

|    |                                      |   |                         |
|----|--------------------------------------|---|-------------------------|
| 1  | UNITED STATES DISTRICT COURT         |   |                         |
|    | DISTRICT OF NEW JERSEY               |   |                         |
| 2  | CIVIL ACTION FILE NO. 79-1336        |   |                         |
| 3  | LAURA BAILY, et al,                  | : |                         |
|    |                                      | : |                         |
| 4  | Plaintiffs,                          | : | DEPOSITION OF:          |
|    |                                      | : | NICHOLAS SFISCKO        |
| 5  | vs.                                  | : |                         |
|    |                                      | : |                         |
| 6  | JOHNS-MANVILLE, et al,               | : |                         |
|    |                                      | : |                         |
| 7  | Defendants                           | : |                         |
|    | -----                                | : |                         |
| 8  |                                      |   |                         |
|    | CIVIL ACTION NOS.                    |   | 77-2047                 |
| 9  |                                      |   | 79-9                    |
|    | MARSHALL A. SMITH, et al,            | : | 79-1992                 |
| 10 |                                      | : | 79-2218                 |
|    | vs.                                  | : | 79-3056                 |
| 11 |                                      |   | 80-179                  |
|    | JOHNS-MANVILLE SALES                 | : | 80-264                  |
| 12 | CORPORATION, et al,                  | : |                         |
|    |                                      | : |                         |
| 13 | Defendants,                          | : |                         |
|    |                                      | : |                         |
| 14 | AND CONSOLIDATED CASES.              | : |                         |
|    | -----                                | : |                         |
| 15 |                                      |   |                         |
|    | CIVIL ACTION NO. 84-546              |   |                         |
| 16 |                                      |   |                         |
|    | MICHAEL EMILIANOW, et al,            | : |                         |
| 17 |                                      | : |                         |
|    | Plaintiffs,                          | : |                         |
| 18 | vs.                                  | : |                         |
|    |                                      | : |                         |
| 19 | BRINCO MINING LIMITED,               | : |                         |
|    | et al,                               | : |                         |
| 20 |                                      | : |                         |
|    | Defendants.                          | : |                         |
| 21 | -----                                | : | DEBORAH A. BEVERE, CSR. |
| 22 |                                      |   |                         |
|    | Friday, March 14, 1986               |   |                         |
| 23 | Short Hills, New Jersey              |   |                         |
|    |                                      |   |                         |
|    | Reporting Services Arranged Through: |   |                         |
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION-MIDDLESEX COUNTY  
DOCKET NO. L-37243-79

IN RE: :  
JOHNS-MANVILLE PLANT :  
WORKER CASES. :  
-----:

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23  
24  
25

4

1 I N D E X

2

WITNESS DIRECT CROSS REDIRECT RECROSS

3

NICHOLAS SFISCKO

4 By Mr. Lacey 6,194

By Ms. Tonelli 63

5 By Ms. Collins 100

By Mr. Brophy 179

6 By Mr. Rasnek 193

By Mr. McCarthy 198

7

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1           (Before Deborah A. Bevere, a Certified  
2 Shorthand Reporter and Notary Public of the State  
3 of New Jersey, held at the offices of BUDD LARNER  
4 KENT GROSS PICILLO ROSENBAUM GREENBERG & SADE on  
5 March 14, 1986)

6 -----

7 N I C H O L A S   S F I S C K O, previously  
8 sworn testifies as follows:

9

10 CROSS EXAMINATION BY MR. LACEY:

11

12           Q.   My name is John Lacey, I represent  
13 one of the defendants in this case. This is a  
14 continuation of your deposition of Monday  
15 Tuesday and Wednesday. For the purpose of this  
16 record you are still under oath. I would ask  
17 that you listen to my questions very carefully,  
18 and just answer what I ask. I don't want any  
19 excess information, if you will, so please listen  
20 very carefully. Wait until I finish the question,  
21 then give me a concise, but accurate answer to  
22 each of my questions.

23           Do you understand that, sir?

24   A.   Yes.

25           Q.   Thank you very much.

Sfiscko-Cross

1           Mr. Sfiscko, you've testified  
2   earlier that water pipe and sewer pipe were  
3   products produced in I Building from 1947 to 1967.

4   Is that correct?

5   A.   Correct.

6           Q.   Have you ever heard of a pipe called  
7   electrical duct pipe?

8   A.   Manufactured on a ten foot machine.

9           Q.   Was that also produced in I Building  
10   from 1947 until 1967?

11   A.   Yes.

12          Q    What percentage of asbestos fiber  
13   would be utilized in that product?

14   A.   In electrical conduit?

15          Q.   Is that a synonym for electrical  
16   duct pipe?

17   A.   Yes, same thing.  It was 10 percent fiber --

18          Q.   Is that in 1947?

19   A.   Yes -- it hasn't changed the whole period.

20   The reprocessed material, that could have been 10  
21   or 11 percent, reprocessed material came to a  
22   total of 20 or 21 percent.

23          Q.   When you say reprocessed material,  
24   that is reprocessed asbestos fiber?

25   A.   It is the pipe that was previously made,

Sfisco-Cross

1 rejected, ground and reused.

2 Q. Would that include blue fiber as

3 well as white fiber?

4 A. Yes.

5 Q. And in the 10 percent figure you

6 gave, that is blue and white fiber as well. Is

7 that correct?

8 A. Not throughout the whole period.

9 Q. How about in 1947.

10 A. Yes, it is blue fiber in the blend.

11 Q. The 10 percent fiber used in that

12 product, how much would be blue in percentage

13 terms?

14 MR. CARUSO: I object to the form.

15 You say 10 percent raw fiber or virgin fiber to

16 void my objection.

17 Q. Of the 10 percent virgin fiber, what

18 percentage of that would be blue fiber?

19 A. Now you are talking about electrical

20 conduit?

21 Q. Yes, sir.

22 A. There was korduct made there to which was a

23 thinner wall product, K O R D U C T. Between the

24 2, it was virgin fiber, between 10 and 15 percent.

25 Q. Would be blue fiber?

Sfisco-Cross

1 A. Yes, at 47, I'm talking about.

2 Q. Yes. And did that change later on?

3 A. That changed later on .

4 Q. What was the change that was made?

5 A. It was reduced.

6 Q. So more white fiber would be

7 utilized later on?

8 A. That is correct.

9 Q. How much cement would be utilized in

10 that pipe, in percentage terms?

11 A. 65 would be a good number.

12 Q. Is that your testimony that it is

13 approximately 65 percent?

14 A. Approximately.

15 Q. That leaves approximately 15 percent

16 silica sand?

17 A. No, silica sand was 20 -- around 20 percent.

18 Q. Maybe my mathematics is off.

19 A. All right. So I'll explain it to you.

20 Q. All right. Please do.

21 A. Reprocessed material was not counted, okay.

22 That was the addition over and above the 100

23 percent.

24 Q. I see.

25 A. It could have been 10, 15 percent balance.

Sfisco-Cross

1 Q. I see.

2 And these are approximate figures?

3 A. Approximate.

4 Q. Korduct pipe, what percentage of  
5 fiber would be utilized in that product in 1947?

6 A. That used a little more. It could have  
7 been up to 15 percent, depending on the diameter.  
8 If you made 2 inch, it would be 15 percent,  
9 because 2 inches were more critical item to make.  
10 If it was 3 inch it would be a little less. We  
11 had specifications for different diameters.

12 Q. Is there a percentage of reprocessed  
13 fiber in that as well?

14 A. Reprocessed remains the same for  
15 practically all 10 foot machine product, the  
16 non-critical products.

17 Q. What percentage of virgin blue fiber  
18 of the 15 percent virgin fiber was used?

19 A. That remained pretty constant.

20 Q. At what percentage?

21 A. Well, like I said before, it could be 10 to  
22 15 percent, whatever it was. That remained  
23 pretty constant.

24 Q. And the percentage of cement?

25 A. That remained pretty constant, 65.

Sfisco-Cross

1 Q. And silica as well?

2 A. Same.

3 Q. Are you familiar with a product  
4 called gas vent pipe?

5 A. Yes.

6 Q. Was that produced in I Building?

7 A. Yes.

8 Q. From 1947 to 67?

9 A. No, no, we got out of the gas vent business,  
10 Oh, maybe about -- I don't know now, a few years  
11 later. A few years later, we weren't making gas  
12 vent pipe.

13 Q. Would you tell us whether that was  
14 before or after the division headquarters task  
15 force had been formed?

16 A. In that area.

17 Q. It was right about that time?

18 A. That is why we, after that we expanded to  
19 number 4 pipe machine, which was another 10 foot  
20 machine.

21 Q. What is the reason you expanded the  
22 ten foot pipe machine?

23 A. Telephone duct.

24 Q. I'll get back to that in one second.  
25 The gas vent pipe, do you recall what percentage

11

Sfisko-Cross

1 of fiber would be used in that?

2 A. Practically all the same.

3 Q. They were?

4 A. Yes.

5 Q. Telephone duct?

6 A. Same.

7 Q. Irrigation pipe?

8 A. None. I don't remember any irrigation pipe,  
9 what you call irrigation pipe.

10 Q. You don't recall ever producing that?

11 A. Not at Manville that I know of, not on the  
12 10 foot machine.

13 Q. Connection pipe, have you ever heard  
14 of that house connection pipe, have you ever  
15 heard of that term?

16 A. That is building sewer.

17 Q. Is that different from the sewer  
18 pipe you referred to on Monday, Tuesday and  
19 Wednesday?

20 A. 13 foot machine was sewer pipe. The 10  
21 foot machine was building sewer pipe. Sewer pipe  
22 was used out in the street. Building sewer were  
23 house connections, what you called house  
24 connections. They were branch connections from  
25 the main line to the house line.

Sfisco-Cross

1 Q. Would the percentage of fiber be the  
2 same as you mentioned earlier?

3 A. No, that changed.

4 Q. How about in 1947?

5 A. In 1947, I don't remember making building  
6 sewer on the 10 foot machine. That product came  
7 later.

8 Q. Would you know when that was  
9 introduced into the production?

10 A. I can't tell you any particular time. That  
11 is when we shifted the telephone duct to number 4  
12 machine, and we went to the building sewer on  
13 that number one machine.

14 Q. Would you be able to give me an  
15 approximation?

16 A. I would be guessing.

17 Q. Okay.

18 Can you give me an -- strike that.

19 Can you give me a minimum period  
20 that you would have produced that prior to 1967  
21 in terms of years, and I say a minimum, I don't  
22 want you to take a guess beyond what you know.  
23 A. You see, first we went into building sewer,  
24 we went into the 4 inch diameters. Then we  
25 expanded to the 5 inch, then we expanded to the 6

13

Sfisco-Cross

1 inch. And they are all different periods of time.

2 You see, we had mandrels for 4 inch, then we had  
3 to go out and purchase mandrels for 10 inch. And  
4 they had either 6 month or year delivery, even  
5 longer. As we expanded we had to wait to get all  
6 the equipment.

7 Q. And as you increased the diameter of  
8 that pipe, you would have to utilize more fiber?

9 MR. CARUSO: I object to the form.

10 You can answer it.

11 A. You are talking about virgin pipe, right?

12 Q. Yes.

13 A. Yes, because -- do you want to know the  
14 reason?

15 Q. Why don't you give me the reason,  
16 sir.

17 A. The reason were there were specifications  
18 which had more testing specifications, crush test,  
19 flex test and stuff like that.

20 Q. Would those be specifications from  
21 customers?

22 A. Specifications that was given to us by --  
23 where it came from, I don't know..

24 Q. Do you recall whether that was  
25 produced during the entire decade of the 60's

14

Sfisco-Cross

1 while you were there?

2 A. Yes.

3 Q. Do you recall whether it was

4 produced during the second half of the 1950's?

5 A. It could have been 58, 59, that period. It  
6 could have been, or before too, my God. I can't --  
7 like I say, each side was different.

8 Q. That is good enough, sir.

9 Do you recall the approximate  
10 percentage of cement that would be utilized in  
11 that product?

12 A. Cement remained the same, and silica  
13 remained the same. It was just a percent of  
14 fiber that would vary, and the type of fiber.

15 Q. Okay, sir, air duct pipe, are you  
16 familiar with that term?

17 A. Yes.

18 Q. Did you produce that product in I  
19 Building in 47 to 67?

20 A. Yes, yes.

21 Q. Did that also use 10 percent virgin  
22 fiber?

23 A. Yes.

24 Q. And 65 percent cement?

25 A. Yes.

Sfisko-Cross

1 Q. What was air duct used for?

2 A. Mostly air duct that we formed was made for  
3 Levittown, when they had those big projects in  
4 Long Island he was the major purchaser of that  
5 pipe. He used it in the foundation of the homes.

6 Q. Was that a 20 year project in  
7 Levittown?

8 A. Levittown, oh, I would say we were making  
9 Levittown products for at least a good 10 years

10 MS. CAHN: Would you please keep up  
11 your voice, I'm having trouble hearing.

12 MR. LACEY: I'm sorry.

13 Q. Besides the ones I mentioned to you  
14 this morning do you recall any other products  
15 plus the water and sewer pipes that were products  
16 from 1947 to 1967 during that period in I  
17 Building?

18 A. Later on on the 10 foot machine you are  
19 talking about?

20 Q. On any of the machines.

21 A. Well, let's take the 10 foot.

22 Q. Okay, we'll take the 10 foot first.

23 A. 10 foot we went to water pipe on number 1  
24 machine. And that was 59, s60, in that area. You  
25 can't hold me to the year. That was a 6 foot

16

Sfisko-Cross

1 class 150 water pipe. That continued right  
2 through the day I left I Building.

3 Q. And the other products on the 10  
4 foot machine?

5 A. There were some 4 inch class 150 made there,  
6 10 foot lengths, but not as much as the 6. The 6  
7 was a demand product. And then through the  
8 building sewer and the air duct. They were the  
9 predominant items for the number 1 machine, and  
10 number 4 machine we stayed with telephone duct  
11 and then later on when the demand get less for  
12 telephones, we went to building sewer on the  
13 number 4 machine, 4 inch size.

14 In the latter part of my years there  
15 then we went to 5 and 6 building sewer on number  
16 4 machine, due to the lesser demand of the --  
17 whatever the customer wanted, we had to make.

18 Q. Would customers, in making their  
19 orders to you, specify percentage of fiber that  
20 they wanted you to use?

21 A. No.

22 Q. Did they ever specify what grade of  
23 fiber they wanted you to use?

24 A. No.

25 Q. Did they ever specify to you what

Sfisko-Cross

1 product, and when I say product, what type of

2 product of fiber they would want you to use?

3 A. No. What you are saying in-house, or

4 outside, right?

5 Q. The outside customers.

6 A. No.

7 Q. Aside from the products that I've

8 already mentioned, were there any other products

9 you can recall being produced on the 13 foot

10 machine during the period from 1947 to 1967?

11 A. The 2 13 foot machines were pressure pipe

12 and sewer pipe. And some very little industrial

13 vent and a larger diameter which you could

14 classify as air duct, or something like that. It

15 is all very little -- probably 95 percent of the

16 product, or even higher would be water and sewer.

17 Q. What is pressure pipe?

18 A. Like class 150, class 200, class a hundred,

19 different test specifications.

20 Q. Was it called pressure pipe?

21 A. Pressure pipe.

22 Q. How would pressure pipe be used?

23 A. Water.

24 Q. Did the percentage of fiber use

25 differ from that of house connection pipe, for

18

Sfisco-Cross  
1 instance?

2 A. That is a misleading question.

3 MR. TORTORETI: I object to the form.

4 A. It is different. 13 foot machine was  
5 different than the 10 foot machine from types of  
6 fiber. But cement and silica ratios were the  
7 same.

8 MR. CARUSO: Off the record.

9 (Whereupon, there is off-the-record  
10 discussion.)

11 Q. What would be the approximate  
12 percentage of fiber utilized in pressure pipe?

13 A. 1947 we were using 25 percent.

14 Q. That was approximately the same  
15 percentages of fiber used in industrial vent pipe  
16 as well?

17 MR. TORTORETI: Can I have that  
18 question back, I didn't hear you.

19 (Whereupon, the reporter reads  
20 back.)

21 A. 1947?

22 Q. Yes, sir.

23 A. Pretty close.

24 Q. What percentage of blue fiber would  
25 be utilized in that product?

Sfisco-Cross

1 A. 1947?

2 Q. Yes, sir.

3 A. It was 40 percent blue, and that is when I  
4 first come into the plant. And 60 percent other  
5 outside purchases. At that time it was all  
6 outside fiber.

7 Q. Sir, what I want you to do is limit  
8 your answers to the questions I ask. Okay. I  
9 don't want to you add any additional information.

10 A. I don't think I did.

11 Q. I just want you to tell me when I  
12 ask for a percentage of fiber in general, just  
13 tell me what the percentage was.

14 A. I said 40 percent. You asked blue, I said  
15 40 percent. Do you want me to stop there?

16 MR. LACEY: I would ask that the  
17 response to my question be stricken from the  
18 record as partially unresponsive.

19 MR. TORTORETI: I disagree with that  
20 characterization.

21 MR. CARUSO: I would only say that  
22 the witness is being most cooperative in  
23 responding to the questions phrased to the best  
24 of his ability.

25 MR. LACEY: I agree as well. I just

Sfiscko-Cross

1 ask that the answer be limited to my questions.

2 A. I'm under oath and I'm telling the truth.

3 Q. Sir, I believe you testified that

4 silica sand was stored outside of I Building. Is  
5 that correct, in 1947?

6 A. I didn't say that. 1947 we were getting  
7 silica in bags, later on we went to silica  
8 grinder. We went to silica grinding, then we  
9 stored the raw sand outside.

10 Q. In 1947 where would this silica be  
11 stored?

12 A. The bags.

13 Q. Where in I Building?

14 A. In the warehouse.

15 MR. RASNEK: Off the record for a  
16 minute.

17 Q. There came a time, sir, when silica  
18 was purchased by Johns-Manville in bulk?

19 A. Yes.

20 Q. It no longer came in bags?

21 A. That is correct.

22 Q. Would you know the approximate year?

23 A. I don't believe so. That answer could come  
24 from the plant engineer.

25 Q. Would you know if it was purchased

21

Sfisko-Cross

1 in bulk in 1960?

2 A. Yes.

3 Q. And that was stored outside of I

4 Building?

5 A. The grinding process?

6 MR. CARUSO: Objection, the question

7 was would you know if it was purchased in 1960.

8 His answer was yes and perhaps he was saying yes

9 he knows.

10 Q. Okay.

11 From the time silica was purchased

12 by Johns-Manville in bulk, whatever that year was,

13 where was it stored?

14 A. The grinding process was on the west side

15 outside the building. It shows on that diagram.

16 Q. How would that material be

17 transported from outside of I Building into I

18 Building and into the production process?

19 A. Inside the building we had silos. Outside

20 the building where we ground this raw sand, we

21 had a Fuller Kenyon system that pumped it to the

22 silos, to each pipe machine, F U L L E R K E N Y

23 O N.

24 Q. Was it pumped mechanically?

25 A. You mean automatically?

Sfisco-Cross

1 Q. Yes.

2 A. Yes.

3 Q. Would it be introduced into the  
4 production process automatically as well?

5 A. Automatically.

6 Q. There wasn't an individual who could  
7 rake the sand into a machine?

8 A. No.

9 Q. Were all of those machines that  
10 transported -- strike that.

11 Did you ever observe the silica sand  
12 creating dust, as it was introduced into the  
13 production process in I Building?

14 A. Everything was strictly enclosed --

15 Q. Sir, I believe you testified that  
16 you utilized certain cards as general foreman in  
17 order to tell you what to produce --

18 MR. CARUSO: Objection to the form.

19 Q. In I Building.

20 MR. CARUSO: I object to the form.

21 Q. Is that correct?

22 A. You talking about blends?

23 Q. Yes.

24 A. Yes.

25 Q. What information would be contained

Sfisco-Cross  
1 on those cards?

2 A. Type of fiber, and by weight, or percent,  
3 whatever you want to use.

4 Q. Would that give the weight of the  
5 silica sand used as well?

6 A. Not at the willows, no.

7 Q. This was just the fiber product that  
8 would be listed on the blend?

9 A. At the willows.

10 Q. Would you have a collection of cards,  
11 or would the cards change -- strike that.

12 Where would you obtain those blend  
13 cards?

14 A. I would have them in the office.

15 Q. Would you make them up yourself, or  
16 would someone give them to you?

17 A. They are all specified by the class size --  
18 the size and class of pipe to be manufactured.

19 Q. Where would you get those cards from,  
20 for instance, would you get them from  
21 headquarters, or from someone within I Building?

22 MR. CARUSO: I object to the form.  
23 You can answer.

24 A. They came from the division to the Quality  
25 Control Department. They were what we call

Sfisko-Cross

1 specifications, specification book.

2 Q. And would those cards be contained

3 within an actual notebook?

4 A. From the specification book, the numbers

5 would be taken out of the specification book, and

6 put on to a card, and those cards were in the

7 forming office.

8 Q. Did you ever see those cards --

9 MR. CARUSO: Let him finish.

10 Q. Prepared by someone from the books

11 that you've described?

12 A. It was part of my duties to use the

13 specification book and transfer the information

14 from the specification book to the cards, index

15 cards.

16 Q. What was the specification book?

17 A. It was held in Quality Control Department.

18 It gave you all the information performing for

19 size and class, pipe to be manufactured in the

20 forming end.

21 Q. I'm not sure I understand, sir, you

22 say you were responsible for transferring the

23 information from the specification book to these

24 cards.

25 A. Right.

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1 Q. Did you have a copy of the  
2 specification book?

3 A. I went to the Quality Control Department,  
4 which was in the building.

5 Q. And then you would prepare the cards  
6 yourself from that specification book?

7 A. That is correct.

8 Q. Would those cards tell you how much  
9 was produced during a given day?

10 A. That only gave you the formula.

11 Q. Those cards would give you the  
12 formula for every product that you would ever  
13 produce in I Building?

14 A. For every class of product, yes.

15 Q. Some of the products that would be  
16 produced in I Building would not be the same as  
17 those -- strike that.

18 Is it correct that some of the  
19 actual products produced in I Building would  
20 consist of materials -- strike that.

21 Is it true that some of the actual.  
22 products produced in I Building would contain a  
23 different blend of fiber than that listed on any  
24 of the cards that you would have in your  
25 possession?

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1 A. I don't understand the question.

2 Q. You have testified, and correct me  
3 if I am wrong, that you had discretion to utilize  
4 certain products that were different from those  
5 listed in the blend cards. Is that correct?

