FILE NAME: US Gypsum (USG)

DATE: March 24, 1982

DOC#: USG068

DOCUMENT DESCRIPTION: 1982 Memo to TS Snell from SK Torrey re discussion of corporate knowledge of asbestos and asbestosis

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TO: #149 - T. S. Snell

FROM: #149 - S. K. Torrey

SUBJECT: Asbestos Cases

March 24, 1982

This will elaborate upon our brief discussion on March 18th concerning imputed corporate knowledge of the relationship between inhalation of asbestos and development of a disease known as asbestosis.

There was an operating bulletin known as a general order dated originally 4-1-43 and amended in 1943, 1954, 1958 and 1969. The historical file discloses no cancellation date and it is therefore a current bulletin.

In 1943 it bears the notation:

> "It is recommended that before any applicant for employment is hired, the history of his previous employment be fully developed. If there is a questionable history of exposure to asbestos or silica dust, or an indicated partial lung disability such as tuberculosis, the applicant should not be employed until satisfactorily passing a medical examination. Such a medical examination shall include the taking of chest X-rays and their interpretation by Saranac Laboratories as set forth in Bulletin 4-5." (Note, we have not yet located Bulletin 4-5.)

In the 1954 revision there is a section labeled "asbestos exposure" wherein it is stated:

> "Operations involving manual handling of asbestos in any plant shall be considered in an area in which employees shall be required to wear adequate respiratory equipment."

In my conversations generally with Cornell and Hernan, I am not aware that respirators were being worn by employees working around asbestos until the late 1960's. This provision is maintained throughout the rest of the bulletin.

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UNITED STATES GYPSUM COMPANY

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This bulletin was originally approved in 1943 by F. M. Thorman, J. W. Butler, D. L. Powell, C. B. Pooler, K. R. Eckrote, J. R. Newberry, W. F. Anderson, G. D. King, and H. R. Palmer.

The second bulletin which has surfaced is another operating bulletin which is labeled "Hazardous Chemical Used in Paint Manufacture." It is number 602 and was promulgated on 8-11-48. The historical file copy carries the notation "expired" by the section which refers to asbestos.

This bulletin is a chart which has four columns labeled "Compound," "Hazard," "Precautions," and "Treatment After Contact or Exposure." Asbestos is labeled with the notation of Hazard as "Inhalation of the dust for long periods of time can produce a disabling lung condition called asbestosis." Under the Precaution section it is stated, "Not to be handled in confined areas without local exhaust ventilation at the point of handling. Intermittent handling for short periods may be done in open areas with good general room ventilation. Dust counts should be less than five million at such operations (one million on a count of asbestos alone, not including the other dust present)." The Treatment section states "Asbestos 'warts' on hands due to asbestos fibers penetrating skin--fiber must be completely removed. Asbestosis--lungs should be X-rayed periodically." This bulletin was amended in 1966 and again that notation is in the updated bulletin.

The bulletin was requested by C. W. De Ment of Insurance and Property and it was approved by D. L. Powell and J. W. Butler. The bulletin expired on 9-15-67.

Finally, as I showed you, there is correspondence in some old files maintained by the Insurance Department that Mr. Kipp in 1953 embarked upon a project to gather articles concerning asbestosis.

* * *

I believe these documents are sufficient to impute to the corporation some knowledge of the relationship between exposure to asbestos and development of some disease. Accordingly, I believe we are going to have to disclose this in future answers to interrogatories, depending obviously on the precise wording of the interrogatory.

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This becomes important in Grenier. This is the case that was recently reported in the Asbestos Litigation Reporter, for which you will be receiving a summary from Barbara. We initially answered a set and we are faced with a Motion to Compel which was argued and we have received a very unfavorable order requiring us to answer virtually all questions more fully. Thus, I believe we have no choice but to provide some sort of answer to this kind of question. Previously we used an objection that the question called for a medical conclusion which the defendant was not competent to give.

I just thought you should be aware that we will be disclosing this information.

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cc: #149 - B. L. Arras