PLAINTIFF'S EXHIBIT CSR - 778

770515.[illegible]

8 (5)

Mr I G Burgess

[illegible] Asbestosis and Mesothelioma Claims

The position with asbestosis and mesothelioma claims connected with [illegible] Wittenoom operation is as follows.

The bulk of claims would be brought by ex employees and would therefore be either workers compensation or common law claims. Settlement would be paid by the State Government Insurance Office of WA who were ABA's insurers.

Other potential claimants would be in the minority and would be 'inhabitants' or visitors or contractors. Claims from these people could [illegible] in the scope of a public liability insurance policy such as the one CSR had covering the ABA operation from 1959.

The subject of public liability claims has been discussed with the Insurance Manager, Mr [illegible] Potts, and the following is the position.

For the claim to be accepted by the underwriters a claimant would have to prove to their satisfaction that the disease was contracted as a result of exposure to asbestos connected with ABA's operations. He would also have to prove that ABA was negligent in causing this alleged exposure. This means that the situation could arise where liability is not proven but CSR is prepared to accept a claim on moral grounds. Underwriters would resist this as the policy only responds in the event of legal liability having been established.

During the years of operation of ABA the maximum cover provided by the public liability policy was varied on a number of occasions and at the time ABA ceased operations in 1966 it was £500,000. The cover is for any one injury arising out of any one event. It follows that this would be the maximum amount the underwriters would accept but they could be expected to attempt to establish by medical opinion a time when the disease was first contracted. This would have the possible effect of limiting the cover below £500,000 to what was ruling at the time of the alleged exposure.

The earliest public liability cover the insurance department has on record is £50,000 in the period 1959-1960. ABA was not covered by a CSR policy prior to 1959. To succeed in a claim against the underwriters, CSR would have to establish that the alleged exposure occurred during the period that public liability insurance was in force (i.e. after 1959).

In summary, whilst the bulk of potential claims would appear to be covered either by workers compensation and common law payable by SGIO, or the public liability insurance policy,

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there is still an area where CSR might have to pay claims. This area is where CSR is prepared to accept a claim but the underwriter will not because legal liability had not been clearly established in terms of the public liability policy cover. This area of CSR's liability also covers the situation where the claim exceeds the amount of indemnity afforded by the policy, that is, where the claimant may claims $150,000 but the maximum cover at the time was $50,000/$100,000.

N & I
18 May 77

cc Mr E B Coates
Mr L Potts

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