6 A. Are you talking --

7 MR. CARUSO: Objection to form.

8 A. Are you talking about types of fiber?

9 Q. I'm talking about the actual fiber  
10 listed on the cards.

11 MR. TORTOTETI: I object to the form  
12 of the question. I think you are confusing him.

13 A. It is confusing me.

14 Q. Okay, sir.

15 From 1947 to 1967 what grades of  
16 fiber were utilized by you in producing I  
17 Building products?

18 A. 10 foot or 13 foot?

19 Q. All grades.

20 A. To answer that I would have to separate the  
21 10 foot from the 13 foot.

22 Q. Okay, sir, we'll go to the 10 foot  
23 machine first, and I don't want you to list any  
24 specific fiber. I just want you to list for me  
25 the grades of fiber utilized.

Sfisko-Cross

1 MR. CARUSO: I object to the form.

2 MR. TORTORETI: Objection to the

3 form of the question.

4 Q. Do you understand my question?

5 A. Yes, I understand the question. But -- you --

6 MR. TORTORETI: Excuse me, I think

7 the question may be understandable, but it may

8 limit his response unfairly.

9 Q. Since you understand the questions --

10 please, no speeches, Mr. Tortoreti, the witness

11 says he understands the question.

12 MR. TORTORETI: I'm still allowed to

13 object to the form.

14 A. You see, I would have to answer it this way.

15 We used the 4 grade, and a blue, okay, blue was

16 not a 4 grade, okay.

17 Q. Did you ever use a grade 3 on the 10

18 foot machine?

19 A. Grade 3 on a ten foot machine?

20 Q. Yes.

21 A. No.

22 Q. A grade 5?

23 A. No.

24 Q. A grade 6?

25 A. No.

Sfisco-Cross

1 Q. Any other grade than a 4 grade?

2 A. On the 10 foot machine?

3 Q. Yes.

4 A. No, we used -- with the blue and the 4  
5 grade.

6 Q. On the 13 foot machine what grades  
7 of fiber?

8 A. Blue, 3 and 4 grade.

9 Q. Now, sir, again without listing any  
10 specific products, is it correct to say that  
11 there were several different asbestos fibers  
12 within the 4 grade?

13 MR. CARUSO: I object to the form.

14 A. Are you talking about outside purchases?

15 Q. In 1947.

16 A. 1947, all the 4 grade --

17 Q. Please, sir.

18 A. I'm trying to answer your question. I'm  
19 not mentioning any names.

20 Q. I understand -- sir, I don't want to  
21 know whether it is J M fiber, I don't want to  
22 know whether it is outside fiber. What I want to  
23 know is were there several products?

24 A. That is a misleading question.

25 Q. Did various -- from 1947 to 1967,

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1 sir, various manufacturers manufactured asbestos  
2 that was supplied to I Building. Is that correct?

3 MR. CARUSO: I object to the form.

4 A. Yes.

5 Q. Were there several different  
6 suppliers of a grade 4 fiber from 1947 to 1967  
7 without mentioning specific suppliers?

8 A. Yes.

9 Q. Within grade 4 would the fibers be  
10 interchangeable, and when I --

11 MR. TORTORETI: If you are finished  
12 with the question I object to the form. If you  
13 are not, then maybe I won't be.

14 Q. Do you understand the question?

15 A. I understand. Interchangeable, but not at a  
16 100 percent of the 4 grades.

17 Q. At what percentage approxiamtely  
18 would they be interchangeable?

19 MR. CARUSO: I object to the form of  
20 the question.

21 MR. TORTORETI: Objection.

22 MR. CARUSO: Do you mind if I say  
23 something off the record?

24 (Whereupon, there is an  
25 off-the-record discussion.)

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1 Q. I'll be very specific.

2 Sir, you've testified that at some  
3 time during the 1947 to 1967 period there was a  
4 VIMY 4 T fiber used.

5 A. VIMY H 4 T.

6 Q. VIMY H 4 T, were there other grade  
7 for products that could be utilized in place of  
8 the VIMY 4 H T fiber.

9 Q. Other grade 4 fibers?

10 A. Yes.

11 Q. Yes.

12 A. Yes, substitute, yes.

13 Q. And they would be direct substitutes --  
14 strike that.

15 If you saw, for instance, on your  
16 blend card, I'll call it a percentage or a weight  
17 of VIMY 4 H T fiber to be utilized, could you  
18 substitute other grades -- other grade 4 fibers 4  
19 for that VIMY 4 H T fiber?

20 A. Certain -- not all, certain.

21 Q. And would you do that on occasion,  
22 sir?

23 A. Yes, depending on availability.

24 Q. Okay.

25 Now, please listen to my question

31

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1 carefully, sir.

2 from looking at a blend card is it

3 true that even if the blend card said VIMY 4 H T

4 you could not tell from looking at that card

5 whether that VIMY 4 H T product was utilized in

6 the actual product produced in I Building?

7 MR. TORTORETI: Objection to the

8 form of the question.

9 Q. Is that correct, sir?

10 A. No way. If that card called for VIMY H 4 T,

11 VIMY H 4 T was used. The blend card would be

12 changed.

13 MS. COLLINS: I didn't hear the last

14 part.

15 MR. TORTORETI: Would be changed.

16 Q. How often were blend cards changed?

17 A. Whenever necessary.

18 Q. Would you throw out prior blend

19 cards in order not to confuse them with ones you

20 had on -- you were to use on hand?

21 A. They would be pulled and another blend card

22 would be placed. We had an inventory control of

23 fibers.

24 Q. Would availability change on a daily

25 basis?

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1 A. Only the day where we would run out.

2 Q. Would you be able to tell, sir, from  
3 looking at a blend card how much product was  
4 produced pursuant to that specific blend listed  
5 on that blend card?

6 MR. CARUSO: I object to the form of  
7 the question.

8 A. You mean on a 24 hour operation?

9 Q. Yes, sir.

10 A. You are talking about tons?

11 Q. Yes, sir.

12 A. That varied. Tons varied to size, and  
13 class.

14 Q. You say that the blend cards would  
15 be changed according to availability of the  
16 product. Is that correct?

17 A. That is correct.

18 Q. Would you tell -- could you tell  
19 from looking at that blend card how long it had  
20 been in effect.

21 MR. CARUSO: I object to the form.  
22 Do you want clarification?

23 MR. LACEY: I assume you you are  
24 going to say how long it had been in effect.

25 MR. CARUSO: Basically.

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1 Q. Okay. Could you tell from looking

2 at a card how long it had been since that card

3 was originally utilized in production?

4 A. You mean from the date it was issued?

5 Q. Yes, sir.

6 A. Those cards could be in the active file for

7 years.

8 Q. Then again it could only be in there

9 for a month, couldn't it?

10 A. Depending on the availability of the fibers

11 that we had inventory. Some -- some would be

12 in there for years, some of them would probably

13 in there for 3, 6 months, who knows.

14 Q. Could you tell from looking at a

15 specific card the date it was issued?

16 A. On the card the date, the top the card, I

17 believe it is a date, the card went into affect,

18 if that is what you are saying.

19 Q. But you could never tell how much

20 was -- strike that.

21 But you could never tell how much

22 tonnage of product was produced pursuant to each

23 blend card?

24 A. You would have to go to the end of the

25 month, and the finance department would collate

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1 the types of fiber used for that month.

2 Q. Would that information tell you how  
3 much tonnage of product was produced pursuant to  
4 the exact blend card that you would be looking at?

5 A. I doubt very much you could tie the 2 in  
6 together. I doubt it very much, because they  
7 fluctuate by day -- by what you are making.

8 Q. Sir, you were on call for 24 hours  
9 as a general foreman in I Building?

10 A. Yes.

11 Q. What was your normal shift?

12 MR. CARUSO: I object to the form.

13 A. You mean the time I went into work in the  
14 morning, time I went home?

15 Q. Yes, sir.

16 A. I would be in at 7 in the morning, and very  
17 seldom get home at 5. So, sometimes I get home  
18 at 5. And then I would come back in the evening  
19 if I got a call, some sort of problem, I would  
20 come back.

21 Q. You didn't have to come back every  
22 day, did you?

23 A. No, I can give you an average.

24 Q. Okay, sir.

25 A. It could be about 50 percent of the time.

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1 Q. 50 percent?

2 A. Yes, could be 2 days a week, sometimes 3  
3 days a week.

4 Q. And on those 2 or 3 days a week how  
5 long would you have to stay?

6 A. Until we solved the problem.

7 Q. Can you give me an average on that?

8 A. Well, sometimes we would be an hour or so,  
9 sometimes we would be 3, 4 hours, all depends on  
10 what sort of a breakdown it was.

11 Q. Either way there would be a large  
12 period of time you were not in the plant. Is  
13 that correct?

14 MR. CARUSO: I object to the form.

15 A. 50 percent, maybe on the average.

16 Q. And during that time you would not  
17 be physically supervising production. Is that  
18 correct?

19 A. That is correct.

20 Q. And during that period you would not  
21 be able to personally supervise individuals  
22 pouring fiber into the -- strike that.

23 And during that period you would not  
24 be able to personally supervise introduction of  
25 the fiber into the production process. Isn't

Sfisco-Cross  
1 that correct?

2 A. We had a 24 hour control material used.

3 And they were checked.

4 Q. Sir, my question is, during that  
5 time you were not able to personally supervise  
6 persons introducing fiber into the production  
7 process?

8 A. You are talking about direct?

9 Q. Yes.

10 A. The answer would be no.

11 Q. And you say that, for instance, the  
12 VIMY 4 H -- strike that.

13 And you say that the VIMY H 4 T  
14 could be directly substituted by other asbestos  
15 products within grade 4?

16 MR. CARUSO: I object to the form.

17 A. Didn't have to be.

18 Q. Listen to my question, sir.

19 A. I'm listening. I know.

20 Q. You said, sir, did you not, that  
21 there were other direct substitutes.

22 A. Yes.

23 Q. For VIMY H 4 T fibers.

24 A. Yes.

25 Q. During your asbestos you obviously

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1 could not personally see someone putting in a

2 VIMY H 4 T product. Isn't that correct?

3 A. Technically you are right.

4 Q. So your testimony is yes that is

5 correct, you couldn't personally supervise that?

6 A. It is a lousy question. It is not what

7 actually happened. But if you want to have it

8 that way, it is your way. Like I said, we had a

9 24 hour control.

10 Q. Did you personally see -- strike

11 that.

12 In your absence, you could not

13 personally see whether someone introduced a VIMY

14 H 4 T fiber into the production process. Isn't

15 that correct?

16 A. That is true, leave it that way.

17 Q. Sir, how was your daily production

18 determined?

19 A. Fiber, tons of pipe?

20 Q. Yes. And of the various types of

21 pipe produced.

22 A. Fiber first, right, we had what we call a

23 drop area. Is that what you wanted?

24 Q. I think we may be on a different

25 wave length.

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1           Would you have -- strike that.

2           You told us earlier, sir, that there  
3   was a scheduling foreman. Is that correct?

4   A.   Production scheduling.

5           Q.   Was there a person with a job title  
6   scheduling foreman?

7   A.   No. I did the scheduling for the whole  
8   week, or whatever it was.

9           Q.   Would you schedule the daily  
10   production of the various types of pipe?

11   A.   That is correct.

12          Q.   Let me take irrigation pipe, for  
13   instance, what would determine whether you were  
14   going to produce irrigation pipe on a certain day?

15   A.   I would receive, from planning and  
16   scheduling department, what was to be made in a 7  
17   day or a ten day period. And I would schedule  
18   the items from the first day, second day, third  
19   day, all through that end of the felt change.

20          Q.   Would you be given customer orders?

21   A.   No.

22          Q.   Where would they be received?

23   A.   Planning and scheduling.

24          Q.   And where was planning and  
25   scheduling located?

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1 A. In front of the building which is the south  
2 end.

3 Q. Was the planning and scheduling  
4 department limited to I Building, or did it cover  
5 planning and scheduling for the entire plant?

6 A. I Building, customer service.

7 Q. Were there occasions during your  
8 tenure as general foreman where you would have to  
9 have fiber shipped to you from other  
10 Johns-Manville facilities because you had run out  
11 of a certain product?

12 MR. CARUSO: I object to the form.

13 A. Not to my knowledge. I never got into that.  
14 I never got into that.

15 Q. Who would be in charge of that?

16 MR. TORTORETI: I object to the form  
17 of the question.

18 A. If what you are saying is there was any  
19 shortage of fiber and we had to get it from  
20 another location?

21 Q. Yes, sir.

22 A. That would be division headquarters.

23 Q. To your knowledge, did that ever  
24 occur where Manville would have to order, for  
25 instance, from Waukegan?

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1 A. Not due to shortage. If there was a trial  
2 run to be made and they wanted to use some of the  
3 Waukegan fiber as a cross check, that was  
4 possible. That was possible.

5 Q. To your knowledge did that ever  
6 occur?

7 A. We used -- it is possible that we got fiber.

8 Q. Sir, I'm going to ask you to look at  
9 what has been marked as exhibit --

10 A. Can I take a break?

11 Q. I'm sorry, sir.

12 (Whereupon, a recess is taken.)

13 (Whereupon, the deposition resumes.)

14 Q. Sir, we were discussing earlier the  
15 fact that blend cards were prepared based on the  
16 availability of various fibers. Is that correct?

17 A. Yes.

18 Q. Okay.

19 I believe you testified earlier in  
20 the week that you had certain discretion to  
21 change the content of certain types of pipe  
22 without changing the master blends, if you will.  
23 Is that correct?

24 A. We had some latitude, if that is what you  
25 are saying.

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1 Q. Yes, sir, did you have latitude to  
2 change the blends in certain ways without  
3 actually changing the master blend?

4 MR. CARUSO: I object to the form of  
5 the question.

6 Q. Yes or no.

7 A. I would say no, but we did have the  
8 latitude of changing with a new blend number,  
9 okay.

10 Q. And would that have been a blend  
11 that you had used previously?

12 A. It could have been. It is what we call a  
13 deviation.

14 Q. And you would deviate from blends --  
15 strike that.

16 For example purposes, we'll say the  
17 date is March 14th, 1950. And you have a blend  
18 in effect for a certain water pipe, okay, sir,  
19 we'll assume that is correct for now.

20 A. Okay.

21 Q. Did you have the latitude of  
22 deviating from that blend to a previous blend?  
23 That is my question.

24 A. Through the deviation procedure we,  
25 depending on availability, if we had a blend like

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1 it called for a certain class of fiber, type of  
2 fiber, and we wanted to use, instead of using 60  
3 percent, we wanted to use 40 percent or 30  
4 percent, we wanted to substitute another fiber  
5 for another period we would ask for a deviation.

6 Q. You wouldn't have to run that  
7 through divisional headquarters, would you?

8 A. I would go to -- it depends, if it was  
9 something new, possible. If it was something  
10 previously done we had the number. We didn't  
11 have it, because the deviation was in effect for  
12 a period of 30 days, 60 dys, and they gave us a  
13 deviation for a period of time that we were  
14 requested. It depended on availability, without  
15 naming types of fiber.

16 Q. Does that mean, sir, that from  
17 looking at your file of blend cards in your  
18 office that you would not be able to tell from  
19 those records whether you had followed that exact  
20 blend 30 days previously?

21 MR. CARUSO: I object to the form.

22 MR. TORTORETI: So do I.

23 A. I don't understand the question.

24 Q. Okay. Let me rephrase it.

25 We used, for example purposes, the

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1 date March 14th, 1950. Let us assume, sir, that  
2 you had a type of water pipe, and you had a blend  
3 of fibers listed on a card in your office. And  
4 the effective date, or the approval date of that  
5 card had been January 1st, 1950.

6 Q. Even though that card was still  
7 considered effective you could deviate from that  
8 formula?

9 A. What do you mean by deviate?

10 Q. You used the term deviation, could  
11 you deviate from the formula listed on that card?

12 A. Based upon --

13 Q. Within your discretion, sir.

14 A. Within my discretion, based on availability  
15 what we had in inventory, if that card said we  
16 could use this type and this type, on or the  
17 other, that was our prerogative, yes.

18 Q. Could you deviate from that card  
19 entirely and go to a prior formula that had been  
20 utilized for the same type of water pipe?

21 A. If it was active. There is a little bit  
22 more to it than what you are saying, because --

23 Q. Okay, sir.

24 A. All right.

25 Q. If it was active, so it would still

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1 have to be in effect?

2 A. Yes, we had several active based on size,  
3 diameter, class of pipe that was manufactured on  
4 the machine. We didn't have one end blend, we  
5 had several.

6 Q. Okay, we'll take water pipe, for  
7 example.

8 A. That was broken down.

9 Q. And it was broken down into various  
10 classes?

11 A. Diameters, and classes.

12 Q. What type -- what are the various  
13 diameters of the water pipe?

14 A. We went from 4 inch to 36 inch.

15 Q. And for the various diameters, would  
16 there be various blends for each diameter?

17 A. 4 to 8 inch could be classified as one end  
18 blend. 10 through 12 could be classified as one  
19 end blend. 14 through 18 could be classified.  
20 20 to 36 could be classified as one end blend.

21 Q. Within -- strike that.

22 For each end blend could you use  
23 different formulas as listed on active blend  
24 cards?

25 MR. CARUSO: I object to the form of

Sfisco-Cross  
1 the question.

2 A. What you are saying, different type of  
3 fiber, if I understand.

4 A. Yes, sir.

5 As I said before, if the grade 4 fiber was  
6 equal and depending on availability we would use  
7 it and ask for a deviation that would be granted.  
8 This is why 1947 we had an M 12, we're up to last  
9 time I remember, up to M A 8 hundred. So that  
10 shows how many blends we used in a 15 year period.

11 Q. So if there were substitute fibers  
12 --

13 A. And we had permission to do it, we would do  
14 it.

15 Q. Who would you have to get permission  
16 from?

17 A. We would go to Quality Control Department,  
18 and they would go to the division, and they would  
19 grant us the permission. And that would be over  
20 the period of time where this fiber was available.

21 Q. I'm still not sure that I understand  
22 where your discretion lay with respect to using  
23 fibers interchangeably, even though they were not  
24 listed as interchangeable on a certain blend card.

25 A. We knew from our operation standpoint what

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1 was interchangeable, grade 4 fibers.

2 Q. You knew in your mind what was

3 interchangeable?

4 A. I did, from past experience, I knew,

5 without mentioning types. I knew what we -- what

6 product we could -- what fiber we could use, and

7 the results. From my past experience I knew what

8 had to be done.

9 Q. From your experience as general

10 foreman in production, is it your testimony that

11 you knew what fibers were interchangeable with

12 other fibers.

13 A. That is correct.

14 Q. That knowledge -- did you ever write

15 down what fibers were interchangeable with other

16 fibers?

17 A. We kept a log book in the forming end and

18 actually we, in this log book, we would enter

19 what we interchanged with, and then we would go

20 back to the quality control and say we were doing

21 this. I was being audited every day as far as

22 quality control, as far as following

23 specifications.

24 Q. Let's talk about quality control for

25 a second, if 2 fibers of the same grade were

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1   interchangable and you used one fiber in place of  
2   the other, even though the other was listed on a  
3   blend card, quality control would not notice the  
4   difference in the end product. Is that correct?

5   A.   You said if we substituted one for the  
6   other. That is not true in all cases. We can  
7   substitute 50 percent, 25 percent, depending on  
8   availability. We could use 2 types of 4, if they  
9   were both available, if there was only one  
10   available, we would use one type. If one had a  
11   higher inventory than the other, we would ratio  
12   it to the inventory control.

13       Q.   Did there come a time, sir, when J M  
14   supplied its own fiber to I Building?

15   A.   You mean the 4T grade?

16       Q.   Yes, sir.

17   A.   Yes, that came around.

18       Q.   Was that after the task force  
19   committee?

20   A.   During and after.

21       Q.   So although there was no J M fiber  
22   in I Building in 1947, in the early 50's there  
23   was a J M fiber supplied to I Building?

24           MR. CARUSO: I object to the form.

25           MR. TORTORETI: I object to the form.

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1 Q. Is that correct, sir?

2 A. Yes.

3 MR. CARUSO: Hold on a second.

4 First time you said J M 4T, then you said J M.

5 That was the basis of my objection.

6 MR. LACEY: Okay.

7 A. That is all we ever used.

8 MS. TONELLI: I'm sorry, could you

9 keep your voices up, please.

10 Q. J M 4 T fiber was the only

11 Johns-Manville product ever used in I Building.

12 Is that correct?

13 MR. CARUSO: I object to the form.

14 A. As far as manufacturing pipe, okay, there

15 was other fibers used for wet patch molding, and

16 stuff like that, like a 5 grade. But not for

17 manufacturing. And that was requisitioned from H

18 building, 5 grades, whatever was available. It

19 could have been a 5 or 6 or 7 grade.

20 Q. Let me see if I understand your

21 testimony, sir. From 1947 until 1967 were there

22 various grades of Johns-Manville fiber utilized

23 in I Building?

24 A. You said 47. Let's go to 50 --

25 Q. I said from 1947 to 67. Any time

Sfisco-Cross

1 during -- strike that question.

2 Sir, at some time in the early 1950's

3 Johns-Manville asbestos products were utilized in

4 I Building. Is that correct?

5 A. Correct.

6 Q. Those products included in

7 Johns-Manville grade 4 T product.

8 A. Grade 4.

9 Q. Grade 4 product.

10 Did the products utilized in I

11 Building in the early 1950's include a

12 Johns-Manville grade 5 asbestos product?

13 A. For manufacturing, no.

14 Q. I said in I Building.

15 MR. MC CARTHY: When you are saying

16 product, are you talking about raw fiber?

17 A. When you say product, it is manufactured

18 product. The answer would be no.

19 Q. A Johns-Manville grade 4 product was

20 utilized in production in I Building in the early

21 1950's. Is that correct, sir?

22 A. It started.

23 Q. And was it used through the

24 remaining period of your tenure as general

25 foreman in I Building?

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1 A. Yes.

2 Q. And that tenure ended in 1967 as

3 general foreman. Is that correct?

4 A. Well, I was superintendent. But go ahead.

5 You do what you want?

6 Q. And your tenure in 1967 in I

7 Building ended -- and your tenure in I Building

8 ended in 1967, sir?

9 A. Well, it was either 67 -- in that area, all

10 right.

11 Q. So, sir, from the early 1950's until

12 at least 19 -- until approximately 1967, a

13 Johns-Manville grade 4 product was utilized in

14 the production of pipe in I Building. Is that

15 correct, sir?

