and instruct him not to answer.

Q. BY MR. KAPPLER: All right. You didn't warn them; is that your answer?

MR. STEINBERG: I object to the form of that question, because I think it is meaningless. Didn't warn them as to what, or anything, under what circumstances?

Q. BY MR. KAPPLER: Didn't warn them about anything, the danger of ingesting this stuff, asbestos fiber dust.

MR. STEINBERG: He's already testified that he had indoctrination sessions in 1968 where some warnings were mentioned to employees.

MR. KAPPLER: That isn't my question, Mr. Steinberg. I'm talking now on a more limited basis, and that is this:

Q. When you saw a box, let's say of asbestos material, material which you recognized as asbestos, and this material which the men were using, let's say, on that particular day contained no warning on the box, and the men were not wearing respirators, did you step up and say, "Look, fellows," words to the effect, "this stuff is asbestos. You should have your respirator on." Did you give any such warning to these men who were utilizing that material?

A. These men were instructed at great length in indoctrination in 1968; I understand by Bill Marr and Dr. Nagle and these people prior to that. And these people who worked with this material were even better qualified than I am.

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by far, as to whether the stuff contained asbestos or not.

MR. KAPPLER: I move to strike the answer as being nonresponsive to the question.

THE WITNESS: All right.

MR. STEIN: Was that answer "No"?

MR. McKAY: I think we are entitled for the witness to say either "Yes" or "No." If the question calls for a yes or no, the witness should state "Yes" or "No."

MR. STEINBERG: I think the question is a little vague as to the circumstances, the time; it assumes facts not in evidence that there were asbestos materials at various times without warnings. All this witness has said is, he can't recall the warnings you have shown him. They may or may not have been on there. He said he couldn't recall them.

MR. KAPPLER: You have instructed him not to answer. Is that it?

MR. STEINBERG: He's already answered the question the best he can.

Q. BY MR. KAPPLER: Let me ask you that --

MR. COYLE: No, he hasn't.

Q. BY MR. KAPPLER: Do you have any recollection at any time when you were down there at the shipyard of ever seeing an asbestos container or product containing or a box containing asbestos or a bag containing asbestos, which did not have a warning label on it at any time?

A. It is my best recollection that -- and I am not exactly certain of this, but I think the Thermobestos product at one time didn't have a warning.

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Q. I thought you told us the other day that none of the Johns-Manville products had any warning on them. Isn't that right?

A. If I said that, that's what I said. I recall Thermobestos, which is the thing that sticks out in my mind as being the thing that I saw most. It is my best belief that it didn't have a warning for most of the period I was there.

Q. What product is it of Fibreboard that you saw down there?

A. Well, I don't associate any product with Fibreboard, but you already told me that Pabco is one of your trade names, so that I saw Pabco-type products there.

Q. All right. Did you ever see a Pabco box or bag which did not contain a warning?

A. I can't be certain of that.

Q. If you had, would you have done something about it?

MR. STEINBERG: Just answer yes or no. You don't have to go any further than that.

THE WITNESS: No.

Q. BY MR. KAPPLER: Now, you talked a lot about ripoff operations. Some of these --

MR. STEINBERG: "Ripout."

MR. BOGAN: Freudian slip.

MR. STEINBERG: I think we're all getting a little punchy.

Q. BY MR. KAPPLER: I think we can use it both ways, but whether it's "ripout" or "ripoff," either way, the men

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were doing that with asbestos which was already aboard the ship and surrounding a pipe or boiler. Isn't that the way it worked?

A. Yes.

Q. That material, Mr. Manning, had been put on that ship years before, hadn't it?

A. Yes.

Q. You didn't have any way of knowing who the manufacturer of that particular material was, did you?

A. No.

Q. That is a particularly dusty operation as compared to any of the other operations that you've described here, isn't it?

A. Yes.

Q. Because when they do it, they do it with, what, a hammer or some type of metal device?

A. There were several methods used. One method was to cut it with a knife and peel it off. I think some was wired on and they'd have to snap the wires. There were some people who used a hatchet to chop at it and knock it off. This was a far more dusty procedure than using the knife, and in our indoctrination, we tried to get them to use a knife. However, in any instance, the ripout was very dusty.

Q. In other words, if you chop at it with a hatchet or knife or something, why, there's going to be dust all over the room, isn't there?

A. Yes.

Q. Did you ever walk into one of those areas where

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the ripout operations were being conducted?

A. Yes.

Q. And on those occasions, did you wear your respirator?

A. If I was sampling, I wore my respirator, yes.

Q. Suppose you weren't sampling.

A. If I walked into a situation like that, which I didn't too often without sampling, it would be accidental that the ripout was going on, and I would not be wearing my respirator, no.

Q. Yes, because I think you told us the other day originally, when you started out down there, you thought perhaps it was a bad thing psychologically to walk into a room with your respirator on. Didn't you tell us that?

A. This was, yes, my belief at least with the Department of Health before I came there, this was the feeling. There was no real compulsion one way or the other. I think everybody walked through ships that had to be there, officers, enlisted men, fellow workers, everybody would walk in and out of compartments that were not specifically applying or ripping out material. They were not wearing respirators. And --

Q. I'm talking about a room now where the men are actually ripping off this old material, whatever it may have been, and they're wearing respirators, for example, and you're not. You did that very often, didn't you?

A. It happened on occasion, but --

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Q. You've answered the question.

A. It happened on occasion.

Q. It happened. And I think you told us that you'd walked into some of those rooms where the men were ripping off the asbestos, and you observed that they didn't have respirators on. Isn't that true?

A. This happened, yes.

Q. When that would happen, would you advise the men to put their respirators on?

A. Yes.

Q. Did you invariably do that?

A. No.

Q. Sometimes you'd go in there and you'd see they wouldn't be wearing their respirators, and you simply would leave the room and say nothing. Isn't that true?

A. This is possible, yes.

Q. In other words, on the occasions where you did go in and did not put your respirator on, in a situation where there was a lot of this asbestos dust in the air during the course of the ripout operation, you just voluntarily assumed whatever risk there was or hazard in connection with your conduct, didn't you?

MR. STEINBERG: Objected to as calling for a legal conclusion.

MR. KAPPLER: I don't think so.

MR. STEINBERG: He's not required to answer that.

MR. KAPPLER: Are you instructing him not to answer?

MR. STEINBERG: Yes.

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Q. BY MR. KAPPLER: You were advised in January of 1974, weren't you, that the chest X-rays were consistent with exposure to asbestos? I think the warning came from Dr. Balchum. Isn't that true?

A. Yes.

Q. At the time you saw Dr. Balchum, you knew that there had been a decrease in the vital capacity on the pulmonary function test, didn't you?

A. When I saw Dr. Balchum?

Q. Yes.

A. I was not aware of the specific findings, but I couldn't help but know that this was so, yes.

Q. After you received the letter from Dr. Balchum, you realized, didn't you, that the exposure to asbestos was the thing which was causing your then problem?

A. Dr. Balchum's report implicated -- he said I had asbestosis as well as some other pulmonary disabilities.

Q. Now, who was the man from Johns-Manville that you referred to that you had some discussion with? I've forgotten the name.

A. Bob Reitze.

Q. I didn't get how you spelled that.

A. Is it R-e-i-t-z-e? I don't know.

Q. I think you told us just a little bit ago that the general practice down there at Long Beach certainly insofar as the government was concerned originally was not to tell the men that they had asbestosis. Isn't that true?

A. They didn't do it, and I would say that is the

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policy.

Q. Did Mr. Reitze tell you in his conversations with you that that likewise was the policy of Johns-Manville, that is, the policy that they had adopted back East?

MS. HASKELL: Object to the question as vague as to what is meant by the term "Johns-Manville," and further on the grounds it is vague as to time and place.

MR. STEINBERG: You can answer the question, if you can.

THE WITNESS: I have no recollection of this happening. I knew from another source that this, I think, was so.

MS. HASKELL: Move to strike everything after the answer "I have no recollection of this happening" as non-responsive.

MR. COYLE: I can't hear you.

MR. STEIN: He knew from another source that that was so.

MR. COYLE: Johns-Manville?

MR. STEIN: Yes.

MS. KOTSIRIS: Are you the interpreter?

Q. BY MR. KAPPLER: You knew, Mr. Manning, that a doctor representing Johns-Manville had testified in the East under oath as follows: "If the X-ray picture suggests damage to the lungs or there has been a lengthy exposure in a young man, transfer will be recommended before there is a possibility of a claim for compensation being submitted and accepted. They have not been told of this diagnosis for it is felt that as long as a man feels well, is happy at home and at work, and his physical condition remains good, nothing

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should be said. So long as the man is not disabled, it is felt he should not be told of his condition, so that he can live and work in peace and the company can benefit by his many years of experience. Should the man be told of his condition today, there is a definite possibility that he would become mentally and physically ill, simply through knowledge that he has asbestosis," end of quote.

Did you ever have in your discussion with Mr. Reitze any conversation with him about that attitude that Johns-Manville had adopted in the East?

A. I don't believe I had a conversation with Mr. Reitze concerning this.

Q. Did you acquire information about that policy from any other source?

A. In essence, I knew about what you read. I could never have quoted to that length, but I knew that this was --

Q. Where did you obtain that information, Mr. Manning?

A. I think, in part, it may have been part of a Dr. McDonald's presentation at one of the American Industrial Hygiene conferences. And I don't recollect where the other information came from. I did not specifically know that this exactly was testimony.

Q. Well, you, yourself, as I understand it from what you said a little while ago, you would not approve of that position, would you?

A. No.

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Q. Did you ever know who Dr. Kenneth Smith was?

A. No.

Q. How about Dr. McDonald? Who was he?

A. He was a Canadian doctor, I believe, who did work in the mining towns. One was Asbestos, and the other, I can't recall the name. There's another mining town. And he did work, I think, for Johns-Manville, and he followed these people and took X-rays, chest X-rays, and made medical findings of the employees of these mines, and reported his findings in papers. And one of them, I think, was delivered in Bucharest at an international symposium on asbestos sometime around 1971. And he delivered another paper on the plaques that I have talked about; at one mining site, the employees had plaques, and at the other mining site, they did not have plaques, and he delivered a paper on this subject.

Q. You worked in a steel mill, didn't you, at one time? Didn't you say something like that?

A. Yes.

Q. In some of the steel mills, for example, they grind the steel, don't they? They have certain operations that result in the grinding of steel?

A. Yes.

Q. As a hygienist, you had to watch that operation, too, didn't you?

A. I was not employed as an industrial hygienist at Bethlehem Steel.

Q. Oh, I see. What was your capacity there?

A. I was a chemist in quality control.

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Q. I see. Did you know anything about safety at that time in the operation there at the steel plant?

A. Very little.

Q. So you didn't know whether you could breathe the manganese particles or not?

A. I had very small knowledge of that.

Q. You wouldn't want to do it, in any event?

A. There are some things I did then that I wouldn't do now, no.

MR. KAPPLER: I think that that's all I have.

MS. HASKELL: Off the record.

(A discussion is held off the record.)

MR. KAPPLER: Let me ask a couple more questions, if I may.

Q. You've described to us here this morning about the fact that apparently the filter which was given to you wasn't the wrong size or shape or whatever.

MR. COYLE: "The right size."

THE WITNESS: The filter that was installed in the filter holder was too small.

Q. BY MR. KAPPLER: I see. As a result, according to this report of April 8, 1974, even when you were wearing the respirator, you were breathing in raw, unfiltered air during sampling heavy concentrations of asbestos dust. Isn't that right?

A. Yes.

Q. Can you tell me whether any of the other men had the same problem, or were you unique to that area?

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A. I have no specific knowledge of this, but I think I was not unique.

Q. Do you know the names of any other persons who may have been involved in the same type of a situation?

A. No.

Q. Is the size of the filter something that was governed by the men down there at the Navy, or was that the supplier of the respirator?

MR. STEINBERG: Do you understand the question?

THE WITNESS: Yes. It was my understanding that there were filters on hand and supplied by the manufacturer that were for the small size filter holder, and also at the same time, there were filter holders for the larger type respirator that fit in the same facepiece, incidentally, and also filters that fit that particular filter holder. And in my case, they got mixed up. I had the large filter holder and the small filter.

Q. BY MR. KAPPLER: Was there anything about that from the standpoint of the manufacturer of the filter that you feel was improper?

A. No. No.

MR. KAPPLER: I think that's all I have.

EXAMINATION

BY MR. BOGAN:

Q. Mr. Manning, I understand your earlier testimony to indicate that some ships were brought in as often as every three years for overhauls. Is that correct?

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A. Overhaul, yes.

Q. Would that include ripout operations?

A. Yes.

Q. Do you have any understanding of whether this 3-year period was one which was generally followed in the Navy for all their big ships?

A. Yes, it would be a general thing.

Q. Can you identify who at the shipyard would be the source of information as to which ships came in on which schedule or any other information along this line?

A. There would be a record of this, no doubt. It would be somewhere up in the administrative end of the shipyard. I don't know exactly where this record would be kept, no.

Q. Is it your understanding that it would be kept somewhere at Long Beach as opposed to Washington or some other headquarters?

A. There would be a record kept in Long Beach of the ships that were overhauled at Long Beach.

Q. Can you identify either by title or by name the office or individual who would have information as to which products by manufacturer identification were ordered for a specific period of time? Would that be the Purchasing Department, or would it be Supply, or some other place?

A. The actual ordering of the material for the shop would be done by the shop planner, and he would probably send the requisition to the Supply Department, and the Supply Department would -- if they did not --

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probably didn't have it in stock, would send a requisition to the Naval Supply Center, and they would supply the material that would fit the military spec for this particular application that was needed.

Q. How does the bidding on these government contracts fit into this scheme you just mentioned? Would it come before any ordering were done?

A. The bids on the purchase of these things were done by someone in the bureaucracy in Washington, D.C.

Q. So, for example, when -- and of course I'm only after your own knowledge on this, and I wouldn't want you to guess at anything -- but let's assume that some pipe-covering material was needed for a new job that was coming in. Would this be material, once it's ordered, that the Navy had already bought, or would it then send out bids based upon the new job coming in?

A. The material that we'd receive would be material already in the supply system.

Q. Mr. Manning, is it your belief that part of your exposure to asbestos came from Molded Materials, the National Brake Lining Company?

A. Yes.

MR. BOGAN: That's all I have.

MS. HASKELL: Does anybody else have less than an hour's worth of questions at this point?

MR. STEIN: Pardon me. I didn't hear you.

MS. HASKELL: Has anybody else got less than an hour's worth of questions at this point?

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MR. VAN DAM: My questions won't be that long.

MR. STEINBERG: Does anyone down at this end want to inquire at all?

MR. McKAY: Yes.

MR. STEINBERG: How much do you have?

MR. VAN DAM: Till about 1:00, if I talk fast. Probably not, but I might.

MR. STEINBERG: Why don't we go ahead, then.

MR. VAN DAM: Sure.

EXAMINATION

BY MR. VAN DAM:

Q. Mr. Manning, at some time in your career, you became familiar with the name of a company called Pittsburgh Corning Corporation. Correct?

A. Yes.

Q. Did you have any information of any kind regarding the name of that company or what they did before you inspected their plant back in Pennsylvania?

A. No.

Q. What occasioned your going to that plant? Did anybody specifically request that you go to that plant in particular?

A. Somebody -- and it wasn't me -- inspected the plant, and came upon the fact that this installation was going to be built to manufacture preformed insulation. And I was requested by my then supervisor to accompany a group of industrial hygienists to help perform the survey.

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Q. That was to be a survey of the entire plant?

A. A survey of the plant that was manufacturing Unibestos.

Q. Before you went to the plant, had you heard the name Unibestos at any time?

A. No.

Q. When you went to the plant, did you familiarize yourself with the product known as Unibestos?

A. Yes.

Q. Did you consult with any of the representatives of Pittsburgh Corning Corporation regarding that product?

A. Yes, there was some consultation.

Q. When you went through the plant, were you accompanied by anyone who identified themselves as associated with Pittsburgh Corning?

A. I've stated that I had not inspected the plant, so going through was the contact I had on this first occasion that I had been in the plant.

Q. On that first occasion, were you accompanied on your inspection by anybody from Pittsburgh Corning?

A. Yes, there was somebody there.

Q. Do you know who that was?

A. No, I do not.

Q. Did you have any discussion with whoever that person was at that time with regard to the manufacturing process?

A. There was some discussion, yes.

Q. You became familiar basically with what products

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were being manufactured?

A. I became familiar with the manufacturing process, yes.

Q. Was there more than one product that was being manufactured in that plant?

A. The entire plant, yes. The plant that I'm referring to was a new installation that was part of the larger installation, and there was only one product being made in this new installation. However, in the other end of the plant, there were many products being --

Q. Were there any asbestos products in the other end of the plant?

A. To my knowledge, no.

Q. Subsequent to your inspection of the Pittsburgh Corning plant, I take it at some later date you again ran into a product known as Unibestos. Is that correct?

A. Yes.

Q. You told us earlier in your deposition about an occasion in which there were cartons with the name "Unibestos" on a dock somewhere. Is that right?

A. Yes.

Q. And you were with Webb Ay at the time?

A. Yes.

Q. He had asked you to go look specifically at those boxes?

A. Yes.

Q. Can you recall when that was?

A. Well, that was early, early. It was maybe '67

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or '68. There's a record in my -- I think I have a record of it in my log.

Q. Between the time that you inspected the Pittsburgh Corning plant and the time that you saw the cartons with "Unibestos" in '67 or '68, had you ever had any contact with that product in the interim?

A. Well, I went back again to the same plant to do the same thing on a second visit.

Q. After the time you left the Pennsylvania Department of Health --

A. No.

Q. -- you had no further contact with Unibestos until the time that Webb Ay pointed out these cartons?

A. That's true.

Q. Where were you when he contacted you?

A. Probably he contacted me in my office and took me out on the pier and showed me this stuff. He was highly outraged that it came in the shipyard, and he wanted to impress on me the fact that this stuff come in despite the wishes that it not, and impress on me about the situation where there was a performance spec instead of a composition spec, and that when the material was ordered, they had no real idea what would appear. They had to take what was sent.

Q. When you described, they had a performance spec, you're talking about naval specifications for the insulation on the pipes?

A. And other places, yes.

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Q. Did he discuss with you what he was talking about when he talked about a performance spec?

A. I had knowledge of this, and had knowledge of the situation, yes.

Q. Did he tell you at all specifically that anybody had made a formal request prior to that time that Unibestos not be used in the Long Beach Naval Shipyard?

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

Q. Before this occasion where you went to see these cartons with Webb Ay, had anybody else at the shipyard told you that there was any concern about keeping Unibestos out of the yard?

A. I had previously testified I had a talk with Bill Marr in the spring of '67 where this was discussed, and he led me to believe that he had worked hard to keep amosite products out, and it was well known that Unibestos contained amosite.

Q. It was well known to you that it contained amosite?

A. Yes.

Q. When did you first obtain that knowledge?

A. Well, when I visited the plant when I worked for the Pennsylvania Department of Health. It was probably 1965.

Q. Did anybody inform you at any time from the time you came to the Long Beach Shipyard until the event with Mr. Ay, observing these cartons, that they had seen some Unibestos in the yard?

A. Oh, there was no question that they had told me that Unibestos had been in the yard prior -- times prior to my

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arrival. How much and where, I have no knowledge of.

Q. During the time that you were there from 1967 until either '68 or '69 when you observed the cartons with Mr. Ay, in that time period, did anybody in the Long Beach Naval Shipyard inform you that some Unibestos had come into that yard for use aboard ship?

A. This was the only instance I know of that it came in while I was there.

Q. And that was some 30 cartons?

A. It would be approximately that, yes.

Q. After you were told of it being in the yard, did you make a request to anybody at the Long Beach Naval Shipyard that the product not be used?

A. I did not take any further action, because Webb Ay told me that we're going to get rid of it and not use it, and they were not going to use any of the material that come into the shipyard. He was perfectly capable of carrying out that plan, so I didn't have any worries about it.

Q. When he said, "We're not going to use the product," do you know to whom he was referring?

A. He meant the pipe coverers and insulators were not going to use it.

Q. After that particular event, were you ever informed that in fact the pipe coverers and insulators refused to use that product thereafter?

A. That is my understanding, yes.

Q. Do you have any knowledge from any source

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whatsoever what happened with the 30 cartons of Unibestos?

A. I don't know what happened to it.

Q. You never saw them again?

A. No.

Q. In your conversation with Mr. Marr in the spring of 1967, did he tell you about any specific steps he had taken to help eliminate amosite materials from the yard?

A. No.

Q. When you did your inspection of the Pittsburgh Corning plant, I take it you saw the finished product at some point in the fabrication process.

A. Yes.

Q. Could you describe that product for me, please?

A. Well, it was a molded material, bound together with clay. As I recall seeing it there, it was kind of light-colored. It consisted, I think, of about 95 percent amosite, and the rest was clay binder. It was mixed in a wet condition with the clay and water and put in an extruder, and it was extruded and dried in an oven, and then finished, using saws to finish the product, and the waste product was then returned to a place where it was again ground up, and it was collected and ground up, and this part was again put back in the system. That essentially, I think, was it.

Q. When you describe it as a light color, what color was it closest to of any color you can describe?

A. I think it was -- as I recall, some of it was a

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light gray, maybe some of it was almost white. It may have had a coating on it. I'm not sure.

Q. Was the material such that it had a hard shell around it?

A. I think this may have been so. It was a long time ago.

Q. Now, at any time after you got to the Long Beach Naval Shipyard, when you went aboard ship and observed the ripout operation, did you ever see anything that looked like the product you saw at Pittsburgh Corning Corporation being ripped out?

A. I could not -- during ripout, I couldn't identify the material that closely. It was material that had been on the ship for years. It was dark, it had been subjected to heat, and some of it didn't look anything like the material that was installed. Some of it was black with soot and this kind of thing. It would be very difficult to identify it. And there was no reason for me to identify it. When the stuff's coming off, I couldn't hardly tell what was going on, let alone what was coming off.

Q. You mean because the dust in the air would be so thick?

A. No, it wasn't that. There was no way of identifying a product by trade name when it was coming off, even by inspection. I could go so far as to tell when something was glass or not by its appearance, and a lot of times the glass blanket was bound with yellow-type binder, which is readily identifiable, but it is very difficult to

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identify anything under those conditions.

Q. During your observation of ripout operations, I take it you saw various products being ripped out.

A. No question about it.

Q. Can you form any estimate as you sit here today of respective percentages of the kind of product being ripped out? And I'm not referring to trade names. I'm referring to insulation as opposed to blanket, pipe insulation, block insulation, all the things you've told us about so far.

A. I would have no way of knowing that.

Q. Was there any one particular kind of insulation that you observed being ripped out more frequently than others?

A. To my best recollection, the most frequent, seemingly, ripout that I was able to observe was the taking off of pipe insulation, whatever that was; and the second would be the insulation from boilers and machinery.

Q. Did you from time to time while you were at the shipyard observe pipe insulation being put onto the pipes?

A. Yes.

Q. Can you tell me what sorts of insulation you saw being put onto those pipes?

A. First of all, molded material would be put on the pipe. There would be sometimes plaster or cement-type material, and some kind of adhesive, and finally the cloth would be wrapped and placed on the pipe. This was the general procedure in covering pipe.

Q. During the times that you observed this procedure,

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were the workers sawing or otherwise cutting pieces of insulation right there where they were doing the installation?

A. Yes.

Q. Were the rooms in which this was being done all relatively the same size, or did they go all over the lot?

A. They're all kind of sizes.

Q. What is the smallest you ever saw in any installation work being done?

A. The smallest compartment I was ever in was a minesweeper, I think, would be the smallest. Just working up would be destroyers, would be the next, ships of that size. LST-type craft would be still larger. Cruisers, larger. Aircraft carriers, larger still.

Q. Would you get out your log, please. Volume I.

MR. STEINBERG: What page are we on?

MR. VAN DAM: 93.

MS. HASKELL: Is that 93 as we have paginated them for the exhibits?

MR. VAN DAM: Yes.

Q. Page 241 of your log.

A. Yes.

Q. Would you please read verbatim the entry for June 10. And is that June 10, 1969?

A. Yes.

"Took more compressed air samples and ran them. Had call from Naval Ship Engineering Center about letter sent by

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Shipyard Commander to NAVSHIPS concerning getting amosite and Unibestos out of the system. The delegation is coming out from Washington, Monday, 23rd, on asbestos problems."

Q. Did you ever see a copy or the original of a letter from the shipyard commander about getting Unibestos out of the system?

A. No.

Q. Were you informed that such a letter existed?

A. Apparently by this -- I don't know whether this was my first notification or not.

Q. Do you know who you had the call from at Naval Ship Engineering Center?

A. No.

Q. By the way, the entry in this log on June 10, 1969, that was sometime after you had seen the cartons marked "Unibestos" on the dock with Webb Ay, isn't it?

A. Oh, yes.

Q. After you received this call, did you ever have a conversation with anybody about the call?

A. I don't remember. I hope that I would have noted it.

Q. As you sit here today, you have no recollection of taking any particular action after you learned about this letter that was to have been sent by the shipyard commander?

A. I had took no action, no. I had no function in the supply of materials in the shipyard or anywhere else.

Q. As of June 10, 1969, were you under the impression

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that there were workers in the Long Beach Naval Shipyard who were using Unibestos?

A. I thought not.

Q. You thought not based upon Webb Ay's statement to you that they would not use it?

A. That is correct.

Q. At any time after June 10 of 1969, did you ever have any specific conversations with anybody about the issue of the use of Unibestos in the Long Beach Naval Shipyard?

A. Not specifically, no.

Q. When you saw the cartons on the dock with Webb Ay, did you see a manufacturer's name on those cartons?

A. I have no recollection of the manufacturer.

Q. Do you have any recollection of whether you saw any kind of warning on the carton?

A. No.

Q. No, you did not see one, or no, you have no recollection?

A. I have no recollection of it.

Q. Did you observe those cartons to be opened at any time after you first saw them?

A. No.

Q. As a result of your inspection at the Pittsburgh Corning plant, did you render any written reports that you gave directly to management of the plant?

A. I may have written a report, and we advised them to no doubt use respirators until they could get engineering controls installed. We made some recommendations

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of making changes in their collecting system of waste material, and we recommended local exhaust ventilation for their saws used to cut asbestos material. To my best recollection, this was the extent of it.

Q. As far as you can recall, those recommendations were embodied in some sort of written report?

A. Yes.

Q. Were those reports furnished to your employer or directly to management of the company being inspected?

A. The reports were directed to the management of the Pittsburgh Corning plant.

Q. You didn't make any recommendation at that time that they should simply not produce the product, did you?

A. No.

Q. As of the time you inspected that plant, did you have any information from any source as to where those materials would be used, once manufactured?

A. No.

Q. No one had informed you that some of those materials would wind up in Navy shipyards?

A. No.

MR. COYLE: Mr. Van Dam, while you're chewing your gum with vigor, we have difficulty hearing your utterances.

MR. STEINBERG: I'm sorry, Mr. Coyle. I couldn't hear you. I hear Mr. Van Dam very well, but I couldn't hear you.

MR. VAN DAM: The gum is removed.

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Off the record.

(A discussion is held off the record.)

Q. BY MR. VAN DAM: Would you look back in your log again. This time go to Page 84.

MR. STEINBERG: Volume I?

MR. VAN DAM: Yes, as we've paginated it. Your page number is 222.

THE WITNESS: 84.

Q. BY MR. VAN DAM: Would you read the entry for March 26th, please.

MR. STEIN: What year is that?

MR. VAN DAM: 1969.

THE WITNESS: "Took compressed air sample in Dry Dock Number 1. Went to Krieger's office to see what he had in mind for Captain Hart's signature." I don't know what that word is. I'm sorry.

Q. BY MR. VAN DAM: Is that "turned"?

A. "He turned" -- yeah -- "the composition of the letter requesting NAV facts to abolish amosite from the Navy." I don't know -- he might have turned over. Oh, he must have given it to me. "I wrote it and had Mrs. Jones rough it." Well, I guess he turned it over to me.

Q. Is there some more for that entry on the next page?

A. "Mrs. Tanguay wrote final copy after Safety looked at it. I went and signed off."

Q. Does that say "Owenby signed off"?

A. "Owenby signed off," correct.

Q. Does that refresh your recollection, Mr. Manning,

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that this letter to which reference is made on Page 93 was originally drafted by you?

A. This is the way it looks, as it turned out.

Q. During the course of the two years between when you arrived at the shipyard and the time that you drafted that letter, is it your testimony that there was no ongoing discussion about removing amosite products from the shipyard between you and anybody else at the shipyard?

A. Webster Ay at the time that we're talking about here, based on the work of Bill Marr, had the idea in the back of his head that amosite was the material that was causing most of the trouble in the Navy, and he pushed mightily before I came aboard and after I came aboard to have this material formally abolished from the Navy. In order to accomplish this, this had to be put into effect by people who were in Washington at a high level, and this is what this effort is all about that I see here. And this continued -- kind of effort continued till the last day I worked there, and it was not accomplished.

Q. You did not see any Pittsburgh Corning Unibestos products in the Long Beach Naval Shipyard after 1972, did you?

A. The only time that I saw this product was the time that I previously mentioned.

Q. When you had your conversation with Bill Marr in the spring of 1967, he told you at that time that he wanted to see amosite out of the yard. Correct?

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A. Yes.

Q. He told you that while he had been in the yard, he had been attempting for a number of years to get amosite out of the yard. Correct?

A. He told me that this was his wish. I don't know -- I can't speak for Bill Marr. I don't know what he did. And I don't think we touched on exactly what he did. But it was his belief that amosite was the greatest part of the problem, and I assume that he worked to get it out.

Q. Did he tell you when he came to that conclusion and did whatever it was that he did to try and get it out of the yard?

A. I think he came to that conclusion. He probably read the transcript of the '64-'65 meeting in New York we previously discussed, and a lot of mention in that report -- if you read it, you will find that there were people from South Africa where amosite is mined, and a lot of bad reports came from there, and I think this probably was the basis of his belief.

Q. Did you ever discuss with him whether or not that report in fact was the basis of his belief?

A. We may have touched on that, yes.

Q. Do you have any recollection of it?

A. It was a long time ago, and I just can't say for certain that we did.

Q. During any of the indoctrination sessions that you had with the rank and file of the union after you came to the yard, did you discuss specifically with anybody any

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peculiar risk which you associated with amosite asbestos material?

A. No, I didn't approach it in that manner.

Q. Did anybody at any of those meetings discuss amosite as opposed to other forms of asbestos materials at what you have described as indoctrination meetings?

A. That first meeting, I think maybe some of the supervision -- and it may have been specifically Webb Ay -- voiced this opinion. I didn't.

Q. Had you personally, based upon any study or observations you had made, formed your own opinion that amosite presented any more of a danger than other forms of asbestos products?

A. At that time, I had no certain opinion. I, of course, had Bill Marr's opinion, and maybe suspected this, but I treated all asbestos products about the same. And of course, my report of '69 which was written six months prior to that indicated that I wanted all efforts made to remove asbestos from the shipyard and from the naval system.

Q. All asbestos-containing products?

A. That is correct.

MR. VAN DAM: That is all I have.

MR. STEINBERG: Let's go a little more.

MS. HASKELL: Is there anyone besides Tom, John and Dick who has any questions that they want to ask this witness at this time?

MR. STEINBERG: Off the record.

(A discussion is held off the

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record.)

(The deposition recessed at 12:43 p.m.)

(I certify under penalty of perjury that the foregoing is true and correct.)

_____ _____
DATE SHELDON H. MANNING

AT _____, California.
CITY

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STATE OF CALIFORNIA) SS

I, Lucia Moskal, CSR, a Notary Public in and for the State of California, do hereby certify:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction.

I further certify that it was stipulated by and between counsel that said deposition may be read, corrected and signed by the witness under penalty of perjury.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 15th day of March, 1979.

OFFICIAL SEAL
LUCIA MOSKAL
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires JUN 25, 1982

Lucia Moskal

LUCIA MOSKAL, CSR 1222
Registered Professional Reporter
Notary Public in and for
the State of California.

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Manning 3/9/79

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SHELDON MANNING VOLUME IX (March 9, 1979) Page One

6	Explains the impinger method
6-7	Began using the phase contrast microscope method in 1971
7	Explains membrane filter method
8	Membrane filter method is superior to impinger method--first became available to LPNS in 1971
8	1969-midget impinger method was standard method approved by U.S. Public Health Service
11	1969-15% of work time was spent on asbestos problems
12	1970-15% of work time spent on asbestos
13	1971-10% of work time spent on asbestos, other problems had occurred, he was playing "catchup" in other areas
12	1972--began using membrane filter method 15% of work time was spent on asbestos
14	Was asked, in 1972, to come up with bare numbers for the hazard pay percentages
16	10% of work time spent on asbestos control in 1973
17-19	Discusses number of dust samples taken each year from 1968-70
19	1969 report recommended use of throw away respirators, glass substitutes, wet down, vacuum acquisition for clean up, use of drop cloths, sealed waste containers, and maximum ventilation
21-23	Discusses number of dust samples take each year from 1970-
25	Explains dose-response
26	Theory of dose-response was questioned by industrial hygienists as soon as it was learned that asbestos causes cancer
30	Believed SELIKOFFS finding that there is no difference in an insulators lung compared to the lung of a raw asbestos worker
32	Respirators first came into use in asbestos trades in 1958

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33 Also started using respirators at LBNS in 1958, according to "something in the record"

34 Protective clothing began to be used at LBNS in 1972, after OSHA regulation

38 Membrane filter method was avilable prior to 1961

39 Occasionally received copies of "The Asbestos Worker" for the union

40 Nov. 19, 1970--toured with SELIKOFF group. Noted that workers seemed to know in advance where the group was touring--everyone had cleaned up their act

43-44 In Mt. Sinai publications between 1969 and 1971, recommended Bureau of Mines-approved respirators, protective clothing, and annual chest x-rays.

45 Common knowledge in industrial hygienist industry that JM was opposed to 1972 proposed TLVs due to trouble meeting standards and financial hardship as a result

47 There was nothing available for MANNING in the way of lab equipment at LBNS, other than the equipment he had in his office

50 Was aware, in 1968 or 69, that JM had gotten self insured on their Workmen's Compensation because of their asbestos problem, because no insurance company would insure them

51 Did not receive any information re: asbestos dangers from JM.. It seemed that their policy was to de-emphasize potential dangers

53 REITZE felt that SELIKOFF was an alarmist because SELIKOFFs first study was only a small cohort and he drew some conclusions that were later proven not exactly correct.

54 SELIKOFF went to the media with his findings and REITZE believed that the study should have been held til more evidence was in

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55	Would put more faith in SELIKOFFs findings in 1969 than in REITZEs studies--doctor vs nondoctor
55-57	Is asked to identify JM products seen at LBNS
58	Describes silica dust
63	The next most occurring problem at LBNS after Asbestosis and Mesothelioma is silica dust lung disease
67-end	Breaks down percents of asbestos control work done per year

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COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FILE COPY

WALTER C. RIGSBY,
JOSEPH K. KLOSE and
SHELDON H. MANNING,

Plaintiffs,

vs.

JOHNS-MANVILLE, etc., et al.,

Defendants.

No. C 151 947

VOLUME 9

CONTINUATION OF DEPOSITION OF SHELDON H. MANNING, a plaintiff, taken by defendant Johns-Manville at 9:05 a.m., Friday, March 9, 1979, at 111 North Hill Street, Los Angeles, California, before Lucia Moskal, CSR, a Notary Public.

Reported by:
Lucia Moskal, CSR 1222
Registered Professional Reporter

No. LA-834-79

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APPEARANCES OF COUNSEL:

For Plaintiff Manning:	ROSE, KLEIN & MARIAS BY ROBERT B. STEINBERG
For Johns-Manville Sales Corporation:	HAIGHT, DICKSON, BROWN & BONESTEEL BY APRIL HASKELL
For J. P. Stevens:	ANDERSON, McHALE & CONNOR BY JAMES M. TILLIPMAN
Also Present:	BOLTON, HEMER & DUNN BY KENNETH W. DRAKE
For Pittsburgh Corning Corporation:	BREIDENBACH, SWAINSTON, YOKAITIS & CRISPO BY JAMES S. VAN DAM
For Fibreboard Corp.:	CHASE, ROTCHFORD, DRUKKER & BOGUST BY HENRY E. KAPPLER
For Celotex Corp., successor to Philip Carey Corporation:	COYLE, MARRONE & ROBINSON BY RICHARD B. COYLE
For Amitex:	GILLILAND, ROBERSON & MOSER BY WILLIAM ROBERSON
For Combustion Engineering:	MARTIN & STAMP BY LLOYD V. STAMP
For Nicolet, Inc.:	McKAY, BYRNE & UDKOVICH BY JOHN P. McKAY
For Armstrong:	MORGAN, WENZEL & McNICHOLAS BY JOSEPH A. MAHONEY
For Crown Cork Seal:	MORRIS & POLICH BY KIM M. DUNNING
For Raybestos Manhattan:	NORBY & BRODEUR BY THOMAS E. SMURRO
For Keene Corporation:	PATTERSON, RITNER & LOCKWOOD BY THOMAS S. MULLIGAN

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APPEARANCES OF COUNSEL (Continued):

For GAF:	PAUL, HASTINGS, JANOFSKY & WALKER BY MICHAEL SANDERS
For H. K. Porter, Inc.:	SCHELL & DELAMER BY KENNETH B. PRINDLE
For Unarco Industries, Inc.:	SHIELD & SMITH BY DAVID M. HILLINGS
For Owens-Corning Fiberglas Corp.:	WATERS, McCLUSKEY & CORCORAN BY JOSEPH BOGAN
For Flintkote:	VIRGIL R. WELLS BY STEVEN D. HAMOR
For Eagle-Picher Industries:	YUSIM, CASSIDY, STEIN & HANGER BY ANDY STEIN and ROBERT LEVINE

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SHELDON H. MANNING,

a plaintiff herein, having been previously sworn, testified further as follows:

EXAMINATION

BY MR. STEIN:

Q. Good morning, Mr. Manning.

Yesterday, for part of the day, we were talking about a conference you attended in Denver with Mr. Reitze. Do you recall if the proper spelling of Mr. Reitze is R-e-i-t-z-e?

A. I believe that's correct.

Q. First name, William B.?

A. Yes.

Q. Amongst other reasons, one of the main reasons you attended this conference was so you could learn more about the dangers of asbestos; is that correct?

A. That's correct.

Q. And another reason you attended the conference was so you could learn how to control what you considered the Number One health hazard in the Long Beach Naval Shipyard, asbestos; is that correct?

A. Yes.

Q. And you were there in order to gain information to do your job; is that correct?

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A. Yes.

Q. Did Mr. Reitze talk -- by that, I mean make any formal presentation -- at this meeting?

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A. I don't remember him doing that, no.

Q. Did anybody from Johns-Manville make any formal presentation at this meeting?

A. I'm not certain. A man by the name of McDonald made a presentation at one of the meetings about that time.

Q. One of the reasons you had a discussion with Mr. Reitze was in order to further be able to evaluate, control and recognize the health hazard known as asbestos; is that correct?

A. I didn't have any extensive conversation with Mr. Reitze, but if I talked to him, it was in a fairly casual manner, and your assumption is correct, I think, that when I talked to him, we would talk about asbestos.

Q. Do you know whether at that time Mr. Reitze was the Director of Safety and Environmental Quality of Johns-Manville Corporation?

A. I don't know what his title was. I thought he was the corporate industrial hygienist.

Q. Did you know anything about Mr. Reitze's background?

A. No.

Q. Mr. Manning, what is the impinger method of counting dust, for use of a better term?

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A. The impinger method was the standard method for collecting dust, up until -- in the case of asbestos, the fiber count method came into being, using the phase contrast microscope. The impinger method --

Q. Would you explain the impinger method to us?

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A. -- is a method where either the standard or midget impinger is used to collect dust in a medium of either distilled water or distilled water and alcohol. In the case of the midget impinger, which I always used, we used 10 cc's of water.

A pump was used with a rotameter attached, to measure the airflow through the impinger. And this rate was noted and the time was taken so that the amount of air going through the impinger could be determined in cubic feet.

After the sample was collected, it was counted within 24 hours. Depending on the estimation of the concentration of the sample, it was either -- the 10 cc's was either sampled or it was diluted, depending on that situation. A 1-cc sample was taken and placed in a Sedgewick-Rafter cell and allowed to settle for 30 minutes, after which the sample was counted under a 100X magnification. A Whipple disc was used as an aid to counting, and that was placed in one of the oculars of the microscope. All the dust was counted in this case, including fibers.

Q. Tell me when you've completed your explanation of the working of the impinger.

A. Well, you asked for the method --

Q. Yes.

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A. -- impinger method, and we've followed that all the way through.

Q. At some later date, did you use another method at Long Beach Naval Shipyard other than the impinger?

A. Yes. At a later date, we used the phase contrast

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microscope method using -- or counting fibers.

Q. When was that? About '72, '73?

A. It could have been -- it must have been around '71, I think.

Q. Are you familiar with the membrane filter method?

A. This is what is described as a membrane filter method, yes.

Q. Would you describe the workings of the membrane filter method?

A. A sample is collected on an exposed membrane filter with porosity of .8 microns, using a pump, collected at 2 liters per minute. When the sample -- this is timed. When the sample is collected, the filter is enclosed in a plastic container that protects the sample, and this can be counted at any time later. A sample is taken of the filter by slicing a wedge-shaped piece out of the filter. A clearing solution is placed on a slide, and this wedge is placed dust-side-down on the sample, and a cover slide is placed over that, and then this is placed under the phase contrast microscope and counted by using the aid of a Porton graticule, g-r-a-t-i-c-u-l-e. Porton graticule. Anywhere from 20 to a hundred fields are counted, and the average is taken.

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A blank -- in both methods, a blank is run, which is merely a sample run without any material being collected, and this is subtracted from the total.

By the mathematics of the situation, you come up with

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the number of fibers per cc of air.

Q. Sir, is the membrane filter method for counting asbestos fibers superior to the impinger method?

A. Yes.

Q. The membrane filter method first became available to you in 1971; is that correct?

A. Yes.

Q. Did you obtain the equipment to use the membrane filter method by asking your superiors for that equipment?

A. Yes.

Q. Assume for a moment that Mr. Reitze had told you that Johns-Manville was using this method in 1969 when you had your meeting with him, would you have asked your superiors to obtain the equipment so you could use the membrane filter method?

MS. HASKELL: Objection. Incomplete hypothetical. Calls for a conclusion.

