PLAINTIFF'S EXHIBIT 442

P-28 ID 10/8/74

November 15, 1944

Memorandum for the Record

Plaintiff's Exhibit 26 for identification JKCSK

WAGE PREMIUM for installing Fiberglas in Shipyards

Wage premiums for installing Fiberglas insulation in shipyards have been approved by the Shipbuilding Commission of the National War Labor Board in at least six yards in the Atlantic Zone and two yards in the Great Lakes Zone. In addition, the "Tentative Conclusions" issued by the Shipbuilding Commission in its "Gulf Coast Wage Review" dated September 8, 1944, provides a premium of 10¢ per hour for workers installing "Spun Glass and Fibre Glass".

The attached listing of WWLB Shipbuilding Commission cases and rulings, assembled following a trip to Washington on November 10, 1944, indicates the scope and extent of the premium, which originated in the Cramp Shipyard (Philadelphia) case of March 1, 1944.

The Cramp case, which was handled on a WLB "Form 10" — i.e., by mutual agreement of employer and Union — followed within a few weeks the issuance of a joint Navy-Maritime Commission publication on "Minimum Requirements for Safety in Contract Shipyards". This booklet contained a statement on Fiberglas indicating that the material is hazardous. Philip Drinker, chief health consultant of the Maritime Commission, in a letter to W. G. Bazard dated May 24, 1944, stated that the section is to be rescinded. To date, however, no supplementary statement withdrawing or revising the section has been issued.

But the damage has been done, and the Fiberglas section in this publication gives a specious basis to union assertions that their men are entitled to extra pay for handling Fiberglas.

We have been asleep at the switch while this trend has been developing:

1. Our knowledge of the existence of the section on Fiberglas came in May 1943 (three months after issuance of the booklet) by way of Walter Paine, manager of Aetna's engineering and inspection department, in a casual remark to Amos at a meeting of the Rhode Island Industrial Health Institute in Providence.

2. Our first word of a pending case wherein the premium was still under consideration came by way of Mr. Marshall's office in September 1944, when the Directive Order in the American Ship Case was brought to our attention.

3. It took a trip to New Orleans to learn (on October 25, 1944) about the Gulf Zone Wage Review. (See New Orleans trip report attached).

To attack the problem now is like trying to perform an autopsy on a body buried for a year and a half: It stinks.

But here is what we are doing:

1. We prevailed upon American Ship to protest the Fiberglas premium in its appeal

from the Shipbuilding Commission's Directive Order, (See Loveland trip report of September 12, 1944) and subsequently (October 13, 1944) we submitted a statement over Mr. Zimmerman's signature, which became part of the record in the American Ship case.

2. At the request of Mr. J. H. Love, industrial relations manager of Federal Shipbuilding and Dry Dock Co. (U. S. Steel subsidiary), Ames testified at a Shipbuilding Commission hearing in Washington on October 25, 1944, reading into the record a statement similar to that used in the American Ship case.

3. Steps have been initiated through W. G. Hazard, new director of the New Jersey Bureau of Industrial Health (Trenton), to get Drinker to issue the supplement rescinding the statement on Fiberglas in "Minimum Requirements." Meanwhile we have been using photostats of Drinker's letter to Hazard of May 24, 1944, to combat that section.

4. While the American Ship and Federal Ship cases are still pending, we have met informally with the industry members of the Shipbuilding Commission (Messrs. Paul and Howlett) requesting them to initiate an amendment to the Tentative Conclusions of the Gulf Coast Wage Review.

This step was taken at a luncheon at the Willard in Washington on November 10, 1944, at which, besides Messrs. Paul and Howlett, Messrs. Ames, Donovan, Brought, and Lieut. Tracy E. Ferguson (Navy Labor Relations Officer) were present.

Messrs. Paul and Howlett agreed that the award of a premium wage on "spun glass and fibre glass" was discriminatory.

Like Lieutenant Shields, Navy Labor Relations Officer of the Eighth Naval District, New Orleans, however, they admitted that there is no chance of a rollback now — that the premium has been in effect so long and is so widespread that "it's almost a cut and dried thing" from a precedent angle. It is recognized that there is no actual health hazard involved, that there is an element of discomfort and disagreeable handling which is sufficient to justify a premium on a "dirty job" basis under conditions peculiar to the shipbuilding industry, such as working in confined spaces, lack of adequate ventilation, lack of wash-up and locker room facilities.