16 A. 1950's, you said?

17 Q. Early 1950's to 1967.

18 A. Yes, yes.

19 Q. That was raw asbestos fiber that was

20 utilized. Is that correct?

21 A. That is correct.

22 Q. Was that Johns-Manville grade 4

23 fiber interchangeable with any other fibers?

24 A. My answer to that would be no. Only as a

25 substitute, up to a certain percent.

Sfiscko-Cross

1 Q. Johns-Manville grade 4 fiber could  
2 be substituted for other grade 4 fibers?

3 A. Only up to a certain percent. Not a 100  
4 percent.

5 Q. I understand that, sir.

6 A. Well, it is a matter of record.

7 Q. Is it your testimony that  
8 Johns-Manville grade 4 asbestos fiber could be  
9 substituted in some percentage for other grade 4  
10 asbestos fibers?

11 A. Correct, correct.

12 Q. And that is for the entire period  
13 from the early 1950's to 1967?

14 A. Well, I would have to give you a qualified  
15 answer. Now, I would say yes with the  
16 establishment of improving the quality of J M  
17 fiber. The percent of substitution increased.

18 Q. Did there come a time when  
19 Johns-Manville was -- strike that.

20 Did there come a time when  
21 Johns-Manville fiber was substituted completely  
22 for other grade 4 fibers between the early 1950's  
23 and 1967?

24 MR. TORTORETI: I object to the form  
25 of the question.

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1 MR. CARUSO: I object.

2 A. On -- not a 100 percent. Now, if you want  
3 me to go into a little more detail.

4 Q. Sir, we'll go into another area.  
5 you stated that within the various grades of  
6 fiber there were certain -- strike that.

7 Sir, within the various grades of  
8 fiber were there certain fibers that were longer  
9 than others?

10 MR. CARUSO: I object to the form.

11 MR. TORTORETI: So do I.

12 A. That is not a clear question.

13 Q. Do you understand the question?

14 A. I understand the question, but if you are  
15 talking about fiber length, or percent of clean  
16 fiber, there is a variation in your question.

17 Q. Were there some fibers that were  
18 longer than others?

19 A. Blue.

20 Q. The blue fiber was the longest fiber?

21 A. The blue had -- normally the blue was  
22 longer fiber, unless you got into 3 grades or 2  
23 grades.

24 Q. Can you tell me in 1947 the  
25 approximate tonnage of pipe per day that was

Sfiscko-Cross

1 produced in I Building?

2 A. Here we go.

3 MR. CARUSO: I just wish to state  
4 for the record and I'm obviously not going to  
5 direct the witness not to answer. But I believe  
6 that exact question was asked a couple of times  
7 before. But go ahead, if you can answer it go  
8 ahead.

9 A. It is pretty hard. It all depends what you  
10 are making. You see, your form time, I would  
11 have to give you a little -- in an 8 hour period  
12 there is 480 minutes. Your form time could be  
13 320 minutes due to what you are making. The  
14 other 160 minutes can be non-form time, mandrel  
15 changes and so on. So you cannot tie it down to  
16 tons.

17 Q. And there was down time on the  
18 machines?

19 A. Down time, exactly. I would be here a  
20 month explaining the whole operation.

21 Q. And on a daily basis, you couldn't  
22 possibly give an average of tonnage produced per  
23 day?

24 A. Take it on a monthly basis per machine.

25 Q. I'm talking on a daily basis.

Sfisko-Cross

1 A. It is the same thing what I'm saying, if I  
2 take it monthly and put it back in daily, take 24  
3 operating days and put it into average one day,  
4 could be 50 ton a day.

5 Q. Was production uniform for each  
6 month, or did you have a variety?

7 A. At the beginning of 47, it was strictly  
8 mostly water pipe. And the variety didn't change  
9 until later. When we got into sewer pipe getting  
10 into the latter years.

11 Q. That was in the early 1950's?

12 A. Sewer pipe came predominantly in the middle  
13 50's.

14 Q. Sir, I'm going to ask you to look at  
15 a document that I believe you have seen before  
16 during this deposition, and it is marked B 0 0 9  
17 0 5, do you recognize that document from the  
18 other day?

19 A. I recognize the document only based on what  
20 I was given from this document to use.

21 Q. I understand, sir.

22 Did you read the contents of the  
23 document marked 0 0 9 0 5?

24 A. I read it up here.

25 Q. And did you --

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1           MR. CARUSO: Indicating the third  
2 paragraph.

3           Q. Do you recall division headquarters  
4 ever contacting you concerning deviations from  
5 the blend cards?

6 A. I would work through the quality control.

7           Q. Did you ever work -- did quality  
8 control ever tell you there had been too many  
9 deviations from the blend cards?

10 A. I don't believe I ever got turned down.  
11 This was one -- this was our number one job,  
12 control of fiber, we were strict. This is all  
13 based on future expansion of the other plants too.  
14 which it didn't state there.

15          Q. Did you, sir, always notify division  
16 headquarters of changes in the use of fiber  
17 blends?

18 A. I worked with quality control, as I said  
19 before, and we worked in close conjunction on  
20 availability of the fibers. And we always -- we  
21 always anticipated what we were going to use in  
22 the future. It didn't work out that way, because  
23 the strikes and what have you, but there was  
24 times we had problems.

25          Q. In essence, what you would do is

Sfisco-Cross

1 make a pro forma budget of production?

2 A. What do you mean by --

3 Q. You attempted to anticipate what  
4 production would be produced during a certain  
5 month?

6 A. We knew by the orders that we had on hand  
7 that we could project the usage for at least 4 to  
8 6 weeks; whether it was water pipe, sewer pipe or  
9 not. Because these orders were enormous and  
10 shipments would be by truckload or carload.

11 Q. You mentioned strikes earlier, sir.  
12 were there strikes during the 1947 to 1967 period  
13 in I Building?

14 A. There was a strike before that. And one  
15 after that that I know of.

16 Q. I'm asking from 1947 to 1967.

17 A. There was one strike.

18 Q. And when was that?

19 MR. CARUSO: Did you limit your  
20 question to I Building?

21 THE WITNESS: The strike was at  
22 Manville plant.

23 Q. And the strike included a strike of  
24 I Building?

25 A. Correct.

Sfisko-Cross

1 Q. Can you recall when that was?

2 A. I don't know whether it was in the late  
3 60's, or early -- could have been the late 60's  
4 I'm not sure. I'm not sure.

5 Q. Was it during the 1947 and 1967  
6 period?

7 A. No, I was in division headquarters, but we  
8 were located at the plant, okay. Now, we were at  
9 the Manville hotel and we were involved because  
10 we couldn't get to our place of work because it  
11 was part of the Manville complex.

12 Q. What was the reason for the strike?

13 A. You better ask industrial relations and the  
14 union. I did not get involved. As far as issue  
15 was concerned, only thing I know there was  
16 grievances that could have been 20 or 30  
17 different grievances.

18 Q. Do you know how long the strike  
19 lasted, approximately?

20 A. Could have been a couple of months, I don't  
21 know.

22 Q. During those couple of months  
23 production was eliminated?

24 A. Ceased. Some shipments were made.

25 Q. Sir, I believe earlier you testified,

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1 not today, but earlier in the week, that Manville  
2 was a pilot plant for certain products?

3 A. During the task force days we -- I wouldn't  
4 call it a pilot, we were the ginny pigs of coming  
5 up with the task force, what was compelled to  
6 come up with. The more usage of our own make  
7 fiber and a few other things increasing the  
8 quality of the product and what have you.

9 Q. Were you directed by the task force  
10 to act as a ginny pig, as you've termed it?

11 A. We were directed as a task force to make  
12 trial runs, okay.

13 Q. And these would be limited trial  
14 runs?

15 A. Limited trial runs, 4 hours, 8 hours.

16 Q. And they would be limited trial runs  
17 of various asbestos products?

18 A. Asbestos blends.

19 Q. Asbestos blends. And would they be  
20 asbestos blends for water pipe, would they  
21 include -- blends of water pipe?

22 A. The task force was mostly water pipe. The  
23 most critical items.

24 Q. Did they deal with other types of  
25 pipe as well?

Sfisco-Cross

1 A. Very little in sewer pipe, very little.

2 Q. How about air duct pipe?

3 A. No.

4 Q. House connection pipe?

5 A. Not to my knowledge, no. They were pretty  
6 stable as far as blends were concerned.

7 Q. You were directed by the task force  
8 to --

9 A. You see at that time in 47, water pipe and  
10 the 2 13 foot machines was 90 percent of the  
11 production. So the 1967 it would be first, okay.

12 Q. And you were told, sir, to try  
13 different types of blends in order to produce  
14 water pipe to see how the product would turn out?

15 A. See how far we could go with use of our own  
16 make fiber, right.

17 Q. And did you have those trial runs?

18 A. We certainly did.

19 Q. And those trial runs would be of  
20 blends different from the standard blends. Is  
21 that correct?

22 A. There were new blends.

23 Q. And some of those blends would later  
24 be utilized and some would be discarded depending  
25 on the results of your trial run?

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1 MR. CARUSO: I object to the form.

2 Q. The trial blends.

3 A. That would cover -- we did a little more  
4 than that. If we had a problem, let's say, a  
5 blend where we had some of our own make fiber,  
6 and we had a problem with it, maybe we could do  
7 something else to make that blend operable, okay.

8 You see, it wasn't where you could cut it  
9 with a knife. I mean we had problems. And we  
10 made a lot of bad pipe too.

11 Q. And did you come up with some new  
12 blends that you utilized thereafter?

13 A. I didn't say that. I said the blends  
14 probably stayed. We made other deviations  
15 besides the blends to try to make this particular  
16 blend operable. Do you want me to tell you what,  
17 I'll tell you.

18 Q. You don't have to, sir.

19 A. Okay.

20 Q. Sir, you've stated that you would  
21 personally take an inventory of a fiber contained  
22 --

23 A. Monthly.

24 Q. A monthly inventory.

25 A. Right, turn it over to the finance

Sfisko-Cross  
1 department.

2 Q. Earlier in your testimony you stated  
3 that you took some courses after high school.

4 A. Yes, I went to Rutgers at night.

5 Q. What courses did you take there?

6 A. Management courses.

7 Q. For how long did you attend school  
8 there?

9 A. 0, one or 2 nights a week, for -- some was  
10 one night a week, some was 2 nights a week, could  
11 have been a 6 week period each one or something  
12 like that.

13 Q. When was that approximately?

14 A. Oh, 60's probably.

15 Q. Did you take any other courses  
16 between high school and 1967?

17 A. Management courses when I was industrial  
18 engineering, in-house.

19 Q. What did they train you on?

20 How did they train you?

21 MR. CARUSO: I object to the form.

22 A. It covered everything that industrial  
23 engineer has to -- had to do. It was industrial  
24 engineering course.

25 MR. LACEY: At this time I will

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1 defer to Ms. Tonelli of McCarter & English.

2 However, I reserve the right to ask some

3 questions later. I had several more questions.

4 However, out of courtesy to Ms. Tonelli, and the

5 government and Mr. Rasnek and other defense

6 counsel in this matter, if necessary, I'll defer

7 my questioning until they have completed theirs

8 (Whereupon, there is an

9 off-the-record discussion.)

10

11 CROSS EXAMINATION BY MS. TONELLI:

12

13 Q. Mr. Sfiscko, my name is Gay Lynn

14 Tonelli and I represent several defendants in

15 this litigation. If you have any problems

16 hearing me, please let me know and I'll repeat

17 the question for you.

18 MR. CARUSO: Can you identify your

19 group?

20 (Whereupon, there is off-the-record

21 discussion.)

22 Q. Mr. Sfiscko, a lot of the questions

23 I'm going to be asking you may seem repetitious.

24 I'm asking them for a reason. I would like to

25 get down certain ideas and concepts in sequence

Sfiscko-Cross

1 so we have a good understanding of how things  
2 happened and fill in a few holes along the way.  
3 Please forgive me if they are somewhat  
4 repetitious.

5                   You testified as to certain grades  
6 of fiber. Were the grades of fiber standard  
7 throughout the industry?

8 A. Beyond my realm, I wouldn't know that.

9 Q. Hypothetically, if you received a  
10 grade 4 fiber what would that say to you?

11 A. It was a grade 4 fiber.

12 Q. And what did grade 4 denote?

13 A. I couldn't say.

14 Q. Mr. Sfiscko, is -- what is the  
15 difference between a blend book and a  
16 specification book?

17 A. A blend book is what we actually used at a  
18 given plant. Specification book gave you the  
19 percent of blend to be used for certain diameter  
20 class of products. Like your 6 inch 150, 15  
21 percent blend, that was it. A blend book would  
22 be the blend used at that time, with the 15  
23 percent to be used in the manufacturing of that 6  
24 inch pipe. That is the best way I can explain it.

25 Q. Do you know who supplied J M with

Sfisko-Cross

1 specifications for the specification book?

2 MR. CARUSO: Objection to the form

3 of the question.

4 MS. TONELLI: What is your objection?

5 MR. CARUSO: Well, first of all, you  
6 are assuming it wasn't somebody other than J M.

7 Q. Who supplied the specifications for  
8 the specification book?

9 A. That came out of division headquarters.

10 Q. Did I Building receive a copy of the  
11 specification book?

12 A. Quality control, they were the keepers.

13 Did I Building receive a copy of the blend  
14 book?

15 A. Blend book was a division book.

16 Q. That is from the division  
17 headquarters again?

18 A. Division headquarters.

19 Q. Do you know who supplied the blends  
20 to division headquarters?

21 MR. CARUSO: Objection to the form  
22 of the question?

23 A. That could work both ways.

24 Q. I'm going to give you a hypothetical:  
25 An order is received by quality

Sfisko-Cross

1 control in I Building for 13 foot 8 inch water  
2 pipe. What happens after that order is received?

3 MR. CARUSO: I object to the form.

4 A. The word order confuses me. You are not  
5 talking about a customer order, are you?

6 Q. I'm talking about a customer order.

7 MR. CARUSO: Same objection.

8 A. It had no correlation. If you had said  
9 what specification to be used for 8 inch 150 pipe,  
10 that is a different story.

11 Q. If you have the directive from  
12 quality control to make 8 inch water pipe 13 foot,  
13 what is your first step in preparing to make that  
14 pipe?

15 A. Use the blend that is specified for that  
16 class of pipe.

17 Q. How do you know what blend is  
18 specified for that class of pipe?

19 A. We have active blend cards.

20 Q. Are these blend cards contained in  
21 the blend book, or are they separate from the  
22 blend book?

23 A. They are part of the blend book for that  
24 location.

25 MR. LACEY: Off the record.

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1 (Whereupon, there is an

2 off-the-record discussion.)

3 MR. LACEY: I'm a little confused

4 here, because I understood the witness to say

5 that the blend book was a division headquarter's

6 book. And thus would be located in division

7 headquarters. Am I wrong?

8 MR. CARUSO: Well, I think if you

9 would have stopped after you said I understood

10 the witness to say that the blend book was a

11 division headquarter's book period, then you

12 would be a 100 percent correct. The inference

13 from the remainder of your statement that and it

14 was located at division headquarters, I assume

15 was also true, but perhaps the inference from

16 your statement is that it excluded a copy of a

17 book at a plant facility.

18 And I further object on the grounds

19 that, I think when the witness said that it is a

20 division headquarters book, his previous

21 testimony is clear that it was generated at

22 division headquarters. So he may have been using

23 it in that regard.

24 MR. LACEY: Okay. Off the record

25 (Whereupon, there is an

sfiscko\_Cross  
1 off-the-record discussion.)

2 Q. Mr. Sfiscko, some of the attorneys  
3 in the room have expressed some confusion  
4 concerning the blend book. So let's try and  
5 clear that up.

6 Was there a copy of the blend book  
7 at I building?

8 A. No. The blend book at division  
9 headquarters covered the 6 pipe plants in  
10 existence in the plant, whatever it was. All the  
11 plants.

12 Q. It covered all the plants, but did  
13 you have a copy of that book in I building?

14 A. No. That was for their record keeping.

15 Q. Did you have blend cards in I  
16 Building?

17 A. Blend cards.

18 Q. were those blend cards made from the  
19 specifications book?

20 A. Blend cards were made from the blends given  
21 to us by division headquarters for certain size  
22 and class of every product to be made.

23 Q. How did division headquarters  
24 transmit to you that information?

25 A. You have it right here.

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1 Q. But they didn't transmit it to you

2 in the form of the blend book?

3 A. No, it was through letters written to each

4 plant stating what could be used, and deviations

5 were necessary. We would have to go to our

6 Quality Control Department through headquarters,

7 to -- you've got it.

8 Q. All right. Right now let's stick

9 with the blend book and the blend cards. So you

10 would receive letters or memoranda from division

11 headquarters telling you what blends you could

12 use?

13 A. That is correct.

14 Q. From those letters or memoranda, you

15 would create blend cards?

16 A. Quality control did.

17 Q. Quality control created blend cards.

18 They actually transferred the information from

19 the letters to the cards?

20 A. There you are.

21 Q. Was that part of your duties to

22 transfer that information?

23 A. No, I said quality control.

24 Q. When you received a blend card would

25 you use that blend on that card for an indefinite

sfisco\_Cross

1 period of time?

2 A. Depending on the availability of the fiber  
3 that we had on hand, yes.

4 Q. Would you occasionally receive  
5 instructions to take certain blends out of your  
6 active file?

7 A. That would happen depending on the  
8 availability of the fibers.

9 Q. When you were directed to make 13  
10 foot 8 inch water pipe were you also directed to  
11 use a specific blend?

12 A. What was active at that time.

13 Q. In other words, you could go to the  
14 file and see which blends were available to use  
15 and pick out one of those blends?

16 A. In my -- in the forming office we had an  
17 active blend card that we could use. But if it  
18 came inactive to quality control we would pull  
19 these blends out and substitute another active  
20 card.

21 Q. Hypothetically, if you had 10 blends  
22 to make 8 inch water pipe, 13 foot long, could  
23 you use any of those 10 blends?

24 A. I never had 10 blends.

25 Q. Hypothetically --

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1 MR. TORTORETI: I object to the form  
2 of the question.

3 A. Maybe 2.

4 Q. Hypothetically, if you had 2 blends,  
5 could you use either of those blends?

6 A. Depending on availability, we had our  
7 choice.

8 Q. Who had the discretion to choose  
9 which blend to use?

10 A. I did, because depending on availability of  
11 the fiber. For either one we could use it.

12 Q. Did it ever happen that you were out  
13 of fiber for all of the available blends?

14 A. Many, we were out, we were out depending on  
15 deliveries, yes, one type of fiber to purchase  
16 another type of fiber.

17 Q. At those times did you file a  
18 deviation request?

19 A. If we didn't have an active blend, yes.

20 Q. How long would it take to get your  
21 deviation request approved?

22 A. Less than 24 hours.

23 Q. When you received a deviation  
24 request approval did that constitute another  
25 blend card, or was it simply --

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1 A. Correct.

2 Q. It did.

3 And did that blend card remain in  
4 your active file from that point forward?

5 A. For the period of time we requested. If we  
6 asked for 30 days, it would be 30 days. If we  
7 asked it for 60 days it would be 60 days.

8 Q. I would like to ask you a question  
9 concerning substitutions. Is it accurate to  
10 state that if you didn't have the available fiber  
11 type to comply with any of the blend card  
12 formulas in your active file, you would have to  
13 file a deviation?

14 A. That is correct.

15 Q. In other words, you had no  
16 individual discretion to substitute say one blue  
17 fiber for another unless there was a blend card  
18 which said that that formula was approved?

19 A. Blue was not a part of it. I mean blue was  
20 blue, 4 grades.

21 Q. When you say blue is blue, does that  
22 mean that any blue fiber you had in stock you  
23 could use when the card stated blue fiber?

24 A. Any qualified blue fiber.

25 Q. When you start talking about the

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1 grades of fibers is it fair to state that if you  
2 did not have a blend card which specified that  
3 grade of fiber you could not freely substitute  
4 one grade for another -- excuse me, strike that.

5           You cannot freely substitute one  
6 fiber for another within the same grade.

7           MR. CARUSO: Objection to form.

8           MR. TORTORETI: Objection.

9           MS. TONELLI: I'll withdraw the  
10 question.

11         Q.   Is it fair to state that within a  
12 grade of fiber you could not use a substituted  
13 fiber that was not listed in an approved blend  
14 formula?

15         A.   To answer that --

16         Q.   Do you understand the question?

17         A.   I understand that question. We anticipate,  
18 we did not work from hand to mouth.

19         Q.   Okay. Let me ask you some questions  
20 about the basis of your anticipation. Did you  
21 ever take inventory of the warehouse?

22         A.   Once a month, fiber.

23         Q.   Was this your personal inventory of  
24 the warehouse?

25         A.   My job period.

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1 Q Your job was to take an inventory  
2 once a month?

3 A. I did.

4 Q. Was in the time period from 1947 to  
5 1967, the inventories that you took once per  
6 month, were those inventories used to compile  
7 inventory lists for headquarters, division  
8 headquarters?

9 MR. CARUSO: I object to the form.  
10 You can answer.

11 A. It went to the finance department.

12 Q. The inventories you took went to the  
13 finance department.

14 A. Finance department.

15 Q. Did anyone else in the J M  
16 organization take an inventory of the warehouse  
17 every month?

18 MR. TORTORETI: The I Building  
19 warehouse?

20 Q. Yes.

21 A. If I was on vacation my assistant would do  
22 it. That was only about maybe once a year. I  
23 never took my full vacation. That was another  
24 part of the job.

25 Q. Do you know what the purpose of

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1 sending the inventory to the finance department

2 was?

3 A. Yes.

4 Q. What was that purpose?

5 A. It was to correlate the actual inventory at  
6 the end of the month with the reports that went  
7 to the finance on a daily basis showing the usage  
8 and if there was a differential it would be added  
9 or subtracted from the usage. It was a control.

10 Q. Who made usage reports?

11 A. Usage reports were made at the willow.

12 Q. Were those made through the use of  
13 willow tallies?

14 A. Willow tally sheets, right.

15 Q. Who made the willow tally sheets?

16 A. What do you mean by that, who put the  
17 numbers in there?

18 Q. Yes.

19 A. The willow operator for every batch he made,  
20 he would make an x. If he made 15 x's he made 15  
21 batches in that period of time.

22 Q. And who compiled those tally sheets?

23 A. Compiled at the end of the day, reviewed by  
24 me and turned over to the finance department.

25 Q. And the finance department then --

Sfiscko-Cross

1 A. Reported on their daily statements,

2 whatever they --

3 Q. Who made the decisions as to what  
4 raw fibers would be ordered for the I Building?

5 A. Division headquarters ordered all fibers  
6 for all plants.

7 Q. Did you have any input as to what  
8 fibers were ordered?

9 A. We tried.

10 Q. What do you mean by we tried?

11 A. If we wanted a certain grade of fiber  
12 without mentioning names, we tried to get that  
13 particular type of fiber, sometimes it works and  
14 sometimes it didn't.