MR. STEINBERG: You can answer it.

THE WITNESS: No, I would not probably have done that.

Q. BY MR. STEIN: Why?

A. We would have to use the method that was in effect at that time that was the official and approved method.

Q. What was the official and approved method?

A. In 1969, was the midget impinger method.

Q. Official and approved by whom?

A. It was the standard method that was approved by the U.S. Public Health Service, for one.

Q. Were you aware of the fact that Johns-Manville,

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in their own facilities, were using the membrane method in 1969?

MS. HASKELL: Objection as to form. Assumes facts not in evidence.

MR. STEINBERG: Could I have the question back?

MR. McKAY: That's not a proper objection for a deposition anyway.

MR. KAPPLER: It doesn't assume anything. It just asked him if he knows it.

MR. STEINBERG: What is the question?

(The question referred to is read by the reporter.)

MR. STEINBERG: You can answer the question.

THE WITNESS: No.

Q. BY MR. STEIN: Please refresh my memory, sir. Where on a daily basis in the Long Beach Naval Shipyard was asbestos being used?

MR. MULLIGAN: During what years?

Q. BY MR. STEIN: Let's start with the year of 1969.

Thank you, sir.

A. In the pad shop, which is referred to variously as the pad shop, the laggers shop, the pipe coverers and insulators shop -- is all the same place -- on a regular basis. It would be there and aboard ship on a regular basis.

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Q. Were there on a daily basis in the pad shop asbestos fibers in the air?

A. Repeat the question.

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Q. On a daily basis, a daily working basis, were there asbestos fibers in the air in the pad shop?

A. Yes.

Q. Aboard ship, whenever asbestos was being used, fibers were in the air; is that correct?

A. Yes.

Q. How often did you in 1969 use the impinger method to count fibers in the air?

A. Well, there's a record of this in my log. I'd be only guessing how often.

Q. Do you have an estimate? Was it more than six times a year?

A. Oh, yes.

Q. Was it more than once a month?

A. In that period --

Q. '69 only, sir.

A. '69 -- I started counting in the summer of '68. '69 -- I counted dust there in the spring of '69, early. Thirty samples, forty samples, something like that.

Q. A year?

A. In that year, yes.

Q. Why did you do 30 samples to 40 samples? Was there something that occasioned that?

MR. COYLE: Excuse me. Does that include ship samples?

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MR. STEIN: No, sir. I'll get to ship samples next. I'm only talking about the pad shop now.

MR. STEINBERG: Did you understand the question? He is

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limiting it to the pad shop.

THE WITNESS: Yes. Maybe it would have been less than that, just the pad shop.

Q. BY MR. STEIN: How much less?

A. Oh, 25 samples, I would say.

Q. What made you arrive at the 25-sample count?

A. Well, as has been brought out there, these were more or less grab samples. There were about four operations in this shop. There would be cutting, trimming, sawing, and stuffing pads. And samples would be taken at each one of these places and counted. The concentrations were fairly uniform, and since my time sometimes was limited and I couldn't spend all day in one spot generally, this is the way I operated. It's come out that I didn't take a sample of each individual for a full eight hours. I thought this was enough surveillance, and it turned out that the concentrations in the pad shop were not extremely high, so I felt this was sufficient.

Q. Incidentally, sir, in 1969, how much of your working time was spent on the problem of asbestos? Ten percent? Twenty? Thirty? Forty? Your best estimate.

A. Fifteen percent.

Q. Pardon me?

A. About 15 percent, as a guess.

Q. In 1969, sir, you were using the impinger method. Is that correct?

A. Yes.

Q. In 1970, in the pad shop, would you have taken

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approximately 25 samples through the year?

A. In 1970, I doubt if I took that many samples. I may or may not have. I don't know. It is possible in that period there were demands because of other things besides health, and I was called over there on occasion to check out the situation. It may have been 25 samples.

Q. Did anybody else take samples in the pad shop in 1969 other than yourself?

A. To my knowledge, no.

Q. In 1970, did anybody else take samples in the pad shop other than yourself?

A. No.

Q. In 1970, how much of your working time by percentage throughout the year did you spend on the whole problem of asbestos in the Long Beach Naval Shipyard?

A. Well, about the same amount of time.

Q. Fifteen percent?

A. Yes.

Q. In 1970, you still were using the impinger method in the pad shop?

A. Yes.

Q. In 1971, do you have any estimate of how many samples you took in the pad shop of asbestos fiber?

A. Not really. I think this was a period when probably the other method was coming into effect, and I was gathering my equipment to tool up for the other method. It may have been 10, 15 samples taken in there.

Q. Using the impinger method in 1970?

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A. I would have had to do that, yes.

Q. Were you still spending 15 percent of your working time on asbestos problems in the Long Beach Naval Shipyard in 1971?

A. About 10 percent, I'd say, maybe.

Q. Is there some reason that percentage of your working time dropped?

A. Well, there were some other problems that increased. I was getting more equipment and playing catch-up in other areas.

Q. In 1972, you began with the membrane filter method. Is that correct?

A. Yes.

Q. In 1972, how many samples did you take?

A. In the pad shop?

Q. Only in the pad shop at this time, sir.

A. Oh, possibly 20 samples.

Q. In 1972, what percentage of your time was made up of dealing with the asbestos problem?

A. It would be back up then to about 15 percent.

MR. MULLIGAN: I'm sorry. I didn't hear you.

MR. BOGAN: Fifteen.

Q. BY MR. STEIN: Was that because the problem was being acute or because you had more time to do it?

A. I had the equipment, and there was some demand for numbers, both for health purposes and for other purposes, and in order to respond to do that, I started out to do -- I started a survey using the fiber method, which,

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because I left in 1974, I never did get to write the report, the entire comprehensive report on it.

MR. STEIN: I'm sorry. May I have the answer back? I don't know whether I made myself clear or I didn't understand the answer.

Better let me have the question back, too.

(The question and answer referred to are read by the reporter.)

Q. BY MR. STEIN: Who had demanded the numbers?

A. This has been touched on before. The differential pay plan which was referred to sometimes as hazard pay, and I had been requested, and I had been required to supply just on what numbers I was coming up with, and concentrations, bare, raw numbers. I didn't approve of this and didn't want to do it, but I did it. And they tried to use these numbers in relation to paying the hazard pay or not paying it.

I had intended to compile all this data later on and write a report using the fiber method.

MS. HASKELL: Excuse me. Who is "they," who tried to use these numbers?

THE WITNESS: It would be Wage and Classification, who had the responsibility of implementing the hazard pay plan; and sometimes the shop would want them in a dispute over this situation. At times, the pad shop would again use asbestos cloth, and the men felt then they were entitled to hazard pay, and I would be called in on demand, probably by Webster Ay or somebody like that, to take some numbers and count some dust.

Q. BY MR. STEIN: Okay. And you didn't want to do

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that on the raw numbers?

A. I didn't want to present it in that form, no.

Q. Why?

A. I felt that my job was to protect the health of the workers and not to be an arbitrator about whether they were getting hazard or not getting hazard pay, and I felt that these numbers were of absolutely no value in this area whatsoever, but that they had to try to hang their hat on something and they tried to use these numbers.

Q. When you say "they," you mean the workers?

A. The Wage and Classification people, yes.

Q. Why are these numbers of no value at all?

A. Well, it was my feeling and belief, or my opinion -- again, I was asked about this subject -- and I regret ever being involved in it, because it was not really my business, main business, to be involved in this. But I felt that because of the hazards involved in working with asbestos, that the way the thing stood, and the way it looked for a long period of time, that we truly did not protect these workers, and therefore, that they were entitled to hazard pay.

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And I made this recommendation for another place, and that was the electroplating shop, where I felt they were working under an overriding hazard of being poisoned with cyanide at all times; and this, we could not guarantee, and therefore these people -- and these were the only people I thought were entitled to it. The Wage and Classification people in their wisdom found a lot of places later on to pay this hazard pay.

Q. In 1973, sir, how many samples did you take in the pad shop?

A. Maybe 15.

Q. Any reason that it had dropped to 15 from 20?

A. I think maybe the demand had dropped for these numbers, and I had, as the record will attest, had a lot of other pressures and a lot of other things that I was doing.

Q. How much of your time was spent on asbestos control in 1973?

A. About 10 percent.

Q. Was that because of the other things you had to do, that the record reflects?

A. Yes.

Q. A lot of that was simply paperwork, wasn't it?

A. Because of increase in paperwork, and there was an increase in interest in control of noise because of the large number of claims filed at that time. That was part of my responsibility, to work on those claims, which took up an awful lot of time.

Q. When did you leave in 1964, sir?

A. '74.

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Q. '74. Excuse me.

A. I left February 25, '74.

Q. During those years that you took dust samples, while you were taking the dust samples in the pad shop, did you wear your respirator?

A. Yes.

Q. Now, sir, aboard ship, you started taking samples

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when, dust samples?

A. In 1968.

Q. Using the impinger method?

A. Yes.

Q. How often would you take dust samples aboard ship?

MR. COYLE: What year?

Q. BY MR. STEIN: '68, sir.

Thank you.

A. '68, I may have taken something like 25 samples.

Q. Let me go back to the pad shop. When you would go in there in the years '68 through '74 to take samples, what percentage of the men were wearing their respirators?

A. They weren't wearing respirators in the pad shop, no.

Q. Do you know why they weren't?

A. They apparently were not required to do that. The management, and I guess I felt that the concentrations were low enough to be acceptable when comparing them to the standards at that time. I could have recommended that they wear respirators at all times, but I don't think this would have been accepted.

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Q. At that period of time, '69 and '70, was it your belief that the danger in asbestos was in dose as opposed to in fiber?

Do you understand the question?

A. No.

Q. Was it your belief in 1969 that the danger in

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asbestos was the quantity in the air as opposed to it just being in the air?

A. Well, my belief and what I did, because of the standards that were then in effect, were probably two different things. I had to follow the standard method, and I had to recognize that there were standards in TLV's in existence, and I personally did not believe that they were low enough, but still they were in existence, and other people could point to them and say, "Well, yeah, you know, we're within requirements. What are you getting all excited about?" I did bring forth the fact in my report that is on the record about the cancer aspect of the thing, and my viewpoint in that regard.

Q. When you took dust samples in 1969 by the impinger method on board ship, did you wear your respirator?

MS. HASKELL: In what year?

MR. STEIN: 1969, Ma'am. Please listen.

THE WITNESS: Yes.

Q. BY MR. STEIN: Why did you wear it?

A. The concentrations aboard ship were much higher, and the men were required to wear respirators.

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Q. What percentage of the men did you see wearing respirators aboard ship in 1969?

A. Well, at that time, and probably at all times when I went aboard ship, I would see the men wearing respirators, and if by chance they were not wearing respirators, they usually had them on when they saw me, a few minutes after.

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Q. Word came you were coming, and everybody cleaned their act up?

A. Well, I didn't give them word I was coming, but as I say, I was easily spotted. This method I used was to come aboard unannounced, because I knew that with advance notice, I'd find everything in shipshape, which is generally what happened on tours. These were well planned for, and everything was orchestrated and went according to plan.

Q. I see. In 1970, how many dust samples did you take on board ship?

A. Seventy.

Q. Was there some reason we jumped from 25 to 70?

A. Well, I took dust samples in '70, or did I? Not too many. I slowed down taking samples after I wrote that report in '69 and it was presented, to see what would happen, and turned my attention to some other things. It may have been very low in 1970.

Q. Let's back up to 1969. In 1969, how many samples did you take aboard ship?

A. Let's say 35, 40.

Q. In 1969, you were using the impinger method?

A. Yes.

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Q. In 1969, you, of course, wore your respirator when you took the samples on board ship?

A. Yes.

Q. You then made some recommendations in a report?

A. Yes.

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Q. Those recommendations were?

A. It is in the report, of course, and I recommended that we, first of all, look for a respirator that was a little more acceptable, to keep track of the respirator situation that was developing then, and I expected that this throwaway mask-type would be on the market soon, and I looked forward to being able to purchase those and put them in the shipyard.

Q. Excuse me. Which respirator mask was that?

A. Finally, the one that was accepted was the 3M mask.

Q. Okay. Go ahead. I'm sorry I interrupted.

A. We recommended that concerted effort be made to substitute glass wherever possible, because of the difficulties in controlling dust aboard ship. I think we recommended attempting to find asbestos cement in plastic bags so that it could be mixed with water. I recommended, I think, acquiring a vacuum -- or that vacuum-type methods be used to clean up, that drop cloths be used, I think; that waste material be placed in plastic bags and sealed and removed from the ships. Plastic containers were in the laggers shop. We recommended, I think, that the maximum amount of ventilation be used that could be brought to bear on the situation.

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I think that was the extent of the recommendations. They're on the record, however.

Q. In 1970, you took less samples aboard ship than you did in '69?

MT-PWHD-013515

A. I think that's true.

Q. Do you have an estimate of how many samples you took aboard ship in 1970?

A. Oh, possibly 20. And this was on demand, I think.

Q. Demand of who?

A. Again, I think it was something to do with hazard pay. The same situation applied.

Q. In '70, you again used the impinger method?

A. Yes.

Q. In '70, of course, you wore your respirator aboard ship?

A. Yes.

Q. Were the levels high in 1970?

A. They varied widely, depending on the circumstances aboard the ship. These reports are all, I think, on the record. Some were fairly high and some were rather low. There's a wide variety of concentrations.

Q. In 1971, how many samples did you take aboard ship?

A. '70?

Q. '71. I think we've covered '70.

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A. I really don't know. That must have been the year -- sometime during the year I had the fiber count method, I believe, and if that was the year, I took about 30, maybe 40 samples.

Q. Always wearing your respirator?

A. Oh, yes.

MT-PWHD-013516

aboard ship?

A. I would say about the same amount of activity.

Q. For the same reasons?

A. Yes.

Q. In '74, did you take any samples aboard ship?

A. I doubt it. I don't think so.

Q. In 1969, were you aware of the fact that Mr. -- when you talked to Mr. Reitze, were you aware of the fact that he had been detailed by his superiors to Dr. Selikoff to aid Dr. Selikoff in dust samples?

MS. HASKELL: Objection. Assumes facts not in evidence.

MR. STEINBERG: Go ahead and answer.

THE WITNESS: Since you brought it up and reminded me, I did have knowledge of this, yes.

Q. BY MR. STEIN: This was at the same time in your testimony, I believe you said, Mr. Reitze was not exactly an alarmist. Right?

A. Yes, that would be fair.

Q. Did you discuss with Mr. Reitze, now that I raised it, what he was doing with Dr. Selikoff, his duties or anything of that nature?

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A. No, I didn't ask him. I had read something about what he was doing. I think he was sampling and counting -- making dust counts for Dr. Selikoff's group. To my understanding, doing dust surveys.

Q. Did he tell you at that time he was doing the dust surveys for Dr. Selikoff's group with the membrane filter method developed at Johns-Manville? Does that

MT-PWHD-013517

refresh your memory?

A. No, I didn't understand that. No.

Q. Did you understand he was using the impinger method?

A. That's what I thought.

Q. He didn't volunteer that there had been a new method for counting dust developed, did he?

A. I don't ever remember us going into that, no.

Q. Did he tell you that when he was doing samples, he was wearing protective clothing?

A. No, not specifically. No.

Q. Did he tell you generally he was wearing protective clothing?

A. No. At the time he was in the shipyard --

Q. No. Not at the shiphard. We're back in Denver in '69.

A. Okay.

Q. I'll get to your discussions at the shipyard in '70 later.

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A. Yes. Okay. You wanted to know --

Q. Whether in 1969 Mr. Reitze told you that while he was doing his dust samples for Dr. Selikoff's group, that he was wearing protective clothing.

A. No, I didn't hear that.

Q. Had you thought of using protective clothing in '69, or didn't that come about until '72-ish, as I recall your testimony?

A. I'm certain that it came up before that. It

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only came into being about '72-ish, because it was something that would require money.

Q. Do you understand the term "dose," d-o-s-e, "relationship" as it relates to asbestos diseases?

A. Yes.

Q. Would you explain to the rest of us what that means?

MR. STEINBERG: You are referring to dose response?

MR. STEIN: Fine.

THE WITNESS: Yes. It's a concept widely held by medical people, industrial hygiene people, that the amount of damage that is done by any toxic material is related to the dose received by the recipient. The response or the damage or the adverse effect is dose related.

Q. BY MR. STEIN: Is that dose response theory still considered valid by industrial hygienists in regard to asbestos?

A. Well, it is under serious attack, I think, because of the knowledge that it is a carcinogen, does cause cancer; and my understanding is that in the case of a substance that can trigger cancer, that it is always uncertain what dose is a safe dose. The preferable situation is to have no exposure or as close to zero as humanly possible.

Q. Were you advised in 1969 by Mr. Reitze that he was detailed to Dr. Selikoff to prove the dose response theory by his superiors at his employer?

MS. HASKELL: Objection. Vague as to whom you're asking about.

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THE WITNESS: No, I didn't understand that.

Q. BY MR. STEIN: Did he advise you he was working with Dr. Selikoff in determining whether or not there was a dose relationship?

MS. HASKELL: At what time?

Q. BY MR. STEIN: At the meeting of 1969.

A. No, he didn't tell me that.

Q. In 1969, the dose response was not questioned in the community of industrial hygienists, was it?

A. Yes, it was.

Q. When did the questioning of the dose response or the dose factor in regard to asbestos first begin to be questioned in the community of industrial hygienists, as you understand it?

A. It would be questioned as soon as it became suspect that asbestos would cause cancer.

MR. MULLIGAN: When was that, Mr. Manning, among the community of industrial hygienists?

THE WITNESS: Well, probably in the higher echelons, people that attended -- or had knowledge of this '64 New York conference, it would be from the date of that symposium that we referred to in New York.

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MR. MULLIGAN: That transcript or syllabus of the 1964 meeting was widely disseminated among the community of industrial hygienists, was it not?

THE WITNESS: It was widely attended by doctors in occupational health, and Cliff Krieger at the Naval Shipyard was the only person from the Navy attending, but I know he

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was there. I was working for the Pennsylvania Department of Health, and our Dr. Jan Lieban, who was the head of occupational health, was there. So that the knowledge then spread, I think, where at my level it was just kind of something that came and went and didn't make a great deal of impression right at that time. I heard the word "mesothelioma" and I heard the word "cancer," and, to tell you the truth, right at that time, I was skeptical, but with the passage of time, why, I became more convinced that maybe this was a more valid thing.

Q. BY MR. STEIN: Prior to 1969, had you ever heard anybody who represented themselves to be an employee of Johns-Manville lecture at any of the various conventions and conferences you attended, sir?

A. To the best of my knowledge, no, I did not.

Q. In 1969, at your discussion with Mr. Reitze, did he advise you of the use of respirators in Johns-Manville facilities?

MS. HASKELL: Objection as vague.

MR. STEIN: You know, Ms. Haskell, I've told you once that Mr. Steinberg is considered one of the best counsel in Los Angeles. I think you ought to let him protect his own witness.

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MR. COYLE: Is that Bob Steinberg?

MR. STEIN: Yes. He'll show up one day.

MR. STEINBERG: May I have the question, please?

(The question referred to is read by the reporter.)

MR. STEINBERG: What was the objection to the question?

MT-PWHD-013521

MR. STEIN: Vague. I didn't make the objection, Mr. Steinberg.

MR. STEINBERG: The question assumes facts not in evidence, that they were using a respirator.

MR. STEIN: I will put it in evidence for your benefit.

MR. STEINBERG: I know you will.

MR. STEIN: Thank you, sir.

MR. STEINBERG: Go ahead and answer the question.

MR. STEIN: Thank you for your cooperation, sir.

THE WITNESS: The answer is no. I just might add that I had no long discussions with Mr. Reitze, and my recollection of what was said -- and it was said in the conversation I had, the talking I had, was after these sessions were over in a hospitality room. I'm certain of this. And we didn't get into great detail, and I don't think he advised me anything about respirators. The subject may have come up, and if it did, why, I would have probably indicated my distrust of using respirators, depending on the respirator as a control method. Because, as I've stated here before, my position on respirators --

MR. STEINBERG: You have answered the question.

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THE WITNESS: Thank you.

Q. BY MR. STEIN: At that 1969 meeting, at any time, did you talk to a Mr. Scheckler?

A. No, I don't recall any name like that.

Q. Did you talk or hear a Dr. Fred Punsab, P-u-n-s-a-b?

A. I have no recollection of that, no.

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Q. What about Edward Fenner, the Director of Environmental Control of Johns-Manville? Did he speak at that convention?

A. He may have, but I have no recollection of it.

Q. Have you ever heard Dr. Fenner speak?

A. No.

Q. Have you ever seen Dr. Fenner?

A. To my knowledge, no.

Q. Have you ever seen Dr. Punsab, P-u-n-s-a-b?

A. No, I don't ever recall seeing him.

Q. At that convention, was Dr. Selikoff a speaker?

A. Yes.

Q. What was Dr. Selikoff's topic at that convention?

A. Dr. Selikoff spoke on Friday morning of the last day of the session, and I attended, and he elaborated on his findings, which was just an extension, I think, of data he had collected, using -- to my recollection, using a larger number of people. He was going through, I think, a large cohort of people that he had collected through contact with the union, and these numbers became larger, and he was reporting on this work, I think. This is my recollection.

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Q. Did Dr. Paul Kotin, K-o-t-i-n, talk at that symposium or lecture or meeting, whatever we'll call it?

A. I have no recollection of him.

Q. Have you ever heard Dr. Kotin talk?

A. Kotin?

Q. Yes.

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A. No.

Q. Have you ever met Dr. Kotin?

A. No.

Q. At that meeting, did Dr. Selikoff discuss insulation workers?

A. I'm not certain, but I think so.

Q. Did he, in essence, indicate that the idea that an insulation worker was different from and his dangers were less than a person who worked with raw asbestos -- that that idea was now fallacious, in his opinion?

A. I don't recollect specifically that he said this, but I think this probably was in some of the literature that I read --

MR. STEINBERG: He's just asking you about what you remember.

THE WITNESS: I don't remember.

Q. BY MR. STEIN: Well, in the literature that you had read by that time, amongst Selikoff's literature, sir, do you believe that that was the fact? In other words, there is no difference of a person's lung whether or not he works with insulation or whether or not he works with raw asbestos?

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A. Yes.

Q. Okay. That's the fact you believed at that time.

A. Yes.

Q. And that was the general assumption of the people at that meeting; is that correct?

A. Yes.

Q. And at that meeting, sir, is it not a fact that Mr. Reitze told you that that was bunk, that that was what everybody was alarmed about, that there was a difference? In essence. I don't know whether he used the word "bunk."

MS. HASKELL: Objection. Argumentative.

MR. STEINBERG: You can answer.

MR. STEIN: Thank you, sir.

THE WITNESS: I don't recall him saying that in essence. I do recall at some period, and I don't know whether it was here or someplace else, but there was a McDonald report on asbestos mining in Canada, and one was asbestos, and the other was somewhere else. Two mines. And these employees were examined for lung plaques; and in one mine, they showed up, and in another mine, they did not. And I think this was pointed out by Mr. Reitze, and it did raise a question that, I think, was valid that made you think. And in this area, there's always a lot of questions, and maybe all the facts are not in right now, for all I know. There may be some other things come up. I've answered the question.

Q. BY MR. STEIN: What question did the various plaque tests raise, the McDonald tests? Are you relating to the Vittie test?

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A. Well, there was a McDonald survey done in Canada.

Q. Okay. On the McDonald survey, you said in one mine there were plaques, and the other, there weren't.

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What question did that raise in your mind, sir?

A. Well, plaques were considered a symptom of asbestos exposure, among a lot of other things; and this, of course, raised the question about what caused the problem, the mechanism, et cetera. I think that would almost be self-evident. If this was supposed to be a symptom of asbestosis and he makes an X-ray film of a whole bunch of employees at one mine and that didn't occur, and at another mine it did occur, it would raise some questions.

Q. Did you ever read Selikoff's '64 report? I'm using that for the New York Academy report.

A. At some time I read it. Probably much later.

Q. Sure. Did you criticize it because an industrial hygienist had not been part of the team?

A. No.

Q. Did Mr. Reitze at any time criticize that report to you because an industrial hygienist had not been part of Selikoff's team until he arrived on the scene, assigned by J-M?

MS. HASKELL: Objection. Argumentative.

THE WITNESS: I don't recall any conversation like that.

Q. BY MR. STEIN: Do you know when at the Long Beach Naval Shipyard respirators first came into use?

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A. My best guess would be 1958, in the asbestos trade, anyway.

Q. Have you ever heard a Dr. Smith, Ken Smith, lecture?

A. I have no recollection of him.

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Q. Did you discuss Dr. Smith with Mr. Reitze in 1969?

A. Well, if I have no recollection, I certainly probably didn't.

Q. Well, there was one or two things we were able to jog your recollection about. That's the only reason I asked.

You said '59 or '58, the use of respirators started at Long Beach Naval Shipyard?

A. I think, '58. I think there's something in the record to that effect.

Q. Were people only instructed to use them when the threshold limit value was exceeded?

A. No.

MR. STEINBERG: If the question refers to 1958 and he came in 1967, I'm not sure he can really answer that.

MR. STEIN: Well, I'll ask him.

Q. Do you know if that was the fact in 1958?

A. No, I don't know; but there was nobody talking about that then.

Q. After you came, was that the fact?

A. No.

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Q. The fact was, they were told to use them all the time?

A. Yes, with the emphasis on ripout.

Q. We discussed very briefly, you mentioned the other day, I believe, about '72, you made recommendations for protective clothing.

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A. There were regulations that came out, instructions and so forth, that contained this item, that conformed with some of the OSHA standards, and it developed -- I was fully in favor of it. It wasn't entirely my baby. The shop loved the idea. The union people liked the idea.

Q. Did these workers ever get protective clothing?

A. Yes.

Q. When?

A. On or around 1972.

Q. Do you have any knowledge when Johns-Manville provided protective clothing to their employees?

MS. HASKELL: Objection. Vague.

THE WITNESS: No.

Q. BY MR. STEIN: Did you ever discuss with anyone who represented themselves to be employed by Johns-Manville protective clothing, the subject of protective clothing?

A. No.

Q. Did you ever hear it discussed by anybody, that is, the subject of protective clothing, by anyone who represented themselves to be employed by Johns-Manville?

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A. No.

Q. It took an OSHA regulation to get protective clothing into the Long Beach Naval Shipyard?

A. Yes.

Q. Did Mr. Reitze, either in '69 or when you saw him in '70 at that tour, ever discuss or ever mention to you

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that respirators were made mandatory at all Johns-Manville facilities where asbestos was being produced or used in any way, shape or form?

MS. HASKELL: Objection. Vague, compound.

MR. STEINBERG: You can answer the question.

THE WITNESS: I don't recall that, no.

MR. STEIN: It is now 10:15, Mr. Steinberg. If I'm going to cross-examine till quarter to 1:00, I think I'm going to take a 10-minute break. I'd like to limit it to 10 minutes, and I'll break about every hour and 15 minutes. That's about all my voice can take.

MR. STEINBERG: Fine.

MR. STEIN: Thank you, sir.

(Recess taken from 10:15 a.m. to 10:30 a.m.)

Q. BY MR. STEIN: Mr. Manning, there is one thing I'm a bit confused on, sir. When you took these various samples, did they represent the dust levels at the place you took the samples for a full day?

A. No.

Q. What did they represent?

A. They represented the concentrations of dust in the air for the period of time that they were taken.

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Q. For what period of time were dust samples taken with the impinger method?

A. Ten, fifteen, twenty minutes, about that length of time.

Q. What length of time was represented by the alternative, or the later developed membrane filter method?

MT-PWHD-013529

A. They were anywhere from five minutes up to 30 minutes, at the most.

Q. Was there any specific time of day you would take these tests?

A. No.

Q. So that an hour after you took the tests, the threshold -- not the threshold, but the amount of dust in the air may have been higher or lower?

A. Yes, with the exception of the pad shop where the concentration would be -- they were doing the same thing all day. The concentrations there were fairly uniform for a whole day's period. Aboard ship, things changed rapidly, and that would be the case, they changed.

Q. So in the pad shop, when you took the test, it was fair to say that at least the findings of that test represented that day's concentration of asbestos dust in the air?

A. It would be a very close approximation, though I couldn't say that it was a time-weighted sample, because I simply did not take an 8-hour sample, and I never did this for various reasons, which I'll explain, if you require.

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Q. Please do, sir.

A. First of all, it was -- considering my other duties, and I was working by myself much of the time and shorthanded much of the time, I could never find eight hours to run together to do this. It was possible to put a sample on an individual and let it run for eight hours. However, I never did that because of quite a few drawbacks.

MT-PWHD-013530

One was -- the paramount one was that I did not trust putting a sample on a man and not being able to watch him all day, because invariably this type of sample, in my experience, became spiked or something went wrong, and the man wearing the thing would not be able to know whether things were working right or not.

So, having had this experience where samples were tampered with if I didn't have them in my own hand and under my control, I always at the shipyard held the sample in my own hand and observed the rotameter, the airflow, and let nobody get close to it other than me. The fact that these men had to crawl around in confined spaces like monkeys would probably cause the samples to be destroyed or ruined, or the equipment broken.

So, for all these various reasons, why, I didn't put a sample on a man and let it run for a day. I used the spot sample, and it had its drawbacks, legally, but I thought it would be a more valid sample than anything else I could do.

Q. The membrane filter test, or method of measuring, was first developed by North Brothers in England. Is that correct?

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A. I don't know.

Q. Do you have any idea as to when it was first developed?

A. No. We used the membrane filter in Pennsylvania for sizing dust, so it was at least used for sizing dust prior to 1961.

Q. Was that for black-lung problems?

MT-PWHD-013531

A. I never worked on black-lung problems.

Q. You used the membrane filter test in regard to asbestos in Pennsylvania?

A. No. It was used to size other dust.

Q. I see. Explain what the heck that means, now that I see.

A. Dust is respirable or not respirable, depending on the size of the dust. Dust that is about the size of one micron is the ideal size to be respired and retained in the lungs. There is a curve that goes down, then up to 10 microns, less and less, and on the other side of the scale, it goes down in a curve to .1 micron. The 10-micron size is too large to get into the lungs, because it's filtered out, and the .1 micron size dust is so small that it acts more or less like a gas and is inhaled and exhaled and is not retained too well.

And when the survey is made for dust, and this was generally silica dust, Pennsylvania required that a particle size evaluation be made to determine whether this dust in fact could be inhaled and whether it could be retained in the lungs. And this was always part of the procedure, and the membrane filter was used to do this.

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Q. So the membrane filter test, as far as you know, was available as early as 1961?

A. The membrane filter itself was available prior to 1961.

Q. Are you familiar with a magazine called "Asbestos Worker"?

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A. Yes.

Q. Did you get it yourself?

A. Copies of that magazine were sent to me by the union on occasion. I didn't subscribe to it, but sometimes a copy crossed my desk.

Q. Are you familiar with what is called the green sheets?

A. No.

Q. Are you familiar or have you ever heard of any program by Johns-Manville which attempted to apprise insulation workers of the hazards associated with asbestos?

MS. HASKELL: Vague as to time.

Q. BY MR. STEIN: At any time.

A. No.

Q. From 1969 to the date of your leaving the Long Beach Naval Shipyard, did anybody from Johns-Manville ever contact you in regard to the problems of asbestos in the Long Beach Naval Shipyard?

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A. No.

Q. Did anybody from 1969 till the time you left your employment at the Long Beach Naval Shipyard, who represented themselves to be from Johns-Manville, ever give you one bit of advice on how to control this number one problem in the Long Beach Naval Shipyard, that of asbestos?

MS. HASKELL: Object. Argumentative.

THE WITNESS: To my recollection, no.

Q. BY MR. STEIN: Go ahead, Mr. Manning. I'll wait. Tell me when you're comfortable.

MT-PWHD-013533

Did you ever attend any OSHA hearings?

A. No.

Q. You're pausing a minute.

A. I'm not sure exactly what you're referring to as hearings.

Q. Excellent, sir. Let me clarify.

Again, if at any time during this deposition you don't understand what I say, please let me clarify.

Did you ever attend any OSHA hearings where threshold limits or anything dealing with asbestos was discussed, with the exception of a hearing that might have had to do with one individual?

A. I never attended any hearings.

Q. In 1970 -- may I have your exhibit there? You've been kind enough to point out to me at paginated Page 119, I guess -- or 220, of Exhibit CC, that on November 19th, you were with the Selikoff group, Dr. Heilman, Duncan Holaday, Bob Reitze, nearly all day, aboard POINT --

A. DEFIANCE.

Q. "Shipyard Commander's office, Ron Hendrickson's office, et cetera."

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What is "et cetera," other than "and so forth"?

A. Well, this tour, like so many tours, was led by Webb Ay in general, who would lead the boarding party and set up the situation; and, of course, it was a noisy situation aboard ship, a lot of people talking, and we would go up and down ladders and around spaces and observe the various operations in progress. And in these tours, I would assume

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that we went through the pad shop, and according to those notes, there was a visit to the shipyard commander's office and a visit to Mr. Hendrickson's, who is the Industrial Relations office -- a visit to his office, and maybe some other places that I didn't put down that I didn't recall.

MR. MULLIGAN: May I intrude just a moment?

Mr. Manning, was this tour that type of tour you've been discussing earlier, you told us about earlier, that everybody knew about in advance so everyone had cleaned up their act, and when the tour members arrived on the scene, things were shipshape?

THE WITNESS: It was my observation that Webb Ay made the arrangements and knew exactly where we were going to be, and these people in all instances wore respirators upon our arrival, and it was pretty obvious to me that they had been forewarned, and probably told to act accordingly.

MR. MULLIGAN: Thank you.

Q. BY MR. STEIN: Who is Dr. Heilman?

A. I can't recall who he is, really.

Q. Duncan Holaday -- refresh my memory. Who is that?

A. He worked formerly for the U.S. Public Health Service, and after he retired, why, he was retained, I believe on a part-time basis, by Dr. Selikoff's group as a consultant.

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Q. And Bob Reitze was with this group?

A. Yes.

Q. And this was the second and last time you had ever met Reitze?

A. I believe that in later meetings at the American

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Industrial Hygiene Conference I bumped into him, but I'm very vague.

Q. Did he ever talk at later meetings of the American Industrial Hygiene Conferences?

A. I have no recollection of attending a lecture by him.

Q. You were with these people most of the day November 19th, 1970. Is that correct?

A. Yes.

Q. Did Reitze ever make a suggestion that your people aboard ship should be wearing protective clothing?

A. I have no recollection of this happening, no.

Q. Did Reitze in 1970 ever question the device you used to monitor dust?

A. I can't remember that he did.

Q. Did he ever ask you about it?

A. I can't remember that he made a point of it or that it even came up.

Q. Did Reitze at that time, November 19th, 1970, ever ask you about the type of respirator worn by these men on that ship?

A. Well, no.

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Q. What kind of respirator was Reitze wearing?

A. He no doubt was issued a respirator, the same one that was issued to everybody else at the shipyard. Part of the tour would be the first stop at the Safety Issue where they were issued hard hats, respirators and other equipment.

MT-PWHD-013536

Q. You were not with them on that shop, were you?

A. Maybe not.

Q. Let me try to refresh your recollection, sir. Isn't it a fact that Reitze, Selikoff, Heilman, and Holaday used a different respirator?

A. I don't know. It may have been a fact.

Q. It is certainly a possibility?

A. Yes.

Q. You didn't check to look at their respirator?

A. I didn't.

Q. If these VIP's came in and said, "We have our own respirators," nobody would have questioned them, to your knowledge, would they?

A. No.

MS. HASKELL: Objection. Calls for a conclusion on the part of this witness.

Q. BY MR. STEIN: Do you, sir, know of any publications put out by Mount Sinai's group -- we'll call that the Selikoff group -- from the year 1969 until the end of your tenure at Long Beach Naval Shipyard that advised these asbestos workers on how to protect themselves?

A. I think that I saw some material in the trade magazine by this group that passed over my desk.

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Q. Do you recall when?

A. Oh, these came over my desk around that period in 1969, '70, perhaps. '69 is probably correct.

Q. Do you recall whether that material advised the workers that it was necessary to use protective clothing?

MT-PWHD-013537

A. I believe so, yes.

Q. It did so advise?

A. Yes.

Q. Do you recall whether that material advised the workers of the proper type of respirator to use?

A. Yes.

Q. What did that material advise the workers in regard to respirators?

A. My belief is that -- I could be wrong -- they required Bureau of Mines-approved respirators, of course. They may have advised, where possible, to use air-supplied respirators. I'm not certain of this.

Q. Do you recall what other advice that group gave the asbestos worker in their publications?

A. Well, certainly they would advise them to have an annual X-ray, chest X-ray taken. Probably advise them to use wet methods where possible; collect their material in plastic bags and seal it; use vacuum methods to clean up. This is about all that the workers could do for themselves, I believe, if the equipment was available.

Q. Have you ever heard Mr. Cliff Scheckler, safety engineer for Johns-Manville until 1967, when he became Director of Safety and Health for Johns-Manville, speak?

A. No.

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Q. Have you ever read anything he wrote?

A. No.

Q. In fact, sir, do you recall in 1969 or '70 Reitze telling you that Mr. Scheckler had recommended labeling

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as to the dangers of asbestos in 1952?

A. No.

Q. Have you ever heard that from any source?

A. No.

Q. Did you ever hear Dr. Tom Davidson speak?

A. No, I don't recall hearing him.

Q. OSHA developed some threshold limits in 1972 that became effective in 1972. Is that correct?

A. Yes.

Q. Was it common knowledge in the industry of industrial hygienists dealing with asbestos that Johns-Manville was opposed to these proposed threshold limits?

MS. HASKELL: Objection. No foundation.

THE WITNESS: Yes.

Q. BY MR. STEIN: How did you learn of that fact?

I'll get a drink of water while you're talking. Go ahead.

A. It was common knowledge, I think, at the time that the industry, you know, quote, unquote, would have trouble meeting these standards, and may have caused them a financial hardship, and might even drive them out of business and so forth. And "industry" meaning, for the most part, in my mind or anybody else's, Johns-Manville.

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Q. Who had you discussed this with?

A. Oh, I think it was actually in print at times. Maybe the NIOSH criteria documents that were proposed at that time may have mentioned there would be some difficulty in meeting these standards, according to industry. And

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various material that I read, I think, at that time indicated that industry felt that it would be very difficult.

And I think at that time they did put in a standard of five fibers, and then as of 1976, it was to be lowered to two fibers, to give industry time enough to gear up, and I think -- I don't know whether this was so or not so, but it is well taken, because I've had experience in this, that sometimes controls can't be done instantly. Instant controls in pollution situations don't often happen.

Q. Now, sir, the measuring technique to measure the new standards was certainly available in 1972. Is that correct?

A. Yes.

Q. That was available because you had the membrane filter. Correct?

A. Yes.

Q. Okay. Now, was it known by industrial hygienists and people interested in asbestos that Johns-Manville opposed the '72 threshold limit, arguing that the measuring techniques were not then generally available?

MS. HASKELL: Objection. Argumentative.

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MR. STEINBERG: You can answer the question.

THE WITNESS: I don't have any knowledge that they used that argument. The techniques were available at a price. However, they may not have been in place at that time in all places where they were supposed to be.

Q. BY MR. STEIN: By that, you mean that the membrane filter method was more expensive than other methods?

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A. It required a purchase of a phase contrast microscope that cost in excess of a thousand dollars, and the purchase of these things in some places required some time or resistance. They were not in place at all places where they should have been at that time. I'm sure of this. I did have mine in place.

Q. I'm sure you did.

Now, in regard to that, sir, in place in all places where the membrane filter should have been -- where should it have been in place in the Long Beach Naval Shipyard? Where did you place it?

A. In -- well, my office also served what little laboratory space I had, and that was where it was.

Q. So that if an argument were made --

MR. MULLIGAN: May I ask --

MR. STEIN: Excuse me one minute.

Q. How many of these membrane filter devices do you need to monitor the Long Beach Naval Shipyard? One?

A. One microscope.

MR. MULLIGAN: Mr. Manning, in addition to what laboratory equipment you had in your office, were you permitted to use whatever other laboratory facilities were available at the Long Beach Naval Shipyard, particularly in the dispensary?

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THE WITNESS: For most of that period, there was nothing available that I could use.

MR. MULLIGAN: Okay. Thank you.

THE WITNESS: That's about it.

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Q. BY MR. STEIN: Okay. In 1972, did you need or did you feel as an industrial hygienist, in your opinion, that you needed more than one membrane filter measuring device in Long Beach Naval Shipyard?

A. No.

Q. So when we're talking about the unavailability in the industry of measuring devices, we're talking about spending a thousand dollars?

A. Well, there was a little more expense than that, but that was the major item that would have to be acquired. A thousand -- a better instrument would run around sixteen hundred, and the Bausch & Lomb that I had was around twelve hundred, but there may have been some cheaper.

Q. Do you know whether the industry -- or as you say, "the industry" is known as Johns-Manville -- opposed the 1972 techniques on the basis that medical evidence did not -- strike that -- the 1972 threshold limit values, on the basis that medical evidence did not require the reduction to the proposed standard?

MS. HASKELL: Objection. Argumentative and misstating the witness's prior testimony.

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MR. STEINBERG: You can answer the question, if you can.

THE WITNESS: No. I wasn't aware specifically that they did that.

Q. BY MR. STEIN: In any meeting with Reitze, did he advise you that it was the policy of Johns-Manville that if the X-ray picture suggests damage to the lungs, or there

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has been a lengthy exposure in a young man, transfer will be recommended in the Johns-Manville plant for their employees before there is a possibility of a claim of compensation being submitted and accepted; and further, that they would not tell that employee of the diagnosis, for it is felt that as long as the man feels well, is happy at home and at work, and his physical condition remains good, nothing should be said?

MS. HASKELL: Object as compound, argumentative and vague as to time and place.

THE WITNESS: I had no conversation like that.

Q. BY MR. STEIN: Have you ever learned that that was the policy of Johns-Manville in regard to their own employees?

A. No, I didn't pay that much attention to it.

Q. As an industrial hygienist with all your years in the business, would that shock you if that were their standard policy?

A. Considering the things I've seen and the experience I have, I have a low threshold of shock.

MS. HASKELL: Is the answer "No"?

MR. STEIN: Let the witness answer, Ms. Haskell. I've told you once this is no longer your show.

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THE WITNESS: My reaction would be that this was not the proper thing to do, but as far as shock is concerned, I've seen a lot of things, and it is not out of the context of what I think would have happened.