To our argument that Fiberglas is a form of mineral wool and that we would have no serious objection to a premium — even though it is recognized that such a premium is a subterfuge to evade wage stabilization regulations — IF the premium were applied to ALL forms of mineral wool and IF it were predicated, NOT upon a health hazard, but upon "dirty job conditions peculiar to the shipbuilding industry, they replied that they did not wish to be in the position of extending the premium to rock wool and slag wool, implying that they knew this would bring down upon them the wrath of J-M, and other manufacturers of rock and slag wool. Then Ames pointed out that we were under no illusions that Federal Ship or any shipyard was fighting our battle for us, and that Federal's real concern was lest they be engulfed by a tidal wave of compensation claims based on an allegation of hazard — claims that might be made to stand up under conditions surrounding the administration of the workers' compensation laws in New Jersey, where the Commission's grant of a premium wage would be misinterpreted or misconstrued a judicial finding that the material was hazardous.

This argument struck home.

"Gentlemen," Ames said, "you are used to dealing in quid pro quos. You may not want to throw to labor something that labor hasn't asked for. But you have told us you believe this premium as it is now written into your rulings is discriminatory. You have told us it cannot be rescinded. We have been the object of unwitting discrimination on your part, probably because our materials account for most of the insulation used in shipyards. But Fiberglas is a form of mineral wool — as shown by the specification by freight rate classification, and by trade association definition. And what you have

said in your rulings is equivalent to telling a farmer that he has to pay a premium for harvesters when they thresh wheat, but not when they thresh rye, barley, or corn. Now, why don't you work the quid pro quo angle and use this situation to make a trade and get something else that you want from the labor representatives on the Commission?"

Then we offered the draft of a resolution (copy attached) which might be useful in amending the "Spun Glass and Fibre Glass" item in the Tentative Conclusions of the Gulf Coast Wage Review. Messrs. Paul and Howlett looked it over, commented that they "couldn't do it that way", but indicated that the ruling in the American Ship case, then in draft form, provided a premium for installing "Mineral wool (including glass) insulation." Ames countered that this was like saying "grain (including wheat) threshing" and urged them to make it "Mineral wool (including rock, glass or slag) insulation."

They were adamant on this point, however, and thought they were going a reasonable way to make this concession, although their attitude was entirely friendly.

Probably outcome is that the American Ship ruling will be issued with this award:

> "A premium of 11¢ per hour for workers actually engaged in installing mineral wool (including glass) insulation."

and that this phraseology will establish a pattern to be followed in the Federal Ship case and in an amendment to the Fiberglas item in the Tentative Conclusions of the Gulf Coast Wage Review.

It is urgently suggested that the Washington office keep in close touch with the Shipbuilding Commission and promptly relay to Toledo up-to-date and complete information on the status of all cases where our interests are affected.

In the meantime, Ames will undertake to follow through Hazard to Drinker or John Roche of the National Safety Council (Drinker and Roche wrote "Minimum Requirements") to see to it that an official supplement withdrawing the statement on Fiberglas is issued.

Meantime, too, it is suggested that the opportunity be made for Ames to present a story on this at the branch managers meeting November 30 - December 1 and 2, pointing out the implications of this situation, with special emphasis on the necessity of getting in bed with the unions (IUMSWA-CIO and Ship Carpenters-AFL) to stimulate them to invoke the precedent of the newly established, generalized, all-forms-of-mineral-wool pattern to awaken labor to its opportunity to extend the wage premium to rock wool and slag wool, if-and-when the need arises.

Our competition isn't going to like us, and we're going to have a fight on our hands with the rock wool - slag wool people when they wake up to what has happened. But unless we do this, we are going to be in a bad competitive position, and if we're going to have a fight, these tactics will make an industry fight, and not a lone company fight.

We must watch closely, too, to make sure that the pattern established by the Shipbuilding Commission along the lines indicated above is followed in each ruling, that the premium is granted on the basis of disagreeable conditions — confined working spaces, lack of ventilation, etc. — peculiar to the shipbuilding industry, and that the assumption of health hazard is expunged from the record. In this fight, we may be obliged to enlist the help of such men as Mr. Bowls, president of Local 564 of the Ship Carpenters Union, New Orleans, of the international representative of this group (Henry Blumberg, Hotel Annapolis, Washington) and even of our semantic friend, Mr. Goldstein, attorney for IUMSWA, to get the pattern righted along proper lines.

Draft of Resolution Submitted Informally to Industry Members of NWLB Shipbuilding Commiss in Washington, Nov. 10, 1944, to Amend Item on "Spun Glass and Fibre Glass" in Tentative Conclusions of Gulf Zone Wage Review, dated Sept. 8, 1944.