15 Q. Mr. Sfiscko, what is a point value?

16 A. There again, it was a system that was  
17 established which I can't explain how they  
18 derived this point value. You would have to go  
19 to Mr. Whalen and Mr. Daley, or somebody that  
20 really established this point value with the  
21 asbestos. Only thing I know that if point value  
22 was 72 we could use it in water pipe. If it was  
23 68 we could use it in sewer pipe.

24 Q. Was there a point value for every  
25 grade of fiber?

Sfisco-Cross

1 A. Our own fiber.

2 Q. Just your own fiber?

3 A. The other fibers didn't need it.

4 Q. What is the Asbestos Fiber Division?

5 A. Asbestos Fiber Division, what can I tell  
6 you.

7 Q. What is its purpose?

8 MR. CARUSO: I object. Hold on a  
9 second. I object to the form of the question.  
10 This witness has answered that exact question  
11 twice before in 3 days previous.

12 MS. TONELLI: The reason I ask this  
13 question, because there is still some confusion  
14 as to what the Asbestos Fiber Division does.

15 MR. CARUSO: Answer the question  
16 again.

17 Q. Can you tell me what the Asbestos  
18 Fiber Division does?

19 A. They mine the fiber, right, they take this  
20 fiber and they mine it, bring it to the plant,  
21 segregate it by class, and ship the fiber to  
22 different locations.

23 Q. So they deal solely with the  
24 production of the fiber?

25 MR. CARUSO: I object to the form.

Sfiscko-Cross

1 Q. Did they deal with the production of  
2 the fiber?

3 MR. RASNEK: Objection as to form,  
4 what timeframe.

5 Q. From 1947 to 1967.

6 A. Well, they were in existence in 47. They  
7 were in existence before 47. Now, they had their  
8 own, as far as I know, they had their own  
9 customer service. They had their own bailey wick.  
10 They handled the shipments to wherever they --  
11 where ever the customer demanded the fiber. That  
12 is as much as I can tell you. You would have to  
13 go to the source, and get their functions.

14 Q. You stated before that you were  
15 audited daily to see if you were in confirmation  
16 with the specifications.

17 A. That is correct.

18 Q. Who audited you?

19 A. Quality control.

20 Q. Mr. Sfiscko, I believe you testified  
21 that you had no direct supervision over the  
22 receiving department. Is that correct?

23 A. That is correct.

24 Q. During the period 1947 to 67, did  
25 you see material coming into the receiving

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1 department?

2 A. I've been back there, yes.

3 Q. Did material come in in trucks?

4 A. What material?

5 Q. Raw asbestos.

6 A. All Jeffrey fibers, our own fibers came by  
7 freight.

8 Q. Did outside fibers come from various

9 --

10 A. Blue fiber which came from overseas came to  
11 the docks and shipped by truck. Other fibers  
12 that came from Canada, or U.S., came by freight.  
13 If there was any other fiber that came from one  
14 plant to another, it could have come either way.

15 It all depends what location. And that  
16 rarely happened. It is possible that Waukegan  
17 should have shipped fiber to Manville by truck.  
18 That is the only location that I can think of  
19 right now.

20 Q. When you had raw fiber in the  
21 warehouse, in inventory, did you use that fiber  
22 in any particular order? Now, let me explain  
23 that a little bit more.

24 A. It was received.

25 Q. You used it as received?

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1 A. That is what you are going to say.

2 Q. Did you use the first fiber received

3 or the last fiber received?

4 Do you understand the question?

5 A. What type fiber are you talking about?

6 Q. Raw asbestos fiber.

7 A. J M, or outside.

8 Q. Was there a difference in the usage?

9 A. Yes.

10 Q. All right. J M fiber.

11 A. J M fiber, you see, when that J M fiber

12 came in, it could have been high piled. High

13 piled is when you stack an area as big as this

14 room and stack it maybe 20, 30 rows high. That

15 fiber could have been there 6 months, or a year.

16 As other fiber came in, it was palletized,

17 put on wood pallets, that could have been used

18 before the high pile.

19 Q. Was the outside fiber ever high

20 piled?

21 A. Only at the beginning of 47. But after --

22 well, go ahead.

23 Q. When did you stop high piling

24 outside fiber?

25 A. When the fiber came -- when the fiber

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1 availability came down.

2 Q. And when did the fiber availability

3 come down?

4 A. In the 50's.

5 Q. Early 50's?

6 A. Well, when we went to the expansion program

7 of other plants. It could have been Marrero,

8 could have been one plant after the other. Then

9 the -- and then due to the task force, and due to

10 the classification of pipes that we had to make.

11 There was a lot of things that get into the

12 picture. Then the fiber availability. We

13 started to use more Jeffery because we were

14 making more sewer pipe. It is a complicated

15 things we generated more of our own fiber as we

16 made more sewer pipe.

17 Q. Hypothetically, if you had outside

18 fiber A, and you had 10 bags of outside fiber A

19 in the warehouse, and you received in another 10

20 bags, would you use 10 bags that were in the

21 warehouse first, or would it make any difference

22 to you?

23 MR. TORTORETI: Objection to the

24 form of the question.

25 MR. CARUSO: Objection.

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1 A. When fiber comes in, you put them on  
2 pallets, you go maybe 20 rows. If you have 10  
3 rows left and another shipment comes in, they put  
4 that in front of the older fiber. So, we  
5 couldn't go in the back, it would be against the  
6 law. So we had to use the present fiber, simple  
7 as that.

8 Q. You may not be able to answer this  
9 question for me. How long would a shipment of  
10 outside fiber be in the warehouse?

11 MR. CARUSO: Objection to the form  
12 of the question. I think it is vaguely defective.  
13 You have to ask him, depends on the size of the  
14 shipment, I would think.

15 MR. TORTORETI: I object to the form  
16 of the question.

17 MS. TONELLI: I withdraw the question.

18 Q. Mr. Sfiscko, during the time period  
19 1947 through 1967 did you at any time have the  
20 occasion to work with purchase orders?

21 A. No, no.

22 Q. During the period 1947 through 1967,  
23 did you at any time have occasion to work with  
24 invoices?

25 A. Not to work with, no.

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1 Q. Did you at any time have occasion to  
2 see invoices?

3 A. Yes.

4 Q. When did you see invoices?

5 A. It is possible when they came in, or I  
6 could run up to the finance department -- they  
7 were laying on the desk, or if we had a  
8 discrepancy, our inventory control, we would  
9 review what came in, and what was used, things  
10 like that.

11 Q. Was it part of your duties during  
12 1947 through 1967 to review every invoice?

13 A. No.

14 Q. For the period 1947 through 1967,  
15 are you aware of the names of the producers of  
16 the outside raw asbestos fiber received in I  
17 Building?

18 MR. CARUSO: Hold on. Can I have  
19 that question read back.

20 ( Whereupon, the reporter reads back.)

21 MR. CARUSO: I object to the form.

22 MR. TORTORETI: So do I.

23 MR. LACEY: Objection.

24 A. 4 T fiber from my own mind I knew, right.  
25 But the other fibers, I'm not mentioning names, I

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1 can tell you what the names were, but I couldn't  
2 tell you.

3 Q. My question is: Can you tell me who  
4 made them?

5 MR. CARUSO: I object to the form of  
6 the question.

7 MR. MC CARTHY: I object.

8 MR. LACEY: I object as well.

9 MR. CARUSO: Off the record.

10 (Whereupon, there is an  
11 off-the-record discussion.)

12 Q. On the record.

13 Do you know the point of origin of  
14 the raw asbestos outside fiber you received?

15 MR. TORTORETI: objection to the  
16 form.

17 A. No.

18 Q. Do you know the names of the  
19 suppliers or the brokers who supplied J M with  
20 outside asbestos fiber?

21 MR. TORTORETI: Same objection.

22 MR. MC GARTH I Building in Manville?

23 MS. TONELLI: I Building in Manville.

24 MR. LACEY: I note an objection as  
25 to form.

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1 A. That was ordered by the division. Now,  
2 where that fiber went to, the division designated  
3 the plants where it would go.

4 Q. I don't think you understood my  
5 question. I'll move to strike that as  
6 unresponsive.

7 MR. TORTORETI: I think it is  
8 responsive, and I would oppose motion to strike.

9 MR. LACEY: I would as well.

10 Q. Do you know the names of the  
11 individuals or the companies who supplied the  
12 fibers outside -- outside fibers to J M, I  
13 Building?

14 MR. TORTORETI: Object to the form.

15 A. Between 47 and 67, no.

16 Q. I have just a few questions on  
17 physical plant of I Building.

18 MR. Sfisko, were the different  
19 sections of I Building of uniform height?

20 MR. TORTORETI: Objection to the  
21 form of the question.

22 MR. RASNEK: At what time?

23 Q. In 1947.

24 MR. CARUSO: Iobject to the form of  
25 the question. I think you can clarify it. If

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1 you want to know the basis of my objection, I'll  
2 tell you.

3 MS. TONELLI: Go ahead.

4 MR. CARUSO: From the outside  
5 looking at the building, from the inside of the  
6 building from what floor of the building?

7 MS. TONELLI: I'll withdraw the  
8 question.

9 Q. Mr. Sfisko, is there more than one  
10 floor in I Building.

11 MR. TORTORETI: Objection to the  
12 form of the question?

13 A. In the operation?

14 Q. In the operation areas.

15 A. That is a pretty hard question to answer.  
16 You are talking about the roof, the roof never  
17 changed, if that is what you are talking about.  
18 The roof was uniform. Now, if you are talking  
19 about the operation, that is something different.

20 Q. How high was the roof?

21 A. Oh, I don't know, never changed. It was  
22 pretty high. But I have no idea. Maybe LaBadie  
23 can tell you that.

24 Q. Was the section of I Building that  
25 is marked number 25 I, which you have described

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1 as the warehouse area, how high from the inside  
2 looking up was the warehouse, would you estimate?

3 A. I believe that was --.

4 MR. CARUSO: I'll object to the form  
5 of the question. Your reference to number 25 I,  
6 if you limit that to what he has previously  
7 identified at the I Building warehouse -- the  
8 problem is that the document in front of him,  
9 number 25 I conceivably be the beginning of the  
10 wet end, also. Do you see what I'm saying?

11 MS. COLLINS: Objection, also. I  
12 think that if the document is going to be in  
13 front of the witness for the purpose of the  
14 record, we need to have that document identified  
15 so that the names and designations can be on it  
16 since there are a number of plants here, maybe we  
17 can get a clean copy marked.

18 MS. TONELLI: Off the record.

19 (Whereupon, there is an  
20 off-the-record discussion.)

21 Q. Mr. Sfiscko, can you tell me how  
22 high looking up at the warehouse -- the warehouse  
23 was, approximately?

24 A. In comparison to the forming end?

25 Q. No, just the warehouse.

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1 MR. RASNEK: Has the document in  
2 front of the witness now been marked?

3 MS. TONELLI: No, off the record.

4 (Whereupon, there is an  
5 off-the-record discussion.)

6 MR. TORTORETI: Can I have the  
7 question back, please.

8 (Whereupon, the reporter reads back.)

9 MR. TORTORETI: Presuming that  
10 question was asked without reference to any  
11 document.

12 MS. TONELLI: Yes.

13 A. You want exact feet or --

14 Q. Estimate, 50, 60 feet, something  
15 like that.

16 Q. And how high was the wet end  
17 production area?

18 A. They were both pretty close to the same.

19 Q. Would you estimate that the height  
20 of the entire production area was approximately  
21 the same?

22 A. With the warehouse?

23 Q. With the warehouse, yes.

24 A. In 1947, or -- before we went to any  
25 expansion?

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1 Q. Yes.

2 MR. CARUSO: I object to the form.

3 You asked him the height of the production end to  
4 the height of the warehouse, or -- is that your  
5 question?

6 MS. TONELLI: I'm asking him if the  
7 height of the production end was approximately  
8 the same as the height of the warehouse in 1947.

9 A. The height of the warehouse when it was  
10 built, and the height of the forming section --  
11 the height was pretty close -- identical.

12 Q. When I Building was built, was the  
13 height of the warehouse and the forming section  
14 approximately the same as the height of the  
15 finishing end?

16 MR. TORTORETI: Objection to the  
17 form of the question.

18 A. Do you want me to answer that?

19 MR. CARUSO: Sure.

20 A. The whole section there was practically one  
21 height, practically one height. Put this little  
22 section here by the steam tanks here where you  
23 had a runway here, had a small, what do you call  
24 it, sub roof, something like that. That is about  
25 the only thing that varied.

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1 Q. And you are talking about the small  
2 section which was to the west of the steam tanks  
3 --

4 A. West of the steam -- not all of this, only  
5 part.

6 Q. And south of the wet end?

7 MR. RASNEK: I object to the  
8 references to the document unless it is marked.

9 MR. MC CARTHY: So do I.

10 MS. COLLINS: Please either mark it,  
11 or keep it away from the witness, it will make  
12 the record incredibly confusing.

13 MS. TONELLI: Can you mark this for  
14 identification?

15 (Whereupon, document is marked NS-4  
16 A.)

17 Q. We've marked this document NS-4 A  
18 for identification, this is a representation --  
19 excuse me, this is a copy of a blue print of I  
20 Building. This is a blow up of a 1974 site plan.

21 MR. RASNEK: Of a portion of it.

22 Q. Could you mark with the letter A the  
23 portion of I Building which you stated had a  
24 lower ceiling?

25 A. This one where you had a walkway and trucks

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1 would go through it, it would be right in this  
2 area right here. It wasn't the whole area,  
3 because here the coupling corner is.

4 Q. Could you sort of mark where that  
5 area was with the lower ceiling?

6 A. Give you footage, right?

7 Q. Yes.

8 A. It could be 8 to 10 foot, something like  
9 that, where the runway -- go down to -- platform  
10 trucks, where trucks could travel through, you  
11 could walk through.

12 Q. And how high was the ceiling at that  
13 point?

14 A. Say I'm 6 feet tall, probably be another 4,  
15 5 feet, probably.

16 Q. Now, there were additions made to I  
17 Building after 1947. Were there not?

18 A. Yes.

19 Q. Were the additions approximately the  
20 same height as the warehouse and the other  
21 portions of I Building which you categorized as  
22 60 foot?

23 A. Finishing end which was here.

24 Q. By here, you are --

25 A. This area right here.

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1 Q. Indicating number 29 A, the next

2 marked 240 by 200?

3 A. I believe this was higher. I believe it

4 was higher, but you can't hold me to it. It was

5 either equal or higher.

6 Q. Now, can you approximate how much

7 higher?

8 A. I couldn't, no. If you get the plant

9 engineer, Mr. LaBadie, he could probably tell you,

10 or whoever handled the modernization. I would

11 only be guessing.

12 Q. I believe you testified that there

13 was a firewall between the section marked number

14 25 I on this diagram NS-4 A marked 218 by 200,

15 and the section marked 203 by 282.

16 A. That is right. There was a firewall there.

17 Q. Did that firewall go from floor to

18 ceiling?

19 A. All the way to --

20 Q. Did the firewall contain doors?

21 A. We had one door here where the trucks could

22 go through, you could walk through.

23 Q. Would you mark the door on the

24 diagram?

25 A. Right there.

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1 Q. How large was that door?

2 A. Oh, it was wide enough for trucks to go  
3 through.

4 Q. Could you estimate that in feet.

5 A. Oh, I don't know, 10, 12 feet, maybe. I  
6 don't know.

7 Q. Was that door left open or closed?

8 A. In winter time, closed. Summer time, open.

9 Q. Were there any other walls between  
10 any other sections of the operating plant?

11 A. You had your walls here, and you had your  
12 walls here.

13 Q. Outside of outside walls.

14 A. Your steam tank were walls, because they  
15 are practically -- well, that was one area where  
16 you couldn't see the wet end from the forming end  
17 if that is what you are talking about.

18 Q. So the steam tanks were enclosed?

19 A. The steam tanks were enclosed from this end,  
20 in the open here, they are open, they were not  
21 closed.

22 Q. What you are saying is that they  
23 were enclosed on the west end -- excuse me the  
24 north end and the south end?

25 A. That is correct.

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1 Q. But they were open towards the  
2 ceiling?

3 A. There was no ceiling. The sky was the  
4 ceiling.

5 Q. Is it fair to state that outside of  
6 the firewall between the warehouse and the wet  
7 end, and the walls by the steam tanks, the rest  
8 of the production plant was open?

9 MR. CARUSO: I object to the form of  
10 the question.

11 A. What period of time now?

12 Q. 1947.

13 A. Oh, okay, that is true, besides the man  
14 door, that is true. Later on we went on the air  
15 cure building.

16 Q. Was that a wall between the air cure  
17 building and the wet end?

18 A. The air cure building had a truck entrance  
19 only.

20 Q. How wide was that truck entrance?

21 A. Could have been 10, 12 feet.

22 Q. Was it opened or closed?

23 A. It was open when the truck went in, and it  
24 was closed when the trucks weren't in.

25 Q. Was there a wall between the

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1 addition to the finishing end and the old

2 finishing end?

3 A. You mean here that -- this was all open

4 space.

5 Q. So between the new addition to the

6 finishing end and the old finishing end was all

7 opened?

8 A. All open space.

9 Q. Was there any portions of I Building

10 in 1947 that were 2 stories high, or 2 floors?

11 MR. CARUSO: Object to the form.

12 MS. TONELLI: Withdrawn.

13 Q. Were there any sections of the I

14 Building that were 2 floors in 1947?

15 A. In the production area?

16 Q. In any area of I Building.

17 A. I say no in 47.

18 Q. At any time between 1947 and 1967

19 was there a portion of I Building which was 2

20 floors?

21 A. We built a locker room.

22 Q. Where was that locker room located?

23 A. Second floor right here, this area right

24 here.

25 Q. Would you mark that area with an L.

Sfiscko-Cross

1 A. Locker room, L R.

2 Q. And you are indicating an area --

3 A. That was right above the the steam tanks.

4 You had steps to go up, and locker room up on top.

5 Q. Mr. Sfiscko, I believe you testified  
6 that at some point fans were added to I Building?

7 A. What?

8 Q. I believe at some point you  
9 testified that fans were added in I Building?

10 A. Ceiling fans.

11 Q. Yes. In what year were those added?

12 A. Could have been 58, 59, 60 in that time.

13 Q. Did they have anything to do with  
14 dust collection?

15 A. Summer time has got to be 90 degrees.

16 Q. So the purpose was --

17 A. To cool the building.

18 Q. Mr. Sfiscko, you indicated that  
19 there was a fiber bin on the pipe making machines.  
20 Was it necessary to clean out that fiber bin?

21 MR. CARUSO: I object to the form of  
22 the question.

23 MR. RASNEK: Objection to the form.  
24 What timeframe.

25 Q. 1947.

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1 A. Wasn't there, the live bottom fiber bins,  
2 it wasn't there in 47.

3 Q. When did the fiber bin come into  
4 existence?

5 A. That came with the bulk handling  
6 modernization in the forming end.

7 Q. What did you have prior to the bulk  
8 handling?

9 A. That is when we used the skip hoist with  
10 the cyclone.

11 Q. And when you were using the skip  
12 hoist, what was the name of the place where the  
13 fiber was contained?

14 A. The dry mixing area.

15 Q. In the dry mixing area was it  
16 necessary to take the clean -- to clean that area  
17 out at any time?

18 MR. CARUSO: I object to the form.

19 A. I would say no.

20 Q. After you went to the bulk system,  
21 was it necessary to clean out the fiber bin at  
22 any time?

23 A. No. The wide bottom bins, no. You see,  
24 the bottom of those fiber bins, they were screws,  
25 and when you wanted to get all the fiber out the

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1 screws would take all the fiber out, if you  
2 wanted to change blends. That is the way we  
3 changed blend. We had to empty the fiber bin out,  
4 when another blend was coming in, then we would  
5 put it in.

6 Q. And the screws were capable of  
7 completely emptying the bin?

8 A. Well, if you had a few pounds in there, you  
9 were lucky. They did a good job.

10 Q. Did there come a time when you  
11 started using apoxy in the finishing end?

12 A. Yes.

13 Q. Prior to the use of apoxy what was  
14 used in the finishing end?

15 A. It wasn't in the finishing end.

16 MR. TORTORETI: Objection.

17 A. The molding was in the wet end, that is  
18 what we called the wet patch.

19 Q. And what materials did the wet patch  
20 consist of?

21 A. Just the wet patch?

22 Q. Yes.

23 A. We would use either 5, 6 or 7 grade fiber,  
24 plus cement.

25 Q. And from where would you get the 5,

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1 6 or 7 grade fiber?

2 A. As I said before, it came from H building,  
3 requisitions from H building.

4 Q. Now, I have a few more questions,  
5 but at this time I think I should break for lunch,  
6 then I will defer to the United States this  
7 afternoon.

8 MR. CARUSO: Are you done?

9 MS. TONELLI: I have a few more  
10 questions, but I think to be fair to the other  
11 parties, I will defer to the U.S., when we come  
12 back from lunch. I believe at this time I've  
13 asked the majority of my questions. But I would  
14 like to reserve the right to come back if we have  
15 time after the U.S. completes their cross  
16 examination.

17 ( Whereupon, the luncheon recess is  
18 taken.)

19 ( Whereupon, the deposition resumes.)

20

21 CROSS EXAMINATION BY MS. COLLINS:

22

23 Q. Mr. Sfisko, I'm still Nancy Collins  
24 and I have questions I would like to ask you.

25 MR. BROMBERG: I would like to note

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1 for the record approximately 20 minutes ago I was  
2 handed a stack of documents by counsel for the  
3 USA which are documents which the government  
4 intends to utilize in the afternoon deposition of  
5 Mr. Sfiscko.

6 It is my understanding from looking  
7 at them that some documents have been stamped  
8 with trade secret designation, and I've been  
9 advised by counsel for the government that those  
10 particular documents are covered by a protective  
11 order between Johns-Manville and the government.  
12 Is that correct?

13 MS. COLLINS: Let me put it this way,  
14 there is a protective order governing the  
15 government documents in this case. It is not  
16 clear to me at this point whether in a number of  
17 cases Manville asserted a privilege then withdrew  
18 it. I'm not sure if privilege was withdrawn over  
19 these documents or not, since I'm not sure at  
20 this point, since it may fall under the -- the  
21 document production falls under the protective  
22 order. These documents may fall under.