Q. BY MR. STEIN: It is not out of context to what you have learned about industry or what you have learned

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about Johns-Manville?

MS. HASKELL: Object. Compound.

THE WITNESS: I would say it would be fair to say there's instances of this in Johns-Manville as well as the rest of some parts of industry.

Q. BY MR. STEIN: Speaking of Johns-Manville employees, did Mr. Reitze in 1969 at your meeting tell you how many Workmen's Compensation cases had been filed by their employees suffering from asbestos?

A. No, I don't think so.

Q. Was it general knowledge in the industry that Johns-Manville had gotten self-insured on their Workmen's Compensation because of their asbestos problem, because no insurance company would insure them?

MS. HASKELL: Object as argumentative and lacking in foundation.

MR. STEIN: Oh, I'll lay the foundation, young lady.

THE WITNESS: I think I had some knowledge of this, yes.

Q. BY MR. STEIN: You had that knowledge as early as '67, didn't you?

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A. Probably not. Somewhere along that period later on I acquired that knowledge.

Q. '68, '69?

A. Somewhere in there.

Q. In '68, '69, when you had the aforementioned knowledge, sir, you still were not getting any publication or help from Johns-Manville in how to control the asbestos

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problem in the Long Beach Naval Shipyard, were you?

A. No.

MS. HASKELL: Object. Argumentative.

Q. BY MR. STEIN: Well, let me ask you this: Are you under the opinion that they ever gave you anything that helped you?

MS. HASKELL: Object. Argumentative.

THE WITNESS: No, nothing that I know of. I really didn't expect too much.

Q. BY MR. STEIN: You didn't expect too much from J-M?

A. No.

Q. Why?

A. Well, they weren't sending out a lot of material on the subject. I never did -- we went over this. I never did see a lot of material. It seemed to be their policy to de-emphasize the dangers, I thought. All the information seemed to be coming from other sources, of course, and lots of it.

Q. In 1969, when you met with Reitze and as now you recall, you were familiar with the fact that he was working with Selikoff, did Reitze indicate to you that corpor management considered Selikoff as dangerous or far-out?

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A. I don't recall any specific conversation in regard to Selikoff. I would be only guessing what his attitude was. I think that he probably considered Selikoff somewhat of an alarmist. There were some buts and wherefores that might be considered.

Q. You know, we went into that yesterday a little bit,

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and I am honestly and sincerely confused on this "alarmist." Tell me all the things you can recall that led you to this impression that Mr. Reitze in 1969, this Director of Safety and Environmental Quality of Johns-Manville Sales Corporation, felt that Dr. Selikoff was a bit of an alarmist.

MS. HASKELL: Objection. That misstates the witness's prior testimony. It is argumentative.

MR. STEINBERG: Answer the question.

THE WITNESS: There were some people in industrial hygiene that worked in industrial hygiene much later than this period --

Q BY MR. STEIN: No, sir. You're not following me. I want to know why you are telling me that Reitze felt Selikoff was an alarmist. In other words, what did he say to you that made you feel that he viewed Selikoff as an alarmist?

MS. HASKELL: Same objection as to the prior question.

MR. STEIN: Ms. Haskell, why don't you do this. In the Evidence Code, there are a number of objections. Why don't we just assume you've objected to every question.

MR. MULLIGAN: If I might intrude, I think we had a stipulation on the record yesterday that all objections were reserved to the time of trial, and both Ms. Haskell and Mr. Steinberg joined in that stipulation.

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MR. STEIN: I believe that was only when Ms. Haskell was cross-examining.

MR. MULLIGAN: I didn't understand that.

MS. HASKELL: Neither did I, Mr. Stein.

Mr. Stein, are we reserving all objections including

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objections as to form until the time of trial? If that is the case, I'll sit here quietly. Otherwise, I have to make a record.

MR. STEIN: We will do whatever you like, young lady. You invited us to the party. You set the rules.

MS. HASKELL: I'm not setting the rules, Andy. You are taking this deposition now.

MR. MULLIGAN: Children, if I might, I checked the record this morning, and the terms of the stipulation were, all objections will be reserved until the time of trial, which would, of course, include those as to form. And I did check the record since that was part of the transcript that we were provided this morning.

MS. HASKELL: Is that your understanding of the stipulation, Mr. Stein?

MR. STEIN: If I entered into the stipulation, Mr. Mulligan's word is good enough for me. Let's proceed.

Q. Do you remember the question?

A. Why I -- no, I don't, to tell you the truth.

Q. To tell you the truth, neither do I. And here's what I'm getting at. Let me rephrase.

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You had an impression in '69 that Reitze felt Selikoff was an alarmist. What did Reitze say or do or intimate to you that led you to that impression, sir?

A. Yes. Well, Selikoff's first studies used a small cohort -- I think it was a study of six hundred and some individuals, of which I think 269 died, and in truth, it was a small cohort, and he drew some conclusions that even later

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turned out not to be exactly correct. And this was one -- I'm sure, one of the criticisms that Reitze had of the study, that it was too small and all the evidence was not in yet; and Selikoff was very vocal, and he went to newspapers and got the media into this, and stumped around the country; and for this reason, I think Dr. Selikoff thought he had found something that needed to be widely disseminated, and he thought it was an emergency situation, and this is why he did what he did; and from Reitze's viewpoint, this looked to him like the work of an alarmist. And my conversations weren't too long. He says, you know, "Let's look, not panic, let's wait for all the evidence to be in," and like this.

Q. He, of course, was helping to gather that evidence. Right?

MS. HASKELL: Objection. Argumentative.

MR. STEINBERG: Excuse me just a minute. I think that question is vague. You're referring to Reitze?

MR. STEIN: You are right. Of course.

Q. Was Mr. Reitze at that point helping to gather the information he was waiting to come in so he could decide whether Selikoff was an alarmist or not?

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MS. HASKELL: Objection. Argumentative.

THE WITNESS: Well, my understanding is that Reitze was taking samples, and he's not a physician, and I think that -- not being a qualified physician, and Selikoff being a physician, that Selikoff would be in a better position to evaluate the situation, at least medically.

Q. BY MR. STEIN: I see. So you would have, being an

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industrial hygienist, deferred to Dr. Selikoff's opinion in 1969?

A. Yes, I put more faith in what Selikoff was doing.

Q. Than what Reitze was doing or saying?

A. Yes, given his interests.

Q. At any time while you were employed at the Long Beach Naval Shipyard, did you see a Johns-Manville product in a container containing the words "85 Percent Magnesia"?

MS. HASKELL: Objection. Vague as to place.

THE WITNESS: Yes, that's possible that I did.

Q. BY MR. STEIN: You saw that, of course, within the shipyard?

A. Yes.

Q. Do you recall when you saw it?

A. It had to be early in the years I was there, because it changed to calcium silicate very shortly thereafter.

Q. In the years you saw this product, 85 Percent Magnesia by Johns-Manville, in a container, did you ever see any warning on the container?

A. No.

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Q. In the years you worked at the Long Beach Naval Shipyard, did you ever see a Johns-Manville product called Superex-M?

MS. HASKELL: Object. Vague as to place.

THE WITNESS: I don't recall seeing that, no.

Q. BY MR. STEIN: In the years that you worked at the Long Beach Naval Shipyard, did you ever see a Johns-Manville

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product within the Long Beach Naval Shipyard or its confines called Superex 1900?

A. Not to my knowledge, no.

Q. Within the years you worked at the Long Beach Naval Shipyard, did you ever see within the confines of the yard a Johns-Manville product called Superex 2000?

A. I have no recollection of this, no.

Q. Within the years you worked at the Long Beach Naval Shipyard, did you, within the confines of the Long Beach Naval Shipyard or any of its warehouses, see a product called Thermobestos?

A. Yes.

Q. When did you see the product called Thermobestos? Every day?

A. At least. If I got on the piers where it was at. It was always on the piers.

Q. During the period of time you were at the Long Beach Naval Shipyard, did you ever see a warning on that product?

A. No.

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Q. Are you aware of the asbestos content of Thermobestos?

A. Yes.

Q. What is it? And explain it to us, please, sir.

A. It's 85 percent calcium silicate, and 15 percent chrysotile asbestos.

Q. Do you consider that a dangerous product?

A. Yes.

Q. Do you consider that to be a product that should

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only be used when in fact the worker is wearing a respirator?

A. If no other controls are available, yes.

Q. What other controls would you like available for the product we have just described, Thermobestos?

A. In a plant situation, where --

Q. At the Long Beach Naval Shipyard.

A. Yes. In a situation where, say, sawing was done, the thing was in the same location, local exhaust ventilation would be recommended. However, aboard ship, as we've discussed before, this was not practical because of the fact that the jobs moved around, and ventilation was difficult to get into the spaces in adequate amount. So that there, the only thing we could rely on was respirators, or substitution, in my mind.

Q. Going back to the product 85 Percent Magnesia, what was the asbestos content of that product?

A. The remainder would be 15 percent chrysotile.

Q. Did you consider that a dangerous asbestos product?

A. Yes.

Q. Did you believe that when that product was used, a respirator should always be worn?

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A. On-the-ship's situation, yes.

Q. If it was in any other area, if there was not adequate ventilation, a respirator should have been worn while using 85 Percent Magnesia. Is that correct?

A. A respirator was the only other defense, yes.

Q. Did you ever during the period of time you were

employed at the Long Beach Naval Shipyard, within the confines of the Long Beach Naval Shipyard, see a product by Johns-Manville called Silicated Thermobestos?

A. I don't recall seeing that one, no.

MR. STEIN: Okay. We've gone about another hour and 15 minutes. I think it is time for another break. You could use one, couldn't you, sir?

THE WITNESS: Yes.

MR. STEIN: Okay. Thank you. Ten to fifteen minutes.

(Recess taken from 11:20 a.m. to 11:40 a.m.)

Q. BY MR. STEIN: Mr. Manning, in 1961, you were working in Pennsylvania. Right?

A. Yes.

Q. On February 27th, at Page 45 of your deposition, in general you testified that you were protecting employees against silica dust. Is that right?

A. Silica -- in the region where I worked, the silica problems were larger, or more numerous.

Q. Than others?

A. Than the asbestos problems, yes.

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JM - 83

Q. What exactly is silica dust?

A. Silica, in essence, is the same thing as sea sand or quartz. It has the same chemical composition. It has various crystalline shapes, but what we're referring to here is what is known as free silica, which is the same as sea sand.

Q. Did you recommend the use of respirators for silica dust?

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A. On some occasions, yes.

Q. What type of respirator did you recommend in the years '61 through '67 in Pennsylvania?

A. We would require that the dust respirator be approved by the U.S. Bureau of Mines.

Q. The dust repirator approved by the U.S. Bureau of Mines was first used in regard to black-lung disease. Is that correct?

A. I don't know how far back that approval or that office existed in Pittsburgh. It's a long way back, and I have no real knowledge of this.

Q. Pennsylvania has a long history of being a leader in mining regulations, do they not?

A. I would think so, yes.

Q. When you arrived at the Long Beach Naval Shipyard, which respirator was being used?

A. A respirator called Dust Foe, that was manufactured by Mine Safety Appliance Company.

Q. Did you feel this respirator was adequate to do the job intended, that is, screen out asbestos dust?

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A. Yes.

Q. Was it an adequate respirator for its time in 1967?

A. It was efficient enough to take out asbestos dust, yes.

Q. Did you ever learn that a program was being presented by Johns-Manville to any union to which the workers in the Long Beach Naval Shipyard belonged?

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A. No, I don't have any knowledge of this.

Q. Do you have any knowledge that Johns-Manville presented at any time a program to educate the workers at Long Beach Naval Shipyard in how to protect themselves from the hazard of asbestos?

A. No.

Q. Mr. Ay was a union man, was he not?

MS. HASKELL: Object as vague as to which Mr. Ay you're referring to.

MR. STEINBERG: That's probably a good objection.

MR. STEIN: All right.

Q. Was Webster Ay a union man?

A. Yes.

Q. Was Charles Ay a union man?

A. Yes.

Q. Were these both union officers?

MS. HASKELL: Object. Vague as to time.

Q. BY MR. STEIN: At any time.

A. My knowledge only concerns -- I know that Webster Ay was head of the Metal Trades Council. If Charlie became a member -- officer in the union, it was after I left the shipyard. I don't think he was before I left the shipyard.

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Q. Did they ever advise you of any programs being presented by anybody to the union members so they could learn to protect themselves from asbestos dangers?

A. Yes. They were given some advice by, I think, Selikoff's group, and they sought advice from Cooper and

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Tabershaw at University of California. These are two sources I know they consulted.

Q. Do you have any knowledge as to whether or not they asked for such advice from the major Producer, J-M?

A. No.

Q. You just don't have any knowledge either way?

A. No, I don't have any knowledge.

Q. Are you aware of the fact at any time until your leaving the Long Beach Naval Shipyard that Johns-Manville initiated a respirator program to evaluate the effectiveness of various respirators in filtering asbestos-containing dust?

A. No.

MS. HASKELL: Objection. Vague as to time and place.

MR. STEINBERG: The answer is already in.

Q. BY MR. STEIN: Are you aware at any time during your stay at the Long Beach Naval Shipyard that the results of this aforementioned survey were made known to you?

MS. HASKELL: Object. Argumentative.

THE WITNESS: The results were not made known to me.

Q. BY MR. STEIN: Were you presented by anyone any material regarding any survey of the effectiveness of various asbestos respirators, respirators being used to control asbestos?

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A. Well, my training and background would lead me to consult the U.S. Bureau of Mines approval list at all times. This is what would govern my attitude toward any respirator.

Q. But you were the man responsible -- do you need a

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break, sir?

A. No.

Q. You were one of the people in the Long Beach Naval Shipyard responsible for controlling industrial health hazards. Is that correct?

A. Yes.

Q. You were never supplied at any time with any study by Johns-Manville of the various respirators to filter asbestos-containing dust?

MS. HASKELL: Objection. Argumentative.

THE WITNESS: No.

MR. STEIN: You know, Ms. Haskell, it appears to me that you're having some problem with a foreign language, basically, English. I thought there was a stipulation that my friend, Mr. Mulligan, pointed out.

MS. HASKELL: Is there a stipulation, Mr. Stein, that all objections including those as to form with respect to your interrogation are reserved until the time of trial?

MR. STEIN: Young lady, I suggest you do what the rest of us do, you read the transcripts as we receive them, and you would be aware of the fact.

MS. HASKELL: If you will answer the question affirmatively, Mr. Stein, I'll cease objecting. If you don't want to answer it affirmatively, I will have to protect the record.

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MR. STEIN: Young lady, I'm not here to answer your oral interrogatories. If you wish me to, I will be glad to do so, but I suggest you swear me in first, and call me as a

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witness with adequate notice, and be sure on the questions you're asking me you're ready to pay me my expert fee for legal advice which you seem to dearly need in regard to this subject.

Q. Mr. Manning --

A. Yes.

Q. -- are you okay?

A. I'm all right.

Q. Hey, look. I don't want to make you uncomfortable.

A. I'll be all right. Go ahead.

Q. At the Long Beach Naval Shipyard, were you faced with other pulmonary diseases, that is, other than asbestosis or mesothelioma?

A. Yes.

Q. What were they, and if you take a minute and think, the most frequent one and down the line.

A. Well, the next most problem would certainly be exposure to silica dust lung disease.

Q. Pulmonary.

A. Pulmonary.

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JM - 83

Q. Did I say lung? I apologize.

A. Pulmonary's the same thing. There were maybe some other small threats. I think chromium can cause pulmonary involvement, and there was some nickel chrome cutting done there that was a small thing involving a few people. Of the pulmonary diseases I can think of, that would be the extent of it, I think.

Q. Did Mr. Reitze make you aware at any time of the

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incidence of pulmonary disease at the various Johns-Manville facilities?

MS. HASKELL: Object. Vague as to time and place.

THE WITNESS: No.

Q. BY MR. STEIN: Are you familiar with the Fleischer-Drinker report?

A. No.

Q. It is your testimony, sir, am I correct, that at no time on any Johns-Manville product did you ever see a warning that the product contains asbestos fiber?

MS. HASKELL: Objection. Misstates the witness's prior testimony.

THE WITNESS: This is my best recollection.

Q. BY MR. STEIN: At no time did you ever see on a Johns-Manville product the statement that "If adequate ventilation is not present, use respirator approved by the U.S. Bureau of Mines"; is that correct?

A. I can't recall seeing that, no.

Q. Right. Now, sir, warnings come on various products. Right?

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A. Yes.

Q. And the user has to be able to read the warning and understand the warning. Right?

A. Yes.

Q. It is one thing to warn that something is dangerous. It's another to instruct the person what to do about it. Is that right?

A. Yes.

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Q. You've learned this through exposure to many workers in your job as an industrial hygienist. Is that correct?

A. Yes.

Q. Assume for a moment, sir, that Johns-Manville products contained the following words: "Caution: Contains asbestos fiber. Avoid creating dust. Breathing asbestos dust may cause serious bodily harm," end of quote.

In your opinion as an industrual hygienist, would that be an adequate warning?

MS. HASKELL: Objection. Incomplete hypothetical.

MR. STEIN: For whose purposes, Ma'am?

MR. STEINBERG: I'm sorry. I didn't hear the basis for the objection.

MR. STEIN: Incomplete hypothetical.

MR. STEINBERG: Well, you can answer the question if you have an opinion. If you don't have an opinion, just say so.

Mr. Stein has stipulated to pay your expert witness fee.

MR. STEIN: Certainly. For that portion of his testimony.

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MR. VAN DAM: Better watch out. He charges 10,000 a word.

MR. STEIN: Only Steinberg charges that much.

THE WITNESS: No, I don't think that's an adequate warning.

Q. BY MR. STEIN: In fact, that does not tell the user of the product what he should do to protect himself.

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Correct?

A. No.

Q. I'm incorrect?

A. You're correct.

Q. Thank you.

A. It does not.

Q. At any time while you were employed at the Long Beach Naval Shipyard, did you see a Johns-Manville product or a container of Johns-Manville product which read "Asbestocel," A-s-b-e-s-t-o-c-e-l, "(aircell)"?

A. No, I don't recall it.

Q. At any time while you were employed by and at the Long Beach Naval Shipyard within the confines of the Long Beach Naval Shipyard or any of its storage places, did you see a Johns-Manville product called Anti-Sweat, A-n-t-i, hyphen, S-w-e-a-t?

A. I don't recall seeing that.

MR. COYLE: Excuse me, Mr. Stein. Before we go through this list of these highly dangerous products, could we go back for continuity's sake and pick up the time he spent aboard ship for '70 through '73, doing asbestos testing? Will you do that now?

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MR. STEIN: Yes. Thank you. Very excellent suggestion.

MR. McKAY: Do we have a stipulation these are dangerous products from Johns-Manville?

MS. HASKELL: No, we don't.

MR. McKAY: I thought I might have missed something.

Q. BY MR. STEIN: Are you ready?

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A. I'm all right. Go ahead.

Q. In 1970, what percentage of your time was taken on board ship monitoring asbestos levels?

A. 1970?

Q. Yes, sir.

A. Did we go over this before or not?

Q. No. In 1970, I believe you took 25 samples at the pad shop, and you spent your total time -- you gave us a figure on total time with asbestos, but this just goes to aboard ship, this question. I'm breaking it down to aboard ship.

MR. MULLIGAN: Mr. Manning, in order to help you, my notes indicate -- and I'm sure somebody will tell me if I'm wrong -- in 1970 you thought you spent 15 percent of your time involved with asbestos-related problems, and you probably took 25 samples at the pad shop, and my notes indicate 20 samples on board ship on demand with reference to those interests of hazardous-type products.

THE WITNESS: That would probably indicate 7 or 8 percent, 10 percent of my time aboard ship.

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MR. STEIN: Mr. Mulligan, I do not have careful notes on this. Do you want to cover this area?

MR. MULLIGAN: No. That's the last entry that appears in my notes. You had talked about a number of samples on ship in 1970 and had not gone beyond that.

Q. BY MR. STEIN: In 1971, you took 30 samples on ship. You said in '71, 10 percent of your time was taken up on asbestos and you took 10 to 20 samples in the pad shop.

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What percentage of your time was spent on ship taking samples?

A. I would say about the same amount of time, maybe a little more.

Q. That would not be true for '72, then, when you took 15 samples in the pad shop, spent 10 percent of your time on asbestos-related control or dealing with its problems and took 50 samples on ship. Right? Therefore, my question after that statement, as unintelligent as it may have been, is: How much of your time was spent on ship taking samples?

A. Now, this situation probably reflected a bigger work load and doing more, and the fact that I did have somebody working for me and later on I had a girl doing the typing, so the paper load maybe was less, and I was doing a little more -- but the percentage would be about that.

Q. I'm not sure who's confused who, but I know I was confused.

A. Well, I was probably doing more. The work load was more.

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Q. Are you saying in '72, of the 20 percent of the time you spent in asbestos, over half was spent on ship?

A. Yes.

Q. Okay.

A. And then, of course, there's nothing -- when you say "asbestos-related work," we're not including -- what you're including is exposure, taking samples and so forth?

Q. Absolutely.

A. There was other work connected with asbestos,

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naturally. You know this. The counting, the paperwork, the meetings, and this sort of thing was all involved.

Q. Maybe you didn't understand me, either. Of your total work time, I want to know what was dealing with asbestos-related work, whether or not you were on board, whether you were in the pad shop, whether you were reading, what you were doing. Counting.

A. Well, I didn't understand that to be the case. What I was counting was counting dust samples.

Q. I had then gone to dust samples this morning, sir.

A. Right.

Q. I had asked total time spent on asbestos-related problems. Did you not understand that this morning?

A. No, I didn't understand that.

Q. Okay. Let's go back. In 1969, you told us 15 percent of your time was spent on asbestos-related problems. Is that correct?

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A. That is incorrect.

Q. What would be the correct percentage of the time of your job spent on all asbestos-related work?

MR. COYLE: Pardon me. You distinguished in the shipyard and on ships. Are you combining them now?

MR. STEIN: No. I didn't distinguish in my first line of questions, Mr. Coyle. I then broke it out. And he thought I was only dealing with when he was exposed to dust, and I was not dealing with when he was only exposed to dust. I was dealing with his total work as to

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asbestos-related problems, including reading, counting in the lab, whatever.

MR. STEINBERG: What period of time?

MR. STEIN: 1969 only, right now.

THE WITNESS: All right. As a guess, I'd say 25 to 30 percent.

Q. BY MR. STEIN: Is that a good estimate?

A. Yes.

Q. What about for 1970, your total percentage time while at work?

A. That would probably be 25 percent to 30 percent.

Q. '71, your total percentage time on asbestos-related work?

A. That would be 1971 or '70?

Q. 70 percent, '70.

A. We're talking about what year?

MR. STEINBERG: '71.

THE WITNESS: '71, 25 percent.

Q. BY MR. STEIN: 1972, your total time spent on asbestos-related work?

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A. I would say in that year, about 35 percent.

Q. '73, your total time on asbestos-related work?

A. Well, that would run around 25 percent.

Q. Now, let's go back so we've got this clear, and then I think we'll let you go for the weekend.

In 1969, how much time did you spend in the pad shop on asbestos work, either gathering dust or whatever?

A. Well, that would be -- in 1969, 5 -- 5 percent

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or a little better, maybe, 7 percent.

Q. On board ship?

A. About 10 percent.

Q. 1970, how much time, of your total time, was spent in the pad shop, either gathering dust or what-have-you?

A. That would be about the same, I would say.

Q. Five percent?

A. Five to six, seven; and the other, double that aboard ship.

Q. Twenty percent or twelve percent?

A. Fifteen percent for both. Five for the one, maybe ten for the other.

Q. 1971, how much of your total time, by percentage, did you spend in the pad shop in asbestos-related work?

A. '71, 2, about 3 percent, something like that. Not much.

Q. This same year, 1971, how much time aboard ship, of your total time, was spent in asbestos-related work?

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A. Seven, eight, nine percent, somewhere in there.

Q. 1972, how much time was spent in the pad shop in asbestos-related work?

A. Five percent in the pad shop, and roughly 15 percent aboard ship.

Q. '73, the same question.

A. About the same amount, I would say, in '73.

Q. Five percent pad shop, 15 percent ship?

A. Right.

MR. STEIN: Mr. Steinberg, you had indicated you

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wished to go over some material before 1:00 o'clock.

MR. STEINBERG: Yes.

MR. STEIN: As far as I'm concerned, this would be a good time, before I get into other matters. It's a good break. Is that what your desire is?

MR. STEINBERG: That would be fine.

MR. STEIN: Thank you, sir. 9:00 o'clock Monday?

MR. STEINBERG: Yes, that's all right. As I understand it, we have some problems about meeting here on Monday.

MS. HASKELL: We will be in Department 3 all next week, or to the extent that we are taking deposition next week.

MR. STEINBERG: Where is Department 3?

MS. HASKELL: Right down the hall.

MR. STEIN: Across the hall from 1.

This concludes the deposition for today. Mr. Steinberg, we will see you in Department 3.

Mr. Manning, we will see you also at 9:00 o'clock on Monday morning.

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(The deposition recessed at 12:10 p.m.)

(I certify under penalty of perjury that the foregoing is true and correct.)

_____ _____
DATE SHELDON H. MANNING

AT _____, California.
CITY

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STATE OF CALIFORNIA) SS

I, Lucia Moskal, CSR, a Notary Public in and for the State of California, do hereby certify:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction.

I further certify that it was stipulated by and between counsel that said deposition may be read, corrected and signed by the witness under penalty of perjury.

I further certify that I have no interest in the event of the action.

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WITNESS my hand and seal this 13th day of March, 1979.

OFFICIAL SEAL
LUCIA MOSKAL
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires JUN 25, 1982

Lucia Moskal

LUCIA MOSKAL, CSR 1222
Registered Professional Reporter
Notary Public in and for
the State of California.

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Manning 3/8/79

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SHM 7901G

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SHELDON MANNING VOLUME VIII (March 8, 1979) Page One

5	Cincinatti report is critical of industrial hygiene situation at LBNS in 10/72
7	Recommended use of Stryker cutter for ripout
8	1971--recommended to AY that they use Stryker cutter AY said that present methods were probably more efficient and produced less dust
10	Pollution Control Analyst was hired after problems with Air Pollution Control people--late sixties
10-11	There was not a ban on asbestos products at LBNS prior to 2/74
14-35	Discusses exact products found near working locations at LBNS
36	Saw packages in warehouse, aboard barge and on various piers--men were doing insulation work near packages of Careytemp
37	Saw packages aboard ship, on barge and on piers (Eagle Picher)
38-39	Saw Pabco products in warehouse 59, on piers and on barge
39	Saw Caltemp aboard barge and on piers
40	Saw Kaylo on piers and aboard barge
40	Saw Unibestos once in shop 56 and once saw some shipped on pier
41	Saw Raybestos Manhattan in pad shop
42	Saw Thermobestos on piers and on barge and in #59
43	Did some general reading re: asbestos prior to employment at LBNS
44	Read part of the New York Academy of Science Asbestos Symposium in 12/64 proceedings prior to LBNS
44	Also read Saranac studies prior to LBNS
45-50	Discusses meetings with JM employees
51	Received publications from product manufacturers upon request--never requested publications from JM
51	Guessed that over 70% of products used at LBNS were JM--was biggest supplier between 1967-74
55	Had dealt with asbestos prior to 1967
56	Discussed with MARR asbestos conditions at LBNS

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56-57 MARR considered asbestos the major health hazard of any shipyard

57 MARR mentioned Unibestos as amosite product He stated that major problem was amosite material and he had attempted to get the material outlawed from shipyard

57 Couldn't get it outlawed because mil. specs. deal with performance, not composition

61 Discusses plants in Pennsylvania region II, Pittsburgh Corning and Molded Materials, he inspected in 1965 and 1966

61-62 At those times, MANNING recommended use of respirators until proper ventilation could be installed

63 Prior to 1964, never recommended respirator unless dust level was above acceptable standards

68 Re Pittsburgh Corning, inspector would go through plant and report any possible out of control situations---the industrial hygienists would then go in to take dust samples

69 Knew, in 1965, that asbestos, when breathed in excess, would cause lung fibrosis

71-72 Met with MARR in 1972-- Discussed situations re: asbestos controls at their shipyards

72 MARR said he was working under an admiral at Norfolk Naval Shipyard that was sweeping the whole situation under the rug

73 During his tenure, MANNING felt that certain individuals were not responding the emphasis that MANNING wanted. There was not enough action taken promptly enough

75 Underwent indoctrination at Puget Sound Naval Shipyard soon after arriving at LPNS

80 Felt that REITZE was not an "alarmist"re:asbestos Wanted to wait until all the facts were in.

82 Some warning signs appeared in 1971, but cannot say if they pertained to JM products

83 Does not specifically recall seeing worning labels on JM products

86 Talked to UNMACK yesterday---MANNING wanted to know where his files had gone.

86 UNMACK stated that all the files were gone when he got there

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88 Told KRIEGER in 1974 that he was going public re: asbestos hazards at LBNS

89 Mr. GLADSTONE approached MANNING for an interview as a result of Dr. FELTONs shipyard study

90 Took chest x-rays and found adverse findings in many shipyard employees

91 Resulting article mentioned MANNINGs difficulties in getting money and fact that asbestos control was given very low priority

91 Article quoted 1969 report, signed by SMITH, stating that asbestos products were reported to increase incidence of cancers; limits were therefore difficult to set and should be set at the lowest minimum

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SHELTON H. MANNING
March 8, 1979

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Inspections and Survey p. 4	During the course of his survey work, investigations and inspections, he had the occasion to see workers using various asbestos products. He also saw the containers for the asbestos products.
Amatex Products p. 5	While he was employed to the Long Beach Naval Shipyard between the years of 1967 and 1974, he did not see any containers or packages that had the name of Amatex on them.
Thermaglass p. 5	While he was employed at the Long Beach Naval Shipyard he did not see any packages or containers with the name Thermaglass on them.
Quietline p. 7	While he was employed at the Long Beach Naval Shipyard, he did not see any products with the the brand name Quietline.
Armstrong p. 7	He did see some products with the name brand Armstrong on them but he does not think he saw anything containing asbestos.
L-T Pipe Covering p. 7	He did see any packages at Long Beach Naval Shipyard containing the name L-T Pipe covering.
Temlock p. 7	He did see packages at the shipyard containing the name Temlock but he doesn't think that there was any asbestos in them.
Armaspray p. 7	He did not see any packages at the Long Beach Naval Shipard containing the name Armaspray.
Minalok p. 7	While he was employed at Long Beach, he did not see any packages containing the name Minalok.
Armaglass p. 8	While at Long Beach, he did not see any packages containing the name Armaglass.
Super Power House Cement p. 8	While at Long Beach he did not see any packages containing the name Super Power House Cement.
Pyrospray p. 8	While at Long Beach, he did not see any packages containing the name Pyrospray tape.
Monospray p. 8	While at Long Beach, he did not recall seeing any packages containing the name Monospray.

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Monoblock p. 8	He did see packages of Monoblock but he doesn't think that they contained asbestos.
101 Pipe Insulation p. 9	While employed at Long Beach, he did not see any packages containing the trade name 101 Pipe Insulation.
100 Pipe Insulation p. 10	While at Long Beach he did not see any packages containing the trade name 100 Pipe Insulation.
Thermalite p. 10	While employed at Long Beach he did not see any packages containing the trade name Thermalite.
Thermasil p. 10	While employed at Long Beach he did see packages containing the name Thermasil.
1 plus Cement p. 10	While at Long Beach he did not see any packages containing the name #1 plus Cement.
Celotemp p. 10	He does not recall seeing any packages at Long Beach containing the name Celotemp.
Karey-temp p. 10	While at Long Beach he does not recall seeing any packages containing the trade name Karey-temp.
Dual Service Karey-temp p. 11	He does not recall seeing any packages at Long Beach containing the name Dual Service Karey-temp.
Carey Lennolite p. 11	To the best of his recollection does not recall any packages containing the name Carey Lennolite.
Carey-temp Premolded Elbow Insulation p. 11.	He doesn't recall seeing any packages containing the name Carey-Temp Premolded Elbow Insulation with Elbow on it.
Carey-Temp Pipe and Block Insulation p. 11	He does recall seeing packages containing the trade name Carey-temp Pipe and Block Insulation.
Carey-temp 2000 Block p. 12	He doesn't recall seeing packages containing the name Carey-temp 2000 Block.

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Carey-Temp Aluminum Jacket and Traced Pipe Insulation p. 12	He does not recall seeing packages containing the trade name Carey-Temp Aluminum Jacket and Traced Pipe Insulation.
Carey p.12	He does not recall seeing packages of cement at Long Beach with the name of Carey or Carey 100 on them.
No. 7M90 Asbestos Short Insulation Cement p. 12	He does not recall seeing packages containing the trade name No. 7M90 Asbestos Short Insulation Cement.
M Cement p. 12	He does not recall seeing packages of cement with the initial M on them.
LF-20 Asbestos Cement p. 13	He does not recall seeing any packages containing the name LF-20 Asbestos Cement.
Vitrecel p. 13	He does not recall seeing packages with the name Vitrecel Cement.
Carey Thermo Bond p. 13	He does recall seeing packages at the shipyard with the name of Carey Thermo Bond.
Carey A-1 Cement p. 13	To the best of his recollection does not recall seeing packages with the name Carey A-1 Cement.
Carey A-101 p.13	He does not recall seeing packages with the name Carey A-101.
Industrial A-C Bond p. 13	He does not recall seeing packages with the name Industrial A-C Bond.
Careyflex Bond p. 14	He does not recall seeing packages with the name Careyflex Bond.
Vitricel p.14	He does not recall any packages with the name Vitricel.
Careystone Sheathing p.14	He does not recall seeing packages containing the name Careystone Sheathing.
Carey Fireclad p.14	He does not recall seeing packages containing the name Carey Fireclad.

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Thermothex p. 14	He does not recall seeing Thermothex product at Long Beach.
No. 228 Fiberated Emulfion p. 15	He does not recall seeing No. 228 Fiberated Emulfion at Long Beach.
Carey Insulation Seal p. 16	He does not recall seeing this Carey Insulation Seal at Long Beach.
Fire Resistance Insulation Seal p. 16	He does not recall seeing Fire Resistance Insulation Seal at Long Beach
BTU Cement p. 16	He does not recall seeing BTU Cement at Long Beach.
Careyfoil p. 16	He has no recollection of seeing Careyfoil at Long Beach.
Detrock Asbestos Board p. 16	He does not recall seeing Detrock Asbestos Board at Long Beach.
Detrick p. 16	He does not recall seeing Detrick at Long Beach
Hilite p. 16	He does not recall seeing Hilite at Long Beach.
Superstick tight p. 16	He does not recall seeing new product called Superstick tight at Long Beach.
Super finished Stick tight p. 16	He does not recall seeing Super finished Stick Tight at Long Beach.
Mix A p. 16	He does not recall seing Mix A at Long Beach.
Thermagard p. 16	He does not recall seeing Thermogard product at Long Beach.
Portersite p. 16	He does not recall seeing Portersite at Long Beach.
Porterlag p. 17	He does not recall seeing Porterlag at Long Beach.

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Cleangard p. 17	He does not recall seeing Cleangard at Long Beach.
Covergard p. 17	He does not recall seeing Covergard at Long Beach.
Porterlag p. 17	He does not recall seeing Porterlag at Long Beach.
Super 66 Insulating Cement p. 17	He does have some recollection of seeing Super 66 Insulating Cement at Long Beach
Eagle-Pitcher p. 17	He does recall seeing the name Eagle-Pitcher on products at Long Beach.
One Coat Cement p. 17	He does recall seeing One Coat Cement at Long Beach.
Hylo Pipe Covering p. 17	He does not recall seeing Hylo Pipe Covering at Long Beach.
85 % Magnesium Pipe Covering and Insulation p. 17	He does not recall seeing 85% Magnesium Pipe Covering and Insulation at Long Beach
Insul-Stick p. 17	He does not recall seeing Insul-Stick products at Long Beach.
Spraymastic p. 17	He does not recall seeing Spraymastic at Long Beach.
Swetchak p. 18	He does not recall seeing Swetchak at Long Beach.
No. 33 Insulating Cement p. 18	He does not recall seeing No. 33 Insulating Cement at Long Beach.
No. 43 Insulating Cement p. 18	He does not recall seeing No. 43 Insulating Cement at Long Beach.
No. 99 Finishing Cement p. 18	He does not recall seeing No. 99 Finishing Cement at Long Beach.
No. 106 Finishing Cement p. 18	He does not recall seeing No. 106 Finishing Cement product at Long Beach.

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Stalastic p. 18	He does not recall seeing product called Stalastic at Long Beach.
Calsilite p. 18	He does not recall seeing product called Calsilite at Long Beach.
No. 7M Cement p. 18	He does not recall seeing No. 7M Cement at Long Beach.
711 Cement p. 18	He does not recall seeing 711 Cement at Long Beach.
T/na 100 p. 19	He does not recall seeing T/na 100 at Long Beach.
Caltemp p. 19	He does recall seeing Caltemp at Long Beach.
Super Caltemp p. 19	He does recall seeing Super Caltemp at Long Beach.
Pabco p. 19	He does recall seeing Pabco at Long Beach.
Prasco p. 19	He does not recall seeing Prasco at Long Beach.
Caylo p. 19	He does recall seeing Caylo at Long Beach.
Unibestos p. 19	He does recall seeing Unibestos at Long Beach.
Allbestos p. 19	He does not recall seeing Allbestos at Long Beach.
Glassbestos p. 19	He does not recall seeing Glassbestos at Long Beach.
Terrybestos p. 19	He does not recall seeing Terrybestos at Long Beach.
Gartor Tape p. 19	He does not recall Gartor Tape at Long Beach.
Novatex p. 19	He does not recall seeing Novatex at Long Beach.
Sealsafe p. 20	He does not recall seeing Sealsafe at Long Beach.

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Silvabestos p. 20	He does not recall seeing Silvabestos at Long Beach.
Speedlag p. 20	He does not recall seeing Speedlag at Long Beach.
Pyrotex p. 20	He does not recall seeing Pyrotex at Long Beach.
Rhinobestos p. 20	He does not recall seeing Rhinobestos at Long Beach.
Novabestos p. 20	He does not recall seeing Novabestos at Long Beach.
Raybestos-Manhattan p. 20	He does see products at Long Beach containing Raybestos-Manhattan on them.
Insutube p. 21	He does not recall seeing Insutube at Long Beach.
Wovenstone p. 21	He does not recall seeing Wovenstone at Long Beach.
Unarco p. 21	He does not recall seeing any packages containing asbestos materials at Long Beach during his ten year there with the name of Unarco on them.
Hytemp p. 21	He does recall seeing packages containing the name brand Hytemp at Long Beach.
Nicolam p. 21	He does not recall seeing any packages with the name Nicolam.
K&M p.21	He does not recall seeing any packages with name K&M.
Kaytherm p. 22	He does not have a recollection of any package being called Kaytherm.
Antisweat p. 22	He has no recollection of any product with the name Antisweat at Long Beach.
Zibra p. 22	He has no recollection of any product called Zibra at Long Beach.
Celotone p. 22	He has no recollection of any product called Celotone at Long Beach.
Norristown p. 22	He has no recollection of any product called Norristown at Long Beach.

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Nicobestos p. 22	He has no recollection of any material of Nicobestos at Long Beach.
Nicoseal p. 22	He has no recollection of any product called Nicoseal at Long Beach.
Nicostat p. 22	He has no recollection of product called Nicostat at Long Beach.
Derplex p. 22	He has no recollection of a product called Derplex at Long Beach.
Nicospec p. 22	He has no recollection of a product called Nicospec at Long Beach.
Alaska p. 22	He did not see any packages at Long Beach containing asbestos with the name Alaska.
Albasell p. 23	He does not recall seeing any packages containing asbestos with the name of Albasell.
Nortex p. 23	He does not recall any packages containing Nortex on them at Long Beach.
Thermabestos p. 23	He did see packages of asbestos products while at Long Beach called Thermabestos.
K-fact p.24	He does not recall seeing K-fact at Long Beach.
Temlock p. 25	He does not recall how many times he saw packages containing the name Temlock on them.
Monoblock p. 25	He does not recall how many occasions he saw packages containing the name Monoblock.
Thermasil p. 25	He does not recall how may times he saw packages with the name Thermasil at Long Beach.
Carey-Temp pp. 25-26	On numerous occasions he saw packages containing asbestos materials with the name Carey-Temp on them. This packages were in the warehouse, aboard the Barge and on various peers. Men would be doing insulation work aboard ships near the packages. Men would also be near the barge to supply their needs. The warehouse were the packages were located was warehouse 59 which is in the Naval supply center, west of the shipyard.

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Eagle-Picher p. 27	He saw packages containing Eagle-Picher name at Long Beach numerous times. These packages were aboard ship, on the barge and the piers.
Eagle-Picher Products in Dust Sampling p. 28	Mr. Manning did some dust sampling during operation when he believe that Eagle-Picher Cement was being used.
One-Coat Cement p. 28	He does not recall how many occasions he saw packages containing the name One-Coat cement.
Pabco p.29	He saw packages containing the name Pabco numerous times at Long Beach. These packages were in warehouse 59, on the piers, and on the barge.
Caltemp p. 29	He recalls seeing Caltemp appoximately five times while at Long Beach. These packages were aboard the Laggers barge and on piers.
Super Cal-temp p. 29	He does not recall how many times he saw packages called Cal-temp, nor where he saw them.
Caylo p.30	He does not recall how many times nor where he saw packages called Caylo at Long Beach.
Kaylo p. 30	He recalls seeing Kaylo approximately 20 times at Long Beach. These packages were on piers and aboard the barge. He also recalls seeing these packages aboard ship.
Unebestos p. 30	He only recalls once seeing Unibestos at the shipyard. It was shown to him by Webbaay. There were approximately 30 cartons that he reviewed on that occasion
Raybestos-Manhanttan p. 31	On several occasions he saw Raybestos Manhattan packages in the Pad shop.
Hytemp p. 31	Approximately ten times he saw packages containing the name Hytemp at Long Beach. He does not recall where he saw these packages.
Thermobestos p. 32	He saw packages with the name Thermobestos on them approximately 200 times. These packages were on the piers, on the barge, and in warehouse 59. On one or two occasions he saw the packages in South Building #1 and the storage area by Ninth & Sullivan.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FILE COPY

WALTER C. RIGSBY,
JOSEPH K. KLOSE and
SHELDON H. MANNING,

Plaintiffs,

vs.