Whereas "Spun Glass" or "Fibre Glass" or "glass wool" (Fiberglas) insulation is proper classified in the generic category of inorganic insulation materials known as "mineral wool" used in shipbuilding, as evidenced by such facts as the following:

1. It is so classified in Specification No. 32-MC-1 for "Insulation: Mineral Wool, blanket type," issued by the United States Maritime Commission February 15, 1941

   "C.1. The material shall be mineral wool fibers, which shall be taken to include rock, glass or slag wool, or their mixtures."

2. It is so classified in the by-laws (Article VI) of the Industrial Mineral Wool Institute, a trade association:

   "Mineral wool for industrial purposes, as referred to in the Constitution, shall be deemed to be Mineral Wool of rock, slag or glass origin..."

3. Since its manufacture began in 1932, it has been classified and shipped under the classification description of Mineral Wool at the freight rates applying to rock wool or slag wool.

and

Whereas the conditions encountered by workmen installing fibor glass wool insulation in the shipbuilding industry are not different from those encountered by workmen in the handling of other forms of Mineral Wool insulation, such as rock wool and slag wool,

and

Whereas it would be discriminatory against one type of Mineral Wool (glass wool) for a shipyard or contractor to pay a premium rate for its installation and to withhold appro of a similar premium for installing other types of Mineral Wool (rock wool and slag woo

and

Whereas conditions peculiar to the shipbuilding industry frequently make it necessary f workmen to install the various forms and types of Mineral Wool insulation (rock, glass or slag) in confined spaces where it is difficult to dispose of scrap or to introduce adequate ventilation, thus creating unpleasant or disagreeable working conditions, although no actual health hazard is involved,

NOW, THEREFORE, BE IT RESOLVED that the Shipbuilding Commission of the National War Labor Board, at a meeting in the City of Washington, D. C., this _____ day of November, 1944, hereby rescinds the following item in Section V (Premiums) of the Gulf Zone Wage Review ("Tentative Conclusions - Shipyards Covered by Our Zone Standards), dated September 8, 1944 (File 3997):

"Spun Glass and Fibre Glass	
Employees actually working with this material	.10 per hour"

and substitutes for the foregoing item in said Section V (Premiums) the following:

"Mineral Wool Fibers, including rock, glass, or slag wool	
Employees actually working with these materials	.10 per hour".

Review of Available Rulings by WSLB Shipbuilding Commission Granting Wage Premium for Installing Fiberglas Insulation.

Date and Case	Ruling
March 1, 1943 S.C. Case no. 51-A WLB No. 10-107 Cramp Shipbuilding Company (Philadelphia, Pennsylvania)	"...in accordance with the request of the employer dated November 28, 1942, hereby approves a wage premium of 11¢ per hour above his regular hourly base rate of pay, for any employee while actually engaged in the hazardous handling or installation of spun glass and fiber glass, effective as of February 10, 1943."
February 10, 1944 Case No. 25-676-A In re John H. Mathis Company (Camden, New Jersey) and I.U.M.S.W.A. (CIO) Local 86	"I. A premium of $.11 per hour above the regular hourly base rate of pay is hereby approved for Carpenters while actually engaged in the hazardous handling or installation of spun glass and fiber glass."
July 14, 1944 Case No. 25-1902A In re American Car & Foundry Company (Wilmington, Delaware) and I.U.M.S.W.A. (CIO) Local 49	"A premium of 10¢ per hour above the regular base rate for employees engaged in the installation of spun glass insulation is hereby approved.
July 27, 1944 Case No. [illegible] In re Michelson Terminal & Dock Company (Detroit, Michigan) and I.U.M.S.W.A. (CIO) Local 66 (Baton Rouge, Louisiana)	"I. The request for a premium of 11¢ per hour for carpenters while engaged in the handling of spun glass or fiber glass is hereby approved."
August 24, 1944 Case No. [illegible] (25-657-D) In re American Shipbuilding Company (Cleveland, Ohio) and International Union of Operating Engineers, Local 310 (AFL) et al.	"(14) A premium of 11¢ per hour is hereby awarded for employees while handling fiber glass insulation."

[illegible] Members Reynolds and Paul) dissenting.

September 7, 1944
Case No. 25-1940-A
1941-A
1942-A

In re Hopeman Brothers, Inc.
(Bethlehem Key Highway Yard)
(Bethlehem Sparrows Point Yard)
(Bethlehem Fairfield Yard)
(Baltimore, Maryland)
and
(.U.P.S.W.A. (CIO) Local 43, as bargaining agent in the Fairfield Yard.

"1. A premium of [illegible] per hour to be added to their basic hourly rate is hereby approved for employees while working on ground blown glass or other hazardous type of insulation."