23 MR. BROMBERG: Would it be fair to  
24 say that many of these documents have designation  
25 J M trade secrets?

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1 MS. COLLINS: Yes, they do.

2 MR. BROMBERG: But any rate, the  
3 documents which we have before us today, to your  
4 knowledge, may be covered by a protective order?

5 MS. COLLINS: Yes.

6 MR. BROMBERG: And certainly the  
7 ones in question we're discussing are stamped J M  
8 trade secrets?

9 MS. COLLINS: Yes, one group of  
10 exhibits.

11 MR. BROMBERG: Under those  
12 circumstances and not knowing anything more than  
13 that I am in no position to consent to their  
14 utilization as exhibits in this deposition. That  
15 might very well be in violation of a protective  
16 order as it appears to be, and since counsel for  
17 the USA can't categorically state that the  
18 utilization of those documents today would not be  
19 in violation of the existing protective order.

20 MS. COLLINS: Once again, I would  
21 just suggest for the record, that should the  
22 United States not take an appeal on the judge's  
23 order yesterday, some resolution of the issue of  
24 trade secrets will have to be made. I would  
25 assume you are not in a position to give that up

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1 either.

2 MR. BROMBERG: While counsel from  
3 Manville in this litigation are not counsel for  
4 Manville in the other litigation which you are  
5 alluding to, we are not the proper party to  
6 assert, or not assert a protective order, or  
7 agree to a waiver of a protective order since we  
8 did not enter into it. As such, I do not have  
9 authority or authorization today to deal with the  
10 protective order entered into between Manville  
11 and the government.

12 MR. TORTORETI: Is the protective  
13 order signed by a Unit States District Judge.

14 MS. COLLINS: I believe entered by  
15 Judge Peckham (phonetic), and Judge  
16 Lyden (phonetic).

17 Q. Mr. Sfisko, I want to take you back  
18 to some of the things that you talked about this  
19 morning. I think the last time you clarified a  
20 number of issues related to the batch books and  
21 the batch cards. But I have a few questions for  
22 you about specifications. You told us that you  
23 would look at books of specifications in the  
24 quality control area. Is that correct?

25 A. That is correct.

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1 Q. And would that be a loose leaf

2 binder containing specifications, to the best of

3 your knowledge?

4 A. There was a book.

5 Q. Would there be a product

6 specification for each particular type of product

7 that was manufactured by the pipe division?

8 A. What do you mean by product specification.

9 Q. Did -- was there a name by which

10 these specifications were known?

11 A. They were operating specifications.

12 Q. Were they ever referred to in

13 manufacturing specifications, do you know?

14 A. Same thing, manufacturing.

15 Q. Now, if we went to 30 inch diameter

16 water pipe in 1955, let us say hypothetically,

17 was there such a creature?

18 A. Yes, 36.

19 Q. 36 inch water pipe in 1955, would

20 there have been a specification for that

21 particular product in the specification book?

22 A. It would be arranged, like we would cover

23 30 to 36. Or 24 to 36, something -- or even to

24 36. There was a range.

25 Q. So within particular ranges for a

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1 particular product type it would be a

2 specification?

3 A. Within a range.

4 Q. Now, for what purpose would you

5 personally have looked at those specifications?

6 A. To, at that time, to find out what the

7 minimum maximum percent of fiber blend could be

8 used. If it is something that was out of that

9 range, I would have to apply for a deviation.

10 Q. Now, you would have looked at the

11 specification book. What would be the

12 relationship between your examination of

13 specification book and your referral to the batch

14 cards that you talked about this morning?

15 A. The specification book gave you the percent

16 of blends that you can use.

17 Q. And then you would go to blends

18 within that percent range. Would that be correct?

19 A. We operate with a blend that was active at

20 that period of time. You see, there would be

21 times where a range would be 15 to 18 percent.

22 If you could make a pipe in that range, you would

23 want to go to 20 percent, you would have to get a

24 deviation.

25 Q. Would you be requesting a deviation

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1 to the specification?

2 A. Deviation to the specification.

3 Q. And would, after -- to whom would

4 you forward the deviation to specification?

5 A. Through the quality control.

6 Q. And they would forward it --

7 A. To headquarters. We never got turned down.

8 Q. And then would you be issued a

9 document known as a deviation of specifications?

10 A. I would be told to go ahead.

11 Q. Did you ever see documents known as

12 deviation from specifications?

13 A. I've seen deviations.

14 Q. Were any of those kept at the

15 Manville plant, in the period of time from 1947

16 to 1967?

17 A. You mean the heading?

18 Q. Yes.

19 A. For Manville use only?

20 Q. Yes, sir.

21 A. Probably.

22 Q. Did you ever have occasion to refer

23 to such documents?

24 A. If I went to the quality control, I would.

25 Q. After you would phone in -- would

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1 you phone or write to get a deviation?

2 A. Not me, quality control. I don't know how  
3 they handled it.

4 Q. Would the communication that came  
5 back to them, be memorialized in a form, a typed  
6 form --

7 A. Could be verbal.

8 Q. To the best of your knowledge, were  
9 the deviations from specifications memorialized  
10 in some kind of a form?

11 A. If there would be a follow up, a written  
12 follow up, if I got a verbal answer.

13 Q. And do you know if those were kept  
14 at the Manville facilities?

15 A. They are kept in the Quality Control  
16 Department.

17 Q. You talked about fibers this morning,  
18 and what was used on the 10 foot machine, and  
19 what was used on the 13 foot machine. Do you  
20 recall that?

21 A. Yes.

22 Q. Now, you testified using the terms  
23 blue fiber and white fiber. What did you mean by --  
24 excuse me, what did you mean by white fiber?

25 A. What period of time?

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1 Q. In 1947, I'm sorry.

2 A. At that time we did not have any of our own

3 make fiber, 47.

4 Q. Was white fiber what was known as

5 chrysotile, are you familiar with the term

6 chrysotile?

7 A. It is a 4 grade fiber.

8 Q. Are you familiar with --

9 MR. LACEY: Just for the record, I

10 don't know whether that was an answer or a

11 question from the witness.

12 Q. Sir, are you familiar with the term

13 chrysotile?

14 A. Probably the --

15 Q. I want to know first, I want to know

16 if those are terms that you used in your work?

17 A. No, we didn't use those terms.

18 Q. If fiber came from Jeffrey mine,

19 later -- I understand that would be later than

20 1947, let's say in 1955, would you refer to that

21 as white fiber?

22 A. That was white.

23 Q. Are you familiar with the material

24 known as amosite fiber?

25 A. Yes, I'm familiar with that.

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1 Q. And was there a shorthand code by  
2 which you referred to amosite fiber -- strike  
3 that. I don't want to be confusing.

4 You referred to certain fibers as  
5 blue.

6 A. Blue.

7 Q. And then another group of fibers in  
8 1947 you referred to as white. And that would --  
9 and the fiber supplied from Jeffrey mine would  
10 fall within that category of white, correct?

11 A. Right.

12 Q. How would you have have referred to  
13 amosite fiber.

14 A. Amosite.

15 Q. Now, so when you were discussing the  
16 fiber supply that was used on the 10 foot machine  
17 this morning and you were talking about 15  
18 percent white fiber that would have been the type  
19 or range the fiber that would have later been  
20 supplied by Jeffrey. Is that correct?

21 A. What period of time we talking about?

22 Q. 1947.

23 A. 1947, we did not have Jeffrey fiber in the  
24 plant.

25 Q. I understand that.

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1           Was there a type of fiber which was  
2   in the plant in 1947, which you would compare to  
3   Jeffrey fiber?

4   A.   There were --

5           MR. TORTORETI:  Objection to the  
6   form of the question.

7   A.   There were other 4 grades of fiber.

8           Q.   Would you have referred to Jeffrey  
9   fiber as 4 grade?

10  A.   4 grade.

11          Q.   And would you have referred to the  
12  fibers that you discussed in 1947 as 4 grade  
13  fibers?

14  A.   4 grade.

15          Q.   And you would use the term either  
16  white fiber or 4 grade fiber to refer to those  
17  types of fibers?

18  A.   Yes, there was some 3 grade to, outside  
19  fibers too.  About a year or so that deleted.

20          Q.   And then after JM's own fibers came  
21  in, how did you refer to those?

22  A.   4 grade.

23          Q.   So they were just a type of 4 grade  
24  fiber?

25  A.   4 grade, could be 4 M, 4 S, 4 T, a lot of

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1 different, 4 T 21, 4 T 28. A lot of different.

2 I don't remember them all.

3 Q. Now, during the period from 1947 and  
4 1950, again I'm choosing arbitrary periods of  
5 time. Would all of the fiber which was used in  
6 the ordinary manufacturing on the pipe machines --  
7 strike that.

8 I want a limit from your  
9 consideration here, fibers that might have been  
10 used in the molding, or wet coupling areas.

11 A. I've heard of that.

12 Q. Just refer to the fibers they are  
13 using on the pipe machines for this period of  
14 questions. In the period from 1947 to 1950 would  
15 all of the fibers that were used in the  
16 manufacturing process have been either 4 grade or  
17 blue fibers?

18 A. Excluding J M fiber?

19 Q. Either J M or non J M?

20 A. Yes -- well -- now, you are saying blue  
21 and 4 grade -- we had some 3 grade.

22 Q. I'm sorry, I accept the correction,  
23 I'm not trying to confuse you, I'm trying to find  
24 out what the terms mean. 3 or 4 grade fibers --

25 A. And blue.

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1 Q. And blue?

2 A. That is correct.

3 Q. Was there any amosite at all used in  
4 the manufacturing process that you recall in the  
5 period 1947 to 1950?

6 A. Amosite came into the picture with the task  
7 force.

8 Q. Now, during the period of the task  
9 force, sir, would the corporate headquarters  
10 order certain fibers and have them supplied to  
11 you for experimental runs in the I Building?

12 A. I don't understand that. Say that again.

13 Q. During the period of the task force  
14 which would be the fiber supply task force you  
15 talked about yesterday.

16 A. Okay.

17 Q. You talked about --

18 MR. BROMBERG: The day before?

19 A. And the day before.

20 Q. And the day before.

21 You required different fibers for  
22 some of those runs than you would normally use.  
23 Is that correct?

24 A. For different pipe machines, you mean or  
25 what?

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1 Q. No, I'm sorry, again I didn't mean

2 to confuse you. During the period of the task

3 force, was that during the mid 1950's?

4 A. it started around 50 -- yes, go ahead.

5 Q. And how long did it last?

6 A. The task force?

7 Q. Yes, sir.

8 A. Two, three years, probably. You can't hold

9 me to it.

10 Q. To the best of your knowledge was

11 the task force completed by 1960?

12 A. Before that, I would say.

13 Q. So sometime during the mid to late

14 60's --

15 A. Well, when you say the -- but experimental

16 runs without the task force always took place.

17 MR. LACEY: I just have an objection

18 to the question because I believe he already

19 testified that he believes the task force was in

20 existence in the early 50's.

21 THE WITNESS: True.

22 Q. Sir, were there experimental runs

23 prior to the task force?

24 A. I would say no.

25 (Whereupon, document is marked NS-28

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1 for identification.)

2 Q. I'm going to show you what has been  
3 marked as Exhibit NS-28 and ask you to take a  
4 look at it for me, if you will.

5 MR. TORTORETI: Can you identify it  
6 for us?

7 MS. COLLINS: Yes, for the record  
8 identified as report C C dash 7 9 8 8 4-20-54,  
9 Control Laboratory Johns-Manville, Manville  
10 factory. It is a document of one page.

11 A. I haven't seen this before.

12 Q. Excuse me, sir, you have not?

13 A. No.

14 Q. Now, you yesterday discussed with us  
15 members of the task force Sy Collier, Whalen and  
16 Schilling. Is that correct?

17 A. Yes.

18 Q. Now, Mr. Schilling and Mr. Whalen  
19 and Mr. Nowlin referred to here, are those some  
20 of the individuals you talked about yesterday as  
21 having been involved in the task force?

22 A. That is correct.

23 MR. BROMBERG: Just so the record is  
24 clear, I believe counsel is referring to either  
25 Wednesday or Friday the prior day. Yesterday,

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1 Mr. Henry was here.

2 MS. COLLINS: I apologize.

3 Q. Were those some of the members you  
4 recognize as having been on the task force, sir?

5 A. Yes.

6 Q. Now, examining what has been marked  
7 as NS-28, does it refresh your recollection as to  
8 any other members of that fiber task force in the  
9 1950's.

10 A. Collier headed, committee was Schilling,  
11 Whalen -- Nowlin was a member, to the best of my  
12 knowledge.

13 Q. First of all, did it refresh your  
14 recollection?

15 A. Yes.

16 Q. Now, that is your recollection is  
17 refreshed, can you tell us who you now recall to  
18 have been members of the task force?

19 A. Collier headed the task force.

20 Q. And who else belonged to it?

21 A. Schilling and Whalen, I would say that  
22 would be committee one and under them would  
23 comprise what represented research. Nowlin  
24 represented -- he was in the task force, Brosum  
25 (phonetic) was quality control. I don't know he

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1 was a member of the task force. Linstrom (phonetic)  
2 headed quality control for the company. I don't  
3 know whether he was a member or not.

4 Q. And during the period of several  
5 years that you referred to the task force as  
6 existing, to the best of your knowledge, did  
7 Misters Collier, Schilling and Whalen remain  
8 part of that task force?

9 A. From the beginning to the end.

10 Q. Now, you also referred to a period  
11 of time, sir, when Mr. Whalen was at the Manville  
12 plant virtually everyday?

13 A. When we were making the experimental runs,  
14 he was present, if he could make it. If not he  
15 delegated one of his staff. That was his primary  
16 function.

17 Q. During that period of time -- strike  
18 that.

19 During the period of the 1950's, in  
20 which the task force was taking place, where was  
21 Mr. Whalen's usual duty station, or location for  
22 the company?

23 A. His headquarters -- he worked out of -- but  
24 he lived in Bound Brook, New Jersey, which is  
25 adjacent to Manville.

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1 Q. Now, sir, do you recall amosite ever  
2 having been used in transite pipe prior to the  
3 time of the task force in the mid 50's?

4 A. I answered that before, no.

5 MS. COLLINS: Now I'm marking and  
6 giving to the witness what has been marked as  
7 Government Exhibit Number 29, NS-29.

8 (Whereupon, document is marked  
9 NS-29 for identification.)

10 MS. COLLINS: Off the record.

11 (Whereupon, there is an  
12 off-the-record discussion.)

13 MS. COLLINS: For record headed  
14 research center October 27, 1955, to S. Collier  
15 GHQ entitled preliminary run of K C B R 3 blue  
16 fiber Manville number 2 machine, 6 inch, 150 pipe  
17 task force number either I F or T F 8 6.

18 Appended to it is a report of 3 pages  
19 headed task force report number again T F or I F  
20 dash 8 6 October 12, 1955, preliminary runs of K  
21 C B R 3, blue fiber, Manville, number 2 machine,  
22 6 inch, 150 pipe.

23 Q. Mr. Sfiscko, do you recall having  
24 seen NS-29 before your testimony here today?

25 A. I haven't seen this report.

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1 I probably made the run.

2 Q. Have you seen -- when you say you  
3 made the run, you are talking about the run which  
4 would be described in NS-29?

5 A. Yes.

6 Q. Sir, did you, during the period of  
7 the task force see reports made out by the task  
8 force on runs done within the Johns-Manville  
9 plant?

10 A. Yes.

11 Q. And does the document which we have  
12 before you as N S number 29 appear to be the type  
13 of document that you would have seen as a report  
14 from the task force during that period?

15 A. Only thing I would know was the run  
16 successful. As far as the reports were concerned,  
17 I don't remember going through them.

18 Q. Okay. Now, not asking you the  
19 content, but I'm asking you if you examine it  
20 today, is it the type of report -- is it in the  
21 format and layout that the reports have been  
22 received during this period of time?

23 MR. BROMBERG: I just note an  
24 objection in so far as the witness is not copied  
25 on this report. I don't believe he's indicated

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1 that he regularly received this type of report.

2 MR. LACEY: I join in the objection.

3 A. The information in these reports were  
4 probably -- they came out of the runs. But as  
5 far as this report is concerned, I don't know.

6 Q. To the best of your knowledge were  
7 the runs during the task force done primarily at  
8 the Manville plant?

9 A. Yes.

10 Q. Were all of them done at the  
11 Manville plant, to the best of your knowledge?

12 A. Probably.

13 Q. NOW, when the task force desired to  
14 have an experimental run done within a different  
15 fiber than had previously been on the blend cards  
16 how would that material have been supplied to you,  
17 sir, the asbestos itself?

18 A. How do you mean supplied, by truck, by  
19 freight?

20 Q. Would general headquarters have sent  
21 it on to you if some other -- or some other  
22 portion of the Manville corporation?

23 A. From another location?

24 MR. BROMBERG: I object to the form.  
25 I think the witness doesn't understand.

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1 Q. I'm not trying to ask the point of  
2 origin of the fiber. But would you have had to  
3 order it yourself at the Manville plant?

4 A. No.

5 Q. Who would have taken care of that?

6 A. The task force, if they wanted to use this  
7 fiber, they would work through the purchasing  
8 division and purchasing.

9 Q. How much fiber would be necessary to  
10 do a single run in the Manville plant, during  
11 this 1955 period?

12 A. That would be -- that would depend on the  
13 hours that we're going to make this run. Is it a  
14 4 hour run, 8 hour run, 24 hour run.

15 Q. What was the minimum run done during  
16 this period of time?

17 A. Four hours.

18 Q. Now, I'm just asking you for the  
19 lowest limit, what would be the smallest amount  
20 of fiber which would have been supplied to you by  
21 headquarters to make a 4 hour run?

22 MR. TORTORETI: Objection to the  
23 form.

24 MR. BROMBERG: I also note an  
25 objection. There may be variations depending on

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1 the pipe machine and other factors. So I think  
2 it is all speculative on the witness's part. If  
3 you can answer, do so.

4 A. If it was foreign fiber, it came in -- had  
5 to be over a truckload.

6 Q. To the best of your recollection,  
7 the minimum amount of fiber that would have been  
8 supplied from one of these experimental runs  
9 would have been in truckloads. Is that correct?

10 A. Over a truckload.

11 Q. Referring your attention to NS-28,  
12 sir, document refers to control laboratory  
13 Johns-Manville factory. What was the control  
14 laboratory at Johns-Manville factory in 1954?

15 A. The control laboratory was the central  
16 control. That covered the whole plant.

17 Q. Would that have been a quality  
18 control laboratory?

19 A. Quality control.

20 Q. As opposed to the --

21 A. Plant.

22 Q. And it would also be as opposed to  
23 research and development facility at that time?

24 A. Research was different.

25 Q. Okay.

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1        Were the initials R and D, or R D usually  
2        used at Manville to refer to research and  
3        development?

4        A.    Research and development.

5        Q.    And were the initials QC usually  
6        used to refer to quality control?

7        A.    Right.

8        Q.    And this would have been a quality  
9        control laboratory which is referred to in  
10       Exhibit NS-28. Is that correct?

11      A.    Yes, I see Ralph Jacobs (phonetic) name  
12      there.

13      Q.    And Ralph Jacobs would have been one  
14      of the individuals in quality control?

15      A.    Right, he was assistant to Ed Linstrom.

16      Q.    Now, document NS-29, sir, refers to  
17      the research center. What does that designation  
18      mean?

19      A.    Dan Nowlin who wrote this report was part  
20      of the task force, but he did the work for  
21      research. His salary came from the research  
22      department.

23      Q.    And would that research department  
24      having -- where would it have been located in  
25      1955?

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1 A. In Finderne, probably. Finderne, yes.

2 Q. Finderne, New Jersey?

3 A. Yes, across the river.

4 Q. Was there a quality control  
5 laboratory actually in the I Building itself?

6 A. What?

7 Q. Was there a quality control  
8 laboratory in the I Building itself?

9 A. We had a small quality control, where we  
10 did some testing materials.

11 Q. Did that quality control laboratory  
12 ever do fiber tests, the one in the I Building,  
13 to the best of your knowledge?

14 A. Eventually.

15 Q. And when did that begin?

16 A. Oh, you got me, eventually. Mostly with  
17 our own fibers.

18 Q. Would that have taken place during  
19 the 1960's, if you know?

20 A. Yes.

21 Q. And would it have taken place prior  
22 to the 1960's that fibers would have been tested  
23 in the I Building?

24 A. Yes, because we had buoyancy tests at the  
25 time, yes.

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1 Q. What was the purpose of testing  
2 fiber in that laboratory in the I Building?

3 A. Quality.

4 Q. Would -- strike that.

5 Would the quality tests have been  
6 done prior to making purchases, or tests before  
7 purchases were made?

8 A. No.

9 Q. For what purposes would they have  
10 been done?

11 A. For performance of manufacturing.

12 Q. If Manville were considering  
13 purchasing a new fiber at some point, a different  
14 fiber than they purchased before, would there be  
15 any particular laboratory at Manville where that  
16 material would have been sent for testing?

17 A. It is beyond me.

18 Q. But in the period of prior to 1967,  
19 you are not familiar with any test batches of  
20 fiber having been sent to the Manville plant for  
21 testing in the quality control laboratory, prior  
22 to purchase?

23 A. I'm not sure, but I believe what you are  
24 saying, is fiber would go to research, first.  
25 But I'm not too sure of that either.

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1 Q. Who would know the answer to that  
2 question, if you know?

3 A. Mr. Whalen, or Mr. Nowlin.

4 Q. At some periods during the task  
5 force, was amosite testified as one of the fibers  
6 to be used in transite pipe?

7 A. That I'm not sure of.

8 Q. At any time after the task force was  
9 over, did amosite become a fiber that was used in  
10 any of the products in the I Building?

11 A. Amosite was used.

12 Q. When would that have begun, sir?

13 A. It is pretty hard to say, because these  
14 fibers, as they came in, they could have been  
15 consumed in 2, 3 month period. It is pretty hard  
16 for me to pinpoint it down. And period of 47 to  
17 67.

18 Q. Was there ever a period of time  
19 between 1947 and 1967 that you recall where  
20 amosite was used in all batches of -- in the  
21 transite pipe building?

22 MR. BROMBERG: I just note an  
23 objection. Do you mean all batches, do you mean  
24 every run of pipe that was made for a given  
25 period of time pertained to amosite?

1 MS. COLLINS: Yes.

2 A. No.

3 Q. Was amosite one of the materials  
4 which might have been used on any particular  
5 blend card that you had in this period from 1947  
6 to 1967?