JOHNS-MANVILLE, etc., et al.,

Defendants.

No. C 151 947

VOLUME 8

CONTINUATION OF DEPOSITION OF SHELDON H. MANNING, a plaintiff, taken by defendant Johns-Manville at 9:20 a.m., Thursday, March 8, 1979, at 111 North Hill Street, Los Angeles, California, before Lucia Moskal, CSR, a Notary Public.

Reported by:
Lucia Moskal, CSR 1222
Registered Professional Reporter

No. LA-820-79

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APPEARANCES OF COUNSEL:

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For Johns-Manville Sales Corporation:	HAIGHT, DICKSON, BROWN & BONESTEEL BY APRIL HASKELL
For J. P. Stevens:	ANDERSON, McHALE & CONNOR BY JAMES M. TILLIPMAN
Also Present:	BOLTON, HEMER & DUNN BY KENNETH W. DRAKE
For Pittsburgh Corning Corporation:	BREIDENBACH, SWAINSTON, YOKAITIS & CRISPO BY JAMES S. VAN DAM
For Fibreboard Corp.:	CHASE, ROTCHFORD, DRUKKER & BOGUST BY HENRY E. KAPPLER
For Celotex Corp., successor to Philip Carey Corporation:	COYLE, MARRONE & ROBINSON BY RICHARD B. COYLE
For Amitex:	GILLILAND, ROBERSON & MOSER BY WILLIAM ROBERSON
For Combustion Engineering:	MARTIN & STAMP BY LLOYD V. STAMP
For Nicolet, Inc.:	McKAY, BYRNE & UDKOVICH BY BRUCE B. NEFT
For Armstrong:	MORGAN, WENZEL & McNICHOLAS BY JOSEPH A. MAHONEY
For Crown Cork Seal:	MORRIS & POLICH BY KIM M. DUNNING
For Raybestos Manhattan:	NORBY & BRODEUR BY THOMAS E. SMURRO
For Keene Corporation:	PATTERSON, RITNER & LOCKWOOD BY THOMAS S. MULLIGAN

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APPEARANCES OF COUNSEL (Continued):

For GAF:	PAUL, HASTINGS, JANOFSKY & WALKER BY MICHAEL SANDERS
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For Unarco Industries, Inc.:	SHIELD & SMITH BY LAURA DIANE KOTSIRIS
For Owens-Corning Fiberglas Corp.:	WATERS, McCLUSKEY & CORCORAN BY JOSEPH BOGAN
For Flintkote:	VIRGIL R. WELLS BY STEVEN D. HAMOR
For Eagle-Picher Industries:	YUSIM, CASSIDY, STEIN & HANGER BY ANDY STEIN

I N D E X

WITNESS: Sheldon H. Manning — VOLUME 8

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QUESTIONS WITNESS REFUSED TO ANSWER

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SHELDON H. MANNING,

a plaintiff herein, having been previously sworn, testified further as follows:

EXAMINATION

BY MS. HASKELL:

Q. Mr. Manning, are you feeling all right today?

A. Right.

Q. Are you able to give your deposition today?

A. Yes.

Q. You're able to understand my questions?

A. Yes.

Q. Give intelligent answers to them?

A. Yes.

Q. If at some point during the deposition you feel you can't go forward, will you let us know like you did yesterday?

A. Yes.

Q. Thank you.

Mr. Manning, we talked yesterday and the day before about a document which has been called the Cincinnati report, which I believe has been marked as Exhibit XX to your deposition. Do you know what I'm referring to?

A. Yes.

Q. Can you find that document?

A. Yes.

MR. STEINBERG: Which volume is it in?

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MS. HASKELL: It's in Volume VI, except that there are three volumes numbered Number VI, and it is on Page 50, et seq., of that volume.

MR. STEINBERG: Defendants' XX for ID?

MS. HASKELL: Yes.

MR. STEINBERG: Got it.

Q. BY MS. HASKELL: Mr. Manning, have you been able to find the Cincinnati report?

A. Yes.

Q. I believe it begins on paginated Page 50.

A. Yes.

Q. Or 51.

A. 51.

Q. Mr. Manning, that report was fairly critical of the industrial hygiene situation at the Long Beach Naval Shipyard in October of 1972 when the survey was done. Isn't that true?

A. Yes, it was.

Q. Mr. Manning, would you turn to Page 54 of that document, please. Do you have that in front of you?

A. Yes.

Q. There is reference at the top of that page to asbestos fabricating operations taking place in Shop 56 of Building 58 on Pier 6. Do you see that?

A. Yes.

Q. Did Shop 56 have sort of adjunct shops in locations other than the place you've told us about previously?

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A. Yes.

Q. One of these adjunct locations was in Building 58 on Pier 6?

A. This was the only one.

Q. So there were really only two places where Shop 56 was located?

A. Yes.

Q. How big of a shop did Shop 56 have in Building 58 on Pier 6, in terms of square footage, approximately?

A. Oh, that was about 10 by 20, 200 square feet.

Q. Ten by twenty?

A. Yes.

Q. Just one floor?

A. Yes.

Q. Approximately how many people worked in that shop at any given time?

A. One or two.

Q. Was there anything else in there besides a saw for cutting block? Any other tools?

A. There were two saws.

Q. Any other power tools in that location?

A. No.

Q. Mr. Manning, did you ever take dust samples in that adjunct shop located on Pier 6 in Building 58?

A. Yes.

Q. On how many occasions?

A. Two times, I think.

Q. Mr. Manning, would you turn to Page 63 of this

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paginated document, please.

A. Yes.

Q. There is mention made in the "General Recommendations" with respect to asbestos in this Cincinnati report, to the use, actually to the purchase, first, and then the use of an item called a stryker, s-t-r-y-k-e-r, cutter, is there not?

A. Yes.

Q. What is a stryker cutter?

A. A stryker cutter is a cast cutter used in the medical profession, used to cut casts off broken limbs when they've healed.

Q. Were you familiar with this possible procedure for the ripout of asbestos products aboard ship?

A. Yes.

Q. Were you familiar with that possible procedure prior to the time that the Cincinnati report was written?

A. Yes.

Q. How did you become familiar with that procedure?

A. It had been tried at Puget Sound Naval Shipyard, and I was aware of this.

Q. Had you ever discussed the use of a stryker cutter for the ripout of asbestos products with any of the supervisory personnel in Shop 56 or any of the rank-and-file workers in Shop 56 prior to this report?

A. Yes.

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Q. On how many occasions?

A. At least once.

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Q. On that occasion that you recall, who specifically did you discuss the use of a stryker cutter with?

A. Webster Ay.

Q. When did that conversation take place, approximately?

A. Sometime in 1971.

Q. Did he bring the subject up?

A. No. I brought it up, I think.

Q. Tell me essentially the substance of your side of the conversation and the substance of his side of the conversation.

A. Well, I just mentioned that I had become aware that a stryker cutter had been tried out in Puget Sound Naval Shipyard, and wondered if we oughtn't to get one and try it and see if it worked.

Q. What was his reply?

A. Well, it was rather noncommittal. He, I think, said that they had methods that they used already that were essentially as good as this, if the workers would follow these directions.

Q. What were those methods that he was referring to?

A. He felt that if a knife, a sharp knife was used, it would be essentially as efficient, more efficient, probably, than a stryker cutter, and would produce no more dust.

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Q. Mr. Manning, would you turn to Page 69 of the

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paginated documents, which appears to be an appendix to this report that we've been referring to. Am I correct?

A. Yes.

Q. It's a document dated April 13, 1973, and withdraws the U.S. Bureau of Mines approval for a particular respirator. Correct?

A. Yes.

Q. Was the type of respirator for which approval was withdrawn used at the shipyard prior to April of 1973?

A. This respirator was never used.

Q. Thank you.

Who was Nicholas Berger?

A. Nicholas Berger was, and is still, working in the shipyard -- his title probably was Engineering Technician. I think he was a GS-9, under Code 380 in the shipyard setup.

Q. Was he asked to write a reply to the Cincinnati report?

A. Captain Fay, the shipyard commander, sent the report to Nicholas Berger for him to look into the matters that were contained therein and write some reply to the various points brought out in this report.

Q. Who is J. W. Murray, M-u-r-r-a-y?

A. He was the head of this Code 380.

Q. Essentially, he was Mr. Berger's boss?

A. Yes.

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Q. Mr. Manning, was there a person at the shipyard who had the title Pollution Control Analyst during

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the time that you were at the Long Beach Naval Shipyard?

A. There was, I think.

Q. Was there a person holding that title when you first came to the shipyard?

A. No.

Q. When did a person holding that title first come to the shipyard, so far as you know?

A. I don't know exactly when this happened.

Q. Can you give me an approximate estimate?

A. Well, no doubt, it happened sometime after they had problems with the Air Pollution Control people. It would be along around -- I'd say in the late sixties.

Q. What was the name of the person who held that position when you left the shipyard?

A. I don't know.

Q. Would that person's name be contained in the telephone book for the shipyard?

A. If that title appeared in there, it would, I think.

Q. Do you know if there was a time during which the Navy, or at which the Navy determined that it was no longer going to use asbestos products at the Long Beach Naval Shipyard?

A. It didn't occur during my stay there.

Q. To the best of your knowledge, there was not a ban on asbestos products at the Long Beach Naval Shipyard prior to the time you left in February of 1974; is that correct?

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A. Your prior question said "Navy," which, to me, includes the whole Navy, and I know that there was not a ban for asbestos products in the entire Navy. And, of course, that would follow in the Long Beach Naval Shipyard also. There was no directive to the effect that no asbestos could be used.

Q. Just so I'm sure that I understand your answer, there was no ban at the Long Beach Naval Shipyard, so far as you knew, with respect to the use of asbestos products prior to the time that you left the shipyard in February of 1974. Correct?

A. Yes.

Q. Mr. Manning, would you turn your attention now to the document that has been marked as Defendants' Exhibit AAA for identification. Perhaps you should put those back in the envelope from which they came first.

MR. STEINBERG: Which volume?

MS. HASKELL: It's also in the volume marked Volume VI, but it says at the top of that, "Exhibits ZZ through AAA."

MR. STEINBERG: Is that in the same volume that --

MS. HASKELL: No. There are three volumes that are marked Volume VI.

Let's go off the record for just a second.

(A discussion is held off the record.)

Q. BY MS. HASKELL: Mr. Manning, have you found that exhibit?

A. Yes.

Q. Would you turn to paginated Page 555.

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A. Triple A?

Q. Yes.

A. I start with 563. It's mixed up.

Q. Have you found it?

A. Yes.

MR. STEINBERG: Forgive me. What page are you starting on?

MS. HASKELL: 555.

MR. STEINBERG: Yes, I have it.

Q. BY MS. HASKELL: Have you found that, Mr. Manning?

A. Yes.

Q. Page 555 is part of a review of industrial hygiene that took place in May of 1973. Isn't that right?

A. This is a proposed manual, proposed manual.

Q. Written at what location?

A. This was written at Crane, Indiana, at that Navy installation, by John Fitch.

Q. Did you know John Fitch?

A. Yes.

Q. Did you believe that John Fitch was a qualified industrial hygienist?

A. Yes.

Q. Did you read this report at the time that you received it?

A. Yes.

Q. Did you receive it in or about May of 1973?

A. Yes.

Q. Did you believe at the time that you read it that

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it accurately reflected the situation at various naval shipyards and made good suggestions for naval hygiene?

A. Yes.

Q. Did you believe that the situations as reflected in this report for various naval shipyards were the same for the Long Beach Naval Shipyard?

A. Yes.

Q. Would you turn to Page 555. Do you have that in front of you?

A. I'm on 555.

Q. Item Number 12 there, the first sentence reads as follows: "Although the use of asbestos is being reduced in insulation operations, adequate substitutes have not yet been developed for some applications in which asbestos exposures may be encountered."

Do you see that?

A. Yes.

Q. Have I read that correctly into the record?

A. Yes.

Q. Isn't it true that in May of 1973, there were certain operations at the Long Beach Naval Shipyard for which there were no adequate substitutes for asbestos products?

A. Yes.

Q. Mr. Manning, at the Long Beach Naval Shipyard, were there various industrial products and chemicals used which contained xylenes?

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A. Yes.

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Q. Mr. Manning, why don't you put those documents away. I'm not going to ask you any more questions about those.

During the course of your survey work and your investigations and your inspections, you had occasion to see workers using various asbestos products; is that correct?

A. Yes.

Q. And on the occasions when you observed these men using asbestos products, on many occasions, you also saw containers for those asbestos products; is that correct?

A. Yes.

Q. And these containers were in the vicinity of where the men were working?

A. Sometimes. Sometimes not.

Q. During your inspections of stored materials, you also had occasion to see various containers or packages containing asbestos materials; isn't that true?

A. Yes.

Q. I'm going to ask you a series of questions about specific products. I want you to tell me whether you recall having seen any packages of asbestos materials either in the vicinity of workers using asbestos products or in areas where you knew asbestos products were stored. Okay?

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MR. MULLIGAN: At what time?

MR. COYLE: Could we have the dates, time and location.

MS. HASKELL: Between the years 1967 and 1974.

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MR. STEIN: Objection. Vague. Uncertain.

Q. BY MS. HASKELL: Do you understand what the question is going to ask?

A. Yes.

MR. ROBERSON: I'll join in that objection.

Q. BY MS. HASKELL: Did you at any time when you were employed at the Long Beach Naval Shipyard between the years of 1967 and 1974 see any containers or packages that had the name Amitex on it?

MR. STEIN: Objection. Vague, uncertain, irrelevant and immaterial.

MR. MULLIGAN: And leading.

MR. STEINBERG: You can answer the question.

MR. STAMP: I'll join in that objection.

THE WITNESS: No.

Q. BY MS. HASKELL: Did you see any packages or containers that had the name Thermaglass on them --

MR. STEIN: Objection. Vague, ambiguous, uncertain.

MS. HASKELL: Let me finish the question.

Q. -- during the period of time that you were employed at the Long Beach Naval Shipyard and at the Long Beach Naval Shipyard?

MR. STEIN: Objection. Leading. You're making the --

THE WITNESS: No.

MR. STEIN: Let me state my objection so your attorney can make his decision, sir.

Objection. Vague, ambiguous, uncertain, irrelevant, immaterial, leading.

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MR. STEINBERG: Well, the objection is noted for the record, and the witness has already answered. I'm not objecting to the question, and I'm instructing him that he may answer, and I'm sure there is a list of other materials you are going to cover, and to save us all a lot of time, can we stipulate you have a running objection of the same nature and purport as stated by Mr. Stein to the last question concerning Thermaglass?

MR. MULLIGAN: I don't believe there is any such thing in the law anymore as a running objection. I suppose we could stipulate that for the purposes of this deposition -- and I would be willing to stipulate to that -- for the purposes of this deposition, all objections are reserved until the time of trial.

MS. HASKELL: That's fine.

MR. STEIN: Wait. That may be fine with you. I'd like to hear from Mr. Steinberg.

MR. STEINBERG: Hear about what?

MR. STEIN: Whether or not he will stipulate all objections are reserved.

MR. STEINBERG: I will stipulate.

MR. STEIN: What was the last product you asked about?

MS. HASKELL: Thermaglass.

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Q Mr. Manning, during the time you were employed at the Long Beach Naval Shipyard, did you have occasion to see packages containing the brand name Quietline?

A No.

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MR. STEINBERG: Quietline?

MS. HASKELL: Q-u-i-e-t-l-i-n-e.

Q. Mr. Manning, during the time that you were employed at the Long Beach Naval Shipyard, did you see packages containing asbestos products or from which you believed asbestos product had been removed containing the name Armstrong?

A. I saw the trade name Armstrong, but I don't think I saw anything containing asbestos, to my best recollection.

Q. Did you see any packages at the Long Beach Naval Shipyard during the time that you were employed there with the name L-T Pipe Covering?

A. No.

Q. Did you see any packages at the Long Beach Naval Shipyard during the time that you were employed there with the name Temlock, T-e-m-l-o-c-k?

A. Yes; but again, I don't think there was any asbestos in it.

Q. Did you see any packages containing the name Armaspray, A-r-m-a-s-p-r-a-y, during your tenure at the Long Beach Naval Shipyard at the Long Beach Naval Shipyard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages containing the name Minalok, M-i-n-a-l-o-k, at the Long Beach Naval Shipyard?

A. No.

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Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages or packaging material containing the name Armaglass, A-r-m-a-g-l-a-s-s?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages containing the name Super Powerhouse Cement at the Long Beach Naval Shipyard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages containing the name Pyrospray, P-y-r-o-s-p-r-a-y, Tape, at the Long Beach Naval Shipyard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any products or any packages containing the name Monospray at the Long Beach Naval Shipyard?

A. I don't recall seeing any, no.

Q. Did you see any packages at the Long Beach Naval Shipyard while you were employed there containing the name Monoblock, M-o-n-o, block, b-l-o-c-k?

A. I saw packages of that sort, but I don't think it contained asbestos.

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MR. COYLE: Objection --

Q. BY MS. HASKELL: Mr. Manning, I'd prefer if you'd answer my questions yes or no.

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MR. COYLE: Pardon me. I'll move to strike the last portion of the witness's answer as nonresponsive.

MR. STEINBERG: I will stipulate the reporter need not include that in the transcript.

MR. MULLIGAN: I will not stipulate to that.

MR. STEINBERG: I'm just offering the stipulation.

MR. MULLIGAN: I think he said he saw the packages, but he did not believe they contained asbestos, and I believe the import of the question was, "Did you see asbestos?"

MS. HASKELL: The import of my question, as I meant to phrase my question, was whether he saw any packages containing that brand name.

MR. ROBERSON: Let's not argue over the import of the question. Let's have the question reread.

(The question referred to is read by the reporter.)

Q. BY MS. HASKELL: Mr. Manning, would you attempt to answer my questions just yes or no.

A. Yes.

Q. Thank you.

During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name 101 -- that's the number 101 -- Pipe Insulation?

A. No.

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Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages at the Long Beach Naval Shipyard that contained the trade name 100 -- that's the number 100 -- Pipe Insulation?

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A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Thermalite, T-h-e-r-m-a-l-i-t-e?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Thermasil, T-h-e-r-m-a-s-i-l?

A. Yes.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name, the number 1, Plus, P-l-u-s, Cement?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Celotemp, C-e-l-o-t-e-m-p?

A. I don't recall any, no.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Carey-Temp?

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A. Yes.

MR. STAMP: Would you spell it, please?

Q. BY MS. HASKELL: C-a-r-e-y, hyphen, T-e-m-p.

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Correct?

A. Yes.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages containing the trade name Dual, D-u-a-l, Service Carey-Temp?

A. I don't remember.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Carey, C-a-r-e-y, Lennolite, L-e-n-n-o-l-i-t-e?

MR. STEIN: Could I have that spelling again?

MS. HASKELL: L-e-n-n-o-l-i-t-e.

THE WITNESS: No, not to my best recollection.

Q. BY MS. HASKELL: During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Carey-Temp Premolded Elbow Insulation?

A. I don't recall seeing the "Elbow" on them.

Q. Do you recall seeing packages containing the trade name Carey-Temp Pipe and Block Insulation during the time that you were employed at the Long Beach Naval Shipyard at the shipyard?

A. Yes.

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MR. COYLE: Could I have the name of the product again?

MS. HASKELL: Carey-Temp Pipe and Block Insulation.

MR. COYLE: Thank you.

Q. BY MS. HASKELL: During the time that you were employed at the Long Beach Naval Shipyard, did you have

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occasion to see at the Long Beach Naval Shipyard packages containing the trade name Carey-Temp 2000 Block?

A. I don't remember the number.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages containing the trade name Carey-Temp Aluminum Jacket and Traced Pipe Insulation?

A. No.

MR. ROBERSON: What was that product name again?

MS. HASKELL: Carey-Temp Aluminum Jacket and Traced, T-r-a-c-e-d, Pipe Insulation.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see packages of cement with the name Carey or Carey 100 on them?

A. I don't recall, no.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages containing the name 7 -- that's the number 7 -- M 90 Asbestos Short Insulation Cement?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see packages containing cement with the initials M, as in Mary, W on it?

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A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard cement with the name LF-20 Asbestos Cement on it?

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A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Vitrecel, V-i-t-r-e-c-e-l, Cement?

A. No.

Q. During the time you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Carey Thermo Bond?

A. Yes.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Carey, capital A-1 Cement?

A. No, not to my recollection.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see packages with the name Carey A, hyphen, 101 on them?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Industrial A, hyphen, C Board, Industrial A-C Board?

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A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Careyflex Board?

A. No.

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MR. COYLE: I'm sorry. What was the name again?

MS. HASKELL: Careyflex, C-a-r-e-y-f-l-e-x.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages containing the trade name Vitricel, V-i-t-r-i-c-e-l, on any products?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the name Careystone Sheathing?

A. No.

MR. STEIN: Would you spell that last word, please?

MS. HASKELL: S-h-e-a-t-h-i-n-g.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the name Carey Fireguard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the name Carey Fireclad?

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A. No.

MR. STEINBERG: Would you spell that?

MS. HASKELL: F-i-r-e-c-l-a-d.

MR. STEINBERG: One word?

MS. HASKELL: Yes.

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MR. BOGAN: April, how long is your product list going to be?

MS. HASKELL: You're asking me how long it's going to take?

MR. BOGAN: You are repeating yourself every time. Why don't you just state the product and have him answer yes or no, with the understanding that it relates to products he saw at the shipyard during his term there. It's a little easier for the court reporter, too.

MR. ROBERSON: Or whether he recalls; yes, no, or doesn't recall.

MS. HASKELL: That's fine.

Q. Mr. Manning, from here on out, I'm simply going to list products. What I'm asking you by listing each of these products is whether you saw a package containing that product name on it at any time when you were employed at the Long Beach Naval Shipyard at the shipyard. Do you understand that?

A. Yes.

Q. I want you to tell me "Yes," if you saw it; "No," if you didn't see it; and if you don't recall whether or not, let us know that, too. Okay?

A. Yes.

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Q. Thermotex, T-h-e-r-m-o-t-e-x.

A. I don't recall.

Q. 228 -- that's the number 228 -- Fibrated Emulsion.

A. No.

Q. Carey Insulation Seal.

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A. I don't recall.

Q. Fire-Resistant Insulation Seal.

A. I don't recall that.

Q. BTU Cement.

A. No recollection.

MR. STEIN: May I have the answer again?

THE WITNESS: No recall.

MR. STEIN: Thank you.

Q. BY MS. HASKELL: Careyfoil.

A. No recollection of that.

Q. Detroc, D-e-t-r-o-c, Asbestos Board.

MR. STEINBERG: "Jetroc"?

MS. HASKELL: Detroc, D, as in dog, e-t-r-o-c.

THE WITNESS: No.

Q. BY MS. HASKELL: Detrick, D-e-t-r-i-c-k.

A. No.

Q. Hilite, H-i-l-i-t-e.

A. No recall.

Q. Super Stick Tight.

A. No recall of that.

Q. Super Finish Stick Tight.

A. No recall.

Q. Mix A. That's the capital letter A.

A. No recall.

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Q. Thermagard, T-h-e-r-m-a-g-a-r-d.

A. I have no recall.

Q. How about Therm-Gard, T-h-e-r-m, hyphen, capital G-a-r-d?

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A. No recall.

Q. Portersite, P-o-r-t-e-r-s-i-t-e.

A. No recall on that.

Q. Porterlag?

A. No recall.

Q. Cleangard?

A. No recall.

Q. Flamegard.

A. Don't recall that.

Q. Covergard.

A. Don't recall that.

Q. Porterlag.

A. No recall.

MR. STEINBERG: That was the same one you mentioned.

MS. HASKELL: I may have mentioned it.

Q. Super "66" Insulating Cement.

A. I have some recollection of seeing that.

Q. The name Eagle-Picher.

A. Yes.

Q. One Cote Cement. That's the word "One," the word "Cote," C-o-t-e, Cement.

A. Yes.

Q. Hylo Pipe Covering. That's H-y-l-o.

A. No recall.

Q. 85 Percent Magnesia Pipe Covering and Insulation.

A. No recall on that.

Q. You just don't recall?

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A. I don't recall seeing it.

Q. Insul-Stick, I-n-s-u-l, hyphen, Stick, S-t-i-c-k.

A. I don't recall that.

Q. Spraymastic.

A. No recall.

Q. Swetchek, S-w-e-t-c-h-e-k.

A. No recall of seeing that.

Q. The number 33 Insulating Cement.

A. I don't have any recall seeing that.

Q. The number 43 Insulating Cement.

A. Don't recall seeing that.

Q. The number 99 Finishing Cement.

A. I don't remember seeing that.

Q. The number 106 Finishing Cement.

A. I don't remember that.

Q. The product with the name Stalastic, S-t-a-l-a-s-t-i-c.

A. No recall.

Q. Calsilite, C-a-l-s-i-l-i-t-e.

A. No recall on that.

Q. The number 7, capital M, 7M Cement.

A. I don't remember seeing that, either.

Q. 711 Cement.

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A. No recall on that.

Q. The package with the name capital T, a slash mark, small n, small a, and then the number 100. T/nal00.

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A. I don't recall seeing that.
Q. Caltemp, C-a-l-t-e-m-p.
A. Yes.
Q. Super Caltemp.
A. Yes.
Q. Pabco, P-a-b-c-o.
A. Yes.
Q. Prasco, P-r-a-s-c-o.
A. No recall.
Q. Caylo, C-a-y-l-o.
A. Yes.
Q. Kaylo, K-a-y-l-o.
A. Yes.
Q. Unibestos.
MR. ROBERSON: Could we have a spelling on that?
MS. HASKELL: Sure. U-n-i-b-e-s-t-o-s.
THE WITNESS: Yes, I saw that.
Q. BY MS. HASKELL: Allbestos, A-l-l-b-e-s-t-o-s.
A. No recall on that.
Q. Glassbestos, G-l-a-s-s-b-e-s-t-o-s.
A. No recall on that.
Q. Terrybestos.
A. I don't recall that.
Q. Gator Tape. G-a-t-o-r, Tape.
A. I don't recall seeing that.
Q. Novatex, N-o-v-a-t-e-x.
A. No recall on that.
Q. Sealsafe.

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A. No recall on that.

Q. Silvabestos, S-i-l-v-a-b-e-s-t-o-s.

A. No recall on that.

Q. Speedlag.

A. Don't recall.

Q. Pyrotex, P-y-r-o-t-e-x.

A. I don't recall that.

Q. Rhinobestos, R-h-i-n-o-b-e-s-t-o-s.

A. I don't recall that.

Q. Novabestos, N-o-v-a-b-e-s-t-o-s.

A. No recall on that.

Q. Did you see any products, or any packages at the Long Beach Naval Shipyard containing asbestos products with the name Raybestos Manhattan on them?

A. Yes.

Q. Okay. I'm going to again just read you some names, and what I want you to tell me with respect to each of those is whether you saw at the Long Beach Naval Shipyard any packages with these names on them.

MR. ROBERSON: During his years of service there, '67 to '74?

MS. HASKELL: Yes.

MR. ROBERSON: Are these any kind of packages?

MS. HASKELL: Any kind of packages with these names on them.

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MR. ROBERSON: Okay. Objection. Vague, ambiguous, irrelevant, unlikely to lead to discoverable evidence.

MR. STAMP: I'll join in that.

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MR. STEIN: Sustained.

MR. ROBERSON: Also argumentative.

Q. BY MS. HASKELL: Insutube, I-n-s-u-t-u-b-e.

MR. STEINBERG: I-n-s-u-t-u-b-e?

THE WITNESS: No recall there.

Q. BY MS. HASKELL: Turbine Blanket.

A. Don't recall that.

Q. Insutape, I-n-s-u-t-a-p-e.

A. No recall there.

Q. Wovenstone, W-o-v-e-n-s-t-o-n-e.

A. Don't recall.

Q. Did you see any packages containing asbestos materials at the Long Beach Naval Shipyard during your tenure there with the name Unarco on it?

A. I don't recall seeing any.

Q. Mr. Manning, I'm going to again give you a list of product names. I want you to tell me whether you saw those names on any packages at the Long Beach Naval Shipyard during the time that you were there that you believe -- just leave it at that. Okay?

MR. ROBERSON: Same objection as stated to the previous question, on all grounds.

Q. BY MS. HASKELL: Hytemp, H-y-t-e-m-p.

A. Yes.

Q. Nicolam, N-i-c-o-l-a-m, as in Mary.

A. Don't recall.

Q. Capital K, then an "and" sign, and then an M. K & M.

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A. Don't recall.

Q. Kaytherm, K-a-y-t-h-e-r-m.

A. No recollection.

Q. Antisweat, A-n-t-i-s-w-e-a-t.

A. No recollection.

Q. Zibra, Z-i-b-r-a.

A. No recollection.

Q. Celotone, C-e-l-o-t-o-n-e.

A. No recall.

Q. Norristown, N-o-r-r-i-s-t-o-w-n.

A. No recall on that.

Q. Nicobestos, N-i-c-o-b-e-s-t-o-s.

A. No recall.

Q. Nicoseal, N-i-c-o-s-e-a-l.

A. Don't recall.

Q. Nicostat, N-i-c-o-s-t-a-t.

A. No recall.

Q. Derplex, D-e-r-p-l-e-x.

A. Don't recall.

Q. Nicospec, N-i-c-o-s-p-e-c.

A. No recall.

Q. Did you see any packages at the Long Beach Naval Shipyard containing asbestos products during the time that you were at the Long Beach Naval Shipyard with the name Alaska on them?

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A. No.

Q. Did you see any packages containing asbestos products at the time that you were at the Long Beach

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Naval Shipyard at the shipyard containing the name Albacell, A-l-b-a-c-e-l-l?

A. No recall.

Q. Did you see any packages containing asbestos at the Long Beach Naval Shipyard during the time that you were employed there containing the name Nortex, N-o-r-t-e-x?

A. I don't recall.

Q. Other than the products that you've identified in this last line of questioning, do you recall the names that appeared on any packages of any asbestos products that you observed at the Long Beach Naval Shipyard during your tenure there?

MR. COYLE: Other than Johns-Manville?

Q. BY MS. HASKELL: Other than the ones you've just named.

A. Well, I saw Thermobestos, in lots of it.

MS. HASKELL: Move to strike everything after "Thermobestos."

Q. Go ahead.

A. That's all I recall.

MS. HASKELL: Is this a good time for a morning break?

(Recess taken from 10:10 a.m. to 10:40 a.m.)

Q. BY MS. HASKELL: Mr. Manning, I had one name on my list that I neglected to ask you about. Did you see any packages at the Long Beach Naval Shipyard during your tenure at the Long Beach Naval Shipyard with the name, capital K, hyphen, Fac, F-a-c, K-Fac?

A. No recall on that.

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MR. STEINBERG: Off the record.

(A discussion is held off the record.)

MR. STEIN: I would like to have the question and answer read back.

(The question and answer referred to are read by the reporter.)

MR. STEIN: I take it that was the only question at this present session.

MR. KAPPLER: That was the only product mentioned.

Q. BY MS. HASKELL: Mr. Manning, on how many occasions did you see packages at the Long Beach Naval Shipyard with the name Temlock on them?

MR. MULLIGAN: Just a moment. That question is so vague, ambiguous and uncertain that I think it is almost unintelligible.

THE WITNESS: I don't know.

MR. MULLIGAN: Just a moment, Mr. Manning.

The question does not differentiate whether he saw the same package a thousand times or a thousand packages one time, as it is presently asked.

MR. STEIN: I would join in that comment, and if Mr. Mulligan makes an objection, I will also join.

MR. MULLIGAN: I've objected to the question on the grounds it's vague, ambiguous, uncertain and unintelligible.

MR. STEIN: I will then join in the objection.

MR. STAMP: Join in the objection.

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Q. BY MS. HASKELL: You can go ahead and answer the question.

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A. I don't know.

Q. Did you see packages containing the name Temlock on more than one occasion at the shipyard?

A. I don't know that.

Q. Do you recall where you were when you saw packages containing the name Temlock?

A. No.

Q. On how many occasions did you see packages with the name Monoblock, M-o-n-o-b-l-o-c-k, on them?

A. I don't know.

Q. Do you recall where you were when you saw packages with the name Monoblock at the Long Beach Naval Shipyard?

A. No.

Q. Do you know how many occasions you saw packages at the Long Beach Naval Shipyard with the name Thermasil, T-h-e-r-m-a-s-i-l, on it?

A. No, I don't specifically know.

Q. Do you recall where you were when you saw those packages?

A. No.

Q. On approximately how many occasions did you see packages containing asbestos materials with the name Carey-Temp on them?

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A. The best I can do is say numerous.

Q. Can you tell me where you were when you saw these packages containing asbestos materials with the name Carey-Temp on them?

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A. I saw these packages in the warehouse, I think aboard the barge, and on various piers.

Q. On the occasions that you saw these packages on piers, were there men doing insulation work in the vicinity of those packages?

A. Men would be doing insulation work aboard ship near the packages.

Q. On the occasions that you saw these packages on the barge, were there people doing insulation work near the packages?

A. Men would be sometimes using the barge to supply their needs nearby.

Q. Where was this warehouse located?

A. I'm referring to Warehouse 59, which is the Naval Supply Center.

Q. The Naval Supply Center is to the west of the shipyard itself?

A. Yes.

Q. On how many occasions did you see packages containing asbestos products with the name Eagle-Picher on the packages?

MR. STEIN: I am going to object. There is no evidence -- you haven't laid any foundation that Eagle-Picher even had asbestos products in the years he was in tenure at whatever he was doing.

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Q. BY MS. HASKELL: You can go ahead and answer, Mr. Manning.

MR. STEINBERG: May I have the question again?

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THE WITNESS: Could I have the question, too?

MS. HASKELL: Sure.

(The question referred to is read by the reporter.)

MR. STEINBERG: I think the objection is well taken as to form.

MS. HASKELL: I will rephrase it.

Q. Mr. Manning, on how many occasions did you see packages containing asbestos products with the name Eagle-Picher on them at the Long Beach Naval Shipyard during your tenure at the Long Beach Naval Shipyard?

MR. STEIN: Same objection.

Q. BY MS. HASKELL: You can go ahead and answer.

A. I would say numerous occasions.

MR. STEIN: Move the answer be stricken as nonresponsive.

Q. BY MS. HASKELL: Is "numerous occasions" more than 20, Mr. Manning?

A. That would be a good estimate.

Q. More than a hundred?

A. I don't know that.

MR. MULLIGAN: Object as leading.

MR. STEIN: Misstating the evidence. He's already told you what a good estimate would be, Ms. Haskell.

Q. BY MS. HASKELL: Mr. Manning, when you saw these packages containing asbestos products with the name Eagle-Picher on the package, where did you see those packages?

MR. STEIN: No foundation laid.

MR. STEINBERG: Answer the question.

THE WITNESS: I saw the packages aboard ship

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at times, I saw packages on the barge, and I saw packages at times on the piers.

MR. STEIN: Excuse me, sir. Was your last answer "on the piers"?

THE WITNESS: "Piers."

MR. STEIN: Thank you.

Q. BY MS. HASKELL: Mr. Manning, you actually did some dust samples during operations when you believed that Eagle-Picher cement was being used; isn't that true?

A. Yes.

Q. On how many occasions did you see packages containing the name One Cote Cement at the Long Beach Naval Shipyard during your tenure there?

A. I don't know.

Q. Do you recall where you were when you saw packages containing the name One Cote Cement at the Long Beach Naval Shipyard during your tenure there?

A. No.

Q. On how many occasions did you see packages containing the name Super "66" Insulating Cement at the Long Beach Naval Shipyard during your tenure there?

A. I don't know.

Q. Do you know where you saw packages with that name on them?

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A. No.

Q. On how many occasions, Mr. Manning, did you see packages containing the name Pabco, P-a-b-c-o, at the Long Beach Naval Shipyard during your tenure there?

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A. I believe the answer there is numerous.

Q. That again would be more than 20?

A. In that neighborhood at least.

Q. Where did you see these packages?

A. In the warehouse 59, on the piers, and on the barge.

Q. Did you see these packages aboard ship?

A. Not to my recollection, no.

Q. On how many occasions did you see packages at the Long Beach Naval Shipyard during your tenure there with the name Caltemp?

A. Several times.

Q. Approximately how many is "several"?

A. Five.

Q. Where did you see these packages?

A. Aboard the barge, and on piers.

Q. This barge that you've been referring to for the last few minutes, that is the laggers barge?

A. That is correct.

Q. On how many occasions did you see Super Caltemp, or packages with Super Caltemp on them at the Long Beach Naval Shipyard during your tenure there?

A. I don't know.

Q. Do you recall where you saw those packages?

A. No.

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Q. On how many occasions did you see packages with the name Caylo, C-a-y-l-o, at the Long Beach Naval Shipyard during your tenure there?

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A. I don't know.

Q. Do you know where you saw those packages?

A. No.

Q. On how many occasions did you see packages at the Long Beach Naval Shipyard during your tenure there with the name Kaylo, K-a-y-l-o?

A. Numerous occasions. Twenty or so.

Q. Where did you see those packages?

A. On piers and aboard the barge.

Q. Did you see those packages aboard ship?

A. No, not to my recollection.

Q. On how many occasions did you see packages with the name Unibestos at the Long Beach Naval Shipyard during your tenure there?

A. I think, only once.

Q. That was in Shop 56?

A. On one occasion, there was some shipped into the yard and Webb Ay took me out to show it to me.

Q. Where was it?

A. On one of the piers. I forget which one.

Q. That was about 30 cases, 30 cartons?

MR. ROBERSON: Wait a minute. I'm going to object as argumentative to the extent that this party is inquiring of another party, and leading and suggesting the terms on which that other party should answer the question. My objection is, it is argumentative.

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MR. STEINBERG: You can answer the question.

Is there a question still pending, or did he answer

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it?

MS. HASKELL: The question is still pending.

Q. Were there 30 cartons on that occasion?

A. I have no definite recollection of the amount. It was somewhere in that vicinity, I would say. I can't answer that specifically.

Q. Is this occasion that you're telling us about now the same occasion that you've told us about previously when there was Unibestos in the yard and Webb Ay talked to you about it?

A. Yes.

Q. On how many occasions did you see packages containing asbestos products with the name Raybestos Manhattan on the packages at the Long Beach Naval Shipyard during your tenure there?

A. I think I saw it early in my tenure there, and I believe it was in the pad shop.

Q. On more than one occasion?

A. It may have been several occasions, yes.

Q. On how many occasions did you see packages with the name Hytemp, H-y-t-e-m-p, on them during your tenure at the Long Beach Naval Shipyard at the shipyard?

A. There may have been 10 occasions.

Q. That is your best estimate?

A. Yes.

Q. Where did you see these packages?

A. I can't recall.

Q. On how many occasions did you see packages

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with the name Thermobestos on them at the Long Beach Naval Shipyard during your tenure there?

A. Two hundred times.

Q. Where did you see these?

A. On piers, on the barge. Of course, in Warehouse 59. On one or two occasions, when I saw the contents of the shipyard building, which was outside, I observed, I think, this product there.

Q. I'm sorry. Where?

A. South of Building 100, the place there where I --

Q. This is what we identified previously as the outside storage area?

A. And there was some stuff locked up, too, but I have a vague recollection of what I saw there.

Q. The storage area by 9th and Sullivan?

A. Yes.

Q. Mr. Manning, I'd like to thank you for your long hours at this deposition. I don't have any further questions at this time for you. I'm sure some of the other people in this room, however, would like to ask you some questions.

Off the record.

(A discussion is held off the record.)

EXAMINATION

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BY MR. STEIN:

Q. Mr. Manning, you took your position at the Long Beach Naval Shipyard in 1967; is that right?

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A. Yes.

Q. What had you done prior to that date by way of reading or education to familiarize yourself with asbestos and asbestos problems?

A. Prior to that time, I had some general reading, I think of the sort that probably would be in Patty's "Industrial Hygiene and Toxicology." On asbestos, a flier put out by the Pennsylvania Department of Health. I had available Sax's book on industrial hazards.

MR. KAPPLER: You say "available." Did you read it?

THE WITNESS: I read it and consulted it. It's a rather thick volume, and since I am a generalist and had to be ready for any kind of thing that appeared, we didn't keep all this material in our head, and I did consult different volumes, and as things appeared, I may have --

Q. BY MR. STEIN: One minute, Mr. Manning. I don't think you understand my question. I don't care what you consulted -- at this stage, I do not care what you consulted after you arrived at the Long Beach Naval Shipyard. What I want to know is, what you had read first, only read prior to going to the Long Beach Naval Shipyard.

A. I was going to answer this in that vein.

Q. Let's have the answer now. I am a very simple slum boy, and so don't move too fast for me.

A. If my memory serves me correctly, I think I had available the transactions --

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MR. STEIN: Move the answer be stricken.

Q. Sir, my question is, what did you read before your

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arrival at the Long Ueach Naval Shipyard to assume your duties, whatever they may be, in regard to asbestos and asbestos problems?

A. I was about ready to answer that, if you'd have let me go on ahead.

This proceedings was entirely on asbestos, and I read some of this in part before I got to the shipyard.

Q. What proceedings?

A. The proceedings of the New York Academy of Science Asbestos Symposium in December 1964.

Q. Was that New York Academy of Science Symposium headed by Dr. Selikoff?

A. He was co-chairman.

Q. Who was the other co-chairman?

A. I do not know.

Q. Had you read the Fleischer-Drinker report?

MR. STEINBERG: At what time?

MR. STEIN: At any time -- right now, Mr. Steinberg, so we're clear, I'm only going up until the time, the day he arrived at --

MR. STEINBERG: Your question is prior to his arrival at Long Beach in 1967, had he read the Fleischer and Drinker report?

MR. STEIN: Yes, sir.

THE WITNESS: No.

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Q. BY MR. STEIN: Had you read the Sarnac studies?

A. Yes.

Q. So we can add the Sarnac studies to this other list.

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Right?

A. Yes.

Q. Had you read the Lanza report or the Metropolitan Life study of 1935?

A. No.

Q. Prior to your arrival for your duties at the Long Beach Naval Shipyard, had you ever met anyone employed by Johns-Manville?

A. No.

Q. Have you at any time in your life made application for employment with Johns-Manville or any company you understood to be one of their subsidiary companies?