September 23, 1944
Case No. 111-2596-D
(25-353-D)

In re Cramp Shipbuilding Company
(Philadelphia, Pennsylvania)
and
Industrial Union of Marine and Shipbuilding Workers of America, (CIO) Local 42.

"Section 8. Employees while actually engaged in working with spun glass and fibre glass will receive eleven cents per hour above their regular hourly base rate."

Organization and Personnel of NWLB Shipbuilding Commission

Offices: 5th Floor, 462 Indiana Avenue, Washington

Industry Members	Public Members	Labor Members
Lee G. Paul (West Coast attorney)	William H. McPherson (Oberlin professor)	Edward B. Rowan (AFL - to be backstopped by a Mr. Roseman)
Robert G. Howlett (attorney for N.Y. Ship and Penn-Jersey yards)	William E. Simkin (Bryn Mawr professor)	Lucien Koch (CIO)
	Louis L. Jaffe	
C. W. Middleton (v.p., Babcock & Wilcox)	Wallace Miller	James J. McEntee (Retail Trades AFL)

Office of Industry Members: 720 20th Street, Washington
(Clerks: Mr. Adamson, Mr. Mitchel)

Hearings Officers: Frank Harris
Wallace Miller (public member, functions as hearings officer on West Coast.)

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November 15, 1944

Memorandum for the Record

Trip Report - New Orleans, October 24-26, 1944
Premium for Installing Fiberglas in Gulf Coast Area
(Reilly-Benton Company)

Contacts with:

Reilly-Benton Co. - Hibernia Bldg., New Orleans, La.
John Reilly, President
Captain P. H. Dunbar (USN, Ret.) Vice President
A. F. Lusch

Local 584, Ship Carpenters, Caulkers and Joiners (AFL)
Hubert "Buck" Hawls, Pres. and Asst. Business Agent
836 Carondelet St., New Orleans 13, La.
(Phones: Office - Raymond 0787
Home - Crescent 6034)

8th Naval District, New Orleans - Federal Bldg., New Orleans
Lt. G. H. Shields, USNR, Labor Relations Officer

U. S. Department of Labor, Conciliation Service
John L. Kenney, Commissioner of Conciliation
1115 Richards Bldg., New Orleans

The problem:

Negotiating a new labor contract with the Ship Carpenters, Reilly-Benton was confronted with a demand to pay a 10¢ hourly premium for installing "Spun Glass and Fibre Glass" in Gulf Coast Shipyards. Reilly-Benton had had excellent relations with the Ship Carpenters, approximately 700 of whom are furnished through New Orleans Local 486. These 700 men account for approximately 70 per cent of the mechanics employed by Reilly Benton. There is no jurisdictional issue involving the Asbestos Workers Union. Standard rate for installation handled by the Ship Carpenters is $1.20/hr on new work or $1.25/hr on repair work. The Union's demand is based on a document dated September 8, 1944, entitled as follows:

Shipbuilding Commission
National War Labor Board
Tentative Conclusions
Shipyards Covered by Our Zone Standards
Gulf Zone Wage Review

The Tentative Conclusions provide (Section I)
Standard Mechanics Classifications, with a maximum rate of
$1.20 per hour, for 30 trades, including:

Carpenter
Insulator or pipe coverer

Section V, entitled "Premiums", includes the following:

"Spun Glass and Fibre Glass

Although it is "emphasized" in the Tentative Conclusions that "these rates are not automatically applicable at any shipyard and that they may be placed in effect only after approval has been secured from the Shipbuilding Commission on a Form 10 application or as a result of a Directive Order in a dispute case certified to the Commission and processed according to the rules of procedure of the NWLB," they are invoked as the wage standards during contract negotiations. Such is the case in the Reilly-Benton — Shipyard Carpenters negotiation. Reilly-Benton is agreeable to giving an increase to the Carpenters but will not sign a Form 10 on the ground that the premium authorized in the Tentative Conclusions discriminates against Fiberglas in favor of other forms of mineral wool.

Background.

The Tentative Conclusions, which first came to our attention in New Orleans on this trip, were drafted in Miami, Florida, during August and promulgated by the Shipbuilding Commission of NWLB on September 8. The Union had demanded 22½¢ per hour premium for applying and working with:

> "Spun glass fiber glass, and mineral wool used for insulation. Creosoted wood, freshly painted wood, the application of hot pitch or asphalt, grease, and any other materials that are injurious to health or aggravating to the skin or respiratory tract. Also men engaged as wood caulkers."