7 MR. BROMBERG: Objection to the form.

8 MR. TORTORETI: Objection to the  
9 form of the question.

10 Q. Was amosite ever used instead of any  
11 other fiber in transite pipe?

12 A. For substitution of other fiber?

13 Q. Yes, sir.

14 A. What period of time you talking about, 70's?

15 Q. The 1960's, let's say.

16 A. I don't remember, to tell me you the truth.

17 Q. Do you recall if it was used in the  
18 1970's?

19 A. Yes.

20 Q. And was it used considering that  
21 period as a substitute for --

22 A. The amosite we got from the government  
23 supply.

24 Q. Prior to the time that that fiber  
25 was used, in transite pipe had amosite fiber been

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1 used before that?

2 A. Now, it depends. If you are comparing with  
3 normal fibers, I get blue, and 4 grade fibers,  
4 amosite would be the least fiber to be used at  
5 that period of time.

6 Q. To the best of your knowledge, sir,  
7 what was the highest percentage of amosite used  
8 in transite pipe?

9 MR. BROMBERG: Objection to the form.  
10 I'm not sure I understand what you mean by  
11 highest percentage. Could you just clarify that  
12 please?

13 MR. TORTORETI: Also a timeframe.  
14 he has testified to use in the 1970's.

15 Q. In the 1970's you refer to the fact  
16 that amosite fiber was sometimes used in the pipe.  
17 Is that correct?

18 A. Yes.

19 Q. During that period of time in the  
20 1970's, when you are making pressure pipe, what  
21 was the percentage of asbestos fiber in the  
22 pressure pipe?

23 A. Amosite?

24 Q. No, of all fiber taken together.

25 MR. RASNEK: Objection to the form.

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1 Are you referring now to the 1970's?

2 MS. COLLINS: Yes.

3 A. I wasn't at the plant.

4 Q. Do you know what the percentage was  
5 in the 1970's?

6 A. The range?

7 Q. Yes.

8 A. I guess that could have been between 15 and  
9 20 percent.

10 Q. And within that range of 15 to 20  
11 percent, do you know what the highest percentage --  
12 strike that.

13 Now, I'm referring to that fiber  
14 itself which is going to be used in the blend, do  
15 you know what's the highest percentage of amosite  
16 that was ever used in those blends?

17 MR. BROMBERG: I just note an  
18 objection to the question, because the witness  
19 has indicated that it was outside of his  
20 timeframe in I Building, and I believe he was  
21 speculating at counsel's request that amosite was  
22 used. And what the approximate percentages were.  
23 I think it is a little unfair to ask him to be  
24 specific. I would note for the record that I  
25 believe counsel is asking the witness to

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1 speculate.

2 MR. LACEY: I join in the objection

3 THE WITNESS: You had the right man  
4 here yesterday.

5 Q. So the person with the most  
6 knowledge to answer that question would be Mr.  
7 Henry?

8 A. Yes, I can tell you. But he was on the  
9 spot.

10 Q. Do you have a recollection prior to  
11 the time you left in 1967 as to whether or not  
12 amosite was an ingredient in transite pipe?

13 A. As I said before, on a smaller basis in  
14 comparison with blue and 4 grade of fiber.

15 Q. Again looking at pressure pipe in  
16 the 1960's.

17 MR. LACEY: May I have that answer  
18 read back, please.

19 (Whereupon, the reporter reads back.)

20 Q. During the 1960's, would the  
21 percentage of asbestos in water pipe have been  
22 approximately 15 to 20 percent of the product?

23 A. I said that.

24 Q. Now, during that same period of time  
25 while you were still at the plant what was the

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1 highest percentage of amosite you remember being  
2 part of that blend?

3 A. In pressure pipe?

4 Q. Yes.

5 A. Zero.

6 Q. So to the best of your recollection  
7 considering the 1960's no amosite fiber was used  
8 in water pipe --

9 A. Pressure pipe, sewer pipe.

10 Q. In sewer pipe what was the highest  
11 percentage of fiber that was amosite in the  
12 1960's?

13 A. Could be around 10 percent.

14 Q. In the period from 1947 to 1967 did  
15 the percentage of blue to white fiber remain  
16 pretty much the same for water pipe?

17 A. Blue came down.

18 Q. Would that have happened during the  
19 task force?

20 A. It started there.

21 MR. MC CARTHY: What was the  
22 timeframe again?

23 THE WITNESS: 47 to 67.

24 Q. You testified this morning about the  
25 percentage of blue and white fiber on the 10 foot

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1 machine in 1947. By 1955 what was the percentage  
2 of blue and white fiber in the 10 foot machine?

3 A. 10 foot machine?

4 Q. Yes, sir.

5 MR. LACEY: Objection as to form.

6 When you say by 1955, are you asking him in the  
7 year 1955 what was the exact percentage?

8 Q. Sir, in the year 1955, approximately  
9 what was the percentage of blue and white fiber  
10 in the -- on the 10 inch machine.

11 MR. TORTORETI: I object to the form.

12 MR. BROMBERG: Objection.

13 MR. LACEY: His testimony has been  
14 he doesn't have a good memory for dates, he  
15 doesn't recall specific years. I think he would  
16 be speculating as to that information.

17 THE WITNESS: That is what I said.

18 Q. You said that the percentages  
19 changed over the period of time?

20 A. Right.

21 Q. I'm asking you for the best  
22 recollection of percentage of blue and white used  
23 on the 10 inch machine in the 1950's?

24 A. There again, when you say 10 foot machine,  
25 so many items made on that 10 foot machine, if

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1 you are talking about water pipe, 6 inch, 10 foot,  
2 it could have been 20 percent blue.

3 Q. Would that make it 80 percent white?

4 A. That is correct.

5 Q. When you are making water pipe on  
6 the 13 inch machine in the 1950's, do you know  
7 what the percentage of blue and white would have  
8 been?

9 MR. BROMBERG: Just 13 foot machine?

10 Q. 13 foot machine.

11 A. There again, if you are talking about  
12 number 2 machine, 13 foot machine water pipe, we  
13 used less blue than we used on the 13 foot  
14 machine on larger diameter.

15 Q. Take number 2 first, and you are  
16 making high pressure water pipe?

17 A. Could have been 20 percent, or it could  
18 vary too, sometimes you had a bad run, you might  
19 want to go to 25 percent. But it had a range of  
20 20 to 25.

21 Q. The remaining 75 or 80 percent was  
22 white?

23 A. That is right.

24 Q. On the number 3 machine?

25 A. It would probably go about 5 percent higher.

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1 Q. Which would make it 25 to 30 percent  
2 blue?

3 MR. BROMBERG: I don't want to  
4 interrupt. I just think in terms of the record,  
5 when you are asking him questions about that, you  
6 are referring to the percentage of the mix which  
7 was fiber. And then you are breaking that down  
8 into separate percentages. Am I correct?

9 MS. COLLINS: Yes, we treating the  
10 fiber as 100 percent, and breaking down in the  
11 blend list.

12 MR. LACEY: This is also to the  
13 exclusion of the fibers in the wet patch molding?

14 MS. COLLINS: Yes.

15 Q. In the early 1960's, sir, on the 10  
16 foot machine, when you were making water pipe,  
17 which was the example you used last time, what  
18 percentage of blue -- what was the ratio of blue  
19 to white fiber?

20 MR. BROMBERG: If you know.

21 A. Pretty hard for me to, because at different  
22 times, we had different blends, could have been  
23 50 percent, could have been 20. There is other  
24 materials involved too in making pipe. There was  
25 nothing flat.

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1 Q. Would you say, sir, on the 10 foot  
2 machine in the early 1960's, when water pipe was  
3 being made it would be in a range within 15 to 20  
4 percent blue fiber?

5 A. Could have been.

6 Q. And again the remainder could have  
7 been white?

8 A. That is true.

9 Q. And on the 13 foot machine at the  
10 same period of time on the number 2 machine?

11 MR. BROMBERG: Is there a question  
12 pending?

13 Q. Yes. What could the percentage of  
14 blue fiber have been?

15 A. That wouldn't have changed.

16 Q. Would your answer be the same as to  
17 the number 3 machine?

18 A. Yes.

19 Q. When you left in 1967 would it have  
20 been approximately the same percentage as on the --

21 A. Pretty close.

22 Q. That would be true for both 10 foot  
23 and 13 foot machine?

24 A. Yes.

25 Q. Sir, are you familiar with the term

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1 mandrel area as an area used to describe areas in  
2 which some of your workers were working?

3 A. Mandrel storage, and/or mandrel area in  
4 front of the pipe machine?

5 Q. Would the valve operator, knifer,  
6 curer, gauger and floor man all have worked in  
7 that area, to the best of your knowledge?

8 A. Sure, all depends on what you call -- yes,  
9 all in that surroundings.

10 Q. Would the crane operator also have  
11 been?

12 A. Yes.

13 Q. I'm going to show you what has been  
14 marked as exhibit N S --

15 MR. BROMBERG: What is about to be  
16 marked.

17 MS. COLLINS: What is about to be  
18 marked as exhibit NS-30.

19 (Whereupon, document is marked for  
20 identification.)

21 Q. Mr. Sfiscko, have you seen exhibit  
22 NS-30 prior to your testimony here today?

23 A. No.

24 Q. Was the designation T P used to  
25 describe transite pipe?

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1 A. Correct.

2 Q. Now, I would ask you to refer to --

3 MR. LACEY: I have an objection to  
4 the reference to the document, because I think  
5 the witness has answered based on speculation.  
6 He says he's never seen this document, although  
7 it may appear obvious, or we think it is obvious  
8 that it refers to transite pipe. It would be  
9 speculation because he didn't draft it, and has  
10 never seen it before.

11 MR. RASNEK: I would also like a  
12 description for the record what it purports to be.

13 MS. COLLINS: Document is a one page  
14 taped together document, oversized, headed at the  
15 top transite pipe, I with circle around it  
16 Manville T slash P plant, number 4, revised  
17 7-28-69. And it is a -- I would describe it as a  
18 chart, broken down into various years.

19 MR. BROMBERG: May I ask where this  
20 particular document came from?

21 MS. COLLINS: Produced by  
22 Johns-Manville in the Denver production.

23 MR. BROMBERG: Which litigation?

24 MS. COLLINS: Under the coordinated  
25 claim court discovery and Robinson order.

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1 MR. BROMBERG: That was produced in  
2 Denver?

3 MS. COLLINS: Yes.

4 Q. Are you familiar with the term T P  
5 having been used to describe anything else,  
6 anything other than Transite Pipe Plant?

7 A. Here it is transite pipe, here it says T P,  
8 draw your own conclusion.

9 Q. I'm asking you now to the left side  
10 of the exhibit, do the terms used there describe  
11 individuals who -- job titles of individuals who  
12 worked in the Transite Pipe Plant between 1947  
13 and 1967, to the best of your knowledge?

14 A. Willow operator, machine tender, mixer  
15 operator, scraper, sleeper. I don't understand  
16 that job.

17 Q. You've already described the  
18 individuals in the Manville area in the finishing  
19 end. You read the names off to us. Were those  
20 correct designations of the people working the  
21 wet end?

22 MR. LACEY: I believe his testimony  
23 was that he never recognized the term sweeper.

24 THE WITNESS: In that period of time  
25 we had power sweepers in the 60's. Now, this

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1 goes back to 1939.

2 Q. In the finishing end where there is  
3 a lathe operator, saw operator, and sweeper to  
4 the best of your knowledge, between 1939 and 1967 --

5 A. Lathe operator, saw operator, there again,  
6 in the 60's we had a power sweeper.

7 Q. But that term sweeper is not  
8 familiar to you in the general time period, from  
9 1947 to 1967. Is that correct?

10 A. That says 1939.

11 Q. I just meant from your knowledge.

12 A. Okay.

13 MR. TORTORETI: May I interject a  
14 question to you. You made a reference to  
15 oversized. Have you blown this up, or is this  
16 the size it was?

17 MS. COLLINS: No, this is the size  
18 it was. We tried to reconstruct it by tape pink  
19 it together.

20 Q. Sir, there is a section here  
21 referring to truck drivers. Were there forming,  
22 finishing and truck drivers in the plant?

23 A. There was forming and finishing work for  
24 maintenance.

25 Q. And in the warehouse section were

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1 there shipping truck drivers, to the best of your  
2 knowledge?

3 A. They were there.

4 Q. Were there also individuals between  
5 1947 and 1967 referred to as unloaders, and  
6 molders?

7 A. Front loaders were receiving people.

8 Q. And they wouldn't have been under  
9 your jurisdiction?

10 A. That is correct.

11 Q. And were there individuals known as  
12 molders?

13 A. Molders were under my jurisdiction.

14 Q. Sir, there is a legend in the upper  
15 right-hand corner referring to --

16 A. Code.

17 Q. Code. Was silica ever referred to  
18 as quartz in the Manville Transite Pipe Plant?

19 A. Sand and silica --

20 Q. Okay.

21 Were you ever familiar with --

22 MR. BROMBERG: Just one second,  
23 counselor, I don't think the witness fully  
24 answered the question that you asked. If I  
25 understand the question it was: Was silica known

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1 as quartz in the pipe plant.

2 MS. COLLINS: Yes.

3 MR. BROMBERG: What is your response?

4 THE WITNESS: No.

5 Q. Have you ever heard silica referred  
6 to as quartz?

7 A. No.

8 Q. Was there approximately 35 percent  
9 silica in transite pipe in the period from 1947  
10 to 1967?

11 A. You said 35 percent?

12 Q. Yes.

13 MR. LACEY: I'm going to object as  
14 to form.

15 THE WITNESS: No.

16 Q. What percentage of transite pipe  
17 batch mixing was silica in that period?

18 MR. BROMBERG: I just note an  
19 objection, because it is a twenty year period and  
20 it may have varied. If the witness can answer.

21 A. The ratio is pretty well the same. You  
22 have to understand it did vary. Pressure pipe  
23 was lower, non-critical pipe could have been  
24 maybe 5 percent higher. But the actual percent,  
25 you couldn't, no.

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1 Q. Is there a range that they fell into?

2 A. Silica 25 to 35.

3 Q. In referring to NS-30, sir, are you  
4 able to identify who drafted it in any way at all?

5 A. No.

6 Q. Thank you, sir.

7 I want to ask you a few questions to  
8 clear up areas we talked about the other day and  
9 go on to new areas.

10 First of all, when you came to the  
11 plant in 1947 I want to ask you if you are  
12 familiar with certain individuals in which you  
13 could just identify for me what their job  
14 positions were in 1947, if you know.

15 Was Mr. F -- and I'm just assuming  
16 after 3 days of testimony that these are all  
17 misters, was F. Ryan, a person associated with  
18 transite pipe operation in 19 --

19 A. Frank Ryan?

20 Q. I only know from --

21 A. I knew Frank Ryan, industrial relations.  
22 He headed up industrial relations --

23 Q. Did you know an A. Cromell, C R O M  
24 W E L L?

25 A. He was the division production manager.

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1 Q. Did you know either N F or M F, I

2 think N A Y L O R?

3 A. Industrial relation manager.

4 Q. Did you know C C W, Hite, H I T E?

5 A. Industrial relation manager at Manville,

6 then he went to general headquarters, came in

7 senior office.

8 Q. Were Mr. Ryan and Mr. Cromwell at

9 the Manville plant?

10 A. Mr. Ryan was at the Manville plant.

11 Q. Mr. B. F. Stanton, would that have

12 been Ben Stanton?

13 A. Yes.

14 Q. What was his job in 1947?

15 A. He would be safety engineer, whatever the

16 job title he had.

17 Q. And were you familiar with the job

18 Mr. A.R. Fisher had at that time?

19 A. A.R. Fisher -- chairman of the board. I

20 don't know, president, chairman of the board.

21 Q. Did you ever meet him back then?

22 A. I knew him.

23 Q. Yesterday, when you looked at

24 Waukegan history documents, do you recall that,

25 several days ago when you looked at the Waukegan

Sfisco-Cross

1 history, do you recall that, sir?

2 A. Yes.

3 Q. Do you recall ever having seen such

4 a history of the Manville plant?

5 A. An organization chart like that?

6 Q. Or a document describing how the

7 Manville plant is set up, and its history?

8 A. Let's see what you got.

9 Q. I don't have one, that is why I'm

10 asking you.

11 A. I can't answer it.

12 Q. This time I have no surprise for you.

13 A. We had organization chart, if that is what

14 you are referring to.

15 Q. I'm now going to hand you what has

16 been marked as Exhibits NS-31, and NS-32, and ask

17 you to look at them for a second, and tell me if

18 you can recognize them.

19 ( Whereupon, documents are marked

20 for identification.)

21 A. Yes, I'm familiar with it.

22 Q. And you are referring to NS-31, sir.

23 Is that correct?

24 MR. BROMBERG: Just one minute, the

25 witness has only looked at the first page.

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1 Counsel, can I just ask where this  
2 document, which you are calling NS-31 came from?

3 MS. COLLINS: I know it was made  
4 pursuant to the production in this case in claims  
5 court in Robinson.

6 MR. BROMBERG: In this case?

7 MS. COLLINS: Claims court in  
8 Robinson.

9 MR. BROMBERG: Not Bialy?

10 MS. COLLINS: I believe both charts  
11 came from the Pierce Warehouse.

12 MR. BROMBERG: The witness has had  
13 an opportunity to look at a group of documents  
14 marked NS-31 for identification.

15 Q. Sir, can you identify for the record  
16 what exhibit NS-31 is?

17 A. It is an organization chart.

18 Q. And it again, for clarification of  
19 the record, is headed Manville Pipe Plant, August  
20 28, 1962, and it states Distribution of Manville  
21 Organizational Charts.

22 Sir, do you recall having received  
23 exhibit NS-31, before your testimony here today  
24 at some point in the 1960's?

25 A. I don't understand.

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1 Q. Okay. During the 1960's, did you  
2 receive this organizational chart?

3 A. I had a copy of my own.

4 Q. Okay. For what purpose were the  
5 organizational charts put out, sir?

6 A. Your guess is as good as mine.

7 Q. Did you have access to  
8 organizational charts during that period of time?

9 A. I had a copy.

10 Q. And would a copy of the  
11 organizational charts have been maintained in the  
12 files of John Manville during the time you were  
13 there?

14 A. Plant manager's office.

15 Q. To the best of your knowledge, did  
16 the organizational charts that were -- first of  
17 all, who published them at Manville, do you know,  
18 put them together?

19 A. You've got me. Position --

20 Q. Excuse me, sir --

21 MR. BROMBERG: I just note the  
22 witness was asking a question, and not answering.

23 MS. COLLINS: Okay.

24 Q. It probably would have been in the  
25 plant manager's office if they were issued?

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1 A. He probably issued them.

2 Q. And to the best of your knowledge  
3 were they accurate at the time they were issued  
4 as to the various -- first of all, as to the  
5 people in various positions?

6 A. They should be.

7 Q. And did they, to the best of your  
8 knowledge, accurately set out the structure and  
9 supervisory responsibilities of individuals at  
10 the pipe plant during that period of time?

11 A. Yes.

12 Q. Sir, I would ask you to refer your  
13 attention to, and I'm not sure that there are  
14 numbered pages -- the.

15 Q. The chart headed superintendent, N.  
16 Sfiscko, do you see that?

17 A. Yes.

18 Q. That would have been your position  
19 in 1962. Is that correct?

20 A. That is right.

21 Q. And down below that, either  
22 manufacturing -- would that have indicated that  
23 Mr. Bill W. Avon was the manufacturing  
24 superintendent?

25 A. He was the forming foreman, or general

Sfisko-Cross

1 foreman, whatever you want to call it.

2 Q. In reviewing Exhibit NS-31, does it  
3 refresh your recollection as to the job that Mr.  
4 Theodore Bialy held in 1961?

5 A. I see it down here as machine foreman, 10  
6 foot machine foreman.

7 Q. To the best of your knowledge how  
8 many years did he occupy that position as number  
9 10 machine foreman?

10 A. I don't know.

11 Q. Sir, now, you've talked several  
12 times with us about Mr. LaBadie, Bill Labadie.

13 A. Yes.

14 Q. Where, during what, or in what  
15 section of this chart would Mr. LaBadie's work  
16 have been covered?

17 A. I think he left I Building in 56, 57,  
18 somewhere around that area. You can't hold me to  
19 it.

20 Q. Prior to that time?

21 A. Jim Halloren came in after him.

22 Q. Prior to that time would he have  
23 been in the maintenance chain of command?

24 A. Division headquarters.

25 Q. And when he was at the Manville

Sfisko-Cross

1 plant what was his title?

2 A. He had maintenance, supervisor, maintenance  
3 superintendent, plant engineer.

4 Q. Sir, I refer your attention what has  
5 been marked as Exhibit NS-32.

6 MR. BROMBERG: Counsel, can I ask  
7 where and how you came to be in possession of  
8 this particular document?

9 MS. COLLINS: Yes, again, this was a  
10 document that was produced in the coordinated  
11 claims court Robinson discovery, and it was, I  
12 believe, located at the Pierce Warehouse, I think  
13 I put it on the record before.

14 A. I think they are issued every year.

15 MR. TORTORETI: What year is that?

16 MR. BROMBERG: December 12, 1963.

17 MS. COLLINS: First page that we  
18 have in our chart is labeled Manville Pipe Plant  
19 chart number 2, and it is dated December 12, 1963.  
20 But above it is a date struck out which is August  
21 and appears to be 28, 1962.

22 Sir, do you recognize Government  
23 Exhibit 32?

24 A. Same as 31.

25 Q. And again your answers would be the

Sfisco-Cross

1 same as to the purposes of the organizational  
2 chart and its use?

3 A. Yes.

4 Q. Now, this particular copy has strike  
5 outs and mark overs. What would that have  
6 indicated, sir?

7 A. Changes made.

8 Q. Now, referring your attention again  
9 to the pages on superintendent there, strike outs,  
10 it says names on this side, okay, over for run  
11 down of chart. Do you see that in Exhibit NS-32?

12 A. Okay. I see it.

13 Q. On the next page, following that,  
14 can you tell me what the 2 shift foreman's jobs  
15 were in this year under Mr. Avon -- again appear  
16 to be 2 shift foreman.

17 MR. BROMBERG: You are asking what  
18 were the responsibilities of the shift foreman in  
19 1963?

20 MS. COLLINS: What were the titles  
21 of the 2 jobs.

22 MR. BROMBERG: Titles other than  
23 shift foreman?

24 MS. COLLINS: Yes. Were they still  
25 10 foot and 13 foot shift foreman?

Sfisko-Cross

1 A. It says here shift foreman 13 feet and I  
2 don't know what the other one says.

3 Q. Neither do I. Was there any change  
4 as far as you know in 1962?

5 A. I don't understand the chart at all, just  
6 correspond with the chart in the front.

7 Q. Do you know if in 1963 the foreman's  
8 job in the manufacturing section would still have  
9 been one 13 foot machine foreman and one ten foot  
10 machine foreman?