A. No.

Q. Subsequent to 1967, but before you left the Long Beach Naval Shipyard, did you ever meet anyone from Johns-Manville?

A. Yes.

Q. When was the first time you met a person from Johns-Manville? By that, I mean, what date, or approximate date, sir.

A. I ran into Bob Reitze in Denver.

Q. Could you spell that last name for me?

A. R-e-i -- I think it's R-e-i-k-z-e.

Q. K-z-e?

A. Yes.

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Q. What is his position with Johns-Manville?

A. He's the industrial hygienist, corporate industrial hygienist for Johns-Manville.

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Q. What date did you run into Bob Reitze in Denver?

A. That was in May of 1969.

Q. Was this the first time, to your knowledge, you had met anybody employed by Johns-Manville?

A. Yes.

Q. When was the next time you met somebody employed by Johns-Manville? But do not go beyond the date you left the shipyard.

MS. HASKELL: I'm going to object to the question as vague and ambiguous as to what is meant by the term "Johns-Manville."

MR. STEIN: Your defendant, Ma'am.

MS. HASKELL: I'm just stating my objection for the record.

MR. STEIN: It is noted.

MR. STEINBERG: Do you understand the question? Do you remember the question?

THE WITNESS: After that date, did I meet anybody else?

MR. STEINBERG: From Johns-Manville.

THE WITNESS: I don't recall meeting anybody else.

Q. BY MR. STEIN: At any time, sir, did anybody from Johns-Manville take a tour of the Long Beach Naval Shipyard or any part thereof, accompanied by you?

A. Yes.

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Q. When?

A. I'd have to consult my record. I have no exact recollection of the date. It was Bob Reitze again.

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Q. You don't remember the date. Right?

A. Not the exact date. It's on the record.

Q. Who was in that tour?

A. I think, Duncan Holaday, a Dr. Heilman, and Bob Reitze.

Q. You said Duncan Holaday. I did not get the second name.

A. There was a Dr. Heilman.

Q. Could you spell that for me?

A. H-e-i-l-m-a-n.

Q. Who did he work for, Dr. Heilman?

A. I don't know. I'm confused about him.

Q. All right.

So this would have been the second time you met Mr. Reitze; is that right?

A. Yes.

Q. Where in your record can you find the date of that meeting?

A. In my log.

Q. Are they all here?

A. Yes.

Q. Please proceed to check your log. I'll wait for you.

Maybe I can shorten this and make it easier for you, sir, and you could get that for us at a break or in the morning --

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A. All right.

Q. Why were you in Denver in May of 1969?

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A. I attended the American Conference of Governmental Industrial Hygienists in conjunction with the Industrial Hygiene Association Conference.

Q. What did you discuss with Bob Reitze at that 1969 meeting?

A. I don't remember much discussion. I met the man.

Q. Was the subject of asbestos or the disease known as asbestosis discussed by you and him?

A. Not at great length, no.

Q. Sir, would you define "great length" for me?

A. Oh, the word "asbestos" may have came up, and I may say, "Well, you're interested in the asbestos problem," something like that, naturally, and he'd say, "Yeah," something else, something like this. Very vague. We didn't get down to specifics.

Q. Is it your testimony here today that that is all you recollect -- that is, what you just conveyed to us in your last answer -- of your discussion with Bob Reitze in May of 1969?

A. Yes.

Q. Moving on to your second meeting with Mr. Reitze, what brought that about?

A. I don't know what brought it about, but from time to time there were various delegations that came into the shipyard and got access, not through me, and they were all interested in the asbestos problem, and my only role in the thing would be to go along on the tour and sit in on

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the various meetings and respond whenever necessary.

Q. All right. Going to this tour, do you remember anything said on the tour by Mr. Reitze?

A. No.

MR. KAPPLER: What year is this?

MR. STEIN: We don't know, Henry. We've got to wait for him to find it in the log.

Q. Do you remember anything said on that tour by Holaday?

A. Not specifically, no.

Q. Do you remember generally anything said by Holaday on that tour?

A. No. They were just generally looking and observing. This was their primary mission to be there. Everybody was unfamiliar with shipboard insulation procedures, and they were familiarizing themselves with that, and they were gathering information.

Q. Is it your understanding, then, sir, that Mr. Reitze on this meeting was unfamiliar with shipboard procedure?

A. I don't know that for certainty, but he was there to observe.

Q. Is that your general impression, sir, that Mr. Reitze, a corporate industrial hygienist for Johns-Manville, was unfamiliar with shipboard operation?

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A. I don't know that he was unfamiliar, but he was there and he was observing what was going on.

Q. What was he observing, sir?

A. He was observing the installation of asbestos

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products aboard ship, and I think he probably saw some ripout situations.

Q. What products was he observing?

A. I don't know that.

Q. Sir, just getting off the subject -- well, let's not.

What about Dr. Heilman? Where is he from?

A. I don't know.

Q. Do you recall any discussion you had with Dr. Heilman on this tour?

A. No.

Q. Who else was on the tour? Holaday, Heilman, Reitze. Who else?

A. I don't recall anybody else. There may be some notation in my book.

Q. When was the next time you met anybody during your tenure at Long Beach Shipyard that you believe was employed by Johns-Manville?

MS. HASKELL: Object as vague and ambiguous as to the meaning of "Johns-Manville."

MR. STEINBERG: You can answer.

THE WITNESS: To my knowledge, I didn't see anybody else.

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Q. BY MR. STEIN: Did you ever receive any publications from Johns-Manville in the use of asbestos products?

A. No.

Q. Sir, did you ever receive safety material from companies that produced various products, be they asbestos or

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any other product?

MR. STEINBERG: Do you understand the question?

THE WITNESS: Did I ever receive?

MR. STEINBERG: I'm not sure I understand what you're asking, did he receive.

Q. BY MR. STEIN: Did you ever receive from any company that sent products to the Long Beach Naval Shipyard any publications of any nature?

A. Yes.

Q. What companies did you receive them from?

A. I would not be able to recollect this in detail. I would add that mostly I got these publications on request.

Q. Did you ever request from Johns-Manville any publications on the safety of the use of asbestos?

A. No.

Q. From 1967 through 1974, the biggest supplier of asbestos products to the Long Beach Naval Shipyard was Johns-Manville. Is that correct?

A. This would be correct.

Q. Somewhat over 70 percent of the volume in weight of asbestos products to the Long Beach Naval Shipyard was supplied by Johns-Manville. Is that correct?

A. I have no direct knowledge of the exact consumption figures, but off the top of my head, I would say this was a correct assumption.

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Q. Off the top of your head, would you go as high as 80 percent?

A. That would be a purely wild guess.

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Q. Okay. We don't want you to do that, sir.

Sir, I must admit to you, I was absent last week. I was otherwise engaged, and I've only been here this week, but I have read all the testimony of last week. I am totally and completely confused on your job. I have read what's down there, I have read what you said, and I'm still confused. Your job does encompass the safety and looking out for the safety of these people working in the Long Beach Naval Shipyard, does it not, or did it not? Excuse me.

A. Well, briefly, the job of industrial hygiene, to give you a brief description, is the recognition, evaluation, and control of industrial health hazards generally in the industrial environment.

Q. Can I interrupt you -- have you finished?

A. Yes.

Q. Did you at any time request of any of the producers named here today literature on how to control the health hazard of asbestos during your tenure at the Long Beach Naval Shipyard?

A. No.

Q. Why?

A. I didn't feel that they had any information that I was not already supplied with.

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Q. Okay.

A. It was not necessary for me in the performance of my job to know who was the manufacturer. The only thing that I had to know is what the material was. And I had resources at my disposal where I was able to find out what

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was in the material, and to perform my job as far as counting the dust. I was able to do this.

Q. Counting -- I don't mean to be argumentative, sir, but counting the dust doesn't control a health hazard, does it?

MR. STEINBERG: The question is argumentative.

MR. STEIN: Thank you. May he answer?

MR. STEINBERG: No, he doesn't have to answer that one. You can think of a better one.

MR. STEIN: I'll try. I appreciate your help. It's educational, Mr. Steinberg.

MR. STEINBERG: I intend to be.

MR. STEIN: I'm sure that was your only purpose.

Q. In your job of evaluating the health hazard --

A. Yes.

Q. -- and then controlling the health hazard --

A. Yes.

Q. -- counting the dust would go to evaluation, in your opinion as an industrial hygienist?

A. That is correct.

Q. Now, in controlling the health hazard, what did you do -- strike that. What did you do to control the health hazard?

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A. In my capacity of industrial hygienist, I had the power to make recommendations for the control of health hazards.

Q. What source material -- by that, I mean publications -- did you use to educate yourself in regard to

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controlling the health hazard known as asbestos, throughout your tenure, sir?

A. Industrial hygiene control -- various control measures don't only apply to asbestos. It applies to a lot of things. I received my training through courses given by the U.S. Public Health Service. My training was also on-the-job training with the Pennsylvania Department of Health, where I served under a similar capacity, and where we made recommendations for control of industrial hazards; controls such as local exhaust ventilation and ventilation of various kinds, not only controls for asbestos, but any other material. There's substitution, administrative controls, wet methods, respiratory protection -- these are the sort of things that were recommended for control.

MR. STEIN: I'll move the answer be stricken. I don't believe that was the question.

May I have the question back?

(The question referred to is read by the reporter.)

Q. BY MR. STEIN: Did you hear the reporter read back the question?

A. Yes.

Q. Would you be so kind as to answer that question?

A. Publications? The Ventilation Manual put out by the American Conference of Governmental Industrial Hygienists.

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Q. Was that a yearly publication?

A. No.

Q. What other publications did you use in this seven

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years that you were controlling the health hazards?

A. Occupational Health and Safety Manual put out by the U.S. Public Health Service.

"Industrial Hygiene and Toxicology," Patty.

That would cover it pretty good.

Q. Prior to 1967, sir, had you dealt with asbestos?

A. Yes.

Q. Prior to arriving on the scene at Long Beach Naval Shipyard, did you have a discussion with Bill Marr?

A. No.

Q. Have you ever met Bill Marr?

A. Yes.

Q. When?

A. I met him in the spring of 1967, and again at the American Industrial Hygiene Conference held in San Francisco, and that was in 1972.

Q. In 1967, you met Bill Marr. Right?

A. Yes.

Q. You had a discussion with Bill Marr; is that correct?

A. Yes.

Q. Where did that meeting take place?

A. In the coffee mess in the shipyard dispensary.

Q. Who was present at that meeting?

A. He and myself.

Q. How long did the meeting last?

A. Possibly an hour.

Q. What was said by you at that meeting?

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A. I inquired about the conditions he had encountered in the shipyard. I asked him what kind of equipment he had and where was it. We discussed his report, not too great a length. I had read it, I think. It was generally some gossip, I think --

Q. What was the gossip?

A. Oh, gossip about what went on during his stay there, what were the conditions he worked under. We probably knew some people mutually, had some acquaintances.

Q. Don't guess at the discussion. Only what you recall.

A. This is what I recall.

Q. The subject of asbestos was discussed at that meeting. Isn't that correct?

A. Yes.

Q. That took about 20 minutes, because Mr. Marr considered it a major health hazard of any shipyard. Is that correct?

MR. STEINBERG: Objected to. Just a minute. Don't answer that question. I don't understand it. It's vague, ambiguous.

MR. STEIN: Okay. You're right, Mr. Steinberg. I was trying to hurry things along.

MR. STEINBERG: You're trying to make a point.

MR. STEIN: No, I'm not. I'm just here to seek information, sir.

MR. STEINBERG: The truth. Right?

MR. STEIN: Aren't we all seekers of the truth?

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MR. VAN DAM: Jesus, I forgot my galoshes.

Q. BY MR. STEIN: Tell me when you're ready.

A. I'm ready.

Q. Of the hour, did you spend about 20 minutes on asbestos?

A. That would be a fair estimate.

Q. Mr. Manning, at any time you feel you're laboring, let me know and we'll break.

A. It's all right. I just cleared my throat.

Q. What did Mr. Marr say to you about asbestos at that meeting?

A. To the best of my recollection, he told me what instrument he used and where he got it, and he made some kind of remarks that he thought the major problem in the shipyard was with amosite-type insulation material, and that he tried to get that material outlawed in the shipyard.

Q. Who were the producers of amosite? Did he tell you that?

A. I think the material Unibestos was mentioned.

Q. At that point, did he tell you why he couldn't get amosite out of the shipyard?

A. I have no recollection of this.

Q. Did you ask him, "Why can't you get this out of the shipyard?"

A. I knew why he couldn't get it out of the shipyard.

Q. What did you know?

A. I knew that the mil. specs for asbestos products

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was a specification based on performance and not composition.

Q. Speaking of those mil. specs, did they include an impact test?

A. I don't know.

Q. At that time, did you have any discussion with Mr. Marr as to the fact that alternatives had been offered the United States Navy and refused?

A. I have no knowledge of this.

Q. To this date, do you have any knowledge that alternatives have been offered to the United States Navy?

A. No.

Q. At that point, did Mr. Marr mention the term "Johns-Manville"?

A. I have no recollection of the name coming up.

Q. Do you have recollection of him saying to you, in essence, "As long as Johns-Manville has the clout they have with the U.S. Navy, we're never going to get asbestos out of here"?

A. I can't recall him making that statement.

Q. Did you?

A. No, I don't believe I made that statement.

Q. Have you ever made that statement to anybody at any time?

A. I don't recall making that statement.

Q. Have you ever said anything like that, in essence?

A. I don't know, really.

Q. It is possible you did?

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MS. HASKELL: Anything is possible, Mr. Stein. Are you asking for speculation or for an answer?

MR. STEINBERG: Go ahead and answer the question.

MR. STEIN: I tell you, Ms. Haskell, I have known Mr. Steinberg for close to 20 years. He can protect his client.

THE WITNESS: It is possible. It is possible.

Q. BY MR. STEIN: Has that ever been said to you by anyone?

A. I think I've heard comment to this.

Q. Who made that comment?

A. I really don't know.

Q. How about Webb Ay?

A. I don't recall him saying it. If it was said, and where I heard it, to the best of my recollection, would be at a conference, by somebody that was involved.

Q. What kind of conference?

A. American Industrial Hygiene Conference, which I attended about every year, and most of the industrial hygiene people went there, and these kind of discussions would occur after hours, late at night, over a couple drinks, where our problems were in-depth, and people would cry, and this kind of thing.

Q. Okay. You fellows that were trying to control the health hazards would get together and have a couple of drinks and this type of comment would be made. Right?

A. Yes.

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Q. And all of these fellows were qualified industrial

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hygienists who knew the problems. Right?

A. Yes.

Q. Okay. Let's go back to this meeting in '67 with Mr. Marr. We're talking about what was said about asbestos, and we were on amosite. What else do you recall being said about asbestos?

A. Well, Bill Marr believed that amosite was the major problem in naval shipyards, as far as asbestos was concerned, and I think he may have indicated that in his article. He certainly indicated it at that time to me, that that was his feeling. One of the major products being brought in was Unibestos, and amosite-type felt or blanket. These were the two products that did come in. And that's the major thing that I remember about the conversation.

Q. Also during that conversation, he did discuss with you the wearing of respirators, did he not?

A. I don't recall the conversation coming up.

Q. Let me try to refresh your memory. At that point, did he not advise you that certain producers or manufacturers of asbestos products had put warnings on their packages, and included in that warning was a statement to use a respirator?

A. No.

Q. He never raised that?

A. No.

Q. Prior to 1967, what was your relationship with the use of asbestos products?

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A. I was working for the Pennsylvania Department of

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Health as an industrial hygienist in Region II, and in that region, we had two manufacturers who used asbestos products, and I had inspected those plants and had made surveys in both those plants where I collected dust samples.

Q. That was the total exposure to asbestos use, is that right, that you had?

A. That was just about the total exposure, except there were some little things here and there that I would run into, but these were the only plants that used the material.

Q. What were the names of those plants?

A. The one plant was a Pittsburgh Corning plant, and that was located in Port Allegany, Pennsylvania; and the other -- it was Molded Materials in Ridgway, Pennsylvania.

Q. Now, sir, when was the first time you did an inspection at the Pittsburgh Corning plant?

A. I think, to my recollection, I never did inspect the plant in its entirety.

Q. What did you ever do at the plant, period, that had anything to do with industrial hygiene?

A. I went to the plant at least two times to collect dust samples in a survey situation.

Q. When was the first time you collected dust samples?

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A. In 1965, I believe.

Q. When you arrived at Pittsburgh Corning to collect dust samples, you in fact saw their people wearing

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respirators, did you not?

A. No.

Q. Did you recommend they wear respirators?

A. I think the recommendation was to wear respirators until they could put in proper ventilation controls.

Q. When was the second time you went to Pittsburgh Corning?

A. Probably early 1966.

Q. At that time, were the ventilation controls proper?

A. Not in their entirety, no.

Q. Did you see anybody wearing respirators then?

A. No.

Q. Did you recommend respirators be worn?

A. My best recollection is that we did.

Q. Going to Molded Materials, when was the first time you took a sample there?

A. 1962, I believe, to my best recollection.

Q. What type of asbestos product was produced at Pittsburgh Corning?

A. They manufactured brake lining -- linings for trucks and automobiles.

Q. What type of asbestos product was produced at Molded Materials?

A. Well, the product was brake lining, which contained asbestos.

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Q. I understand. That's Pittsburgh Corning and

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Molded --

A. I'm sorry. You got me confused.

Q. I'm sorry. Why don't you give me Pittsburgh Corning and then Molded Materials.

A. Sorry. Pittsburgh Corning was amosite material from South Africa.

Q. Molded Materials was brake lining?

A. Yes.

Q. At either place, did you recommend the use of respirators?

A. Yes.

Q. Was that because the dust level was above the accepted level?

A. There were situations in both plants where there was -- where we felt the situation was out of control and needed control measures.

Q. Prior to 1964, you never recommended a respirator unless the dust level was above the acceptable standards of the Federal Government. Is that correct?

A. That would be correct.

Q. Now, going back to the 1967 discussion with Bill Marr, have you told us everything you recall about that discussion?

A. Yes, I've told you everything that I can think of.

Q. In regard to asbestos?

A. Yes.

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MR. STEIN: Okay. We still have an hour and a half to go, Mr. Steinberg. I'd like to break, if that's all right

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with you.

MR. STEINBERG: Sure.

MR. STEIN: Thank you, sir. Let's call a 10-minute break.

(Recess taken from 11:35 a.m. to 11:50 a.m.)

Q. BY MR. STEIN: Mr. Manning, earlier at this session, Ms. Haskell asked you about a number of products. Some, you answered, yes, you remember seeing them. Some, you answered, no, you did not see them. Some, you said you do not recall whether you saw them or not.

A. Yes.

Q. Does "Do not recall" equal "No," or does the term "I don't recall" mean something other than "No"; and, if so, what does it mean?

A. It essentially means no, that I didn't see it.

Q. Now, prior to the beginning of your testimony, did you ever review a list of products that allegedly contained asbestos?

A. Prior to my testimony?

Q. Yes, sir.

A. No.

Q. By "prior to your testimony," I mean at any time prior to your testimony, from the time of the filing of this lawsuit.

A. While I worked at the shipyard, I consulted from time to time the trade names index that I referred to before.

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Q. For what purpose did you consult the trade names

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index?

A. To find out the composition of different materials contained in there.

Q. I see. Now, I think I'm not clear. I have not made myself clear to you, and I apologize for that. What I would like to know is, did you, yourself, supply or did anybody supply you with a list of names of products?

A. No.

Q. Other than with Mr. Steinberg, or representatives of his office, did you meet with anyone and discuss your testimony here today? Not today, but through this whole lengthy session that you've been so kind to bear with us.

A. No.

Q. Sir, at no time, then, have you had any meeting with anybody you understood to represent Johns-Manville in preparation of your testimony here today?

A. No.

Q. At no time have you had any meeting with anybody you understood to represent Johns-Manville to discuss this lawsuit?

A. No.

Q. Is that correct?

A. That is correct.

Q. Okay, sir. Now, when you were working in Pennsylvania, you had some concern over asbestos. Is that right?

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A. Yes.

Q. Why were you, as an industrial hygienist, concerned with asbestos?

MR. STEINBERG: I'm going to object to that question. I don't know where Pennsylvania, in this stage of the testimony, and what he may have done there is going to lead to the discovery of admissible evidence.

MR. MULLIGAN: I can't hear you, Bob.

MR. STEINBERG: I say, it is not likely to lead to the discovery of admissible evidence. The question, I think it's vague, it's indefinite.

MR. STEIN: The area leads to our understanding of his knowledge as to what was going on. It leads to our understanding of what warnings he saw. My clients have testified under oath in answer to your interrogatories that they put a warning on a 1960 form, Mr. Steinberg.

MR. STEINBERG: What has that got to do with this question? I think the question is vague, indefinite.

MR. STEIN: You are objecting to the question, not to the area?

MR. STEINBERG: Well, I'm objecting to the area, basically, but I think the question itself is vague, indefinite, and lacks good form.

MR. KAPPLER: Rephrase it.

MR. STEIN: I will rephrase it for you. Mr. Kappler says I should rephrase it.

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Q. Why were you monitoring dust levels at Pittsburgh Corning?

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MR. STEINBERG: Now I'm going to object to the question because it gets into an area prior to his coming to Long Beach, which I don't think is relevant.

MR. STEIN: Are you instructing him not to answer?

MR. STEINBERG: Yes.

MR. STEIN: It goes to his experience, his qualifications, and his knowledge about protecting himself, sir.

MR. STEINBERG: Why don't you ask the question over again?

MR. STEIN: I'll have it reread for you.

MR. STEINBERG: Fine.

MR. STEIN: Thank you, sir.

Please reread the question for Mr. Steinberg's edification.

(The question referred to is read by the reporter.)

MR. STEINBERG: Well, I think that question was asked and answered, and we went through all that during Ms. Haskell's examination.

MR. STEIN: I've read that part of the transcript very carefully and noted that because it wasn't asked and answered.

MR. STEINBERG: He was asked why he was called in, and he went on through all the reasons why he went to Pittsburgh Corning and why he went to this Molded Materials Company, and all that kind of stuff.

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I'm taking more time objecting than necessary, but why don't you ask him what he did there.

MR. STEIN: I don't care what he did there. I want to

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know why he went there. I know what he did there. I read Ms. Haskell's transcript.

MR. STEINBERG: I think the question is argumentative in form. I'm going to instruct him not to answer.

MR. STEIN: Okay.

MR. STEINBERG: Fine.

MR. STEIN: All right. I suppose that I don't have to rely on citing him in. I can just make my motion.

MR. STEINBERG: That's right.

Q. BY MR. STEIN: Were you told by anybody working for the State of Pennsylvania as to why you were monitoring dust levels at Pittsburgh Corning?

MR. STEINBERG: You can answer that question.

THE WITNESS: Yes.

Q. BY MR. STEIN: What were you told, and by whom, sir?

A. The inspector who went through Pittsburgh Corning observed situations there that he suspected were out of control, and I, as a party of, I think, four industrial hygienists, at that time went in to collect dust samples.

MR. MULLIGAN: Excuse me, Counsel. May I have the answer read, Miss Reporter, specifically whether the word was "not in control" or "in control." Would you read that again, please.

MR. STEIN: It was "not."

MR. MULLIGAN: I want to hear the answer.

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(The answer referred to is read by the reporter.)

Q. BY MR. STEIN: By "out of control," do you mean

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there was too much asbestos dust in the air?

A. Yes.

Q. You understood that to be dangerous?

A. Yes.

Q. What was the danger in nineteen -- was that '62, was your first time in there?

A. '5, in this plant.

Q. Okay.

A. I knew that asbestos, when breathed in an excessive amount, would cause lung fibrosis.

Q. That was from your reading?

A. Yes.

Q. Did you also believe it would cause cancer in 1965?

A. I had, during that time, just heard the name "mesothelioma" dropped, and some knowledge had come to me, very brief knowledge through the chain of command, Jan Lieban, the doctor who was head of the Division of Occupational Health and the Department of Health, had attended the 1964 meeting, and had sent out fliers for us to look for asbestos products being used in the industries that we served.

Q. You had been told that as a result of your superior attending the 1964 New York Academy of Science meeting, he was worried about mesothelioma?

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A. Yes. The word -- that's the first I encountered the word.

MR. KAPPLER: That was in '65 that you heard that?

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THE WITNESS: Yes.

MR. KAPPLER: Thank you.

Q. BY MR. STEIN: Before our break, we had discussed some discussions you fellows had, or industrial hygienists had over drinks at the end of a day on worries about asbestos, and you said you may have said or you heard said that as long as J-M -- Johns-Manville has the clout they do with the U.S. Navy, we will never get rid of asbestos. One of the reasons you understood that people would say that was because they were well aware that J-M was the biggest source supplier of asbestos to other producers and manufacturers of asbestos. Isn't that correct?

MS. HASKELL: I'm going to object to the form of the question as misstating the witness's former testimony.

Q. BY MR. STEIN: Please answer, sir.

MR. STEINBERG: You can answer.

THE WITNESS: I understood that Johns-Manville was the largest producer of asbestos, mining asbestos and producing raw asbestos, certainly in this country.

Q. BY MR. STEIN: Through that, you understood that they sold the raw asbestos to other manufacturers of asbestos products for their use. Is that right?

A. Yes.

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Q. Incidentally, at any of these meetings, did you ever discuss the -- did you industrial hygienists ever discuss the 1935 Lanza, Metropolitan Life study?

MR. STEINBERG: I think the question perhaps is a

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little unfair, because you're referring to meetings of hygienists without limiting this to time.

MR. STEIN: Okay. At the time he was in tenure at Long Beach.

MR. STEINBERG: '67 to '74?

MR. STEIN: Certainly.

THE WITNESS: No.

Q. BY MR. STEIN: Now, you had a discussion with Bill Marr in 1972. Is that correct?

A. Yes.

Q. Where did that discussion take place?

A. San Francisco.

Q. What occasioned that discussion, whatever that means?

A. That was the American Industrial Hygiene Conference held in San Francisco that year.

Q. How many discussions did you have with him?

A. One, that I can recall.

Q. Where did that take place in San Francisco?

A. We went to lunch together.

Q. How long did the lunch last?

A. An hour and a half.

Q. Just the two of you?

A. Yes.

Q. What was discussed at that luncheon?

A. Oh, we discussed some mutual problems we had on our jobs. I had some other problems not related to asbestos that I discussed. We did touch on asbestos, and --

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Q. Let's discuss your touch on asbestos, either in its recognition, evaluation or control of the problem.

That's a bad question, Mr. Steinberg. Would you like me to clear it up?

MR. STEINBERG: That would help, I think.

Q. BY MR. STEIN: Why don't you just tell us everything that was said about asbestos at that meeting with Bill Marr.

A. Well, as I recall, I probably outlined what was going on at the Long Beach Naval Shipyard at that time in regard to asbestos control. I think probably I touched on the problems I had of substituting and getting materials substituted for asbestos on a consistent basis, and things of this nature, and I asked him what his situation was like. He told me that he was working under an admiral at that time that was sweeping the situation under the rug.

Q. Where was he working at that time?

A. He was working at Norfolk Naval Shipyard.

Q. Sir, this question hasn't been asked to you directly, but I sat here with concern, listening to you for a few days. In your tenure from 1967 through 1974, were your superiors sweeping the situation under the rug?

MR. STEINBERG: Well, I think that calls for judgment, opinion, conclusion, for which there is really no foundation being laid, and I'm going to instruct the witness not to answer that specific question.

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MR. STEIN: Mr. Steinberg --

MR. STEINBERG: You may make your own conclusions from

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what this witness has said over the last eight days on that subject.

Q. BY MR. STEIN: At the 1972 conference with Bill Marr, in fact you said, "I have the same problem. My superiors are sweeping it under the rug also," did you not?

A. I didn't say that, no.

Q. Did you use that terminology, in essence?

A. No.

Q. Did you feel your superiors were responding to the situation?

A. I felt during my tenure there, and all during my tenure, that certain individuals were not responding with the same kind of emphasis that I would have liked, and their situation, of course, was a different viewpoint from where I stood. This is the way I felt about it, that the situation required more attention and more emphasis by -- especially on the high level. I did not -- I never did think that during the time I was there, at least most of the period, they were sweeping it under the rug. It was fairly out in the open. There was plenty of discussion. The shipyard commander was informed. He seemed to be somewhat concerned. But action, of course, speaks louder than words, and I was a little fearful that there was not enough action taken promptly enough. Of course, I'm looking at it from my point of view.

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Q. And your point of view is the concern of the health of every person working in the Long Beach Naval Shipyard?

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A. I would be concerned about that, yes.

Q. As far as you went, or as far as you felt, the response was not adequate to protect their health in regard to the asbestos problem during your tenure at the Long Beach Naval Shipyard. Is that correct?

A. Yes.

Q. And not to belabor the point, but I believe, for all the reasons you mentioned the last two days to Ms. Haskell. Right?

A. Yes.

Q. You would have reacted differently. Is that correct?

A. Yes.

Q. What else was discussed with Bill Marr in 1972?

A. Not relating to asbestos?

A. No. Just asbestos.

Q. That's all we discussed in that area.

Q. Now, when you arrived in 1967 at the Long Beach Naval Shipyard, you felt that the control of asbestos was a major problem. Is that right?

A. When I arrived, I felt that control of asbestos was one of the major problems, yes.

Q. Where did it rank? Did it rank Number 1, Number 10 or Number 50?

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A. It would be fair to say Number 1.

Q. That knowledge, you received, how? How did you arrive at this conclusion as an industrial hygienist, that it was the Number 1 problem of the Long Beach Naval

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Shipyard in 1967?

A. From inspections I made, observations I made, conversations with various people throughout the shipyard, including Webb Ay, Cliff Krieger, other safety men, the supervision of Shop 930. From the report that I read of Bill Marr's. From my indoctrination for a week at Puget Sound Naval Shipyard.

Q. You had an indoctrination at Puget Sound prior to coming. Is that right?

A. Soon after coming, yes, one week.

Q. Okay. I think we've been into that already, haven't we?

A. Yes.

Q. Now, in 1967, where were the insulating products kept?

A. In the shipyard, they were kept aboard the barge. Some of it was stored on piers openly. And there was some materials stored in, I think, open and also locked up inside of a tin building south of Building 100, in the supply area of the shipyard.

Q. Now, did you ever go to any of these places where insulation products were kept stored and look at the containers in which they were stored in 1967?

A. I would say it may have been that year that Webb Ay took me over and unlocked that building, and I looked inside briefly, and I don't recall too much about what was seen and what was had. I might add that the pad shop also -- there were supplies kept there.

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Q. What building did Webb Ay unlock for you?

A. This little supply building, south of Building 100. To my recollection, they called it Building 91. I may be wrong.

Q. That's a tin building, or metal?

A. As I recall, it was a metal building, and it was locked.

Q. How big was the building?

A. It wasn't very big.

Q. I don't know what that means, but it doesn't matter.

A. I don't know. It was not a terribly big building.

Q. Did you walk into that building, sir, and did you take a package of anything and read it?

A. No, I don't believe so.

Q. Now, where else in 1967 did Webb Ay take you to look at asbestos products?

A. I think -- I just recall him doing that to show me what was in there.

Q. You also were in the pad shop. Right?

A. Yes.

Q. Did you ever pick up any container that was alleged to contain an insulating product and read the container?

A. This stuff was stored out in the open for anybody to see, and I recall going over and looking at the boxes of cloth and reading the container.

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Q. So, in 1967, the only thing you read were boxes of cloth. Is that right?

A. I saw boxes of insulation material on piers constantly, and in the barge. I think I looked at that quite early.

Q. In 1967, did you ever see any container of insulation material that said "Johns-Manville"?

A. Yes.

Q. Did you ever look at that container and read the outside of that container?

A. Yes.

Q. In 1967, did you see a warning on that container of any nature that specifically was a Johns-Manville container?

A. No.

Q. You saw products of Johns-Manville that were cloth? We're only in '67 now. Don't let me --

A. I'm not certain I saw any cloth.

Q. Did you see any cement that was Johns-Manville?

A. I can't recall any cement.

Q. What did you see in '67 that was Johns-Manville?

A. Molded materials.

Q. Molded materials that would later have to be cut?

A. Yes.

Q. In 1967, you never saw a warning on any of those products?

A. No.

Q. Specifically, Johns-Manville products?

A. No.

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Q. In 1968, did you ever go to any of the places, piers, barges, ships, whatever, where insulation material

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was contained in containers?

A. Yes.

Q. Did you see Johns-Manville containers?

A. Yes.

Q. What type of product did you see Johns-Manville --

A. The same type we discussed before, molded material.

Q. Did you see a warning on that material?

A. No.

Q. Did you see anything that said "Asbestos" on that material, or the container?

A. Not to my knowledge, no.

Q. Let us go to 1969, sir. May I assume that your concern from '67 to '69 with the asbestos problem is growing?

A. Yes.

Q. Is that due to the general publications and education?

A. Yes.

Q. In 1969, did you see any places where there were insulation products in containers?

A. Yes.

Q. Would they be the same places we've said before, near 100, the pad shop, the piers, the barges, and ships?

A. Yes, and I think at that time I was looking in Warehouse 59, also.

Q. Did you see any Johns-Manville containers of insulation products?

A. Yes.

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Q. Did they indicate any warning or any instruction to use a respirator?

A. No.

Q. Did you ever know or ask or ascertain in any way -- compound -- what Bob Reitze's duties were with Johns-Manville?

MS. HASKELL: Object to the form of the question as compound. Why don't you go ahead and break it down.

MR. STEIN: Do you want me to?

MR. STEINBERG: Yes.

Q. BY MR. STEIN: Did you ever ask Mr. Reitze what his duties with Johns-Manville were?

A. No.

Q. Did you ever have any understanding in your own mind what Mr. Reitze's duties with Johns-Manville were?

A. Well, I assumed that his duties were the same as mine, with the company.

Q. Did you ever ask him how he controlled the danger of asbestos at Johns-Manville?

A. No.

Q. Did Mr. Reitze ever tell you, in essence, or in substance, that Johns-Manville did not consider asbestos to be dangerous to health?

A. I would say it was fair to say that he was not an alarmist in this area.

Q. Sir, you must bear with me a moment. The term, "he was not an alarmist in this area," is conclusionary, although, I feel, probably apt and descriptive. Would you define

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that term for me?

A. Well, he didn't, you know, go around shouting warnings and things of this nature. I felt from my conversations, that weren't extensive, with the man, that his attitude was, "Now, let's not fly off in all directions and make snap judgments. Let's wait until everything is counted and all the facts are in." And this was his approach.

I think I read something that he did write in 1964 at that New York symposium where he pointed out that at that time, the facts were not all in; let's not jump to conclusions, and this sort of thing; and we do have a good side to this thing, maybe, and this kind of attitude.

MS. HASKELL: Move to strike the entire answer as nonresponsive to the question.

Q. BY MR. STEIN: Was that his attitude when you met with him in '74? And specifically I'm talking about Mr. Reitze.

A. I met with him in '69.

Q. I'm sorry, sir. I misread my notes.

That was his attitude in '69, and did he have this same attitude when you went on this tour with him, Holaday and Heilman?

MS. HASKELL: Object to the question as vague.

MR. STEINBERG: You can answer the question.

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THE WITNESS: I don't remember having too much conversation with Mr. Reitze at that time. Again, this was their show. We were showing them what we had. And there was --

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a lot of conversation went on between a lot of parties, and I don't remember much about any conversation that he made there.

Q. BY MR. STEIN: One of the reasons you talked about asbestos with Mr. Reitze in '69 was, you were trying to protect the health of the workers, is that right, the workers at the Long Beach Naval Shipyard specifically?

A. Yes.

Q. Okay. Moving on to 1970, sir, did you see containers of insulation products?

A. Yes.

Q. In 1970, were there any insulation products -- specifically cement -- being used that did not contain asbestos in the Long Beach Naval Shipyard?

A. That did not?

Q. That did not.

A. I don't know.

Q. In 1970, did you see the containers of insulation products in the same places you've previously advised us?

A. Yes.

Q. Did you see Johns-Manville in 1970?

A. Yes.

Q. In 1970, did you pick up or look at any of those containers and read them, specifically Johns-Manville containers?

MS. HASKELL: Object to the question as compound.

MR. STEINBERG: Go ahead and answer it.

THE WITNESS: Yes.

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Q. BY MR. STEIN: Did you see any warning or instruction how to protect yourself from the health hazard of asbestos on any Johns-Manville product in 1970?

A. No.

Q. Let's go to 1971, sir. Again, you, of course, saw asbestos, or insulation containers --

A. Yes.

Q. -- in the same places you had previously seen them. Is that correct?

A. Yes.

Q. Again, you saw Johns-Manville products. Is that correct?

A. Yes.

Q. Again, you read them, is that correct, in 1971?

A. Yes.

Q. And again, you did not see any warning or any direction how to protect the individual from the health hazard of asbestos, did you?

A. Yes.

Q. That's correct?

A. That's correct.

Q. Sir, if I asked you the same series of questions for 1972, your answer would be the same, would it not?

A. In 1971, to the best of my recollection, some warning signs appeared, and I just -- you know, I don't know whether Johns-Manville products had it on or had it off; but there was some warnings at that time that appeared, and I noticed them, and I'm pretty vague about what boxes they

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were on and what they were not on.

Q. Let us discuss the years 1972 through '74, and we'll end the year '74 with the time you leave.

A. Yes.

Q. During those two and a half years, three years, do you have any recollection of seeing a warning on a Johns-Manville product?

A. I don't have any recollection of specifically seeing one on their product, no.

Q. At any time during your tenure at the Long Beach Naval Shipyard, did anybody that identified themselves as being with Johns-Manville approach you and offer to help or make suggestions in the control of the health hazard brought about by the use of asbestos products?

A. No.

Q. Do you know whether or not such an approach was made by this giant, J-M, to anybody of Long Beach Naval Shipyard?

MS. HASKELL: Object to the question as argumentative.

MR. STEIN: It is not argumentative to the witness, Ma'am.

MR. STEINBERG: You can answer the question.

THE WITNESS: No.

Q. BY MR. STEIN: Sir, you told me there were certain source materials, and I don't remember what it was, that you went to to know the content of the products used in regard to asbestos or insulation, some kind of list or something.

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A. Yes. We had -- within the Navy establishment, we had a trade names index.

Q. Anything else?

A. American Conference of Governmental Industrial Hygienists also had a trade names index.

And Bill Marr had left a box full of samples of material that was placed in jars and labeled that gave me some more information in this regard.

Q. Anything else?

A. That's about it, I think.

Q. Sir, do you still have in your possession a trade names index?

A. I have one published in 1961 by the American Conference of Governmental Industrial Hygienists. I don't know what it contains, as far as asbestos, or whether there's anything in there of that nature.

Q. Suppose I were to want to get one, where would I get it? Who would I write to or how would I get a copy?

A. Well, if you get to know an industrial hygienist that belongs to ACGIH, and he will buy one for you for some moderate sum.

Q. Where can it be purchased? Do you have to send away for it?

A. Yes. It would be the home office, I think, of that organization, which I don't know offhand -- I've been away five years. I'd have to look it up. I don't know just exactly where they're located at the moment. But it is a thing that they sell to their membership.

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Q. Where was the Navy trade names index kept at Long Beach Naval Shipyard?

A. I kept the original material in a binder such as this.

Q. Like a school notebook?

A. Yes. And there may have been more than one volume by the time I got out of there.

Q. Did you have it identified, "Trade Names Index"?

A. Yes.

Q. Was this something you kept yourself, or was it supplied to you by someone?

A. This material was -- and we went over this before -- was collected at the Bureau of Medicine and Surgery in Washington from the facilities in the Navy.

Q. Look, you don't have to explain it to me. What I want to know is, if I want to identify it to subpoena it, how do I do it? What would you call it and where would it be kept?

A. It would be a trade names index; and when I left, it was kept in my office.

Q. Thank you. You don't know where it is kept now?

A. No.

Q. Who took your job?

A. A man by the name of James Unmack, U-n-m-a-c-k.

Q. Have you ever talked to him?

A. Yes.

Q. When?

A. Talked to him yesterday.

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Q. What was the subject of that conversation?

A. I wanted to know what happened -- where my files were and whether he had them.

Q. Did he have them?

A. He said they were all gone when he got there.

Q. Those are files we are talking about that have not been here produced. Right? Not been produced here by you?

A. We have copies of material that was contained in my files. The originals were in my files, and he said they were gone when he got there.

Q. Have you had any discussion since you left the Long Beach Naval Shipyard with anybody other than Mr. Unmack who was employed at the Long Beach Naval Shipyard?

MR. STEINBERG: That's a tall question. You want everyone he's talked to since he left the shipyard, who worked at the shipyard?

MR. STEIN: Sure. You don't want me to ask it in interrogatories.

MR. STEINBERG: Well, he'd have more time to think about it.

MR. STEIN: Yeah, but it would be a short question and a long answer.

MR. STEINBERG: Go ahead and answer it, if you can.

THE WITNESS: Everybody I talked to since I left the Long Beach Naval Shipyard?

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Q. BY MR. STEIN: Limiting the subject to asbestos, asbestosis, or asbestosis-related litigation or problems.

A. Just the litigation part?

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Q. All right. We'll start with that.

MR. STEINBERG: You're talking about people who did work or worked at the shipyard?

MR. STEIN: No. Presently work there.

MR. STEINBERG: You want presently work there?

MR. STEIN: Yeah. I'll get to people who did work there next, Mr. Steinberg. If I don't, Mr. Kappler will remind me.

THE WITNESS: Who presently work there?

MR. STEIN: Yes, sir.

THE WITNESS: Ed Orlin.

MS. HASKELL: Mr. Manning, can you spell these names as you say them, for the court reporter's benefit and the rest of our benefits, please.

THE WITNESS: Edward O-r-l-i-n.

I talked to Walter Rigsby.

I talked to Cliff Krieger.

No, he doesn't work at the shipyard now. Sorry.

Q. BY MR. STEIN: We'll leave him in anyway.

A. On Walter Rigsby, he doesn't work there, either, come to think of it.

"Works there now" --

Yes. I talked to Donald Nowak, who works there now, in the dispensary.

Q. Would you spell that pursuant to Ms. Haskell's request?

A. D-o-n-a-l-d, N-o-w-a-k.

That's all I talked to that work there now.

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Q. Ed Orlin and Don Nowak?

A. Yes.

Q. Have you ever told anybody, in essence, that you were going to go public and advise the newspapers or any media about the dangers of asbestos and the way the problem was being handled at the Long Beach Naval Shipyard?