This demand is found in a letter dated July 24, 1944, from John Howat, General Representative, United Brotherhood of Carpenters and Joiners of America, 533 Robinson Place, Shreveport, La., to the Shipbuilding Commission of NWLB. It was written, according to the opening paragraph of the letter, in compliance with instructions issued July 18 by the Shipbuilding Commission to interested labor organizations "to file a brief setting forth their contention for wage adjustments."

The portion of Mr. Howat's letter of special interest in regard to Fiberglas is as follows:

> "Touching on the subject of spun glass and other insulating materials, along with our contention as to why our members should have premium pay for applying same. The material is so fine that the air in the compartment being insulated is full of fine particles of the material, which the workers breathe and it often causes what Doctors pronounce as Asbestosis. In the Gulf Zone we have had many cases of pneumonia which physicians have attributed to the handling of these materials. It also causes an irritation of the skin which is very aggravating at all times, and has been the cause of employees losing many hours and days of employment.
>
> "Our members do not care to work on insulation work when they receive no more compensation than do other carpenters working on the same ship where the work and air is cleaner....."

It should be noted that although a health hazard is alleged, the allegation extends to "other insulating materials" as well as to "spun glass".

A copy (undated)* of "Industry's Reply to Labor's Brief Pertaining to Carpenters" introduced at the Miami meeting reads as follows:

> "The Unions have proposed a 22½¢ per hour premium for employees while working on or with spun glass, rock-wool, mineral wool, hot pitch, freshly painted material, creosoted material, slab insulation and wood caulking. They

expressely stated that these premiums were proper not because the work required additional skill but because of the hazard to the health involved. With a few exceptions premiums on this work are not recognized in this area. Industry is opposed to the paying of a premium for the above operations except as to spun or fiber glass, for the reason that the work is not hazardous but that most of it is merely unpleasant and disagreeable and by the use of proper precautions which are made available this unpleasantness can be reduced to a minimum. In the case of spun glass or fiber glass, this is comparatively new type insulation as far as the shipbuilding industry is concerned and no satisfactory method is now available to prevent the shreds or particles of this material from sifting or filtering into contact with the worker's body, which creates discomfort. For the foregoing reason Industry does not object to the establishment of a reasonable premium, not to exceed 10¢ per hour for workers while actually engaged in installing spun glass and fiber glass, until such time as proper methods are available to prevent the discomfort otherwise caused thereby."

It should be noted that the industry whitewashes "rock wool" and "mineral wool" and singles out "spun or fiber glass" as being so uncomfortable to handle that a 10¢ premium is warranted.

Subsequently, in a rejoinder to Industry's reply, the Union (Mr. Ewat) withdrew from its position that the work was hazardous, and insisted again on payment of the premium for handling "spun glass, rock wool, mineral wool" on the ground that the men "have to buy special soaps, cleansing fluids, extra laundry bills, new clothing and drugs as well as sacrifice extra time to remove the above mentioned materials from their skin." The Union then quotes a statement made by industry representatives during the Miami negotiations that such work is "dirty work."

The "dirty work" classification is the key to this situation. It is fairly obvious that the whole business is a subterfuge to get a wage increase. This question was explored at some length with Lieutenant Shields, who says that the Navy will not support the Maritime Commission's position (as stated in the Wenzel letter) that a premium for handling Fiberglas is not a reimbursable item allowable in cost. That is, the Navy has no objection to the payment of a premium, so long as the gross wage does not overlap or upset wage rates paid for similar work in Navy Yards.

Lieutenant Shields agreed that the action against "Spun Glass and Fibre Glass" is discriminatory, and suggested that the Conciliator (Mr. Kenney) be urged to certify the Reilly-Benton — Ship Carpenters case as a "dispute case," and get it referred to the Shipbuilding Commission for action to amend the offensive item in the Tentative Conclusions.

On Wednesday afternoon, October 25, 1944, an informal hearing was held in the offices of Reilly-Benton with the following present:

Reilly-Benton	Fiberglas	Ship Carpenters
A. F. Busch	E. C. Ames	New Orleans Local 504
Captain P. E. Dunbar	I. I. Brought	Hubert "Jack" Rawls

U. S. Department of Labor
Commissioner of Conciliation
John L. Kenney, presiding

Fiberglas was defined as a form of mineral wool, and it was agreed by Mr. Kenney and Mr. Rawls that it would be prejudicial to the interests of all concerned to process a WLB Form 10 that would establish a discriminatory precedent against Fiberglas in the Gulf Coast area. Mr. Kenney, however, resisted certifying the matter as a dispute case (since that would be a confession of his failure as a conciliator) and