11 A. Could have been.

12 MS. COLLINS: Could we take break  
13 for about 5 minutes?

14 MR. BROMBERG: Sure.

15 (Whereupon, a recess is taken.)

16 (Whereupon, the resumes.)

17 Q. Mr. Sfisko, a few more questions to  
18 conclude that series, then we'll go on.

19 Did you know William C. STRIEB  
20 E N, mid 1960's in Manville?

21 A. I believe he's out of research.

22 Q. And that would be the research and  
23 development section you talked about before. Is  
24 that correct?

25 A. Yes.

Sfisco-Cross

1 Q. And was he ever directly associated  
2 with the I building in any way that you know?

3 A. No.

4 Q. Did you know a P. C. Skierski S K I  
5 E R S K I?

6 A. No.

7 Q. Now, you talked about the fact that  
8 experimental runs might have been made in the  
9 1960's after the fiber task force went forward.  
10 Do you recall that?

11 A. Go ahead.

12 Q. In the -- and you -- you also  
13 testified earlier about how much fiber would have  
14 had to be supplied to the plant, a truckload, or  
15 so to do an experimental run in the 1950's. Do  
16 you recall that?

17 A. Yes, I recall that.

18 Q. Would there be the same minimum of  
19 minimum quantity of fiber required to do an  
20 experimental run at the pipe plant in the mid  
21 1960's?

22 A. I would say so.

23 Q. Sir, you testified yesterday that  
24 you met Dominick Bertoglia once?

25 A. One time he was on vacation.

Sfisko-Cross

1 Q. You also mentioned that you knew him

2 to have been a butcher?

3 A. He was a butcher before I came to

4 Johns-Manville.

5 Q. As a butcher, do you mean a person

6 --

7 A. Butcher shop.

8 Q. In the process of cutting meat?

9 A. Right.

10 Q. How did you learn that, sir?

11 A. He told us, he told me, conversation.

12 Q. And that was in the one time that

13 you met him?

14 A. Yes.

15 Q. And do you know -- did he tell you

16 where he was a butcher?

17 A. No, it was probably out in Waukegan, but I

18 don't know.

19 Q. Did he tell you how long he was a

20 butcher?

21 A. I don't know that either.

22 MR. BROMBERG: I will just note a

23 objection as to his work history. I think

24 reasons are obvious to all counsel. I will not

25 direct the witness not to answer.

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1 Q. When you spoke to Mr. Bertoglia did  
2 he tell you his country of origin -- did he tell  
3 you whether or not he was born in the United  
4 States?

5 A. I don't know that.

6 Q. Did Mr. Bertoglia speak with an  
7 Italian accent, to the best of your recollection?

8 A. It would be hard to say.

9 Q. Do you recall whether he spoke with  
10 any accent at all?

11 A. That is pretty hard to say at all. I only  
12 talked to him about 10, 15 minutes.

13 Q. Sir, I'm going to show you now what  
14 was a portion of Government Exhibit Number 14  
15 yesterday. We've marked it Exhibit 14 A, and I  
16 would ask you to take a look at it, if you would,  
17 please, sir, NS-14 A.

18 MR. BROMBERG: Is the question you  
19 would just like the witness to look at the  
20 document?

21 MS. COLLINS: Yes.

22 Q. For the record, NS-14 A, which is  
23 framed -- or pages F 0 0 6 8 0 of the production  
24 which was presently made at Manville, I have no  
25 idea when else that production was made, is

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1 labeled Industrial Hygiene Survey I Building,  
2 Manville, New Jersey. The date is unclear to me,  
3 and it also says sheet 1, and then sheet 2.

4 MR. BROMBERG: This was produced out  
5 of Pierce?

6 MS. COLLINS: No, sir, these numbers  
7 are the numbers that appeared on the Xeroxed  
8 copies which we received after this production.

9 MR. BROMBERG: Where did this come  
10 from?

11 MS. COLLINS: This current --

12 MR. BROMBERG: I know there is  
13 another.

14 MS. COLLINS: This current  
15 production.

16 Q. Sir, do you recognize this to be a  
17 diagram of the warehouse in the wet end of I  
18 Building?

19 A. After taking a careful look at it, I would  
20 say this is the wet end, and warehouse end.

21 Q. And the warehouse would be to the  
22 left of the drawing and wet end would be to the  
23 right?

24 A. Wet end on north side.

25 Q. In 1952 could you simply locate for

Sfisko-Cross

1 us what you would have considered to be the  
2 location of the front end, and the back end first  
3 of the number 1 pipe machine, to the best of your  
4 knowledge?

5 A. Number 1 pipe machine was on the west wall.

6 Q. And could you take up a blue pen,  
7 sir, and put the front end of where you would  
8 consider the pipe machine to have been?

9 A. This is not a good -- I guess these are 1,  
10 2, 3, these are bays, it would be here -- would  
11 be number 1 bay. Number 1, number 1 bay. These  
12 are bays. These are columns.

13 Q. And those would have been structural  
14 columns within the I Building?

15 A. Right.

16 Q. And where would the front end of the  
17 number 1 pipe machine have been located, sir?

18 A. Where the finished pipe came out, right?

19 Q. Yes, sir.

20 A. Right here, it would be in the front, right  
21 in this area right here.

22 Q. Are you indicating the areas between  
23 numbers 5 and 6 on --

24 A. Well, I'm not going to go by columns, now,  
25 I don't remember them. It is in this area, that

Sfisko-Cross

1 is all.

2 Q. Could you generally mark front end

3 there.

4 And that would be the end where the

5 finished pipe came out. Is that correct?

6 A. Came out here somewhere.

7 Q. And the back end of the number 1

8 pipe machine, sir?

9 A. Would be here.

10 Q. Would it be --

11 A. You see here is the firewall of the

12 warehouse right here, it would be here.

13 Q. And can you write --

14 A. Back end.

15 Q. Back end there, sir.

16 And could you locate for me in the

17 same way both by front end and back end the

18 number 2 pipe machine at that time?

19 A. They are all the same.

20 Q. And they would have been in series

21 from the bottom of the drawing to the top?

22 A. Yes.

23 Q. Can you write number 2 in the

24 relative position where number 2 machine would

25 have been?

Sfisco-Cross

1 A. Number 2.

2 Q. And would the general work area in  
3 the period from 1947 to 1967 for the crew working  
4 on the 1, 2 and 3 pipe machines, can you indicate  
5 for us where that would have been, sir?

6 A. Well, the machine would be here, and  
7 fellows handling pipes loading them on trays  
8 would be here, so the whole area.

9 Q. So between about the numbers 1 and  
10 the number 8 or 9?

11 A. I can't go by the columns.

12 Q. Can you give me a general --

13 A. Don't hold me to it, because I can't go by  
14 the columns.

15 Q. I wasn't trying to make it too  
16 specific. In this case we're trying to indicate  
17 for the record where you are pointing and it is  
18 difficult in a written transcript. Can you make  
19 a dotted line where you --

20 A. I don't know how far this goes -- there is  
21 the steam tank here. This is the end of the wet  
22 end here.

23 Q. Indicating the right side of exhibit

24 NS-14 A?

25 A. I couldn't do any more with this chart like

Sfisco-Cross

1 this.

2 Q. So there were --

3 A. It is not clear enough. Because the steam --  
4 this is elongated for some reason or another.

5 Q. So you are not able because the  
6 proportions of the drawing to locate exactly --

7 A. This is way out of perspective.

8 Q. Brother they would have been  
9 somewhere between the firewall and the area prior  
10 to the curing tanks?

11 A. Here is the curing tanks here, this is way  
12 out of line here.

13 MR. BROMBERG: I would just note for  
14 the record that document NS-14 A is a document  
15 that has been put together by USA as an exhibit.  
16 And in looking at the document, much of the  
17 right-hand portion of it is also contained on the  
18 left-hand portion. And I think that is what is  
19 causing the witness to have problems with putting  
20 together the distances. And I think under the  
21 circumstances it is very difficult document for  
22 the witness to work with.

23 THE WITNESS: This is a duplication  
24 of this.

25 MR. BROMBERG: The witness has

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1 indicated right and left-hand sides are  
2 duplicated.

3 MS. COLLINS: This is the form in  
4 which we received this document in the current  
5 production with 2 pages number, F 0 0 6 8 0 but  
6 it appears that --

7 THE WITNESS: These columns 2 to 12,  
8 you have them right here, it is a duplicate.

9 Q. So it would be a more accurate  
10 description of the area, if the numbers ran in  
11 series, from one to 18 without the repetition of  
12 numbers. Is that correct?

13 A. That is correct.

14 Q. Sir, you testified earlier that in  
15 the safety program at the plant it included  
16 purchasing sweepers, vacuum cleaners, and adding  
17 people to the staff to vacuum up. Do you recall  
18 that?

19 A. Yes.

20 Q. when did that take place?

21 A. Oh, Huffman cleaners, power sweepers were  
22 purchased anywhere between 58 and on.

23 Q. Power sweeper, sir, is that a large  
24 machine in which a person sits --

25 A. A sit down job. W. LaBadie purchased it.

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1 He purchased for the whole Johns-Manville pipe  
2 Division.

3 Q. And after the -- you are using term  
4 H U F F M A N?

5 A. Yes.

6 Q. And after the Huffman cleaners were  
7 purchased was sweeping of the floors done --

8 A. Mechanically.

9 Q. As opposed to manually?

10 A. Right, push brooms went out.

11 Q. And your recollection is that that  
12 took place approximately 1958?

13 A. 58, 59, that area.

14 Q. And was there a job category added  
15 that at point for sweeper?

16 A. Power sweeper.

17 Q. I want to run through this next area  
18 of testimony as quickly as possible. I know it  
19 has been a long day and a long week for you.

20 There are some documents that we  
21 referred to the other day, and in the rush of  
22 business on those days there was a few questions  
23 that I neglected to ask you. I would like to go  
24 back and ask you about several of those documents,  
25 sir. At the same time I want to add 2 additional

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1 documents for you to take a look at.

2 I'm going to hand the witness,  
3 unless there is an objection from the people in  
4 the room -- I'm going to hand you what I consider  
5 to be a clear copy of NS-9, because there was a  
6 complaint the other day that the copy was  
7 illegible from the gentleman, Mr. Tortoreti who  
8 has just taken a copy from me. We're supplying  
9 what we consider to be a cleaner copy to the  
10 witness.

11 MR. TORTORETI: This is definitely  
12 cleaner.

13 MS. COLLINS: Should we mark this  
14 NS-9 A, just so that it is a second copy.

15 (Whereupon, document is marked NS-9  
16 A.)

17 Q. I'm also handing you again, and this  
18 is not, again, the official court reporter's  
19 copies -- perhaps we should mark each of these.  
20 Here is NS-10, just for the record, the reporter  
21 did that not have her copies today. This is an  
22 identical -- here is an additional one marked  
23 NS-33, which has not been previously marked.

24 (Whereupon, document is marked  
25 NS-33 for identification.

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1 MR. BROMBERG: The witness had an  
2 opportunity to look at NS-9 A.

3 MS. COLLINS: I would ask him to  
4 look at all 3, I believe we can do this with  
5 general questions as to these 3 documents; or I  
6 would hope so, just to shorten the record.

7 MR. TORTORETI: Although I certainly  
8 think that NS-9 A is clearer than the previous  
9 NS-9, I appreciate you doing that. I think my  
10 objection, or concern pertained to NS-10, which I  
11 think is pretty illegible, and still remains  
12 pretty illegible.

13 MS. COLLINS: Well, Mr. Tortoreti,  
14 we did our best.

15 MR. TORTORETI: I didn't want my  
16 acknowledgment it is a clear copy. 9 A is  
17 clearer than 9.

18 MS. COLLINS: And just to make sure  
19 these are identified for the record, Government  
20 Exhibit 9 A is a second copy of a document used  
21 the other day which is headed curer 10 foot or 13  
22 foot machines dated 8-25-47 entitled, Job  
23 Evaluation on a department transite pipe.

24 NS-10 is headed Job Evaluation K and  
25 C Lathe Operator, Manville Plant, effective date

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1 9-1966 cancels date 9-7-59 and document of 2  
2 pages.

3 MR. BROMBERG: Just one question.  
4 The words Vince Liotta which are on NS-10, I  
5 don't believe they were there.

6 MS. COLLINS: Now you have been  
7 substituted a copy without Vince Liotta.

8 MR. TORTORETI: However, since we're  
9 getting work product left and right in this maybe  
10 we can have the copy.

11 Q. Now we're referring to Exhibit NS-33,  
12 job evaluation, shift foreman, finishing end  
13 Manville factory 7-28-47 transite pipe.

14 Sir, are all 3 of the documents  
15 which you have before you job evaluations which  
16 would have applied to jobs held by individuals in  
17 the transite pipe plant during the time that you  
18 were there?

19 A. I'm familiar with the whole 3.

20 Q. Would there have been at least one  
21 job evaluation for every job in the I Building in  
22 the period from 1947 to 1967?

23 A. There would be a job evaluation for one job,  
24 but there might be more than one person to that  
25 job.

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1 Q. For each of those jobs would there  
2 have been a form filled out listed as job  
3 evaluations such as you have before you as  
4 exhibit NS-9 A?

5 And they would have been filled out on  
6 similar forms. Is that correct?

7 A. This is all hourly, yes.

8 Q. And to the best of your knowledge  
9 the primary person responsible for those forms  
10 would have been Mr. Vince Liotta during that  
11 whole period of time?

12 A. I didn't say that.

13 Q. During what period of time, sir?

14 A. This was -- this is Augie Schilling -- this  
15 is Naylor.

16 Q. Which document are you referring to,  
17 9 A? Is that correct?

18 A. 1947.

19 Q. That would have been written by Mr.  
20 Naylor. Is that correct?

21 A. His name is on here. That is all I can  
22 tell you. This is Ernie Carlson.

23 MR. BROMBERG: The witness is  
24 referring to NS-33.

25 Q. Do you recognize the other initials?

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1 A. This here is Vince Liotta.

2 Q. And that would be the last?

3 A. 10.

4 Q. Now, sir, was it a regularly  
5 conducted activity of Johns-Manville to create  
6 job evaluations for each job in the I Building?

7 A. Say that again.

8 Q. Was it a regularly conducted  
9 practice of Johns-Manville to have a job  
10 evaluation on a form such as this for each job  
11 category?

12 A. At the beginning of job, yes.

13 Q. And then from time to time the job  
14 category would be --

15 A. Reviewed.

16 Q. And then the job evaluation might be  
17 updated. Is that correct?

18 A. Correct.

19 Q. And in your work at the I Building  
20 of Manville, did you have occasion to refer to  
21 the job evaluation forms from time to time?

22 A. Normally when there was a complaint I would  
23 review it. But with the shop steward.

24 Q. So there would be union complaints  
25 that would refer to the job evaluations?

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1 A. Or there would be a method change.

2 Q. And that also might occur, change in  
3 job evaluation. Is that correct?

4 A. Yes.

5 Q. And at point would you be involved  
6 in a review of the job evaluation?

7 A. Only after the job evaluation was completed,  
8 then was reviewed with me what the findings were.

9 Q. And on each of the documents which  
10 is before you NS-9 A, NS-10 and NS-33 there is an  
11 area at the top which appears to be a description  
12 of the job. Is that a fair statement, that that  
13 was a description of the person's job -- I'm  
14 sorry, I'm referring to 9 A and 33, at the top of  
15 those 2.

16 A. I've got 30 3 right here.

17 Q. Would that be a job description?

18 A. Yes, that is a pretty good short brief.

19 Q. And to the best of your knowledge,  
20 was that intended to describe to the individual  
21 and their supervisor the duties entailed in the  
22 particular jobs described in the job evaluation?

23 A. That would be the beginning.

24 Q. I'm referring to NS-10 which has a  
25 second page, and that page is headed job

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1 Description Manville Pipe K and C Lathe Operator,  
2 effective date 9-1966 would that be the area  
3 where the job description appears on the form  
4 which is used as N S number 10?

5 A. This was the finishing end.

6 Q. And would this be a fairly accurate  
7 description of the K and C lathe operator's job  
8 in 1960, sir?

9 A. I would say so.

10 Q. In your examination -- now, strike  
11 that.

12 Would it be fair to say that there  
13 are probably hundreds of job evaluations on  
14 similar forms and formats for the people who  
15 worked in the I Building between 1947 and 1967?

16 A. You see hundreds, you mean counting all the  
17 changes and everything?

18 Q. Yes, sir.

19 A. You've got me. I have no idea.

20 MR. BROMBERG: I have an objection.  
21 I don't think the witness was in charge of  
22 preparing or utilizing these.

23 MR. LACEY: Let me just state for  
24 the record that I'll join in that objection only  
25 because he did say he had some input into the

Sfisco-C ross

1 evaluations.

2 THE WITNESS: I don't know how many.

3 Q. There would have been a number of  
4 job evaluations during that period of time. Is  
5 that right?

6 A. That is correct.

7 Q. And would that job evaluation have  
8 gone from the person who swept the floor to the  
9 supervisor?

10 A. From the bottom job to the top job.

11 Q. And was it a consistent format and  
12 system used for those evaluations, sir?

13 A. Pretty close to the same.

14 Q. And was there a manual used to write  
15 those job evaluations, to the best of your  
16 knowledge?

17 A. That would have to be answered by the  
18 person that wrote the job like Vince Liotta. If  
19 he had a manual he used. He had a manual. I  
20 don't know.

21 Q. And you had testified yesterday that  
22 these job descriptions Mr. Liotta would come into  
23 the area to examine the work area. Is that  
24 correct?

25 A. That is correct.

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1 Q. And was that your knowledge and  
2 recollection from 1947 to 1967?

3 A. He wasn't there in 47.

4 Q. When did he first come, I'm sorry?

5 A. I don't know that.

6 Q. For the period of time that he was  
7 there, was that his practice, as far as you know?

8 A. It was a practice of anyone that had that  
9 particular job.

10 Q. During the time that you were  
11 associated with the I Building, do you know if  
12 there was an additional incentive paid for jobs  
13 that required the employee to wear a respirator?

14 A. There again, if a fellow wore a respirator,  
15 it would be in his job description.

16 Q. And to the best of your knowledge  
17 would the location where it would say whether or  
18 not he was required to wear a respirator be  
19 listed under 12 surroundings in the area of work  
20 conditions on Exhibit 9 E.

21 MR. BROMBERG: Are you referring to  
22 number 12 in 9 A under rating factors?

23 Q. Let me reask the question.

24 First, I'm just referring your  
25 attention to exhibit 9 A, and I'm asking you

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1 to look down the left-hand column to the area  
2 marked working conditions. Within that box,  
3 number 12, is marked surroundings.

4 To the best of your knowledge, is  
5 that the location where it would be required that  
6 it would be listed if a person were required to  
7 wear a respirator?

8 MR. TORTORETI: Objection to the  
9 form of the question. I don't think he's stated  
10 sufficient familiarity with these forms to answer  
11 that question. It would require him to speculate.

12 MR. BROMBERG: Also I would also  
13 note an objection in so far as the forms, at  
14 least in so far as the 2 that are before us at  
15 this time are different. And over different  
16 periods of times different forms might have been  
17 used. If the witness can answer with regard to  
18 1947, and the document is based upon his own  
19 personal knowledge, he may.

20 A. I couldn't answer that.

21 Q. But to the best of your recollection,  
22 the requirement to wear a respirator was listed  
23 somewhere in the job evaluations?

24 A. On these particular jobs?

25 Q. On any job which a respirator was

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1 required.

2 A. Oh, that is different. It is possible, but  
3 I'm not sure.

4 Q. I'm going to hand you now what has  
5 been marked as exhibit NS-34.

6 ( Whereupon, document is marked  
7 NS-34 for identification.)

8 MR. BROMBERG: Counsel, can you tell  
9 me where this document came from, since it  
10 doesn't appear to have a stamp indicating it was  
11 produced pursuant to --

12 MS. COLLINS: Produced in  
13 coordinated claims court, Robinson discovery in  
14 the Pierce warehouse.

15 MR. BROMBERG: The witness has  
16 reviewed the document, NS-34.

17 MS. COLLINS: For the purposes of  
18 the record 3 page document headed Manville  
19 General Plant March 19, 1959, memorandum page 1  
20 of 3, Job Evaluation Review, Union Management  
21 Agreement, Contract Negotiations July 9, 1958.

22 Q. Mr. Sfiscko, do you recognize  
23 Exhibit NS-34?

24 A. Yes.

25 Q. Do you recall having received it in

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1 1959?

2 A. Yes.

3 Q. And then, sir, can you tell us just  
4 for the record what it is generally?

5 A. This was inside handler in the finishing  
6 end, and mostly on large diameter pipes.

7 When I say that, it would cover as  
8 low as 14 inch, or up to 36 inch. And we would  
9 have end plugs inserted, they were about, oh, 9  
10 to 10 inches, inserted, in the I V of the pipe,  
11 one on each end to keep the pipe round. We would  
12 put it through the steam cure process that way.  
13 It was method change.

14 When it got to the finishing end the  
15 inside handler had to take the plug out, stack  
16 them on the pallet and bring them back to the end  
17 place.

18 Q. Do you recall that after that method  
19 change was made, the union took some action to  
20 have the job evaluation reconsidered?

21 A. It was reconsidered.

22 Q. And is that reflected in Exhibit  
23 NS-34?

24 A. That is right. Points went up, whatever it  
25 was.

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1 Q. And after such -- do you recall  
2 having attended such a meeting -- would you have  
3 attended this meeting?

4 MR. TORTORETI: Which question are  
5 you asking?

6 Q. Strike the first.

7 Did you attend the meeting, sir?

8 A. No, I wasn't at that meeting.

9 Q. But you received a copy. Is that  
10 correct?

11 A. That is correct.

12 Q. And would you normally have received  
13 copies of documents relating to changes in job  
14 evaluations --

15 A. Pertaining to I building?

16 Q. Yes, sir.

17 A. Forming and finishing?

18 Q. Yes, sir.

19 A. Yes.

20 Q. And after a meeting such as the one  
21 reflected in NS-34, would the job evaluation then  
22 have been changed, the form have been changed to  
23 reflect the new job rating factors?

24 A. You mean the job rate?

25 Q. Yes, sir.

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1 A. Yes, he would get more money.