A. Yes.

Q. When did you first tell somebody, and who was that?

A. I may have -- I think I told Cliff Krieger.

Q. When?

A. 1974.

Q. Who else did you tell that to?

A. I, as a matter of fact, did have an interview with a man by the name of Gladstone --

Q. Sir, I'll ask you how and when you went public. I want to know just who else did you tell that to.

A. To my recollection, that's all I told.

Q. Why did you say that to Cliff Krieger?

A. At the time, it was more or less on the basis of just rattling his cage, and it was not too serious a threat, really, but I did have some discussion in that vein.

Q. Do you remember what month in 1974?

A. I believe it was on or around November of 1964 -- '74. Excuse me. That's right.

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Q. Why did you feel his cage needed rattling?

A. Oh, I don't know. I had a bad habit of doing

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that, I think. It was more or less of a joke, I felt, at that time.

Q. You did have an interview with Mr. Gladstone?

A. Yes.

Q. I still don't know why you felt Mr. Krieger needed his cage rattled.

A. Maybe it's just a little sadism in me. To worry him a little bit.

Q. When did you have your interview with Mr. Gladstone?

A. This occurred, I believe it was last fall sometime.

Q. That would be fall of '78?

A. Yes.

Q. Who is Mr. Gladstone, and who does he represent?

A. He's a reporter for the Press Telegram, Independent Press Telegram of Long Beach.

Q. Have you had an interview with any other person in the media?

A. No.

Q. How long did your interview last, sir?

A. About an hour.

Q. Where did the interview take place?

A. In my home.

Q. How did Mr. Gladstone -- did he tell you why he was approaching you; or did you approach him?

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A. No. He found out about me and approached me, and this was a result of the survey that Dr. Felton had done at the shipyard whereby he took a lot of chest X-rays

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and found some adverse findings in many, many shipyard employees, and this report, I guess, had become known to Mr. Gladstone, and he was doing some background work in preparation to write a series of articles.

Q. Did he write such a series of articles?

A. Yes.

Q. Did they appear in the Long Beach Independent Press Telegram?

A. Yes.

Q. Do you have copies of those articles?

A. I had a copy of one, the first one, I think, and I can't find it. I saved it to show to Cliff Krieger, but in the sweeping-up process, it got either mislaid or thrown out.

Q. The purpose of showing it Krieger was a little more sadistic cage-rattling?

A. Well, he asked that I save it for him, and we were going to have lunch, and he got sick, and I never made the appointment.

Q. Sometime after your interview, you told Mr. Krieger you had been interviewed?

A. Yes.

Q. What did you do? Call him to be sure he read the article?

A. I had some discussion about it with him over the phone, I think.

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Q. What were the discussions? What was said?

A. I did tell him the content of the article, and

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quoted some things in there, and then he asked me to save it for him.

Q. Did anybody at Long Beach Naval Shipyard threaten you, or give you any type of trouble because you talked to Mr. Gladstone?

A. No.

Q. I see. And were you quoted directly in this article?

A. Yes.

Q. Do you recall what you told Cliff Krieger about the quotes -- I'm going to get a drink of water. Go ahead and answer. I can hear you.

A. Oh, they didn't quote me too much. Mentioned in there that I felt that my difficulties in getting the things that I wanted were related to money; and that the command put, of course, emphasis and had to put emphasis on their primary mission, which was making the ships ready for combat; and that consequently, the control of asbestos and other things at the shipyard were given a fairly low priority, I thought, and this was the source of the problem. And he also quoted my report of 1969, signed by Dr. Smith, and he had said that Dr. Smith had said in 1969 that asbestos products were reported to increase the incidence of lung, pleural and gastrointestinal-type cancers; and that because of this, that it wasn't certain exactly what limits should be placed on asbestos; and for the best interests of everybody, it should be reduced to a minimum. This was quoted directly out of that report.

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MR. STEIN: All right. Mr. Steinberg --

MR. STEINBERG: Yes, it is a convenient time.

MR. STEIN: Thank you, sir.

I'll see you tomorrow.

MS. HASKELL: I'd like to make a comment on the record.

Mr. Stein, I realize you may have run out of questions. This session is scheduled to go until 1:00 o'clock. Unless Mr. Manning feels unable to continue until 1:00 o'clock, perhaps there are other people, while we are here, who would like to ask some questions of the witness.

MR. STEIN: Ma'am, I can ask questions all night, if that's your preference, but I am not jumping through a hoop of Johns-Manville.

MS. HASKELL: I understand that, Mr. Stein, but we've all been here for eight days. I realize you have only been here for three, and perhaps we can use this time when we are all here.

MR. STEIN: I don't see a ground swell for time, so I guess --

MR. STEINBERG: I think people are getting a little testy because they're hungry.

MR. STEIN: I would instruct the reporter that this session is concluded, Miss Reporter.

(The deposition recessed at 12:44 p.m.)

(I certify under penalty of perjury that the foregoing is true and correct.)

_____ _____

DATE SHELDON H. MANNING

AT _____, California.

CITY

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STATE OF CALIFORNIA) SS

I, Lucia Moskal, CSR, a Notary Public in and for the State of California, do hereby certify:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction.

I further certify that it was stipulated by and between counsel that said deposition may be read, corrected and signed by the witness under penalty of perjury.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 17th day of March, 1979.

OFFICIAL SEAL
LUCIA MOSKAL
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires JUN 25, 1982

Lucia Moskal

LUCIA MOSKAL, CSR 1222
Registered Professional Reporter
Notary Public in and for
the State of California.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

WALTER C. RIGSBY,
JOSEPH K. KLOSE and
SHELDON H. MANNING,

Plaintiffs,

vs.

JOHNS-MANVILLE, etc., et al.,

Defendants.

No. C 151 947

Vol. 8

REPORTER'S PARTIAL TRANSCRIPT OF CONTINUATION OF DEPOSITION OF SHELDON H. MANNING, a plaintiff, taken by defendant Johns-Manville at 9:20 a.m., Thursday, March 8, 1979, at 111 North Hill Street, Los Angeles, California, before Lucia Moskal, CSR, a Notary Public.

Reported by:
Lucia Moskal, CSR 1222
Registered Professional Reporter

No. LA-820-79-A

RENDEL B. HUTCHINGS
Certified Court Reporters

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For J. P. Stevens:	ANDERSON, McHALE & CONNOR BY JAMES M. TILLIPMAN
Also Present:	BOLTON, HEMER & DUNN BY KENNETH W. DRAKE
For Pittsburgh Corning Corporation:	BREIDENBACH, SWAINSTON, YOKAITIS & CRISPO BY JAMES S. VAN DAM
For Fibreboard Corp.:	CHASE, ROTCHFORD, DRUKKER & BOGUST BY HENRY E. KAPPLER
For Celotex Corp., successor to Philip Carey Corporation:	COYLE, MARRONE & ROBINSON BY RICHARD B. COYLE
For Amitex:	GILLILAND, ROBERSON & MOSER BY WILLIAM ROBERSON
For Combustion Engineering:	MARTIN & STAMP BY LLOYD V. STAMP
For Nicolet, Inc.:	McKAY, BYRNE & UDKOVICH BY BRUCE B. NEFT
For Armstrong:	MORGAN, WENZEL & McNICHOLAS BY JOSEPH A. MAHONEY
For Crown Cork Seal:	MORRIS & POLICH BY KIM M. DUNNING
For Raybestos Manhattan:	NORBY & BRODEUR BY THOMAS E. SMURRO
For Keene Corporation:	PATTERSON, RITNER & LOCKWOOD BY THOMAS S. MULLIGAN

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APPEARANCES OF COUNSEL (Continued):

For GAF:	PAUL, HASTINGS, JANOFSKY & WALKER BY MICHAEL SANDERS
For H. K. Porter, Inc.:	SCHELL & DELAMER BY KENNETH B. PRINDLE
For Unarco Industries, Inc.:	SHIELD & SMITH BY LAURA DIANE KOTSIRIS
For Owens-Corning Fiberglas Corp.:	WATERS, McCLUSKEY & CORCORAN BY JOSEPH BOGAN
For Flintkote:	VIRGIL R. WELLS BY STEVEN D. HAMOR
For Eagle-Picher Industries:	YUSIM, CASSIDY, STEIN & HANGER BY ANDY STEIN

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SHELDON H. MANNING,

a plaintiff herein, having been previously sworn, testified further as follows:

EXAMINATION

BY MS. HASKELL:

Q. During the course of your survey work and your investigations and your inspections, you had occasion to see workers using various asbestos products; is that correct?

A. Yes.

Q. And on the occasions when you observed these men using asbestos products, on many occasions, you also saw containers for those asbestos products; is that correct?

A. Yes.

Q. And these containers were in the vicinity of where the men were working?

A. Sometimes. Sometimes not.

Q. During your inspections of stored materials, you also had occasion to see various containers or packages containing asbestos materials; isn't that true?

A. Yes.

Q. I'm going to ask you a series of questions about specific products. I want you to tell me whether you recall having seen any packages of asbestos materials either in the vicinity of workers using asbestos products or in areas where you knew asbestos products were stored. Okay?

MR. MULLIGAN: At what time?

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MR. COYLE: Could we have the dates, time and location.

MS. HASKELL: Between the years 1967 and 1974.

MR. STEIN: Objection. Vague. Uncertain.

Q. BY MS. HASKELL: Do you understand what the question is going to ask?

A. Yes.

MR. ROBERSON: I'll join in that objection.

Q. BY MS. HASKELL: Did you at any time when you were employed at the Long Beach Naval Shipyard between the years of 1967 and 1974 see any containers or packages that had the name Amitex on it?

MR. STEIN: Objection. Vague, uncertain, irrelevant and immaterial.

MR. MULLIGAN: And leading.

MR. STEINBERG: You can answer the question.

MR. STAMP: I'll join in that objection.

THE WITNESS: No.

Q. BY MS. HASKELL: Did you see any packages or containers that had the name Thermaglass on them --

MR. STEIN: Objection. Vague, ambiguous, uncertain.

MS. HASKELL: Let me finish the question.

Q. -- during the period of time that you were employed at the Long Beach Naval Shipyard and at the Long Beach Naval Shipyard?

MR. STEIN: Objection. Leading. You're making the --

THE WITNESS: No.

MR. STEIN: Let me state my objection so your attorney can make his decision, sir.

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Objection. Vague, ambiguous, uncertain, irrelevant, immaterial, leading.

MR. STEINBERG: Well, the objection is noted for the record, and the witness has already answered. I'm not objecting to the question, and I'm instructing him that he may answer, and I'm sure there is a list of other materials you are going to cover, and to save us all a lot of time, can we stipulate you have a running objection of the same nature and purport as stated by Mr. Stein to the last question concerning Thermaglass?

MR. MULLIGAN: I don't believe there is any such thing in the law anymore as a running objection. I suppose we could stipulate that for the purposes of this deposition -- and I would be willing to stipulate to that -- for the purposes of this deposition, all objections are reserved until the time of trial.

MS. HASKELL: That's fine.

MR. STEIN: Wait. That may be fine with you. I'd like to hear from Mr. Steinberg.

MR. STEINBERG: Hear about what?

MR. STEIN: Whether or not he will stipulate all objections are reserved.

MR. STEINBERG: I will stipulate.

MR. STEIN: What was the last product you asked about?

MS. HASKELL: Thermaglass.

Q. Mr. Manning, during the time you were employed at the Long Beach Naval Shipyard, did you have occasion

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to see packages containing the brand name Quietline?

A. NO.

MR. STEINBERG: Quietline?

MS. HASKELL: Q-u-i-e-t-l-i-n-e.

Q. Mr. Manning, during the time that you were employed at the Long Beach Naval Shipyard, did you see packages containing asbestos products or from which you believed asbestos product had been removed containing the name Armstrong?

A. I saw the trade name Armstrong, but I don't think I saw anything containing asbestos, to my best recollection.

Q. Did you see any packages at the Long Beach Naval Shipyard during the time that you were employed there with the name L - T Pipe Covering?

A. No.

Q. Did you see any packages at the Long Beach Naval Shipyard during the time that you were employed there with the name Temlock, T-e-m-l-o-c-k?

A. Yes; but again, I don't think there was any asbestos in it.

Q. Did you see any packages containing the name Armaspray, A-r-m-a-s-p-r-a-y, during your tenure at the Long Beach Naval Shipyard at the Long Beach Naval Shipyard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages containing the name Minalok, M-i-n-a-l-o-k, at the Long Beach Naval

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Shipyard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages or packaging material containing the name Armaglass, A-r-m-a-g-l-a-s-s?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages containing the name Super Powerhouse Cement at the Long Beach Naval Shipyard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages containing the name Pyrospray, P-y-r-o-s-p-r-a-y, Tape, at the Long Beach Naval Shipyard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any products or any packages containing the name Monospray at the Long Beach Naval Shipyard?

A. I don't recall seeing any, no.

Q. Did you see any packages at the Long Beach Naval Shipyard while you were employed there containing the name Monoblock, M-o-n-o, block, b-l-o-c-k?

A. I saw packages of that sort, but I don't think it contained asbestos.

MR. COYLE: Objection --

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Q. BY MS. HASKELL: Mr. Manning, I'd prefer if you'd answer my questions yes or no.

MR. COYLE: Pardon me. I'll move to strike the last portion of the witness's answer as nonresponsive.

MR. STEINBERG: I will stipulate the reporter need not include that in the transcript.

MR. MULLIGAN: I will not stipulate to that.

MR. STEINBERG: I'm just offering the stipulation.

MR. MULLIGAN: I think he said he saw the packages, but he did not believe they contained asbestos, and I believe the import of the question was, "Did you see asbestos?"

MS. HASKELL: The import of my question, as I meant to phrase my question, was whether he saw any packages containing that brand name.

MR. ROBERSON: Let's not argue over the import of the question. Let's have the question reread.

(The question referred to is read by the reporter.)

Q. BY MS. HASKELL: Mr. Manning, would you attempt to answer my questions just yes or no.

A. Yes.

Q. Thank you.

During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name 101 -- that's the number 101 -- Pipe Insulation?

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A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages at the

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Long Beach Naval Shipyard that contained the trade name 100 -- that's the number 100 -- Pipe Insulation?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Thermalite, T-h-e-r-m-a-l-i-t-e?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Thermasil, T-h-e-r-m-a-s-i-l?

A. Yes.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name, the number 1, Plus, P-l-u-s, Cement?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Celotemp, C-e-l-o-t-e-m-p?

A. I don't recall any, no.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Carey-Temp?

A. Yes.

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MR. STAMP: Would you spell it, please?

Q. BY MS. HASKELL: C-a-r-e-y, hyphen, T-e-m-p. Correct?

A. Yes.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see any packages containing the trade name Dual, D-u-a-l, Service Carey-Temp?

A. I don't remember.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Carey, C-a-r-e-y, Lennolite, L-e-n-n-o-l-i-t-e?

MR. STEIN: Could I have that spelling again?

MS. HASKELL: L-e-n-n-o-l-i-t-e.

THE WITNESS: No, not to my best recollection.

Q. BY MS. HASKELL: During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the trade name Carey-Temp Premolded Elbow Insulation?

A. I don't recall seeing the "Elbow" on them.

Q. Do you recall seeing packages containing the trade name Carey-Temp Pipe and Block Insulation during the time that you were employed at the Long Beach Naval Shipyard at the shipyard?

A. Yes.

MR. COYLE: Could I have the name of the product again?

MS. HASKELL: Carey-Temp Pipe and Block Insulation.

MR. COYLE: Thank you.

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Q. BY MS. HASKELL: During the time that you were employed at the Long Beach Naval Shipyard, did you have occasion to see at the Long Beach Naval Shipyard packages containing the trade name Carey-Temp 2000 Block?

A. I don't remember the number.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages containing the trade name Carey-Temp Aluminum Jacket and Traced Pipe Insulation?

A. No.

MR. ROBERSON: What was that product name again?

MS. HASKELL: Carey-Temp Aluminum Jacket and Traced, T-r-a-c-e-d, Pipe Insulation.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see packages of cement with the name Carey or Carey 100 on them?

A. I don't recall, no.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages containing the name 7 -- that's the number 7 -- M 90 Asbestos Short Insulation Cement?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see packages containing cement with the initials M, as in Mary, W on it?

A. No.

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Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach

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Naval Shipyard cement with the name LF-20 Asbestos Cement on it?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Vitrecel, V-i-t-r-e-c-e-l, Cement?

A. No.

Q. During the time you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Carey Thermo Bond?

A. Yes.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Carey, capital A-1 Cement?

A. No, not to my recollection.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see packages with the name Carey A, hyphen, 101 on them?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages with the name Industrial A, hyphen, C Board, Industrial A-C Board?

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A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach

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Naval Shipyard packages with the name Careyflex Board?

A. No.

MR. COYLE: I'm sorry. What was the name again?

MS. HASKELL: Careyflex, C-a-r-e-y-f-l-e-x.

Q. During the time that you were employed at Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard packages containing the trade name Vitricel, V-i-t-r-i-c-e-l, on any products?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the name Careystone Sheathing?

A. No.

MR. STEIN: Would you spell that last word, please?

MS. HASKELL: S-h-e-a-t-h-i-n-g.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the name Carey Fireguard?

A. No.

Q. During the time that you were employed at the Long Beach Naval Shipyard, did you see at the Long Beach Naval Shipyard any packages containing the name Carey Fireclad?

A. No.

MR. STEINBERG: Would you spell that?

MS. HASKELL: F-i-r-e-c-l-a-d.

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MR. STEINBERG: One word?

MS. HASKELL: Yes.

MR. BOGAN: April, how long is your product list going to be?

MS. HASKELL: You're asking me how long it's going to take?

MR. BOGAN: You are repeating yourself every time. Why don't you just state the product and have him answer yes or no, with the understanding that it relates to products he saw at the shipyard during his term there. It's a little easier for the court reporter, too.

MR. ROBERSON: Or whether he recalls; yes, no, or doesn't recall.

MS. HASKELL: That's fine.

Q. Mr. Manning, from here on out, I'm simply going to list products. What I'm asking you by listing each of these products is whether you saw a package containing that product name on it at any time when you were employed at the Long Beach Naval Shipyard at the shipyard. Do you understand that?

A. Yes.

Q. I want you to tell me "Yes," if you saw it; "No," if you didn't see it; and if you don't recall whether or not, let us know that, too. Okay?

A. Yes.

Q. Thermotex, T-h-e-r-m-o-t-e-x.

A. I don't recall.

Q. 228 -- that's the number 228 -- Fibrated Emulsion.

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A. No.

Q. Carey Insulation Seal.

A. I don't recall.

Q. Fire-Resistant Insulation Seal.

A. I don't recall that.

Q. BTU Cement.

A. No recollection.

MR. STEIN: May I have the answer again?

THE WITNESS: No recall.

MR. STEIN: Thank you.

Q. BY MS. HASKELL: Careyfoil.

A. No recollection of that.

Q. Detroc, D-e-t-r-o-c, Asbestos Board.

MR. STEINBERG: "Jetroc"?

MS. HASKELL: Detroc, D, as in dog, e-t-r-o-c.

THE WITNESS: No.

Q. BY MS. HASKELL: Detrick, D-e-t-r-i-c-k.

A. No.

Q. Hilite, H-i-l-i-t-e.

A. No recall.

Q. Super Stick Tight.

A. No recall of that.

Q. Super Finish Stick Tight.

A. No recall.

Q. Mix A. That's the capital letter A.

A. No recall.

Q. Thermagard, T-h-e-r-m-a-g-a-r-d.

A. I have no recall.

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Q. How about Therm-Gard, T-h-e-r-m, hyphen, capital G-a-r-d?

A. No recall.

Q. Portersite, P-o-r-t-e-r-s-i-t-e.

A. No recall on that.

Q. Porterlag?

A. No recall.

Q. Cleangard?

A. No recall.

Q. Flamegard.

A. Don't recall that.

Q. Covergard.

A. Don't recall that.

Q. Porterlag.

A. No recall.

MR. STEINBERG: That was the same one you mentioned.

MS. HASKELL: I may have mentioned it.

Q. Super "66" Insulating Cement.

A. I have some recollection of seeing that.

Q. The name Eagle-Picher.

A. Yes.

Q. One Cote Cement. That's the word "One," the word "Cote," C-o-t-e, Cement.

A. Yes.

Q. Hylo Pipe Covering. That's H-y-l-o.

A. No recall.

Q. 85 Percent Magnesia Pipe Covering and Insulation.

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A. No recall on that.
Q. You just don't recall?
A. I don't recall seeing it.
Q. Insul-Stick, I-n-s-u-l, hyphen, Stick, S-t-i-c-k.
A. I don't recall that.
Q. Spraymastic.
A. No recall.
Q. Swetchek, S-w-e-t-c-h-e-k.
A. No recall of seeing that.
Q. The number 33 Insulating Cement.
A. I don't have any recall seeing that.
Q. The number 43 Insulating Cement.
A. Don't recall seeing that.
Q. The number 99 Finishing Cement.
A. I don't remember seeing that.
Q. The number 106 Finishing Cement.
A. I don't remember that.
Q. The product with the name Stalastic, S-t-a-l-a-s-t-i-c.
A. No recall.
Q. Calsilite, C-a-l-s-i-l-i-t-e.
A. No recall on that.
Q. The number 7, capital M, 7M Cement.
A. I don't remember seeing that, either.
Q. 711 Cement.
A. No recall on that.
Q. The package with the name capital T, a slash

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mark, small n, small a, and then the number 100. T/nal00.

A. I don't recall seeing that.

Q. Caltemp, C-a-l-t-e-m-p.

A. Yes.

Q. Super Caltemp.

A. Yes.

Q. Pabco, P-a-b-c-o.

A. Yes.

Q. Prasco, P-r-a-s-c-o.

A. No recall.

Q. Caylo, C-a-y-l-o.

A. Yes.

Q. Kaylo, K-a-y-l-o.

A. Yes.

Q. Unibestos.

MR. ROBERSON: Could we have a spelling on that?

MS. HASKELL: Sure. U-n-i-b-e-s-t-o-s.

THE WITNESS: Yes, I saw that.

Q. BY MS. HASKELL: Allbestos, A-l-l-b-e-s-t-o-s.

A. No recall on that.

Q. Glassbestos, G-l-a-s-s-b-e-s-t-o-s.

A. No recall on that.

Q. Terrybestos.

A. I don't recall that.

Q. Gator Tape. G-a-t-o-r, Tape.

A. I don't recall seeing that.

Q. Novatex, N-o-v-a-t-e-x.

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A. No recall on that.

Q. Sealsafe.

A. No recall on that.

Q. Silvabestos, S-i-l-v-a-b-e-s-t-o-s.

A. No recall on that.

Q. Speedlag.

A. Don't recall.

Q. Pyrotex, P-y-r-o-t-e-x.

A. I don't recall that.

Q. Rhinobestos, R-h-i-n-o-b-e-s-t-o-s.

A. I don't recall that.

Q. Novabestos, N-o-v-a-b-e-s-t-o-s.

A. No recall on that.

Q. Did you see any products, or any packages at the Long Beach Naval Shipyard containing asbestos products with the nmae Raybestos Manhattan on them?

A. Yes.

Q. Okay. I'm going to again just read you some names, and what I want you to tell me with respect to each of those is whether you saw at the Long Beach Naval Shipyard any packages with these names on them.

MR. ROBERSON: During his years of service there, '67 to '74?

MR. HASKELL: Yes.

MR. ROBERSON: Are these any kind of packages?

MS. HASKELL: Any kind of packages with these names on them.

MR. ROBERSON: Okay. Objection. Vague, ambiguous,

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irrelevant, unlikely to lead to discoverable evidence.

MR. STAMP: I'll join in that.

MR. STEIN: Sustained.

MR. ROBERSON: Also argumentative.

Q. BY MS. HASKELL: Insutube, I-n-s-u-t-u-b-e.

MR. STEINBERG: I-n-s-u-t-u-b-e?

THE WITNESS: No recall there.

Q. BY MS. HASKELL: Turbine Blanket.

A. Don't recall that.

Q. Insutape, I-n-s-u-t-a-p-e.

A. No recall there.

Q. Wovenstone, W-o-v-e-n-s-t-o-n-e.

A. Don't recall.

Q. Did you see any packages containing asbestos materials at the Long Beach Naval Shipyard during your tenure there with the name Unarco on it?

A. I don't recall seeing any.

Q. Mr. Manning, I'm going to again give you a list of product names. I want you to tell me whether you saw those names on any packages at the Long Beach Naval Shipyard during the time that you were there that you believe -- just leave it at that. Okay?

MR. ROBERSON: Same objection as stated to the previous question, on all grounds.

Q. BY MS. HASKELL: Hytemp, H-y-t-e-m-p.

A. Yes.

Q. Nicolam, N-i-c-o-l-a-m, as in Mary.

A. Don't recall.

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Q. Capital K, then an "and" sign, and then an M. K & M.

A. Don't recall.

Q. Kaytherm, K-a-y-t-h-e-r-m.

A. No recollection.

Q. Antisweat, A-n-t-i-s-w-e-a-t.

A. No recollection.

Q. Zibra, Z-i-b-r-a.

A. No recollection.

Q. Celotone, C-e-l-o-t-o-n-e.

A. No recall.

Q. Norristown, N-o-r-r-i-s-t-o-w-n.

A. No recall on that.

Q. Nicobestos, N-i-c-o-b-e-s-t-o-s.

A. No recall.

Q. Nicoseal, N-i-c-o-s-e-a-l.

A. Don't recall.

Q. Nicostat, N-i-c-o-s-t-a-t.

A. No recall.

Q. Derplex, D-e-r-p-l-e-x.

A. Don't recall.

Q. Nicospec, N-i-c-o-s-p-e-c.

A. No recall.

Q. Did you see any packages at the Long Beach Naval Shipyard containing asbestos products during the time that you were at the Long Beach Naval Shipyard with the name Alaska on them?

A. No.

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Q. Did you see any packages containing asbestos products at the time that you were at the Long Beach Naval Shipyard at the shipyard containing the name Albacell, A-l-b-a-c-e-l-l?

A. No recall.

Q. Did you see any packages containing asbestos at the Long Beach Naval Shipyard during the time that you were employed there containing the name Nortex, N-o-r-t-e-x?

A. I don't recall.

Q. Other than the products that you've identified in this last line of questioning, do you recall the names that appeared on any packages of any asbestos products that you observed at the Long Beach Naval Shipyard during your tenure there?

MR. COYLE: Other than Johns-Manville?

Q. BY MS. HASKELL: Other than the ones you've just named.

A. Well, I saw Thermobestos, in lots of it.

MS. HASKELL: Move to strike everything after "Thermobestos."

Q. Go ahead.

A. That's all I recall.

MS. HASKELL: Is this a good time for a morning break?

(Recess taken from 10:10 a.m. to 10:40 a.m.)

Q. BY MS. HASKELL: Mr. Manning, I had one name on my list that I neglected to ask you about. Did you see any packages at the Long Beach Naval Shipyard during your tenure at the Long Beach Naval Shipyard with the name,

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capital K, hyphen, Fac, F-a-c, K-Fac?

A. No recall on that.

MR. STEINBERG: Off the record.

(A discussion is held off the record.)

MR. STEIN: I would like to have the question and answer read back.

(The question and answer referred to are read by the reporter.)

MR. STEIN: I take it that was the only question at this present session.

MR. KAPPLER: That was the only product mentioned.

Q. BY MS. HASKELL: Mr. Manning, on how many occasions did you see packages at the Long Beach Naval Shipyard with the name Temlock on them?

MR. MULLIGAN: Just a moment. That question is so vague, ambiguous and uncertain that I think it is almost unintelligible.

THE WITNESS: I don't know.

MR. MULLIGAN: Just a moment, Mr. Manning.

The question does not differentiate whether he saw the same package a thousand times or a thousand packages one time, as it is presently asked.

MR. STEIN: I would join in that comment, and if Mr. Mulligan makes an objection, I will also join.

MR. MULLIGAN: I've objected to the question on the grounds it's vague, ambiguous, uncertain and unintelligible.

MR. STEIN: I will then join in the objection.

MR. STAMP: Join in the objection.

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Q. BY MS. HASKELL: You can go ahead and answer the question.

A. I don't know.

Q. Did you see packages containing the name Temlock on more than one occasion at the shipyard?

A. I don't know that.

Q. Do you recall where you were when you saw packages containing the name Temlock?

A. No.

Q. On how many occasions did you see packages with the name Monoblock, M-o-n-o-b-l-o-c-k, on them?

A. I don't know.

Q. Do you recall where you were when you saw packages with the name Monoblock at the Long Beach Naval Shipyard?

A. No.

Q. Do you know how many occasions you saw packages at the Long Beach Naval Shipyard with the name Thermasil, T-h-e-r-m-a-s-i-l, on it?

A. No, I don't specifically know.

Q. Do you recall where you were when you saw those packages?

A. No.

Q. On approximately how many occasions did you see packages containing asbestos materials with the name Carey-Temp on them?

A. The best I can do is say numerous.

Q. Can you tell me where you were when you saw these

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packages containing asbestos materials with the name Carey-Temp on them?

A. I saw these packages in the warehouse, I think aboard the barge, and on various piers.

Q. On the occasions that you saw these packages on piers, were there men doing insulation work in the vicinity of those packages?

A. Men would be doing insulation work aboard ship near the packages.

Q. On the occasions that you saw these packages on the barge, were there people doing insulation work near the packages?

A. Men would be sometimes using the barge to supply their needs nearby.

Q. Where was this warehouse located?

A. I'm referring to Warehouse 59, which is the Naval Supply Center.

Q. The Naval Supply Center is to the west of the shipyard itself?

A. Yes.

Q. On how many occasions did you see packages containing asbestos products with the name Eagle-Picher on the packages?

MR. STEIN: I am going to object. There is no evidence -- you haven't laid any foundation that Eagle-Picher even had asbestos products in the years he was in tenure at whatever he was doing.

Q. BY MS. HASKELL: You can go ahead and answer, Mr.

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Mr. Manning.

MR. STEINBERG: May I have the question again?

THE WITNESS: Could I have the question, too?

MS. HASKELL: Sure.

(The question referred to is read by the reporter.)

MR. STEINBERG: I think the objection is well taken as to form.

MS. HASKELL: I will rephrase it.

Q. Mr. Manning, on how many occasions did you see packages containing asbestos products with the name Eagle-Picher on them at the Long Beach Naval Shipyard during your tenure at the Long Beach Naval Shipyard?

MR. STEIN: Same objection.

Q. BY MS. HASKELL: You can go ahead and answer.

A. I would say numerous occasions.

MR. STEIN: Move the answer be stricken as nonresponsive.

Q. BY MS. HASKELL: Is "numerous occasions" more than 20, Mr. Manning?

A. That would be a good estimate.

Q. More than a hundred?

A. I don't know that.

MR. MULLIGAN: Object as leading.

MR. STEIN: Misstating the evidence. He's already told you what a good estimate would be, Ms. Haskell.

Q. BY MS. HASKELL: Mr. Manning, when you saw these packages containing asbestos products with the name Eagle-Picher on the package, where did you see those packages?

MR. STEIN: No foundation laid.

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MR. STEINBERG: Answer the question.

THE WITNESS: I saw the packages aboard ship at times, I saw packages on the barge, and I saw packages at times on the piers.

MR. STEIN: Excuse me, sir. Was your last answer "on the piers"?

THE WITNESS: "Piers."

MR. STEIN: Thank you.

Q. BY MS. HASKELL: Mr. Manning, you actually did some dust samples during operations when you believed that Eagle-Picher cement was being used; isn't that true?

A. Yes.

Q. On how many occasions did you see packages containing the name One Cote Cement at the Long Beach Naval Shipyard during your tenure there?

A. I don't know.

Q. Do you recall where you were when you saw packages containing the name One Cote Cement at the Long Beach Naval Shipyard during your tenure there?

A. No.

Q. On how many occasions did you see packages containing the name Super "66" Insulating Cement at the Long Beach Naval Shipyard during your tenure there?

A. I don't know.

Q. Do you know where you saw packages with that name on them?

A. No.

Q. On how many occasions, Mr. Manning, did you see

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packages containing the name Pabco, P-a-b-c-o, at the Long Beach Naval Shipyard during your tenure there?

A. I believe the answer there is numerous.

Q. That again would be more than 20?

A. In that neighborhood at least.

Q. Where did you see these packages?

A. In the warehouse 59, on the piers, and on the barge.

Q. Did you see these packages aboard ship?

A. Not to my recollection, no.

Q. On how many occasions did you see packages at the Long Beach Naval Shipyard during your tenure there with the name Caltemp?

A. Several times.

Q. Approximately how many is "several"?

A. Five.

Q. Where did you see these packages?

A. Aboard the barge, and on piers.

Q. This barge that you've been referring to for the last few minutes, that is the laggers barge?

A. That is correct.

Q. On how many occasions did you see Super Caltemp, or packages with Super Caltemp on them at the Long Beach Naval Shipyard during your tenure there?

A. I don't know.

Q. Do you recall where you saw those packages?

A. No.

Q. On how many occasions did you see packages with the

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name Caylo, C-a-y-l-o, at the Long Beach Naval Shipyard during your tenure there?

A. I don't know.

Q. Do you know where you saw those packages?

A. No.

Q. On how many occasions did you see packages at the Long Beach Naval Shipyard during your tenure there with the name Kaylo, K-a-y-l-o?

A. Numerous occasions. Twenty or so.

Q. Where did you see thosepackages?

A. On piers and aboard the barge.

Q. Did you see those packages aboard ship?

A. No, not to my recollection.

Q. On how many occasions did you see packages with the name Unibestos at the Long Beach Naval Shipyard during your tenure there?

A. I think, only once.

Q. That was in Shop 56?

A. On one occasion, there was some shipped into the yard and Webb Ay took me out to show it to me.

Q. Where was it?

A. On one of the piers. I forget which one.

Q. That was about 30 cases, 30 cartons.

MR. ROBERSON: Wait a minute. I'm going to object as argumentative to the extent that this party is inquiring of another party, and leading and suggesting the terms on which that other party should answer the question. My objection is, it is argumentative.

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MR. STEINBERG: You can answer the question.

Is there a question still pending, or did he answer it?

MS. HASKELL: The question is still pending.

Q. Were there 30 cartons on that occasion?

A. I have no definite recollection of the amount. It was somewhere in that vicinity, I would say. I can't answer that specifically.

Q. Is this occasion that you're telling us about now the same occasion that you've told us about previously when there was Unibestos in the yard and Webb Ay talked to you about it?

A. Yes.

Q. On how many occasions did you see packages containing asbestos products with the name Raybestos Manhattan on the packages at the Long Beach Naval Shipyard during your tenure there?

A. I think I saw it early in my tenure there, and I believe it was in the pad shop.

Q. On more than one occasion?

A. It may have been several occasions, yes.

Q. On how many occasions did you see packages with the name Hytemp, H-y-t-e-m-p, on them during your tenure at the Long Beach Naval Shipyard at the shipyard?

A. There may have been 10 occasions.

Q. That is your best estimate?

A. Yes.

Q. Where did you see these packages?

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A. I can't recall.

Q. On how many occasions did you see packages with the name Thermobestos on them at the Long Beach Naval Shipyard during your tenure there?

A. Two hundred times.

Q. Where did you see these?

A. On piers, on the barge. Of course, in Warehouse 59. On one or two occasions, when I saw the contents of the shipyard building, which was outside, I observed, I think, this product there.

Q. I'm sorry. Where?

A. South of Building 100, the place there where I --

Q. This is what we identified previously as the outside storage area?

A. And there was some stuff locked up, too, but I have a vague recollection of what I saw there.

Q. The storage area by 9th and Sullivan?

A. Yes.

Q. Mr. Manning, I'd like to thank you for your long hours at this deposition. I don't have any further questions at this time for you. I'm sure some of the other people in this room, however, would like to ask you some questions.

Off the record.

(A discussion is held off the record.)

* * *

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STATE OF CALIFORNIA) SS

I, Lucia Moskal, CSR, a Notary Public in and for the State of California, do hereby certify:

That the foregoing thirty-two (32) pages contain a full, true and correct partial transcript of the deposition proceedings described in the caption hereof.

That said proceedings were taken down by me at the time and place herein set forth, and thereafter transcribed under my direction.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 8th day of March 1979.

LUCIA MOSKAL, CSR 1222
Registered Professional Reporter
Notary Public in and for
the State of California.

OFFICIAL SEAL
LUCIA MOSKAL
NOTARY PUBLIC CALIFORNIA
LOS ANGELES COUNTY
My comm. expires JUN 25, 1982

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MT-PWHD-013711

Manning 3/7/79

MT-PWHD-013712

72 While at shipyard, got indeication that workers feared fiberglass almost as much as they feared asbestos.

72-73 Largely caused by jurisdictional dispute as to application of insulation inside ducts--

73 HUTCHINSON, pres. of Pipe Coverers and Insulators told his workers that glass was as hazardous as asbestos

73 Substituted glass in pad shop long after 1967-- probably in 1970

74 First became aware of HUTCHINSON's position in 1967

78 Went aboard ships without respirators because he people collaterally exposed were not in as much danger as those using products
was not aware of his predisposition to damage from asbestos

79 Began wearing respirator at LRNS in June, 1968 then only wore one during dust sampling

81 Felt that they were "setting an example" in wearing respirators while dust sampling

82 Learned in 1972 that he had been using the wrong size filters with the respirator

87 No way other than indoctrinations that workers would learn of asbestos hazards (Four indoctrinations during employment at LRNS)

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SHELDON MANNING VOLUME VII (March 7, 1979) Page One

6 Saw asbestos cloth, cement, tape and cartons containing preformed block and pipe covering in area near building 100 (N. of Sullivan)

7 In June, 1970, wrote legthy description of role at LBNS in contrast with what the role of the industrial hygienist at LBNS should be

8 Was thoroughly dissatisfied with treatment he received as LBNS hygienist--was contemplating departure from LBNS--had sought employment elsewhere

9 Had interviewed with 5 private companies while attending ACIH conference in MAY

10 Felt that LBNS management was more interested in having an industrial hygienist aboard for cosmetic purposes than for controlling industrial hazards

12 Believed that Mr. MARR, prior to departure, had , in 1964, alerted supervisors and pipe coverers and insulating employees as to asbestos inhalation hazards

14 Before he left for Panama, MARR gave an interview to a reporter on asbestos hazards which reflected adversely on LBNS

15 It took two years to acquire the equipment necessary to maintain effective industrial monitoring

16 Medical Officer WATKINS asked that all reports be verbally delivered and all actions cleared by him

17 Began submitting written reports as soon as WATKINS left LBNS in 2/69

18 Prior to this report, MANNING felt that LBNS had not effectively controlled health hazards, or had even effectively evaluated health hazards

20 Conveyed opinion that the only effective control of asbestos would be elimination---told supervisors in pipe covering trade.

20 Felt that verbal reports and buying delays were tactics to suppress industrial health program

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21 Medical officer had no respect in industrial health program and would summarily dismiss hygienist at slightest provocation (re:WATKINS)

22 SMITH did not obstruct or promote program

26 Between 5/70 and 2/74, did not interview with companies other than the 5 previously mentioned

26 Submitted request to upgrade status from GS-12 to 13 to Civil Service Commission-Sept. 1970

27 No responses from companies in 1970--MANNING was already making more money than they were willing to pay--also true in 1974 when he sent out resumes

28 Approached by NIOSH with a job offer in April or May, 1974---felt that his physical condition would render him unable to perform the tasks

29 Spent the first 10 days of every quarter of every year writing report which he felt he should not be writing--felt it cut back on actual hygienist duties

30 Felt that his position as industrial hygienist and the manner in which he was treated contributed to his illness

32 Is not aware of the educational program at LPNS re: asbestos dangers which was started in 1956 according to SMITHs reply to MANNINGs report

33 Submitted weekly written reports to Dr. SMITH for approximately 1 1/2 years beginning in 5/69

35 Made formal plea for help in 1969--Barton, the pharmacist came into office in 11/72

36 Believed that NAGLE wrote reply for SMITHs signature--NAGLE didnt think that MANNINGs 6 week absence from LPNS had any effect on the hygiene program

37 MANNING believes that everything SMITH "wrote" or that went out over his signature was written by somebody else

37 Shortly after 2/74, BARTON was appointed administrative officer and equipment problems were alleviated

38 Problems reappeared in late 1973, when MANNING was reassigned to R. MANNING

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39 SMITH and R. MANNING were critical of S. MANNINGs response to beneficial suggestions, beginning in 73

40 Felt that S. MANNING was too blunt and negative in his responses

41 Pegan furnishing R.MANNING with weekly written reports 12-4-73

41 At this time, R. MANNING made numerous demands which S.MANNING could not meet

42 R. ended each memo to S. with sggestions for aggressive and positive action to accoplish goals (very intangible)

43 R. conveyed opinion that S. had not been doing his job effectively from the time he arrived at LBNS

43 S. MANNING believed that, prior to this report, R. MANNING inspected warehouses and Naval Supply Center, but did not inspect shipyard industrial areas

44 Believed that he had fallen out of favor with people in Washington and R. MANNING had been sent with tactics to make S. MANNING wish he were elsewhere.

50 Was denied permission to attend conference at USC he was told that he was needed at the shipyard

52 Told by PALCHUM in early 1974 that he had pleural thickening indicative of Asbestosis

52 Has met with PLEJER on ten or fifteen occasions

57 Became increasingly aware of elevation of incidences of various cancers associated with asbestos from 1965---became acutely aware when SELIKOFFs work appeared, awareness increased thereafter

65 Discussed Clyde Warner's Mesothelioma-

65 Thought condition was nonoperable--assumed that any physician would recommend removal from exposure (Warner underwent cobalt treatment, then reported back to work)

66 Naval Supply Center was being staffed by civilian firm with govt. contract in January 1974

68 Asbestos products were stored in open containers in Warehouse 59

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SHM 7901F

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FILE COPY

WALTER C. RIGSBY,
JOSEPH K. KLOSE and
SHELDON H. MANNING,

Plaintiffs,

vs.

JOHNS-MANVILLE, etc., et al.,

Defendants.

No. C 151 947

VOLUME 7

CONTINUATION OF DEPOSITION OF SHELDON H. MANNING, a plaintiff, taken by defendant Johns-Manville at 9:20 a.m., Wednesday, March 7, 1979, at 111 North Hill Street, Los Angeles, California, before Lucia Moskal, CSR, a Notary Public.

Reported by:
Lucia Moskal, CSR 1222
Registered Professional Reporter

No. LA-804-79

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MT-PWHD-013718

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For Flintkote:	VIRGIL R. WELLS BY STEVEN D. HAMOR
For Eagle-Picher Industries:	YUSIM, CASSIDY, STEIN & HANGER BY ANDY STEIN

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MT-PWHD-013720

SHELDON H. MANNING,

a plaintiff herein, having been previously sworn, testified further as follows:

EXAMINATION

BY MS. HASKELL:

Q. Mr. Manning, how are you feeling this morning?

A. I'm feeling tolerably well. Lost a little sleep last night, but I think I can make it.

Q. Is the microphone turned on, Mr. Manning?

A. Yes.

Q. Mr. Manning, are you feeling well enough to understand my questions this morning?

A. Yes.

Q. Are you feeling well enough to give me meaningful responses to my questions this morning?

A. Yes.

Q. If at any time during this deposition you don't feel that you can proceed by understanding my questions and giving meaningful responses, will you let us know?

A. Yes.

Q. Okay. Mr. Manning, you were telling us yesterday that asbestos products were stored in two areas in the shipyard, one on a laggers barge and the other in a primarily outside storage area in the vicinity of Building 100. Is that correct?

A. Yes.

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MR. COYLE: April, could we get the location of that barge again?

Q. BY MS. HASKELL: The laggers barge was located along the wall of Dry Dock Number 2; is that right?

A. Yes. I think at one time -- it was moved several times, I believe. It may have been out at the end of Pier 3 at one time, I think, too.

Q. With respect to the products that were stored in the area in the vicinity of Building 100, did you observe various types of products to be stored in that area?

A. Yes.

Q. I believe yesterday you told me you saw cloth stored in that area. Is that right?

A. Yes.

Q. You also saw cement stored in that area?

A. Yes.

Q. You also saw tape stored in that area?

A. I'm not certain.

Q. You also saw cartons containing preformed block and pipe covering?

A. Yes.

Q. Did you see any other types of products containing asbestos at the storage area in the vicinity of Building 100?

A. Yes.

Q. What other asbestos product types did you see stored in that area?

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A. To my recollection, essentially I saw the same things stored there as I saw on the barge, really.

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Q. What I'm asking you, Mr. Manning, is: In addition to cloth, cement, possibly tape, and cartons containing preformed block and pipe covering, did you see any other types of asbestos products stored in the area adjacent to or in the vicinity of Building 100?

A. No.

Q. Can you tell me the manufacturers of the cloth that you saw stored in the vicinity of Building Number 100?

A. No.

Q. Can you tell me the manufacturers of any of the cement that you saw stored in the vicinity of Building Number 100?

A. No.

Q. Did you see Eagle-Picher cement stored in the area of Building 100?

A. I can't recall at that location.

Q. Did you see a cement labeled F-I Cement stored in the vicinity of Building 100?

A. I don't recollect that.

Q. Do you recall seeing F-I cement on the laggers barge?

A. No.

MR. COYLE: Excuse me. Was this stored in a glass house?

Q. BY MS. HASKELL: Was this stored in a glass house, was the question.

A. Glass house? No.

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MR. COYLE: Yesterday, we used a location like on

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Sullivan Street near 9th Avenue. Is that the same thing?

MR. STEIN: That's Building 100, Mr. Coyle.

Q. BY MS. HASKELL: Mr. Manning, do you recall the names of the manufacturers of any of the cartons that contained preformed block that were stored in the vicinity of Building 100?

A. My recollection of what was stored there is very hazy. I was only ever in there once or twice, and I think the building was locked, and Webb Ay had the key, and he went over there and I looked at maybe once or twice what was in there.

Q. Excuse me. Didn't you tell me previously that this storage area adjacent to Building 100 had no walls?

A. I think so. I think some of it was outside, but I think some of it was inside and locked.

Q. With respect to the stuff that was outside, can you recall at this time the names of any of the manufacturers or brand names that appeared on the cartons of preformed block that you observed?

A. No.

Q. Mr. Manning, in June of 1970, you wrote a rather lengthy description of what you had been doing at the shipyard since you arrived there and what the role of an industrial hygienist at the Long Beach Naval Shipyard should be, as envisioned by you. Correct?

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A. Yes.

Q. That item was produced by you yesterday, actually in duplicate, and has been marked as Defendants' CCC for

MT-PWHD-013724

identification. Could you please find that document in the originals that have been returned to you this morning.

Off the record for a second.

(A discussion is held off the record.)

Q. BY MS. HASKELL: Mr. Manning, have you found that document?

A. Yes.

Q. At the time that you wrote this document, were you fairly dissatisfied with the treatment that you were receiving as an industrial hygienist at the Long Beach Naval Shipyard?

A. Yes.

Q. At the time that you wrote this document, were you contemplating the possibility of filing a compensation claim based on the illness that you had suffered in 1969 and 1970?

A. No.

Q. At the time that you wrote this document, were you contemplating leaving the Long Beach Naval Shipyard?

A. Yes.

Q. Had you sought employment elsewhere at that time?

A. Yes.

Q. Where had you sought employment elsewhere?

A. I had -- in the month of May, I had at my own expense attended the American Conference of Industrial Hygienists held in Detroit.

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MR. COYLE: Mr. Manning, I'm sorry. You're talking very quietly to the young lady across from you. None of the rest of us can hear you. Could you raise your voice and try

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and articulate what you're saying.

MS. HASKELL: Did you hear the last answer, Mr. Coyle?

MR. COYLE: I can't hear the witness at all. I'm sorry.

MR. STEIN: I didn't hear the last question, either. Could we have it repeated.

Q. BY MS. HASKELL: Mr. Manning, in June of 1970 or immediately prior thereto, you were seeking employment outside of the Long Beach Naval Shipyard; is that right?

A. Yes.

Q. Where had you sought employment?

A. In early May, I had attended the American Conference of Industrial Hygienists, combined with the American Industrial Hygiene Conference. It was held in Detroit. And at that conference is an employment service, and I had interviewed -- been interviewed by three or four companies.

Q. Were these private companies as opposed to governmental entities?

A. Yes.

Q. Did you have a desire at that time to leave government service?

A. I wasn't particular about government service. I at that time thought it would be good to explore the possibilities of finding employment elsewhere. I didn't single out private enterprise entirely. It just happened at this time that way, I think.

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Q. Why was it that you were interested in May or

MT-PWHD-013726

June of 1970 in seeking employment away from the Long Beach Naval Shipyard?

A. At that time, I had been employed at the shipyard for over three years, and, number one, after refreshing my memory, I found that I was qualified when I came aboard -- the shipyard is a GS-12, and I had become qualified in that grade between the time I had contacted the shipyard and the time that I came aboard, and I mentioned this to a Mr. Houston, who was the personnel director, and he had said that, "Well, come aboard, and within a short time of a year, why, we'll take care of that, and you will be promoted to a 12."

I had worked for these three years under conditions that I felt were restraining, and I felt that, as had been, I think, the case with prior industrial hygienists at the Naval Shipyard, felt that the yard management was interested in having an industrial hygienist aboard more for cosmetic purposes than for the purposes of controlling industrial hazards.

Q. When you say "cosmetic purposes," you mean by that, window dressing, don't you, sir?

A. That's correct.

Q. In fact, you used that word in some documents you wrote complaining about the treatment you had received; isn't that right?

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A. Yes.

Q. Sir, isn't it true that you felt your condition or your employment at the Long Beach Naval Shipyard was

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restrained or restricted by the fact when you came on board and for some number of years thereafter, you did not have adequate equipment to do the job of an industrial hygienist at the Long Beach Naval Shipyard?

A. This was part of that restraint, yes.

Q. There was not sufficient staffing in addition to yourself to permit you or an industrial hygiene department to effectively operate at the Long Beach Naval Shipyard; isn't that true?

A. Yes.

Q. These conditions existed in June of 1970, at the end of June of 1970, when you wrote this document that has been marked as Exhibit CCC to your deposition and paginated beginning on Page 781 of the documents; isn't that right?

A. Yes.

Q. I'd like to direct your attention specifically to Page 781 of that document, the bottom paragraph, where you discuss the employment of Bill Marr as an industrial hygienist between the years 1958 and 1964. Do you see that paragraph?

A. Yes.

Q. I'm going to read you a sentence out of that paragraph. Would you listen carefully to it, and see if you can follow along with the document before you.

"He" -- and that refers to Mr. Marr. Is that right?

A. Yes.

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Q. -- "did manage to alert supervisors and PC&I employees to the hazards associated with the inhalation of asbestos dust."

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A. Yes.

Q. Is that an accurate reading of a sentence that appears in that paragraph?

A. Yes.

Q. "PC&I" stands for what?

A. Pipe coverers and insulators.

Q. Those would be the people employed in Shop 56. Correct?

A. Yes.

Q. It was your belief when you arrived at the shipyard, or at least in June of 1970 when you wrote this report, that Mr. Marr had in fact prior to his leaving the shipyard in 1964 alerted supervisors and pipe coverers and insulating employees as to the hazards associated with the inhalation of asbestos dust. Correct?

A. Yes.

Q. How did you come to learn that information, sir?

A. Of course, I read Marr's report that was published in the American Industrial Hygiene Journal.

MR. ROBERSON: Excuse me. The witness is once again dropping his voice. May we ask him to keep his voice up and enunciate clearly?

Thank you.

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THE WITNESS: I read Bill Marr's report that was published in the American Industrial Hygiene Journal. I also had contact with the supervision and the pipe coverers and insulators employees, and from their comments, I knew

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that Bill Marr had done some prior indoctrination work. The leadership of the pipe coverers and insulators union were informed in a fairly large detail about the hazards, as Bill Marr saw them.

Q. BY MS. HASKELL: In fact, you also talked to rank-and-file PC&I employees, and they advised you that they had been advised by Bill Marr previously that there were hazards associated with the inhalation of asbestos dust; isn't that right?

A. Yes.

Q. Mr. Manning, could you take a moment and think about the people who you talked to about this, and try and remember the names of some people who told you that they had talked to Bill Marr about these hazards.

A. Webster Ay in particular had had close contact with Bill Marr. I believe that Frank Nease, the superintendent, had communications with Bill Marr, and Art Raymond, the head of the 56 Shop at that time. Cliff Kreiger had communications with Bill Marr.

Lower than that, I wouldn't really know.

Q. You just don't recall the names of the people?

A. No, I really don't know.

Q. But you did talk with some people who were rank-and-file workers; is that right?

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A. Yes.

Q. And they advised you that they had spoken with Bill Marr and learned that there were hazards associated with the use of asbestos dust?

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A. Yes.

Q. And that conversation took place with Bill Marr prior to 1964 when he left the shipyard?

A. Yes.

I also would like to add that I did see Bill Marr in person sometime in the spring or summer of 1967, and I had some conversations with him while he was on vacation from his job then as industrial hygienist for the Canal Zone.

Q. During those conversations that you had with Mr. Marr in the spring of 1967, he told you that he had personally had conversations with PC&I workers and with supervision with respect to the hazards associated with the inhalation of asbestos dust?

A. I think so, yes.

Q. Mr. Manning, would you direct your attention to the next page of that document, which has been marked as paginated Page 782. In the first paragraph, the first full paragraph on that page, there is a sentence which reads: "Before he left for Panama, Mr. Marr gave an interview to a reporter on the hazards of asbestos exposure which reflected adversely on the Shipyard."

Do you see that sentence?

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A. Yes.

Q. Have I read that sentence correctly into the record?

A. Yes.

Q. Do you know the name of the reporter to whom this interview was given or the name of the paper for whom this reporter worked?

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A. The reporter, I don't know. It was my understanding it was the Press Telegram, Independent Press Telegram of Long Beach.

Q. How did you come to learn that Mr. Marr had given this interview to a reporter for the Independent Press Telegram in Long Beach?

A. I think Cliff Kreiger told me about it.

Q. Did Cliff Kreiger also tell you that the reason that the Industrial Hygiene Billet was abolished was as a result of Mr. Marr's having given this interview?

A. Yes, I think this was part of the conversation.

Q. Would you direct your attention, please, to the following paragraph on that page. Would you read that paragraph very briefly to yourself for a moment.

Let me know when you've finished it.

A. Yes.

Q. Does that paragraph accurately reflect the lack of adequate equipment or the lack of equipment at all in some instances that you had when you arrived on the job?

A. Yes.

Q. I'm going to read you the last sentence of that paragraph, if I might, into the record.

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"Reference books and subscriptions to journals were acquired through the library, and after some delay, the most necessary equipment was slowly acquired over a period of two years."

Is that a correct statement of what the condition was?

A. Yes.

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Q. So it took more than two years to acquire even the most necessary equipment to do your job, let alone equipment that would enhance your job in other respects. Is that right?

A. Yes.

Q. The next paragraph indicates that you had no secretarial help on a regular basis. Is that correct?

A. Yes.

Q. The last sentence of that paragraph on that page reads, "It was the Medical Officers' wish" -- that's plural, "Officers'"; isn't that right? Plural possessive?

A. That is incorrect. It should have been singular possessive. There's only one Medical Officer.

Q. "It was the Medical Officer's wish that all reports be delivered verbally. All actions were to be cleared by him."

Have I accurately read that into the record?

A. Yes.

Q. Which Medical Officer asked you to deliver all of your reports verbally as opposed to written reports?

A. Captain George Watkins.

MR. GOTTLIEB: Watkins?

THE WITNESS: George Watkins.

Q. BY MS. HASKELL: W-a-t-k-i-n-s?

A. That's right.

Q. It was Captain Watkins; is that right?

A. That's right.

Q. Was Captain Watkins still at the shipyard in

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June of 1970?

A. No.

Q. Who was the chief Medical Officer at that time?

A. Commander Jose C. Smith.

Q. Did Captain Smith also ask that your reports be delivered verbally?

A. No.

Q. When did Captain Watkins leave the shipyard, please?

A. He left at the end of February in 1969.

Q. When did you start preparing your reports in written form as opposed to verbal form?

A. After he left.

Q. How soon after he left, sir?

A. Almost immediately. I think that Dr. Owenby, who was acting director, was not too interested in signing reports, although I don't think he specifically made any requirement one way or the other. But as soon as Dr. Smith appeared aboard, I started writing my reports in written form.

Q. Do you know what month of '69 Dr. Smith came on board?

A. To my best recollection, it was May.

Q. Mr. Manning, would you be more comfortable moving the microphone closer to you, so you don't have to lean over every time?

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A. Probably.

Q. Did Captain Smith, when he came on board, reprimand

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you for having prepared no written reports prior to the time that he came on board?

A. No.

Q. Did he request that your reports be prepared in written form as opposed to verbal form?

A. No.

Q. This was simply your own idea?

A. Yes.

Q. Mr. Manning, would you read the first sentence of the last paragraph on this page.

A. Yes.

Q. Would you read it into the record, please, out loud.

A. "The most valuable service that an Industrial Hygiene Program can render is the recognition, evaluation and control of health hazards at the work site."

Q. Prior to the time that you wrote this report, the industrial hygiene program at the Long Beach Naval Shipyard really had not been effective in the controlling of health hazards at the Long Beach Naval Shipyard. Isn't that true?

A. This was my feeling.

Q. In fact, prior to the time that you wrote this report on June the 30th of 1970, the industrial hygiene program at the Long Beach Naval Shipyard had not been effective in the evaluation of health hazards at the Long Beach Naval Shipyard. Isn't that true?

A. Yes.

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Q. And prior to June 30, 1970, when you wrote this report, the industrial hygiene program at the Long Beach Naval Shipyard had not been effective in the recognition of health hazards at the Long Beach Naval Shipyard. Correct?

A. In the matter of recognition, I think I was in better shape. It was a matter of inspecting and looking. It was substandard.

Q. To the extent that it existed, you simply knew what the hazards were, and the Navy knew what the hazards were, but nothing was done about it. Correct?

A. I knew in large part what the hazards were. The Navy as a whole, I can't speak for them.

Q. Well, you worked for the Navy, didn't you?

A. Yes.

Q. Nothing was done about correcting the hazards that you recognized in the shipyard, isn't that true, prior to June of 1970?

A. Well, that is not entirely true. There were certain hazards that I recognized that required no great amount of money or effort to correct, and these things that could be corrected in that manner were corrected. I can give you some examples, if you wish.

Q. Can you give me some examples that dealt with hazards involving asbestos products?

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A. I believe that toward -- at least in that period, I had formulated the idea in the back of my mind that, given the conditions I observed, that the only course that we had

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that would be effective would be to eventually eliminate all asbestos products and substitute a less hazardous material. I probably -- I believe I conveyed that verbally to people. I don't think anything was done in this direction up to this time, however.

Q. To whom did you convey your opinion that the only way to control the asbestos hazard was to eliminate asbestos from the shipyard?

A. I conveyed this information to the supervision in the pipe covering trade. I'm thinking of Charlie Carmines, whose name I didn't mention, who was general foreman then, and Art Raymond, and Frank Nease, and Webb Ay, and Cliff Kreiger.

Q. Did you ever tell Captain Watkins that it was your opinion that asbestos should be eliminated from the shipyard?

A. No.

Q. Mr. Manning, there is a sentence in this paragraph which reads, "The program was effectively suppressed by this," and I think that refers to the fact that you made verbal reports as opposed to written reports, "and other tactics."

Do you see that sentence?

A. Yes.

Q. Does the "this" in that sentence refer to the fact that you gave verbal reports as opposed to written reports?

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A. Yes.

Q. What are the other tactics that you were referring

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to in that particular sentence?

A. Well, what was happening was, the dispensary was being administered by an administrative officer. His name was John Nagle. And he controlled the purse strings and made up the budget for the dispensary, and ran interference for the Medical Officer, and he delayed buying equipment after promising it, and I felt that his tactics were obstructive. I had repeatedly verbally gone up and made known my requirements, and was meeting resistance.

For instance, I was responsible for typing up -- responsible for some lengthy reports. One was a quarterly report which applied to the whole dispensary, and I had other reports to write that were required, like the photodosimetry reports, and I was typing this by the hunt-and-peck method. I needed secretarial help, and it wasn't forthcoming. And I felt that he was using obstructive tactics to prevent me from doing the job that I felt I should be doing.

Q. Mr. Manning, the last sentence on this page reads as follows, does it not: "It was the feeling of the incumbent" -- that's you, right?

A. Yes.

Q. -- "that the Medical Officer did not really want an industrial hygienist except for window dressing, had no respect or interest in the program, and would summarily dismiss the industrial hygienist at the slightest provocation."

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A. Yes.

Q. That's how that sentence reads; is that correct?

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A. Yes.

Q. Is that exactly how you felt on June the 30th, 1970?

A. In regard to Captain Watkins, yes.

Q. How did you feel in regard to Captain Smith at the time that you wrote this report?

A. Captain Smith never did anything that I could find that would obstruct the program. However, on the other hand, he didn't do too much to promote the program, and I had a lot of trouble getting his attention, and there was -- this memorandum I sent to his office in order to get his attention. John Nagle was still administrative officer at this time and was not exactly doing anything to promote the situation, although his obstructive tactics had let up somewhat.

Q. Mr. Manning, when you first came to the shipyard, for whatever reasons, you felt that you really had nothing much to do; isn't that true?

A. There was not enough equipment or the wherewithal to do what I thought I was supposed to be doing, yes.

Q. So you were assigned certain tasks which in your mind were considered to be trivial. Correct?

A. Yes.

Q. Those included the fitting of earplugs and the running of urine porphyrin screening tests?

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A. Yes.

Q. You objected to the fitting of earplugs, did you

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not, because it actually required by regulation that a doctor examine the patient's ear before any earplugs were tested?

A. Yes.

Q. And in fact, that situation continued until after this report was written; isn't that right?

A. Yes.

Q. And no medical assistance was ever given to these patients before you fitted their earplugs; isn't that right?

A. Yes.

Q. Prior to writing this report in June of 1970, did you call this to anyone else's attention?

A. Yes, I did call it to the attention of John Nagle at least, and Cliff Kreiger, and I may have talked about it to Dr. Smith.

Q. On the last paragraph of Page 783, or paginated Page 783 of this document, you make reference to three large surveys that were conducted during the period from April 1, 1969, through September 1, 1969. Correct?

A. 783?

Q. Yes, sir.

A. Yes.

Q. One of those consisted of collecting 75 samples of asbestos dust and counting them. Is that right?

A. Yes.

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Q. What kind of equipment did you use when you did that testing?

A. That was the standard midget impinger collection

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method used at that time.

Q. Did you have a microscope at that time?

A. Yes.

Q. What was the maximum magnification on the microscope that you had at that time?

A. 950X.

Q. You also did a noise survey during that period. Correct?

A. Yes.

Q. And you also did the Naval Supply Center survey?

A. Yes.

Q. We've seen entries in your journal from time to time in the last week with reference to that Naval Supply Center survey, and I'm still somewhat at a loss as to what exactly that survey consisted of. Could you tell me, please?

A. What I recollect is that there were certain areas in the Naval Supply Center that were slightly industrial. These were places where packaging was done, and wrapping and so forth. They had, I think, as I recall, a degreaser located here. There was some other cleaning tanks and things of this sort. These places were low industrial hazard, minimal situations. However, each Navy installation was required by regulation to have some kind of survey of this sort done periodically, and I was called in to do the work and to comply with that.

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Q. The Naval Supply Center is not physically located at the Long Beach Naval Shipyard. Correct?

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A. It is physically located adjacent to.

Q. And it's a separate command. Correct?

A. Yes.

Q. Mr. Manning, those three or four interviews that you had subsequent to the conference that you attended in May of 1970, did those interviews result in any job offers?

A. No.

Q. What were the names of the companies that you interviewed with on that occasion?

A. Mobil Oil Company, Gulf Oil Company. I think, Continental Insurance Company. Insurance Company of Wausau, I think. That's not quite the correct name.

Q. Was it Employers of Wausau?

A. Employers of Wausau, right.

And -- yes -- the successor to the Beryllium Company of America, whose name I can't remember, which was located in Reading.

Q. These interviews all took place between May and June of 1970?

A. They all took place at the American Industrial Hygiene Conference.

Q. In May of 1970?

A. Yes.

Q. Between May of 1970 and February of 1974, when you left the shipyard, did you interview with any other companies for employment outside of the Long Beach Naval Shipyard?

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A. Will you repeat that, dear, please?

Q. Yes.

Between May of 1970 and February of 1974, the date that you left the shipyard, did you interview with any other companies than the five companies you've just mentioned, for employment outside of the shipyard?

A. To my best recollection, no.

Q. Between May of 1970, when you had these interviews that you've just mentioned, and February of 1974, when you left the shipyard, did you make any other efforts, other than actually attending job interviews, to secure employment outside of the Long Beach Naval Shipyard?

A. I had submitted a form to the Civil Service Commission in order to upgrade my status from GS-12 to GS-13, with the intention of possibly going elsewhere, and also -- well, this was the intention, yes.

Q. When was that, sir?

A. I sent that in in the fall, around November, or prior to that. Maybe prior to that. Maybe September of 1973.

Q. Did you ever send resumes or letters soliciting employment to any entities other than the five entities you've just mentioned, after June of 1970?

A. Yes. During the period, early period when -- before -- while I was processing my claim and so forth, I had made inquiries about employment elsewhere. However, I had no interviews.

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Q. This was in January and February of 1974?

A. In that period, yes.

Q. That continued up through the year 1974?

A. I think it stopped rather early in possibly March or April of 1974, to the best of my recollection.

Q. You simply got no responses to these solicitations for employment?

A. No. In most cases, the problem was money. In the case of the 1970 job explorations and thereafter, I found out that I was already making more money than these people were willing to pay, especially insurance companies. The insurance companies were interested, but they were just simply not able to pay the salary that I was getting then. The government salaries were quite competitive at that time to what the outside people were paying.

Q. Was that true in 1974, also, when you were looking for employment?

A. Yes.

Q. Who did you solicit employment from in early 1974?

A. Oh, I had made some contact with the state industrial hygiene program in Ohio.

Q. Ohio?

A. Yes.

I had some contact with the OSHA office, or NIOSH office -- sorry -- in Philadelphia, Pennsylvania.

I would have to search the records that I have. I think I have it. These are the ones I remember.

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Q. In 1974, when you were looking for a job, did

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you actually get to the point of being offered a job, except that the salary was not what you wanted to be earning?

A. In the case of the Philadelphia situation, it was at a time that I had already filed a claim for disability, and the fact of my physical condition had come out, and this squashed that.

Q. Did you personally feel you were going to be unable to perform the job at NIOSH in Philadelphia?

A. I had grave doubts about my ability to perform there, yes.

Q. In what month of 1974 did you apply for that job?

A. I don't think there was any formal application. It was just some feelers back and forth. I think they approached me, really, and I think the approach came where I went to the ACGIH conference in Miami Beach at my own expense, and that contact was made there.

Q. When was that?

A. In either April or May of 1974.

Q. Did you go to that convention with the intention of seeking employment?

A. No.

Q. Why did you go to that convention?

A. Oh, it was something that I had been doing for years. I probably went to that convention to say good-bye to some of the friends that I had made in the business, and enjoy myself.

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Q. Mr. Manning, would you turn to paginated Page 789

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of this document, please.

A. Yes.

Q. In Subparagraph f on that page, you make mention of the fact that you were spending the better part of the first 10 days of each quarter writing the BUMED report. Is that right?

A. Yes.

Q. That condition existed up through and including June 30, 1970, when you wrote this particular letter to Dr. Smith?

A. Up to and including June the 30th, and up to and including March -- or February 25 of 1974.

Q. So, for the entire time that you were at the shipyard, essentially, you spent the first 10 days of every quarter of every year writing this report which you felt you really should not be writing. Is that right?

A. Yes, with the stipulation that at some period during that time, it became a semiannual report.

Q. During those 10 days of the quarter of each of those years, or the half of each of those years after it became a semiannual report, you were really not able to get on with the business of the industrial hygiene program at all. Isn't that true?

A. In some of the latter years, I had some clerical help, and this cut down the load somewhat.

Q. How about before June of 1970?

A. This is correct.

Q. You didn't really get to do anything except write

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this report for the first 10 days of each quarter?

A. Yes.

Q. Mr. Manning, would you turn to Page 791 of this paginated document, please.

Would you read to yourself, please, the last full paragraph on that page.

A. Yes.

Q. Have you read that?

A. Yes.

Q. There is reference in that paragraph, is there not, that you believed at the time you wrote this report that the frustrations with respect to your promotion and various other problems that you were having as an industrial hygienist had contributed to your recent illness; isn't that true?

A. Yes.

Q. Does that refresh your recollection as to whether or not you were contemplating the possibility of filing a compensation claim at this particular time?

A. It never crossed my mind at that time.

Q. Did you believe at that time that your illness for which you were hospitalized -- correct?

A. Yes.

Q. -- was contributed to by the frustrations caused by your position at the Long Beach Naval Shipyard?

A. I had not contemplated any suit of any kind.

Q. Mr. Manning, my question is, did you believe at the time you wrote this that your position as an industrial hygienist and the manner in which you were

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treated contributed to your illness?

A. Yes.

Q. Mr. Manning, Dr. Smith wrote a reply to this report, did he not?

A. Yes.

Q. And basically, in that reply, he took you to task for criticizing past medical directors as well as belittling the role of past industrial hygienists at the shipyard; isn't that true?

A. Yes.

Q. Would you turn to Page 803.

Have you got that in front of you?

A. Yes.

Q. That is the first page of Dr. Smith's reply to your letter of June 30, 1970. Correct?

A. Yes.

Q. And his reply is dated July 13, 1970; is that right?

A. Yes.

Q. Had you and Dr. Smith had some conversation about your June 30, 1970, letter prior to the time that you received a copy of the July 13, 1970, letter of Dr. Smith?

A. No.

Q. He never discussed personally with you your letter of June 30, 1970?

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A. No.

Q. The only reply that you ever received was this

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letter of July 13, 1970, or the original of that document?

A. Yes.

Q. In the middle of the paragraph Number 2 on the first page of this July 13, 1970, letter of Dr. Smith, there is a sentence which reads as follows: "A program of education in the dangers of asbestos dust was started in 1956, some two years prior to Mr. Marr's reporting aboard."

Did you see that sentence?

A. Yes.

Q. Have I read it correctly into the record?

A. Yes.

Q. Are you aware of any education program at the Long Beach Naval Shipyard with respect to the dangers of asbestos dust which was started in 1956?

A. Personally, no.

Q. Indirectly, do you have some knowledge of such a program?

A. Yes. I had knowledge -- I think this knowledge came from Cliff Kreiger and probably from my conversations with Bill Marr when I talked to him.

Q. Can you tell me what this program was that was started in 1956 with respect to education about the dangers of asbestos dust?

A. To the best of my knowledge, the workers were brought in and given some kind of talk. I never went into detail.

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Q. When you say "the workers," was this the rank-and-file workers, or just supervision?

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A. This was my understanding that this happened.

Q. What was it, rank-and-file workers?

A. Rank and file, and supervision.

Q. Do you know how often these talks were given?

A. No.

Q. Do you know who gave these talks?

A. I don't know that, either.

Q. Do you know if there were any written records of these talks being given or this program being instituted in 1956 or thereafter?

A. There were no records in my office.

Q. Mr. Manning, in Paragraph 3 on this same page denominated 803, there's an indication that Dr. Smith had required that you submit weekly reports to him. Do you see that?

A. Yes.

Q. Did you in fact submit weekly reports to Dr. Smith during the time that he was the Medical Director at the dispensary at the Long Beach Naval Shipyard?

A. Yes.

Q. When did that begin?

A. I'm not certain. I think, soon after he arrived aboard.

Q. In mid-1969?

A. In May of 1969.

Q. Did you continue submitting weekly reports to him until he left the shipyard?

A. There was some time that I was either relieved

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or relieved myself of that job. When I left the shipyard, I didn't submit weekly reports, as I recall.

Q. Approximately when did you stop submitting weekly reports?

A. I think we talked about this and had discussions, and since all my reports went through him for signature, and he therefore should know everything that I was doing, in the most important respects, this wasn't necessary, to do additional paperwork, duplicating what he already knew.

Q. When was that, in terms of a year or month?

A. My best guess is that these reports continued possibly for a year and a half.

Q. These were written reports. Correct?

A. Yes.

Q. Do you know whether copies of those reports were kept by him someplace in his office?

A. I don't know that.

Q. When you wrote these weekly reports, did you include information other than that that was contained in your journals?

A. Everything that I did, I think -- at least I tried to note in my journal, and I think there was very little that I would report to him that would not be in my journal.

Q. You had requested in your letter of June 30, 1970, that you be given additional staff help in the way of sort of a helper industrial hygienist. Correct?

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A. Yes.

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Q. You were told by Dr. Smith by way of this letter that that was not going to occur. Isn't that right?

A. I had made -- let me qualify the previous question. I had made a request for help formally, and verbally, and in a discussion in his office when John Nagle was there. Hashing over the possibilities of what we could do, John Nagle, I think, suggested it was a possibility that Cliff Barton might be able to -- the way I understood at the time -- might be able to transfer into my office and serve as an assistant.

Q. Was Cliff Barton at that time the pharmacist?

A. Yes.

Q. At some point in the distant future after 1970, that in fact occurred. Isn't that right?

A. Yes.

Q. When did that occur?

A. He came into my office in November of 1972.

Q. More than two years later. Right?

A. Yes.

Q. I'm going to read you a sentence out of this letter that we're looking at, which is on Page 804, and I believe refers to why you were not getting a staff assistant at that time. It reads as follows: "Within our allowed billet structure, it is not considered feasible to have another trained Industrial Hygienist on the staff. Your temporary absences do not constitute an undue hardship, as evidenced by your recent six-week [illegible]."

Do you see that sentence?

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A. Yes.

Q. Have I read it correctly into the record?

A. Yes.

Q. Did you understand from that that it was Dr. Smith's opinion that your being gone from the shipyard for six weeks had absolutely no effect on the shipyard?

A. It was my belief that John Nagle thought that my absence had no bearing on it, and I have -- to support this, I want you to look at Paragraph 3, where we come to a "we," and although there is no evidence of this in this report, I believe John Nagle had his hand in this. In fact, it is my belief that John Nagle wrote this whole thing for Dr. Smith's signature.

Q. Did anyone ever tell you that?

A. No. Nobody ever told me that, but knowing the two individuals, it is my honest belief that John Nagle wrote the whole thing.

Q. Were John Nagle and Dr. Smith fairly friendly?

A. John Nagle was the administrative officer, and to my knowledge, Dr. Smith never wrote anything while he was in the shipyard.

Q. Everything he wrote or that went out over his signature was written by somebody else?

A. That is correct.

Q. Including, in some instances, yourself. Correct?

A. In many instances, myself.

Q. Would you turn to paginated Page 805, please. I'm going to read into the record the last sentence of

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Paragraph 4. Would you read along with me, and if I read it incorrectly, would you let me know.

"I regret that you have such deep frustrations. If indeed your frustrations contributed to your illness and if you feel the situation intolerable, you should take such measures necessary to protect your health."

Have I read that correctly?

A. That is correct.

Q. Did you understand from this that whoever was writing this letter, be it Dr. Smith or John Nagle, that they were basically telling you that if you felt you wanted to quit, to go ahead; they weren't going to stop you?

A. That is correct.

Q. How long did John Nagle remain at the shipyard in the position of administrator for the Long Beach dispensary?

A. Shortly thereafter, he retired, and for a period of three months, there was a temporary administrative officer, and after that period, why, he reappeared on a temporary basis in the same job.

Q. Did you continue to have problems with your superior, whether it be at the instigation of John Nagle or otherwise, up through and including the time you eventually left the shipyard in February of 1974?

A. It was shortly thereafter, John Nagle again disappeared and Cliff Barton was appointed administrative officer, and at that time, my problems as far as equipment and so forth were suddenly alleviated.

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Q. Well, were your problems insofar as the image

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that the industrial hygienist had at the shipyard alleviated?

A. There was improvement, I believe.

Q. Didn't those problems reassert themselves after Dr. Smith left the shipyard?

A. Dr. Smith was the Medical Director during the entire latter period that I was employed there.

Q. I beg your pardon. Didn't those problems reoccur when you were reassigned for reporting to Robert F. Manning as opposed to Dr. Smith?

A. Yes.

Q. That occurred in the latter part of 1973. Correct?

A. Yes.

Q. You produced yesterday a document which was marked as Defendants' ZZ for identification to your deposition, which has been paginated beginning on Page 472 of the paginated documents and is marked on the outside of the envelope, "R. Manning, Correspondence."

For the rest of you, it is contained in Exhibit ZZ through AAA, Volume VI, which is the largest of the volumes that were produced this morning.

Have you found that document, Mr. Manning?

A. I have the documents. Which particular document, now, are you referring to?

Q. Well, have you found the envelope that has that designation on the outside?

A. I have it.

Q. In order that we don't confuse documents, why

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don't you take a moment and replace the other documents in the envelope that they came from.

MR. GOTTLIEB: Excuse me, Counsel. What page are we referring to?

MS. HASKELL: 472.

Q. Mr. Manning, have you replaced the documents that were removed from Defendants' CCC?

A. Yes.

Q. You have now before you the documents that were contained in the envelope marked Defendants' ZZ; is that correct?

A. Yes.

Q. Mr. Manning, one of the jobs that you had while you were the industrial hygienist was to act on beneficial suggestions, or bene. suggs., as you've described them during the course of this deposition, submitted by various employees. Isn't that true?

A. Yes.

Q. Was Dr. Smith or Robert Manning critical of the manner in which you responded to those beneficial suggestions, beginning in late 1973?

A. Yes, I think so.

Q. Would you turn to Page 478 of the paginated documents, please.

Do you have that in front of you?

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A. Yes.

Q. That is a copy of a page containing handwritten entries in two separate handwritings. Correct?

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A. It looks like two separate handwritings.

Q. Are the first two paragraphs in your handwriting, sir?

A. No.

Q. Do you know whose handwriting that is?

A. I think this is both R. Manning's handwriting. He may have written part with a pen and the other with a pencil. It looks to me like all the same --

Q. Was the last paragraph on that page meant to be a criticism of the manner in which you responded to a particular beneficial suggestion?

A. Yes.

Q. Does that paragraph read as follows: "I believe that we should not be so blunt and negative in our replies. The suggestor should be thanked for his contribution and made to feel that he has indeed, by his interest and cooperation, contributed to making the U.S. Navy a true line of protection. Industrial Hygiene is a service organization, and we certainly need to gain all the friends we can." And, excuse me, with the word "all" being underlined. Is that right?

A. Yes.

Q. Did you and Mr. Manning, Robert Manning, ever discuss the fact that he was critical of the manner in which you responded to beneficial suggestions?

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A. No.

Q. Did you in fact change the manner in which you responded to beneficial suggestions based on his criticisms?

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A. Well, this was made three months before my departure. I didn't see that many beneficial suggestions. I noted the criticism and probably would have changed my tactics.

Q. Mr. Manning, would you turn to Page 488 of these documents.

A. 484?

Q. 488.

A. Yes.

Q. This is a memorandum from Mr. Robert Manning to yourself, dated December 4, 1973. Is that right?

A. Yes.

Q. In Paragraph b on the first page of that memorandum, he requests that you start rendering him weekly reports. Correct?

A. Yes.

Q. Did you in fact begin doing that subsequent to December 4, 1973?

A. Yes, I think so.

Q. Do you recall specifically doing it, sir?

A. No.

Q. Isn't it true, sir, that beginning in the end of 1973, when Mr. Manning, Robert Manning, assumed supervision of your work, that he made numerous demands on you, most of which you simply could not meet, or chose not to meet?

A. Yes. Could not meet.

Q. The pressure on you was becoming increasingly burdensome?

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A. Yes.

Q. Mr. Robert Manning made various suggestions in the nature of suggesting that you take aggressive and positive action or that you overcome obstacles by enthusiastic, hard work, cooperation, and management initiative; is that right?

A. Yes.

Q. Did you have an emotional reaction to those suggestions?

A. Yes.

Q. What was that reaction, sir?

A. That we need a little something more tangible than this.

Q. Did it anger you to have those kinds of suggestions made to you at the end of every letter or memorandum that Mr. Robert Manning sent you?

A. It didn't improve my morale any.

Q. It did in fact make you angry, did it not?

A. Yes, on occasion.

Q. Mr. Manning, would you look at the paginated document 495, which I believe is a memorandum, also, from Mr. Robert Manning to yourself, dated November 28, 1973.

A. Yes.

Q. Have you got that in front of you?

A. Yes.

Q. Is that in fact a memorandum from Robert Manning to yourself?

A. Yes.

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Q. In Paragraph 1 on the first page of that memorandum, Mr. Robert Manning makes reference to how he became your supervisor, and then he states, "In my capacity, I have examined the Industrial Hygiene Program at the Naval Shipyard, Long Beach, and have concluded that an effective and responsible industrial hygiene program does not exist for the Shipyard or for any other activity served by the Shipyard Dispensary and under your realm of responsibility."

Have I correctly read that sentence into the record?

A. Yes.

Q. Did you understand by this particular sentence in this memorandum that it was Mr. Manning's opinion that you were not doing your job and had not been doing your job effectively from the time you came on board the shipyard until he became your supervisor?

A. Yes.

Q. Had Mr. Manning, Robert Manning, to your knowledge, surveyed the Long Beach Naval Shipyard prior to writing this memorandum?

A. It was my understanding from conversations with my assistant, who accompanied him, that he inspected several warehouses and a few places in the Naval Supply Center prior to making this statement. To my knowledge, he didn't inspect the shipyard industrial areas.

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Q. You understood by this particular memorandum that Mr. Manning was extremely critical of your activities at the shipyard. Correct?

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A. Yes.

Q. I assume that you had some emotional response to that, as well.

A. That is a correct assumption.

Q. What was that emotional response, Mr. Manning?

A. My feeling was, saying it doesn't make it so.

Q. Were you angered by this criticism?

A. That may be a fair assumption.

Q. Is it a fair assumption?

A. It is a fair assumption.

Q. Were you frustrated by this particular criticism?

A. I knew exactly what was happening, and by knowing what was happening, I could understand what was going on, and I was able to control myself, I think. There's a lot of water went over the dam between some of the things we read before and when this happened, and a lot of events that occurred, and it is my belief that I had fallen out of favor with the people in Washington, and it was Mr. Manning -- R. Manning was sent out in charge, with using tactics that would cause me to wish that I was elsewhere.

Q. In fact, did the tactics work, and did you wish that you were elsewhere?

A. Yes.

Q. When you say that you had fallen out of favor with the people in Washington as a result of certain things that -- or water that had gone over the dam between 1970 and the end of 1973, what things had

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occurred that caused you to fall out of favor with the people in Washington?

A. The first thing that went wrong was that Commander Sam Barboo had charged me with hiring a qualified industrial hygienist as my assistant. I didn't have the power to hire my own man. The man was selected by somebody else, some other process, and he had no background in industrial hygiene. And that incident caused, I think, me to fall out of favor with Sam Barboo.

Q. That was Mr. Barton to whom you're referring?

A. That is correct.

Other things happened. In August of 1972, I was transferred administratively from the shipyard command to the Naval Regional Medical Center command, and I found as a result of this that my superiors were very confused about the industrial environment. I'm sure that they knew all about clinical medicine and were expert in this field, but I found, in dealing with the shipyard and industrial environment, that they were not very knowledgeable.

And soon after we were transferred, the shipyard commander was persuaded to give $10,000 to the Naval Regional -- the Navy Environmental Health Center in Cincinnati in order for them to come out and make a survey of the dispensary, the medical facilities, and the shipyard; and this included the industrial hygiene program, the ophthalmologic program, the nursing and doctors program, whatever that was, and the hearing conservation program.

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And what happened, there were four teams in the shipyard

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all at one time, and at this time, the people at the Navy Regional Medical Center became very confused, because the fact is, I know, they couldn't separate who was what. And it was their -- that feeling was generated then that maybe I wasn't doing such a good job or I wasn't getting all this attention.

This was followed by a report which is in the record on industrial hygiene --

Q. This is the Cincinnati report that you're referring to?

A. That is correct, on inspection which, I think, was sent out sometime in February of 1973.

I have some correspondence to this effect. And this report was entirely negative in nature and was not supported by any numbers or by any measurements, and in my opinion, was a very unprofessional report that was made by people who were not entirely qualified. None of them were certified board industrial hygienists. And since this was all negative and I was working with people who didn't understand the business, it had an adverse effect on their perception of what I was doing.

I think this covers it pretty much, why I had fallen out with Washington.

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Q. It was your opinion in the latter part of 1973 and up through and including February of 1974, when you left the shipyard, that Mr. Robert Manning had specifically set out to set up a situation where you would leave the shipyard?

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A. Yes.

Q. Basically, it was your feeling that he had adopted harassing techniques?

A. Yes. It is very difficult to fire a permanent Civil Service employee, so that these were tactics that I understood very well that George Lawton had used, because I heard him expound on this particular thing at a seminar one time on how to discourage an applicant for a job that he didn't want. And the idea was just to keep telling them how much work had to be done, and he'd be working day and night, and keep using discouraging language, and finally he'd get tired.

MR. KAPPLER: He was out to get you. Is that the way you'd put it?

THE WITNESS: Well, they had decided, or somebody had decided that it was a good idea that I should be elsewhere. I think -- I might add, something that was discussed before. I had become quite active, and I was putting out reports that required money, and shipyards compete with each other as far as low overhead is concerned, and I think, to put it -- I think the Navy does a very good job when it comes to their assigned mission, which is to keep ships at sea and ready to fight, and I have no quarrel with them. But the further away they get from that assigned mission, I think, the less well they perform.

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And in the areas of industrial hygiene, why, if some of the things that I had recommended was going to cost a lot of money -- and it did -- and in one instance, late in my

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employment, I was involved in a controversy where the shipyard was bringing in nuclear ships in a non-nuclear yard. And this, in my mind, was a tactic by the nuclear ships to get their work done in a yard which had less overhead. And the Navy had instructions in this regard, and I think they expected that I would overlook these things and wouldn't enforce them, and they were fooled. I required that the men in the shipyard going aboard have film badges. I required that they have blood tests done prior to going aboard nuclear ships. And I caused to be required that these people all be indoctrinated in nuclear safety, and this all was done.

And I had quite a bit of complaints with this, and the production officer of the ship involved was screaming bloody murder, I was running the expenses up, and by some high authority in NAVSHIPS, this was countermanded, on the basis of the instruction that said that casual visitors aboard ship need not go through this. And my understanding of casual visitors would be people like those who would come aboard and service cigarette machines, and this sort of thing. The people that wrote it told me that's the way it was. Now, in my mind, people who came aboard from the shipyard and in their trades and did eight hours' work were not casual visitors.

But this kind of thing caused me to lose favor with the Navy, and it is my understanding, when you buck the military, you always lose. Now I understand.

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Q. BY MS. HASKELL: Mr. Manning, in December of

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1973, a Dr. Lawton of BUMED, who you mentioned previously, I think, during this deposition, and a Dr. Harries, who I believe was from England, came to visit the Long Beach Naval Shipyard. Is that correct?

A. Yes.

Q. Part of the visit to the Long Beach Naval Shipyard was -- well, the timing of the visit to the Long Beach Naval Shipyard was timed so that it could coincide roughly with a conference given by the Society for Occupational Environmental Health at the University of Southern California, at which Dr. Lawton was going to be a speaker. Isn't that right?

A. Yes.

Q. Did you personally conduct Dr. Lawton and Dr. Harries through the Long Beach Naval Shipyard?

A. I was part of the group that went through.

Q. Who else went through besides yourself, Dr. Lawton and Dr. Harries?

A. Robert Manning was there. Webster Ay was there. Cliff Kreiger was there. I think that made up the entire group.

Q. Did that group tour Shop 56, sir?

A. Yes.

Q. Did that group also go aboard ship where ripout operations were ongoing?

A. Yes.

Q. Did that group go to the boilermaker shop?

A. Yes, I believe so.

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Q. Did that group tour the areas where asbestos products were stored?

A. Yes.

Q. Did either Dr. Lawton or Dr. Harries, after this tour was concluded, make any recommendation of changes that should be instituted at the Long Beach Naval Shipyard?

A. It is my understanding that Commander Harries made some kind of comment about the respirators being used at the time. He made some disparaging remarks.

Q. He did not feel that the 3M respirators were adequate?

A. This is my understanding, yes.

Q. These were the one-use throwaway-type respirators that we've discussed previously?

A. Yes.

Q. Did you attend the conference at USC?

A. No.

Q. Robert Manning attended that conference. Correct?

A. Robert Manning, and Dr. Smith also attended.

Q. Did you ask to attend that conference?

A. Yes.

Q. Do you know why you were denied permission to attend?

A. The explanation that I got was that I was needed in the shipyard.

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Q. Do you know whether any publications or other written material were made available to the people who attended that conference?

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A. I don't know that.

Q. You never were shown any such documents?

A. No.

Q. Sir, would you turn to Page 502 of the documents, the paginated documents. Do you see that?

A. Yes.

Q. That's the back page of a flier for this conference that took place in December of 1973 at the University of Southern California?

A. Yes.

Q. You've referred in this deposition repeatedly to a Duncan Holaday. Is that the man whose name appears after the number 5?

A. Yes.

Q. And the spelling of that name is H-o-l-a-d-a-y?

A. Yes.

Q. Have you ever met personally any of the people who are listed on this page?

A. Yes.

Q. Have you ever met Dr. Goldsmith?

A. No.

Q. You've met Dr. Balchum?

A. Yes.

Q. Dr. Balchum, in fact, examined you for asbestosis and other pulmonary diseases in early 1974. Correct?

A. Yes.

Q. At the time that Dr. Balchum examined you, did he tell you that you had asbestosis?

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A. He told me that I had pleural thickening, which is indicative of asbestosis.

Q. This was in early 1974?

A. Yes.

Q. Have you ever personally met Dr. Blejer?

A. Yes.

Q. On how many occasions?

A. Ten or fifteen occasions.

Q. Where did those meetings take place?

A. I'd see Dr. Blejer in meetings of the Southern California Section of the American Industrial Hygiene Association. I saw him at conventions held yearly. I saw him at seminars that were conducted in the Los Angeles area.

Q. Dr. Blejer was a visitor to the shipyard on some occasions, was he not?

A. On one occasion, he was.

Q. When was that, sir?

A. Just prior to this conference, this International Shipyard Health Conference.

Q. Did he tour the shipyard at about the same time that Dr. Lawton and Dr. Harries were touring the shipyard?

A. Yes. It was, I think, a few days before.

Q. Did Dr. Blejer make any suggestions of changes that should be made at the shipyard with respect to the handling of asbestos products after touring the shipyard?

A. No.

Q. Did you go with Dr. Blejer when he made this tour?

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A. Yes.

Q. Who else went with you and Dr. Blejer on this tour?

A. Webb Ay.

Q. Did it appear to you that Mr. Ay and Dr. Blejer had known each other prior to this tour?

A. They may have met. He didn't know him as well as I did.

Q. Who else was on this tour besides yourself, Dr. Blejer, and Mr. Ay?

A. That was it.

Q. This was a day-long tour?

A. He spent a good part of a day, yes.

Q. Had you ever met Dr. Ferris?

A. No.

Q. Dr. Holaday you've mentioned on numerous occasions as having been out at the shipyard. Correct?

A. Yes.

Q. Had you ever met Art Langer?

A. No.

Q. The G. Lawton who is mentioned, is that Dr. Lawton who toured your shipyard in December of 1973?

A. Yes.

Q. Had you ever met Mr. Lowe?

A. No.

Q. How about Mr. Rieke?

A. No.

Q. How about Dr. Schaeffer?

A. No.

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Q. Dr. Selikoff, I think you've mentioned as someone who has been out at the shipyard on numerous occasions.

A. He's been at the shipyard in Long Beach, yes.

Q. On how many occasions was Dr. Selikoff at the Long Beach Naval Shipyard?

A. Inside the shipyard -- I'm not certain whether he ever got inside the shipyard, but he was in Long Beach in person. I'm vague about him being inside the shipyard. This could have been or it could not.

Q. What about Mr. Trommershausen?

A. I knew him.

Q. How had you met him?

A. He was the industrial hygienist for Kaiser Industries, and I've met him at conventions.

Q. Had he ever been out to the shipyard?

A. No.

Q. Mr. Manning, would you turn to Page 506, please, of these documents.

A. Yes.

Q. At the top of that document, there are some initials which say, "SHM." Those are your initials. Correct?

A. Yes.

Q. Then there are some small initials, "c" or "o," "b." Is that right?

A. Yes.

Q. Did those initials indicate to you that you in fact dictated this document and it was typed by the person whose initials appear in small print?

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A. Yes.

Q. After that, in parentheses, there is the number "725." That was your code. Correct?

A. Yes.

Q. This document is dated May 12, 1972, and purports to be from Code 700 to Code 920. Is that right?

A. Yes.

Q. Was Code 700 Dr. Smith?

A. Yes.

Q. So this was a document that was ghostwritten by yourself for signature by Dr. Smith?

A. Yes.

Q. Who was Code 920?

A. That is the superintendent of the shop that contained the boiler shops and the welding shops. Maybe they call it the structural group.

That would be the structural group.

Q. And the structural group was contained in what building, sir?

A. In most part, it was contained in Building 128, and the sheet metal work would be in 130.

Q. Mr. Manning, this memorandum of May 12, 1972, written by yourself for Dr. Smith's signature, makes reference to a survey conducted, I assume, by yourself to evaluate employees' exposure to asbestos fibers while working with materials containing asbestos in Building 128. Is that right?

A. Yes.

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What number was that?

Q. 506.

A. All right.

Q. Would you look at that document, please, 506.

A. Yes.

Q. What trades were using asbestos fibers in Building 128 in May of 1972 when you did this survey?

A. These were boilermakers.

Q. And they were sawing insulation block and installing asbestos cloth gaskets?

A. They were cutting out asbestos cloth gaskets, yes, and sawing insulation.

Q. And the insulation block that was being sawed on that occasion was Carey-Temp and Thermobestos?

A. Yes.

Q. How did you learn on that occasion that the insulation block being sawed on that occasion was Thermobestos and Carey-Temp?

A. The containers were at the site.

Q. Mr. Manning, I suggest that we take our morning break now for about 15 minutes. Is that enough time for you?

A. Fine.

(Recess taken from 11:00 a.m. to 11:20 a.m.)

Q. BY MS. HASKELL: Mr. Manning, we were talking about the document containing the pagination number 506. Can you find that document again and place it before you?

A. Yes.

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Q. Would you turn to the second page of that document, which is paginated Page 507.

A. Yes.

Q. Item Number 3 on that page begins with the words, "Because of the increasing awareness of the elevation in the incidence of the various cancers associated with inhalation of asbestos dust" -- do you see that reference?

A. Yes.

Q. When did this awareness of the elevation in the incidence of various cancers begin to increase?

A. My awareness increased from just a bare awareness in the years -- possibly 1965, '66, '67, and became more acutely aware when Selikoff's work became widely distributed. I think I became aware of it in early or mid-1967 in detail, and the awareness increased thereafter.

Q. Mr. Manning, on the document paginated 508, on the copy that I have, I can't read the date stamp underneath "Code 044." Can you read that on the original that you have?

A. Yes.

Q. What is that?

A. That's 20 December 1973.

Q. Thank you.

Mr. Manning, would you turn to the document which bears the paginated page number 511, which is entitled, "Rough Draft."

A. Yes.

Q. Do you have that?

A. Yes.

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Q. When did you begin to write this rough draft?

A. My best guess would be sometime in January of 1974.

Q. You wrote this document in response to a demand or request from Mr. Robert Manning?

A. Yes.

Q. He wanted you to devise a plan and submit that plan to him with respect to the upgrading of the industrial hygiene program at the Long Beach Naval Shipyard?

A. Yes.

Q. On Page 511, there are some handwritten notes. Are those notes in your handwriting?

A. Yes.

Q. What does it mean to you that you made the note, "Personnel Needs"?

A. I thought we were talking about -- in Paragraph 1, there was some written material that was smudged out, and this was written by me. I'm not sure that this other material was written by me. It doesn't look like my handwriting.

Q. The two notations, "Personnel Needs" and "I. H. Manual and/or Instruction," is not in your handwriting?

A. It doesn't look to me like it is.

Q. Do you know what the notation "I. H. Manual and/or Instruction" refers to?

A. I don't know what it refers to.

Q. Would you turn to Page 512, please, of the documents.

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A. Yes.

Q. There is a request by Mr. Robert Manning that you rewrite the memorandum with respect to your plan to upgrade the industrial hygiene program pursuant to his verbal instructions to you on January 21, 1974. Is that right?

A. Yes.

Q. What was the substance of your conversation with Mr. Robert Manning on January 21, 1974, in his offices?

A. There was some verbal conversation in his office where he outlined what he thought should be the plan, industrial hygiene plan in the shipyard.

Q. Are paginated Pages 516, 517, which appears twice in my copy, and 518 notes that you made during the course of that conversation?

A. Part of it is my notes, and part of it is in his handwriting.

Q. Were these notes made during the course of your conversation with him on January 21, 1974?

A. Yes.

Q. Mr. Manning, on Page 514, there is a document entitled, "Plan for Improving Industrial Hygiene Program." Do you see that document?

A. Yes.

Q. In two places on that document, one in Paragraph 1 and one in Paragraph 3, there are words that have been crossed out. Do you see that?

A. This is Page five --

Q. Fourteen.

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A. Yes.

Q. Can you read on the original of that document that you have before you what the word was that was crossed out?

A. I believe it was the word "comprehensive."

Q. Did you cross that word out?

A. Yes, I think so.

Q. Why?

A. I really don't know. This apparently is a rough draft.

Q. Did you write this particular document that we're now looking at, Pages 514 and 515?

A. Yes.

Q. Item 5, or a portion of Item 5, beginning on Page 514, and continuing on to Page 515, reads, "Material Safety Data Sheets for potentially hazardous materials purchased in the Shipyard will be obtained and an index file of these materials will be maintained." Correct?

A. Yes.

Q. Were you going to undertake this task yourself?

A. Yes.

Q. Did you envision at the time that you wrote this, Mr. Manning, how you were going to determine what hazardous materials were purchased in the shipyard so you could begin to prepare an index file on those materials?

A. Yes. I had had at this time and prior to this some contact with the Supply Department in the shipyard, and set up some kind of procedure -- started to set up some kind of procedure where I would be able to know, or be

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consulted about anything coming into the shipyard. Some of this work had been part of my regular schedule. I generally in this area would inspect shop stores and find out what was in them and read labels, and if I didn't know what was in something, I'd make inquiries, sometimes directly to the company, and I did send out some Material Safety Data Sheets on quite a few occasions on other materials. But I did not in the case of asbestos, to the best of my knowledge.

Q. Who in the Supply Department did you talk to with respect to setting up a system or procedure whereby you would learn what products were being used at the shipyard?

A. I don't recall that. There's some documentation that may indicate that.

Q. Did you bring that documentation with you?

A. I think there is something in the papers we're looking at.

Q. Could you take a moment and look through and see if you can find the name of the person or persons you were going to deal with in the Supply Department who were going to provide you with this information?

MR. STEIN: Ms. Haskell, may I inquire of you, is this your witness now on direct or cross examination of an adverse witness?

MS. HASKELL: He is certainly not my witness, Mr. Stein.

MR. STEIN: I believe you have made this your witness, and I'm going to object to all your leading questions.

MS. HASKELL: Your objection is noted, Mr. Stein.

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MR. STEIN: Thank you, Ma'am.

May I also inquire, do you intend at this time to present this witness at the time of any trial in any other asbestos case other than his?

MS. HASKELL: Have I become a witness in this deposition, Mr. Stein?

MR. STEIN: No. I'm very serious, Ms. Haskell. I'd just like to get some of the ground rules set, because if you do intend to present this witness, I'd like to know what the procedural rules are, and I'd be guided accordingly, and I might start making a few objections.

Seriously, could I have an answer to that? I know you're not bound --

MS. HASKELL: Seriously, no.

MR. STEIN: Seriously, you're not going to answer my question?

MS. HASKELL: That's right.

MR. GOTTLIEB: Not that she isn't going to use him in any other trial.

Q. BY MS. HASKELL: Mr. Manning, are you sure you're putting these documents back into the envelopes they came out of?

A. Yes.

I've found it.

Q. What was the name or names of the person in the Supply Department who you talked to about setting up this procedure whereby they would advise you what products were coming into the shipyard?

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A. This document doesn't help me too much. Let's see. There is something here to do with forms in here. It mentions 502.1, which we can look up in the Receiving. 502.1. That would be -- to the best of my recollection, the name that sticks out is W. Steele there. This is my best recollection.

Q. How do you spell Mr. Steele's name, Mr. Manning?

A. S-t-e-e-l-e.

Q. Mr. Manning, let me go on to something else, and we can come back to that.

You mentioned that you always on occasion, as part of your job, inspected shop stores; is that right?

A. Yes.

Q. Are shop stores what they sound like, a place where materials are stored in a particular shop?

A. Yes. They are just what they say they are. They are places where material is kept, and people come there -- instead of money, they use requisitions, and there are clerks who work in these stores.

Q. Are these stores physically located within the shops?

A. Not always.

Q. Did Shop 56 have a store that was located physically within Shop 56?

A. I don't think so. I can't recall a shop store being in that building.

Q. Was there a shop store for Shop 56 located somewhere else in the shipyard?

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A. Yes, I'm sure that there was.

Q. Pardon?

A. I'd have to locate -- there's really no shop store listed, in the telephone directory, anyway, for 56.

Q. You're looking at the telephone directory that's been marked as an exhibit?

A. Yes. I don't see any shop store specifically for them.

Q. Was there a shop store somewhere on the shipyard premises that housed asbestos products?

A. I don't think, other than what was -- the locations other than we've discussed before.

Q. That would be the laggers barge and the area at or around Building 100?

A. Yes.

Q. Mr. Manning, would you direct your attention to Page 518 of the paginated documents, please.

Do you see that?

A. Yes.

Q. On the original of that document that you have, does it appear to you that certain buildings are circled together?

A. Yes.

Q. Do you know why you drew those circles?

A. I have no idea.

Q. Would you look at Page 519 of the paginated documents, please.

A. Yes.

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Q. Do you see a reference to a Mr. Clyde Warner in Paragraph B of that document?

A. Yes.

Q. This document was written by you, or by Mr. Robert Manning.

Sir, would it help to refresh your recollection if you would look at the initials at the top right-hand corner?

A. This was written by Robert Manning.

Q. Were you aware of this situation described in Paragraph B with respect to Clyde Warner?

A. I was made aware of it, yes.

Q. Did you learn that Mr. Warner had been operated on for mesothelioma and was undergoing cobalt treatments and had returned to the shipyard to do the same work he was doing previously?

A. I did not know this.

Q. Prior to reading this document, you did not know that?

A. No.

Q. If you had known it, would you have insisted that Mr. Warner be relieved of his duties?

A. My feeling about that was that -- first of all, I'm surprised that mesothelioma was operable. My understanding of the condition is that it is diffuse and not operable. But I certainly would have been -- and I would not have been in a position to recommend anything of a medical nature, but I would assume that any doctor that understood these facts would recommend that he be removed from

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exposure.

Q. Do you know who this report was written to by Mr. Manning, Robert Manning, on January 2, 1974?

A. This was apparently a rough copy of a report that he was making to his superiors, on a monthly basis, I suppose for the month of December, it looks like, about his activities.

Q. When did you first learn that Clyde Warner was in this condition as described in this document?

A. Probably whenever this was -- I saw this, was the only information I had.

Q. When did you see this document for the first time?

A. On or about this date, the 2nd of January 1974.

Q. Mr. Manning, would you turn to Page 520, which is the next page. In Item 2, there is a notation that the Naval Supply Center was being staffed by a civilian firm with a government contract. Do you see that?

A. Yes.

Q. Do you know what civilian firm had that contract during the month of January 1974?

A. No.

Q. Mr. Manning, would you turn to paginated Page 522 of these documents, please. This is a document again written by Mr. Robert F. Manning, dated January 2, 1974. Correct?

A. Yes.

Q. The last sentence of this page reads: "It has

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become increasingly apparent that Mr. Manning is not performing on a GS-12 Administrative Level"; is that right?

A. Yes.

Q. Did you see this document at or about the time that it was written?

A. Yes.

Q. Did you have an emotional response to that particular sentence in this document?

A. I suppose there was some emotional response, yes.

Q. What was the nature of that emotional response?

A. There may have been a little tinge of anger connected with reading this.

Q. Wasn't there more than just a little tinge of anger connected with reading this?

A. By this time, I understood what was happening, and on January the 2nd, I had already taken a physical exam in Dr. Balchum's office and knew some of the findings, and I wasn't -- you know, just bearing with it, I knew what was going on, and trying to make the best of it, and this sort of thing.

Q. In early January of 1974, Mr. Manning, you had already decided that you were going to be leaving the shipyard very shortly. Isn't that right?

A. It looked very much that way.

Q. Mr. Manning, would you turn to Page 523 of the paginated documents.

A. Yes.

Q. That is a continuation of this same report by Mr.

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Manning of January 2, 1974, that we've just been discussing. Correct?

A. Yes.

Q. Item h on that page indicates that asbestos products in open containers were stored throughout Warehouse 59; is that right?

A. Yes.

Q. Looking at the schematic drawing that we referred to yesterday, which has been marked as Defendants' LL for identification, please tell me where, approximately, Warehouse 59 would be located.

A. Warehouse 59 was the warehouse located in the Naval Supply Center. It is not included in this schematic drawing.

Q. The Naval Supply Center is to the west of Buildings 54 and 100?

A. Yes, and to the west, also -- that would be south of Sullivan Avenue. That whole area that is crosshatched and to the west is Naval Supply Center.

Q. So the dotted-and-dashed line that has hash marks across it that we talked about yesterday, to the west of Building 54 and 100, and running in a southerly direction down all the way to Pier 6, indicates the area where the Naval Supply Center was located?

A. Yes.

Q. Can you indicate more specifically in that area where Warehouse 59 was located?

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A. Well, 59 was located south of Sullivan Avenue, and

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approximately 150 yards west of the area that is depicted here.

Q. To the west of what is depicted on this entire diagram?

A. That's correct.

Q. So, in that area, there were asbestos products also stored?

A. Yes.

Q. Now, at the bottom of this particular page, there is a reference to a recommendation being made to store paper cartons containing chemicals in an area protected from the weather. Do you see that reference?

A. Yes.

Q. Is that the first time, to your knowledge, that such a recommendation was made at the Long Beach Naval Shipyard?

A. Apparently he's referring to paper cartons that he saw in the supply center. I don't know. It is possible that he saw other paper cartons.

Q. My question, Mr. Manning, is: Is that, to your knowledge, the first recommendation that was ever made that chemicals in paper cartons be stored in an area protected from the weather?

A. Yes.

Q. Mr. Manning, on Page 527 of these documents, Item 3, there is a reference made to an outside contractor doing sandblasting.

A. Yes.

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Q. Do you know the name of that outside contractor?

A. This name, I hope, is contained in the report of survey that we have in our documents here presented. What we were looking at is probably a rough copy of a semiannual report, narrative section of the semiannual report on the industrial hygiene activities for the January 1974 report.

Q. Is there someplace at the Long Beach Naval Shipyard where the names of outside contractors were logged or kept on a regular basis?

A. There should be someplace where this kind of log would be kept. Offhand, I don't know exactly what it would be.

Q. Mr. Manning, would you turn to Page 528 of these documents. There is a reference there to a Mr. John Dale and a Mr. Joseph Peoples of the Environmental Protection Agency visiting the shipyard. Do you see that?

A. Yes.

Q. Did you accompany either of these gentlemen on their tour of the shipyard?

A. I have very little recollection of this. It is possible that I was along on this conducted tour. I don't even remember these people.

Q. Did you write this particular report that we're looking at?

A. Yes.

Q. The last sentence of the paragraph with respect to the EPA visit to the shipyard reads as follows: "Prior to leaving, Mr. Dale and Mr. Peoples expressed the

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belief that there probably was not a community air pollution problem caused by asbestos in this Shipyard."

Have I read that sentence correctly?

A. Yes.

Q. Is that what you were told?

A. This would indicate to me that I was part of the tour and heard them say this. Vaguely, I have some vague recollection, but it made not too much of an impression on me.

Q. Mr. Manning, do you agree with this particular conclusion?

A. Well, air pollution control is not in my particular specialty, and my best guess would be, from what I know, that probably they were not entirely correct.

Q. That is a guess on your part?

A. Well, I had no air pollution responsibilities in the shipyard, made no studies and took no samples in this area.

Q. Mr. Manning, on Page 529 of this document, there is a reference to various compensation cases during the period covered by the report. Is that right?

A. Yes.

Q. What was the time period covered by this report in terms of months?

A. This would be July 1 to December 31.

Q. A 6-month period?

A. Yes.

Q. During that 6-month period, there were 27 claims for noise-induced hearing loss?

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A. These were claims paid.

Q. And one claim paid for something related to asbestosis; is that right?

A. Yes.

Q. Do you know who the person was who recovered under comp during that time period?

A. No, I do not.

Q. This was cases filed under the Federal Employees Comp Benefit System?

A. Yes.

Q. Would you look at Page 530, please.

A. Yes.

Q. In Paragraph C, you discuss certain indoctrination given to asbestos-exposed employees. Correct?

A. Yes.

Q. There is also an indication that the fiberglass question was explored.

A. Yes.

Q. What does that mean?

A. Well, while I was at the shipyard and whenever fiberglass was substituted for asbestos materials, I would get some kind of feedback that the employees feared fiberglass almost as much as they feared asbestos, and there was a reason for this.

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The international president, a man by the name Hutchison, I think, had a jurisdictional dispute with another trade in the application of insulation material in buildings -- in the building trades, and it turned out that the people

who installed ventilation, the tinsmiths and so forth, would install this, which included insulation on the inside of the ducts. When the insulation was on the inside of the ducts, the sheet metal trades installed it, but if insulation was applied on the outside of the ducts, the pipe coverers and insulators and refrigeration workers had the jurisdiction and would do this work.

Generally, when insulation was inside the ventilation ducts, it was fiberglass, and it was this Mr. Hutchison who was the president of the Pipe Coverers and Insulators International, would go far and wide and condemn this practice of putting insulation on the inside of a duct which was glass, and saying that it was as hazardous as asbestos, and he had indoctrinated his workers in this respect. So they were constantly worried and coming back at me that glass was as bad as asbestos; and this was the problem we were discussing.

Q. When did that problem begin to manifest itself?

A. Well, these things would pop up just as soon as we substituted fiberglass products. Whenever glass fabric was substituted in the pad fabricating shop, there were objections because -- or this question was naturally brought up.

Q. So, beginning in 1967, this question was brought up. Is that right?

A. We substituted glass in the pad shop long after 1967. It was somewhere -- much later than that. About 1970, I think, or maybe later.

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MR. MULLIGAN: Mr. Manning, I think the question was, when

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the problem first came up, not when you started substituting glass for asbestos. I think the question is, when did you begin the discussions between the union people and the Naval Shipyard personnel as to the dispute and distinction between the health hazards of asbestos and glass.

THE WITNESS: All right. I'll answer your question.

I first became aware of Mr. Hutchison's position in a conference that we covered, I think, that was held at the Century Plaza Hotel. I believe it was in 1967. This is the one where Cooper and Tabershaw attended.

MR. MULLIGAN: What was the name of that conference?

THE WITNESS: It was not an official conference, but it was something that was sponsored by the local unions in the pipe coverers trade, and they had invited Tabershaw and Cooper and myself and Captain Watkins, and several people from the industry were there, who manufactured asbestos materials.

MR. MULLIGAN: At this meeting, were the health hazards of asbestos discussed?

THE WITNESS: Yes. We had covered this before in some of my notes.

MR. MULLIGAN: Thank you.

Q. BY MS. HASKELL: Mr. Manning, on February 6th, 1974, had you yet filed your Federal Employees comp claim?

A. No. The first thing I filed was a CA-1. I don't think that was before then.

Q. You didn't file the CA-1 before February 6, 1974?

A. No.

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Q. On February 6, 1974, or about that time, did you receive a copy of a memorandum from Mr. Robert Manning to yourself, a copy of which is contained in the paginated documents 539 through 541, inclusive?

A. Yes.

Q. In that memorandum, he complained that certain items that he had requested you to do had not been undertaken by you.

A. Yes.

Q. And he concluded on the last page of that memorandum, did he not, that if you did not undertake those activities, you would be fired?

A. He speaks -- "Failure to do so will result in adverse action being taken against you."

Q. Did you understand that to mean that if you didn't comply with his wishes, he could have you fired?

A. I think his tactics would have been eventually to have me reduced in class, which was the way it looked, if my work was not up to GS-12 standards. That was my belief that this was his threat.

Q. This was at or about the same time that you were seeking a reclassification from GS-12 to GS-13, is it not?

A. Yes.

Q. Mr. Manning, I don't have any more questions on those documents. Would you replace them in the envelope from which you removed them.

Excuse me, Mr. Manning. Do these documents also belong in there?

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Mr. Manning, I'd like to call your attention to documents which have been marked as Defendants' Exhibit MM for identification. Those are the loose documents you produced yesterday. Have you got those?

These are the documents that start out paginated Page 1.

A. Yes.

Q. They are in Exhibits Volume VI, Roman numeral VI, beginning with Page 1.

Mr. Manning, the first document which was marked as Defendants' MM for identification is a letter dated April 8, 1974, to the U.S. Department of Labor from Cliff Kreiger, is it not?

A. Yes.

Q. Do you recognize Mr. Kreiger's signature?

A. Yes.

Q. That is in fact his signature?

A. Yes.

Q. Did you ask Mr. Kreiger to write this letter on your behalf?

A. Yes.

Q. Did you in fact provide him with information contained in this letter?

A. Yes.

Q. Did you tell Mr. Kreiger that you had little backing from your own people in the Medical Department during the time that you were the industrial hygienist at the shipyard?

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A. Yes.

Q. Did Mr. Kreiger go with you to engineering spaces aboard ship when asbestos insulation was being removed?

A. Yes.

Q. Did Mr. Kreiger go with you to the fabricating shop and the mixing barge where asbestos cloth was being used?

A. The fabricating shop, certainly. Yes, he was with me aboard the barge, also.

Q. Where was this mixing barge located at the times you visited it?

A. It's the same thing as we were discussing before, I think.

Q. The laggers barge?

A. Yes.

Q. The one where they stored asbestos products?

A. Yes.

Q. Was there actual work done on that barge?

A. At some time apparently there was work. They were using the barge to mix their cement at some late period.

Q. Why would you use asbestos cloth to mix cement?

A. I think we were talking about asbestos-containing cement that's being mixed.

Q. So you were exposed to asbestos cement that was being mixed aboard the laggers barge?

A. I'm not certain that this happened to me, that they

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were actually doing the mixing while I was there.

Q. Mr. Manning, this letter indicates that for some period of time you were the industrial hygienist at the Long Beach Naval Shipyard, you didn't wear a respirator when you went to areas where asbestos products were being used. Is that right?

Mr. Manning, what I'm asking you, is it correct you did not wear a respirator when you went aboard or close to areas where asbestos products were being used for some period when you were an industrial hygienist at the Long Beach Naval Shipyard?

A. Yes, there were times when we went aboard ships and in areas where asbestos was being used, without wearing respirators.

Q. Mr. Manning, without reviewing that letter that is presently before you, can you tell me why you didn't wear a respirator?

A. Well, the reason was, number one, we probably didn't feel that people that were collaterally exposed to asbestos were in as much danger as the people using it.

Number two, I, of course, was not aware of my -- at the time that I was in any way predisposed to damage from asbestos dust. I thought I was at least as resistant as anybody else.

As a general rule, we did not in our work, if it did not involve sampling, in my case; and I never did see Kreiger wear a respirator except maybe on a conducted tour or something.

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So that on these occasions, we were, I guess, somewhat deluded about the dangers of asbestos.

Q. Mr. Manning, when did you start wearing a respirator -- Mr. Manning, you might have an easier time answering my questions if you didn't concentrate on the document in front of you.

A. Okay.

Q. In what year did you start wearing a respirator on a general basis?

A. Well, on those occasions where I went aboard ship and sampled for asbestos dust, I wore a respirator, and this probably happened, when I started sampling was sometime in the summer -- about June 1968.

Q. Mr. Manning, prior to June 1968, you never wore a respirator at the Long Beach Naval Shipyard?

A. No.

Q. Am I correct that you did not wear a respirator prior to June of 1968 at the Long Beach Naval Shipyard?

A. This would be correct.

Q. Starting in June of 1968, you began wearing a respirator at the Long Beach Naval Shipyard for some tasks, but not for others. Correct?

A. That's correct.

Q. And the task that you wore a respirator for beginning in June of 1968 was dust sampling. Right?

A. Yes.

Q. You did not wear a respirator for other tasks. Is that right?

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A. No.

Q. At some point in time, did you begin using a respirator for other tasks other than dust sampling after June of 1968?

A. I think that I wore on occasion a dust mask for sampling sandblasting operations, the same dust mask.

Q. Mr. Manning, did you ever use a Dust Foe respirator for anything other than dust sampling when you were exposed to asbestos products?

A. Yes. I'm certain, on occasions, that when I sampled for silica, that I wore the respirator.

Q. Mr. Manning, you're not listening to my question, because you're reading the document. Please listen to my question. Okay. You wore a respirator when you did dust sampling for asbestos dust. Correct?

A. Yes.

Q. Were there any other tasks at which times you were exposed to asbestos products that you used a respirator?

A. No.

Q. So the only time you ever used a respirator when you were exposed to asbestos products was when you were doing dust sampling for asbestos. Correct?

A. That is correct.

Q. You didn't begin doing that until June of 1968?

A. Correct.

Q. After June of 1968, you continued not to use a respirator when you were exposed to asbestos products

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except when you were doing dust sampling. Right?

A. That is correct.

Q. Why?

A. I felt that my principal exposure was during sampling in close to the workmen where the dust was generated, and where the highest concentrations were always found, and there was no requirement to wear a respirator in any other situation.

Q. You continued to believe that until February of 1974, when you left the shipyard?

A. Yes.

Q. There is a statement in this letter by Mr. Kreiger that says, quote, "We wore respirators to set the example."

A. Yes.

Q. Do you see that statement?

A. Yes.

Q. That statement is simply untrue, except with respect to the times you did dust sampling. Isn't that right?

A. We felt we were setting an example when I wore a respirator while the sampling -- while people were using asbestos.

Q. But other than the times that you were doing dust sampling, you didn't wear a respirator when you were in and around the vicinity of asbestos products. Isn't that right?

A. Yes.

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Q. This letter indicates that you learned of the problem with your respirator by Charlie Ay. Is that right?

A. Yes.

Q. Do you know how many years passed before Charlie Ay pointed this out to you?

A. To my best recollection, it was pretty late in the game. My best guess would be 1972.

Q. Do you know how Charlie Ay came to learn that your particular respirator was being used with the wrong size filters?

A. Charlie Ay had found out about this situation, and one afternoon he come charging in my office and said something to the effect, "You got your respirator handy?"

And I told him, yeah, I had it in the drawer.

And he says, "Haul it out. I want to show you something."

So I got it out, and he took it apart and showed me what had been going on.

Q. Did he tell you how he had learned about this problem with your particular respirator?

A. He probably found out because it happened to him or some of his -- I believe he was a foreman at that time, and had come upon this with some of his own people or himself. He didn't say, really.

Q. You're just giving us supposition at this point?

A. Yeah. He found out about it in the line of his work.

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Q. Mr. Manning, this letter that Mr. Kreiger wrote in April of 1974, did you see this letter at or about the time that it was written?

A. I saw it, yes, before it went out.

Q. You saw it at or about April 8, 1974?

A. Yes.

Q. Mr. Manning, would you look at Page 2 of this document, paginated Page 2.

Would you read into the record, please, the second to the last paragraph of this letter.

A. "I have watched" --

Q. Second to last paragraph.

A. "Fortunately, Mr. Manning realized that his physical condition was serious and sought the best pulmonary function specialist in the area, Dr. Oscar Balsham Hastings Professor of Medicine at University of Southern California Medical Center. He has a world wide reputation. As a result of a day and one-half work up, his condition was diagnosed as pulmonary emphysema asbestosis, fibrosis and pleural thickening."

Q. Stop right there, if you would.

This letter indicates that your condition was diagnosed by Dr. Balchum as asbestosis prior to the writing of this letter; is that right?

A. Yes.

Q. And you saw this letter at or about April 8, 1974. Is that right?

A. Yes.

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Q. Would you read the last sentence of this same paragraph?

A. The last sentence?

Q. Yes, please.

A. Of the paragraph.

"I can attest to the fact that Mr. Manning has been exposed to many irritants since my office would often get the initial complaints and I would turn the matter over to him. This included dust, fumes and toxic gas conditions."

Q. It was true, was it not, that you had been exposed to toxic gas conditions on occasions?

A. Yes.

Q. And you had been exposed to toxic fumes on occasion?

A. Yes.

Q. And you had been exposed to toxic dust other than asbestos on numerous occasions. Correct?

A. Yes.

Q. Mr. Manning, would you turn to Page 5 of the paginated documents, to the document which has been marked as Defendants' OO for identification to your deposition.

A. Yes.

Q. Can you tell me who authored that document?

A. No, I don't know who authored this.

Q. This document describes, does it not, the job that you held at the Long Beach Naval Shipyard?

A. Yes.

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Q. Do you know what year this document was written?

A. No doubt, it was written in 1972. It was written by the Naval Regional Medical Center personnel, and it had to happen after that, and I think it was put together when I was transferred from the shipyard administratively over to the Naval Regional Medical Center.

Q. How do you know that it was written by the Naval Regional personnel?

A. Because it says. It's a Naval Regional Medical Center, Long Beach position. So that they wrote it. It was probably someone in their personnel office.

Q. Was this your job description?

A. Yes.

Q. Did you see a copy of it at or about the time that it was written?

A. Yes.

Q. Did you have meetings with the senior medical officers at the Long Beach Naval Shipyard on a regular basis during the time that you were the industrial hygienist at the Long Beach Naval Shipyard?

A. No.

Q. Did you have regular meetings with the senior medical officer at the Regional Office of Industrial Hygiene?

A. No.

Q. Mr. Manning, would you look at the item that's been marked as Defendants' Exhibit PP for identification, Pages 11 and 12 of the paginated document -- actually, Pages 11 through 14 of the paginated document. Do you have

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that in front of you?

A. Yes.

Q. This was a publication of the U.S. Department of Labor?

A. Yes.

Q. In approximately what year?

A. Probably 1972.

Q. Would you turn to paginated Page 12, which is the second page of this document, please.

A. Yes.

Q. This document discusses the filling out of, quote, Material Safety Data Sheets, unquote. Isn't that right?

A. Yes.

Q. One of the purposes is to instruct employees as to the nature of hazards?

A. Yes.

Q. Was there some method by which you were supposed to get this material disseminated to employees?

A. This material we're looking at is simply words somebody put down on paper as to the purpose of this thing. Material Safety Data Sheets came into existence as a result of the OSHA Act, and this here is just some little flier that they put out that -- actually, the Maritime Safety Data was not OSHA, but was a place where Material Safety Data Sheets were provided for before OSHA.

And the form is an example of the form that was used, and this is an OSHA form, and it has a date of May '72 on it.

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Q. The form you're referring to is Defendants' Exhibit QQ?

A. That is correct.

Q. Mr. Manning, are you telling me by that answer that there was no manner by which this information was disseminated to employees on a regular basis?

A. With the single exception of asbestos, there was no regular indoctrinations of employees in regard to the material they were using, no.

Q. And with respect to asbestos, is it your contention, sir, there were regular indoctrinations with respect to the health hazards associated with the use of asbestos products?

A. There were indoctrinations as recorded in my log.

Q. You told us there were four indoctrination sessions during the time you were an industrial hygienist.

A. Right.

Q. Were there any other ways in which information with respect to the hazards associated with asbestos products was disseminated to employees at the Long Beach Naval Shipyard during the time that you were at the Long Beach Naval Shipyard?

A. No, not to my knowledge.

MR. STEIN: May I have that question and answer back, April? I'm sorry.

MS. HASKELL: Would you please read it back.

(The question and answer referred to are read by the reporter.)

Q. BY MS. HASKELL: Mr. Manning, there is

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reference on Page 12 of this document to an item called Safety and Health Regulations for Ship Repairing, Shipbuilding, and Shipbreaking. Do you see that reference?

A. Yes, I see it.

Q. Was there a book or a manual in the shipyard that had that title?

A. No.

Q. You never saw that?

A. No. That regulation did not apply to naval shipyards. It was only private shipyards.

Q. How do you know that?

A. I have some knowledge of this from conversations with knowledgeable people in this area.

Q. Mr. Manning, you produced a document yesterday which was marked as Defendants' RR for identification, which purported to be certain revisions under consideration for changes in TLV's. Can you find that document?

A. Yes.

Q. Do you have it in your hand?

A. I have it.

Q. There are certain items listed under the category "Additions Under Consideration." Correct?

A. Yes.

Q. Those additions under consideration were items which had not had a TLV previously and were going to be added to a TLV list. Correct?

A. Yes.

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Q. And this would be for the year 1971. Correct?

A. Yes.

Q. Now, listed in that category is mineral wool fiber. Do you see that?

A. Yes.

Q. Do you know why mineral wool fiber was going to have a TLV set for the year 1971 of 10 milligrams per cubic meter?

A. Not specifically, no.

Q. How about generally?

A. Apparently somebody in the business was having some difficulty with this, and had made the request, and this was their best guess as to what the limits should be. The TLV Committee would do this.

Q. Did you ever have any knowledge of problems with mineral wool fibers being used?

A. None other than dermatitis.

Q. Would you turn to the document that's been marked as Defendants' Exhibit SS, paginated Pages 18 through 19. Do you see that?

A. Yes.

Q. I know you told me yesterday what the initials "EEL" stood for. I've forgotten. Can you tell me again?

A. Well, the one E is Emergency, and the L is Limits, but I don't know what the other E is offhand. I must have remembered it yesterday.

It's 12:30, and I'm starting to get a toothache, and I would beg your indulgence of the people here to break for the day. I had root canal work done yesterday, and my

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tooth is starting to ache.

Q. Fine. Will you be able to join us again at 9:00 o'clock tomorrow morning?

A. Yes.

(The deposition recessed at 12:30 p.m.)

(I certify under penalty of perjury that the foregoing is true and correct.)

_____ _____
DATE SHELDON H. MANNING

AT _____, California.
CITY

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STATE OF CALIFORNIA) SS

I, Lucia Moskal, CSR, a Notary Public in and for the State of California, do hereby certify:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction.

I further certify that it was stipulated by and between counsel that said deposition may be read, corrected and signed by the witness under penalty of perjury.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 11th day of March, 1979.

OFFICIAL SEAL
LUCIA MOSKAL
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires JUN 25, 1982

LUCIA MOSKAL, CSR 1222
Registered Professional Reporter
Notary Public in and for
the State of California.

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RENDEL B. HUTCHINGS, Certified Court Reporters