2 Q. And that would be reflected in the  
3 difference in the rating number on the job  
4 evaluation form. Is that right?

5 A. He would have more points, if he picked up  
6 10 points, he probably got a raise, whatever the  
7 chart called for.

8 Q. So the job evaluation forms were  
9 used as well as a basis for setting the rate of  
10 pay for individuals within the I Building. Is  
11 that correct?

12 A. That is correct.

13 Q. Sir, I'm handing you another copy of  
14 NS-18. And I believe we'll be through here in a  
15 couple of moments. You received in this document  
16 yesterday and I simply want to ask you a few  
17 questions. Do you recall having referred this in  
18 1957?

19 A. We went through this the day before.

20 Q. You do recall having received it.  
21 Is that correct?

22 A. Yes.

23 Q. And in the ordinary course of your  
24 business would you have retained a copy of the  
25 documents which you received?

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1 MR. BROMBERG: Is that question

2 during normal course of business, would he have

3 have maintained a copy of every document he

4 received?

5 MS. COLLINS: No, would he have

6 retained a copy of this document.

7 A. It was probably put in my file.

8 Q. Sir, you referred yesterday to

9 Government Exhibits Number 19, 20 and 21. I'm

10 going to hand you those again, sir.

11 Sir, in the time that you worked

12 with Manville Company, did you have occasion to

13 see documents that came from the pipe controllers

14 office?

15 A. When I was in I Building?

16 Q. Yes, sir.

17 A. No.

18 Q. As to the 3 documents that were

19 before you as NS-19, 20 and 21, you recognize all

20 those individuals to be individuals who were

21 employed by Manville during the period of time

22 1957 to 58?

23 MR. TORTORETI: Objection.

24 MR. BROMBERG: I object. The

25 witness -- that has to be done on a document by

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1 document basis, to begin with. The witness has  
2 to look at these. I also think that this line of  
3 questioning was asked and answered originally, to  
4 the best of my recollection, a number of days ago.

5 MS. COLLINS: We apologize, sir, if  
6 you did that for each of the documents. At the  
7 rate of speed we were moving on that afternoon, I  
8 am not certain.

9 Q. First as to exhibit NS-19, were the  
10 individuals listed on the final page as preparers  
11 and distribution list, all employees at Manville,  
12 in 1957, to the best of your knowledge?

13 MR. BROMBERG: Is that all employees  
14 in the Manville plant or all employees of  
15 Johns-Manville?

16 Q. Johns-Manville.

17 A. They are.

18 Q. Were all of them involved in some  
19 way with the bulk handling and dust control  
20 equipment project at Manville, to the best of  
21 your knowledge?

22 A. Only for approval.

23 Q. I ask you to refer to Exhibit NS-20.  
24 I simply want to ask you the same question about  
25 that.

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1 A. Same thing.

2 Q. Your responses would be the same as

3 to this document. Is that correct?

4 A. Sure.

5 Q. And as to NS-21 --

6 MR. BROMBERG: I just note that on  
7 this particular document, and I don't know  
8 whether it is the other one, final designation is  
9 analysis department, it doesn't appear to be a  
10 person.

11 Q. Would your response be the same as  
12 to NS-21?

13 A. That is correct.

14 Q. I am going to ask you again to look  
15 at NS-22, and NS-23.

16 If I remember, sir, as to NS-22, you  
17 recall having received that in the course of your  
18 business in 1961. Is that correct?

19 A. Yes.

20 Q. And would you have retained a copy  
21 in your files at that time?

22 A. Yes.

23 Q. And as to NS-23, do you also recall  
24 having received that document in March of 1964?

25 A. Yes, I'm familiar with it.

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1 Q. And did you receive that in the  
2 ordinary course of your business in 1964?

3 A. I would say so.

4 Q. And would you have retained a copy  
5 of that?

6 A. I would say so.

7 Q. I would like you to just look at 4  
8 other document that again you looked at  
9 yesterday, for the same series of questions that  
10 I just asked you. They are NS-24 through NS-27.

11 A. I'm familiar with them.

12 Q. First, as to NS-24, do you recall  
13 having received that in the ordinary course of  
14 your business in 1957?

15 A. That is correct.

16 Q. And would you normally have kept a  
17 copy of that document in your files?

18 A. Yes.

19 Q. As to Exhibits NS-25, do you recall  
20 having received that document in the ordinary  
21 course of your business in January of 1957?

22 A. That is correct.

23 Q. And would you normally have kept a  
24 copy of it in your files at that time?

25 A. That is correct.

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1 Q. And as to exhibit NS-26, do you  
2 recall having received a copy of that in the  
3 ordinary course of your business in 1957?

4 A. That is correct.

5 Q. And would you have retained a copy  
6 in your files at the time?

7 A. Yes.

8 Q. Sir, do you have any recollection as  
9 of having received Exhibit NS-27 in the ordinary  
10 course of your business in 1959?

11 A. Yes.

12 Q. And in the normal course of business  
13 would you have retained a filing copy?

14 A. That is correct.

15 Q. Mr. Sfiscko, I have no more  
16 questions of you at this time. I would like to  
17 say -- I would like to thank you for your  
18 patience and your consideration, and your extreme  
19 attentiveness during this deposition. I don't  
20 know if other counsel have any questions.

21

22 CROSS EXAMINATION BY MS. BROPHY:

23

24 Q. Mr. Sfiscko, my name is Moira Brophy  
25 and I represent Lake Asbestos of Quebec which is

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1 one of the defendants in this case.

2 During the years 1958 to 1967, you  
3 worked in I Building on a daily basis supervising  
4 the use of asbestos fiber, and you also took  
5 monthly inventories of asbestos in I Building.  
6 Isn't that correct?

7 A. That is true.

8 Q. All right. Based upon that  
9 experience, sir, could you give me, to your best  
10 approximation, an idea as to what percentage of  
11 asbestos fiber present in I Building during the  
12 years 1958 to 1967 was Johns-Manville own  
13 asbestos fiber?

14 A. That changed every year. It got so that by  
15 mean 66, 1967, there was more own make fiber than  
16 outside fiber, but changed every year,  
17 progressively got more J M.

18 Q. Let's deal with 1960 and 67, what  
19 percentage would be J M fiber, approximately.

20 MR. BROMBERG: If you can answer.

21 A. I can only give you a guess.

22 Q. You can't give me a best  
23 approximation as to whether or not it would be 50  
24 percent, 90 percent, 1 percent?

25 A. It is pretty hard. Take it as a guess, I

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1 would say 75 percent was our own make fiber.

2 Q. What about the early 1960's?

3 A. It could have been 60 percent, but you  
4 can't hold me to it. As I say, as the years  
5 progressed it got to be more of our own than the  
6 outside.

7 Q. During the years 1947 to 1967, did  
8 you see any names printed on bags of asbestos  
9 fiber used in I Building other than JM's own  
10 fiber?

11 A. Not all the time.

12 Q. Did you see some of them?

13 A. I saw some.

14 Q. During the years that you worked in  
15 I Building, to the best of your recollection, did  
16 you see the name Cassiar asbestos fiber?

17 A. Cassiar, I've seen it.

18 Q. Can you give me an idea as to the  
19 decade that you saw it?

20 A. No, I can't remember.

21 Q. Bell Asbestos fiber, same question?

22 A. I saw it.

23 MR. MC GRATH: Objection to form.

24 A. I saw it, I can't remember.

25 MR. TORTORETI: Can I have that

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1 answer back?

2 (Whereupon, the reporter reads

3 back.)

4 Q. Do you remember seeing it? You just

5 don't remember --

6 A. I remember using it too.

7 Q. You also remember using Cassiar

8 asbestos fiber?

9 A. That is true.

10 Q. Do you remember using Hooker

11 Chemical asbestos fiber?

12 MR. RASNEK: Objection to form.

13 MS. BROPHY: What basis?

14 MR. RASNEK: He didn't testify that

15 he saw asbestos being Hooker Chemical asbestos?

16 A. We used Hooker.

17 Q. And you saw it being used?

18 A. We ran it. I was there.

19 Q. Could you tell me what decade that

20 was?

21 A. No.

22 Q. You can't tell me?

23 A. Well, it was during the task force period,

24 so 49 to 52, 53. I don't remember the dates.

25 You would have to go back to the records.

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1 Q. I'm not asking you for a specific  
2 date, sir, I'm asking you as to perhaps the 50's,  
3 60's, 70's?

4 A. Could have been early 50's.

5 Q. Do you know if it was used at any  
6 time later than the 50's?

7 A. What was left over, we got rid of, we used.

8 Q. What about Bell Asbestos, would that  
9 have been 50's, 60's, 70's.

10 MR. MC GRATH: Object to the form.

11 A. I can't tie down the period of time, too  
12 much to remember.

13 Q. Did you ever see occidental asbestos  
14 fiber used?

15 A. I don't remember that name.

16 Q. Did you ever see North American  
17 asbestos fiber used in I Building?

18 A. Is that blue fiber?

19 Q. You did remember?

20 A. North American S Blue.

21 Q. Do you remember using Special  
22 asbestos fiber in I Building?

23 A. What do you mean by Special?

24 Q. That would be the name, Special  
25 asbestos fiber?

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1 A. I don't remember that either.

2 Q. Do you remember Porter Hayden

3 asbestos fiber used in I Building?

4 A. I don't remember that either.

5 Q. Do you remember H.K. Porter used in

6 I Building.

7 MS. TONELLI: Objection to form.

8 A. I remember H.K. Porter, but not fiber.

9 Q. What do you remember about H.K.

10 Porter?

11 A. They were buying air pipe. They were a

12 company buying air duct pipes, making air duct

13 fittings, they were buying the whole pipe and

14 making thier own fittings.

15 Q. You don't remember them supplying

16 any products used in I Building?

17 A. Not to my knowledge.

18 Q. Do you remember any asbestos fiber

19 coming from Raybestos Manhattan used in I

20 Building?

21 A. The destination and origin, I wouldn't know.

22 Q. Do you remember seeing any bags

23 labeled Raybestos Manhattan?

24 A. Not that I remember.

25 Q. Do you remember any fiber labeled

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1 Brinco asbestos?

2 A. I don't remember that either.

3 MR. LACEY: At this point I'm going  
4 to object to this line of questioning as being  
5 improper, and blatantly leading. I believe that  
6 you are sitting here and pretty much putting  
7 words in the witness's mouth by suggesting names  
8 to him. And although I have no objection to your  
9 prior questions, I do have a problem with this  
10 line of questioning continuing.

11 MR. BROMBERG: I suspect this is  
12 called an anticipatory objection.

13 MS. BROPHY: With respect to that,  
14 the record will speak for itself as to whether or  
15 not these questions are leading.

16 Q. Mr. Sfisko, to your knowledge, were  
17 bags of Celotex asbestos fiber used?

18 MS. TONELLI: Objection to form.

19 MR. LACEY: Same objection.

20 A. I don't remember that name.

21 Q. To your knowledge was Philip Carey  
22 asbestos fiber used?

23 MS. TONELLI: Objection.

24 MR. LACEY: Same objection.

25 MS. BROPHY: You can have a

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1 continuing objection.

2 MR. BRENNER: Can we all have

3 continuing objection?

4 MR. MC CARTHY: I'll join.

5 MS. TONELLI: I join.

6 MR. MC GRATH I join.

7 MR. TORTORETI: Objection.

8 MR. MC CARTHY: Just to reassert

9 that all substantive objections to any of these

10 questions will be preserved for the time of trial.

11 Q. Mr. Sfisko, do you recall bags of

12 Asbestos Corporation Limited asbestos fiber used

13 in I Building?

14 A. That is a corporation, you have to give a

15 little more detail than that.

16 Q. Did you ever see A C L asbestos

17 fiber used in I Building?

18 A. There again --

19 MR. LACEY: I believe the witness

20 has answered your question as to the term

21 Asbestos Corporation Limited.

22 A. You would have to give a better term than

23 that. I don't remember.

24 Q. Okay. Did you ever see bags of A C

25 L asbestos fiber in I Building?

Sfisko-Cross

1 A. There again, A C L, I don't remember. If  
2 there is another terminology.

3 Q. Did you ever see bags of Carey  
4 Canada asbestos fiber used in I Building?

5 A. Where did you get all these names?  
6 I don't remember that.

7 Q. Did you ever see bags of Nicolet  
8 asbestos fiber used in I Building?

9 A. Not to my knowledge, I've heard of it. But  
10 I don't know that -- but not by that term.

11 Q. Am I correct in saying, sir, that  
12 when you say you don't recall seeing these bags  
13 of fiber you are not saying categorically that  
14 they weren't there?

15 A. If they had a different name we could have  
16 used it. But you have to tell me what the fiber  
17 was.

18 Q. So, you in fact recall fiber more in  
19 terms of perhaps the grade of the fiber?

20 A. Grade and type.

21 Q. As opposed to the name of the  
22 company?

23 A. Yes.

24 Q. I'm going to continue and just see  
25 if you recognize any of the other names I have.

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1 Do you recall seeing Amatex asbestos

2 fiber?

3 A. Not by that name.

4 Q. Do you recall Atlas asbestos fiber?

5 A. Not that by name.

6 Q. Do you recall Forty-Eight

7 Insulations asbestos fiber in I Building?

8 A. Not by that name.

9 Q. Do you recall Hercules asbestos

10 fiber in I Building?

11 A. Not by that name.

12 Q. Do you recall Hollingsworth and Vose

13 asbestos fiber used in I Building?

14 A. Same.

15 Q. Do you recall NORCA asbestos fiber?

16 A. That is a blue fiber.

17 Q. And it was used in I Building?

18 A. NORCA 3 hundred.

19 Q. Can you give me an approximation as

20 to the decades when that was used?

21 A. Oh, NC 300, I can't tie down the time. So

22 many. You would have to go back to the blend

23 book to find out the time.

24 Q. Could you tell me if Turner and

25 Newall asbestos fiber was used?

Sfisco-Cross

1 A. Not by that name.

2 Q. Can you tell me if Vermont asbestos

3 was used in I Building?

4 A. Not by that name.

5 Q. Can you tell me if Huxley

6 Development asbestos fiber was used in I Building?

7 A. Not by that name.

8 Q. Can you tell me if Flintkote

9 asbestos fiber was used in I Building?

10 A. Not by that name.

11 Q. Can you tell me if G A F asbestos

12 fiber was used in I Building?

13 A. Is that government?

14 Q. No, sir, it is not.

15 A. Not by that name.

16 Q. Do you know if there was any fiber

17 used in I Building from the United States

18 Government?

19 A. Yes.

20 Q. And what decades would the United

21 States Government fiber be in I Building?

22 A. Amosite, and blue.

23 Q. And these materials came from the

24 United States Government?

25 A. Yes.

Sfisco-Cross

1 Q. And do you know what decades when  
2 the United States Government supplied these  
3 fibers?

4 A. I wasn't in the I Building at the time, all  
5 right. This was the 70's.

6 Q. Do you know if Ruberoid asbestos  
7 fiber was used in I Building?

8 A. Not by that name.

9 Q. Do you know if Cape asbestos fiber  
10 was used in I Building?

11 A. Cape is a blue fiber, yes.

12 Q. Do you recall what decades that was  
13 used?

14 A. Continuously.

15 Q. During the entire period of 1947 to  
16 1967?

17 A. On and off continuously.

18 Q. Do you recall if Southern asbestos  
19 fiber was used in I Building?

20 A. Not by that name.

21 MS. BROPHY: That is all I have, sir,  
22 thank you.

23 MR. MC CARTHY: Can I take 2 minutes.

24 (Whereupon, a recess is taken.)

25 (Whereupon, the deposition resumes.)

Sfiscko-Cross

1 MS. COLLINS: I would like to go  
2 back on the record and say I think the deposition  
3 should proceed right now. There is still more  
4 time. Mr. LaSalla who is acting as coordinator  
5 is not here.

6 MR. BROMBERG: My position is that  
7 the witness is here until 4:30.

8 MR. RASNEK: Are you going to  
9 terminate the deposition in the middle of  
10 plaintiff's deposition?

11 MR. BROMBERG: At 4:30 the  
12 deposition is going to terminate.

13 MR. RASNEK: When will we have an  
14 opportunity to answer questions raised by cross  
15 examination?

16 MR. BROMBERG: This is the fourth  
17 day that this witness has been produced for the  
18 parties in this case. He's going away for 4  
19 weeks, everyone knows that. We have accommodated  
20 everybody. This was supposed to be for 2 days,  
21 it is now 4 days. I can't answer all the  
22 questions. All I'm telling you he's not going to  
23 be produced between now and April 7th. If people  
24 want to continue the --

25 MR. MC GRATH: Let's stop wasting

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1 time.

2 MR. RASNEK: I mean I have another  
3 question or 2 that was raised by Ms. Brophy's  
4 questions.

5 MR. LACEY: As do I. I believe the  
6 reason for the deposition being continued today  
7 is at least in part because of my specific  
8 request, it is my understanding that plaintiff  
9 has expressed an interest to continue, or I  
10 shouldn't say continue, commence some sort of  
11 questioning at this point. Because this was  
12 scheduled for 2 days, originally, and at the end  
13 of those 2 days plaintiffs have made absolutely  
14 no requests whatsoever, to continue any  
15 questioning, or to commence any questioning. I  
16 think they waived any right to interfere with all  
17 other counsel.

18 MS. COLLINS: Your position is clear  
19 on the record. I'm sorry, I don't usually  
20 interrupt people, your position is clear on the  
21 record. The time is running. There is no judge  
22 to argue before. Why don't we just let Joe go  
23 ahead and ask his questions.

24 MR. RASNEK: Are we going to do it  
25 in order so the defendants are finished now, or --

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1 MR. LACEY: I have not yet finished  
2 my questioning.

3 MR. RASNEK: Nor have I, and I think  
4 I have a right to, especially because the  
5 extension of this deposition was made at least in  
6 part, if not in a major part because of me, and  
7 once I made that request, the government joined  
8 in that. So it could finish its request. Now is  
9 it is my understanding they want plaintiff's  
10 counsel to interrupt my questioning, and I just  
11 have a strenuous objection to that.

12 MS. COLLINS: Your objection is  
13 noted. There is nothing we can do. There is no  
14 judge.

15 MR. RASNEK: Well, we can call Judge  
16 Sarokin and see what he says.

17 MS. COLLINS: We could do that.

18 MR. PETILLO: I'll withdraw these  
19 questions, if it is going to cause that much of a  
20 problem, and I'll defer to Mr. Lacey, or whoever  
21 wishes to continue.

22 MS. COLLINS: We wish to cause you  
23 no prejudice by withdrawing your questions at  
24 this point, for the -- at least for the  
25 government.

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1 MR. PETILLO: I realize that.

2 MR. RASNEK: I have 1 or 2 questions.

3 MR. LACEY: Okay.

4

5 CROSS EXAMINATION BY MR. RASNEK:

6

7 Q. Sir, in response to a question posed  
8 to you by Ms. Brophy, you indicated that you had  
9 seen or used Hooker fiber in the 1950's. Do you  
10 recall that, sir?

11 A. Yes.

12 Q. Do you also recall your testimony,  
13 several days ago where you indicated that on the  
14 basis for your statement was solely information  
15 given to you by Mr. Whalen. Do you recall that,  
16 sir?

17 A. That it was Hooker fiber?

18 Q. Yes. Isn't it true, sir, that the  
19 basis for your statement was that you obtained  
20 some information from Mr. Whalen?

21 A. The fiber came from Hooker.

22 Q. Mr. Whalen said so. Is that right,  
23 sir?

24 A. Right.

25 Q. Apart from what Mr. Whalen told you,

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1 sir, you have absolutely no information at all as  
2 to where that fiber came from, do you, apart from  
3 what Mr. Whalen told you?

4 A. That is true, being the origin, that is  
5 true.

6 MR. RASNEK: Thank you, sir.

7

8 CROSS EXAMINATION BY MR. LACEY:

9

10 Q. In 1947 how many pipe plants were  
11 there throughout the country that were part of  
12 the Johns-Manville Corporation?

13 A. 47, Long Beach, Waukegan and Manville.

14 Q. Did there come a time later on, sir,  
15 when other pipe plants were added?

16 A. Yes, Marrero.

17 Q. Can you tell me when that Marrero  
18 plant was added?

19 A. The guy that could really give you the date  
20 would be LaBadie. Marrero was first on line. I  
21 can give you the sequence.

22 Q. Can you give me an approximate date?

23 A. Could have been 50, could have, but don't  
24 hold me to it. Toronto, was next, Stockton and  
25 Dennison. Now, I'm not sure whether Stockton was

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1 before Dennison, or after now.

2 Q. Have you ever heard of a plant

3 called Walton (phonetic)?

4 A. Long Beach.

5 Q. The Walton plant was Long Beach?

6 A. I called that Long Beach.

7 Q. Did each of these plants, to your

8 knowledge, create, or produce the same pipe

9 products produced at the Manville I Building?

10 A. Well, you mean water pipe, and sewer pipe

11 and non-pressure pipe, yes.

12 Q. Did you have certain targets of

13 production each month in the Manville I Building?

14 A. We had KOI operating KOI's, we called them.

15 Q. And were those certain targets?

16 A. They were targets.

17 Q. And were they set on a monthly basis?

18 A. Well, you could -- some were carry overs

19 and some were monthlys. We had a whole list of

20 them.

21 Q. What target would be set for you?

22 A. On a long term would be down time.

23 Q. Would there be a target of tonnage?

24 A. Down time is when you operate 24 hours and

25 they allow you the target was 12 percent, so 12

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1 percent of the 24 hours was down time.

2 Q. Would there also be a target for  
3 tonnage of pipe produced?

4 A. That would -- I would say no, because that  
5 varied due to what you are making at the time.  
6 Because you made water pipe, you can form more  
7 tons. Sewer pipe you could form less tons.  
8 non-pressure, you could form less tons.

9 I would have to get into more detail,  
10 because you are taking 8 hour period, 480 minutes,  
11 you had form time and non-form time. Now, if you  
12 operated 420 minutes, that 480 that could be  
13 water pipe. Now, if you made sewer pipe where  
14 you had more mandrel changes because the wall  
15 thickness of the pipe change, you could be down  
16 to 360 forming. The tonnage would vary from  
17 month to month, depending what you mean. So  
18 there was actually no saying you could have 7 ton  
19 an hour, or there was no KOI for that. KOI was  
20 material usage, if you made 2 thousand pounds of  
21 pipe, KOI was 3 percent over, you had to use 2  
22 thousand 60 pounds of raw material to make 2  
23 thousand pounds of pipe. That was KOI.

24 Q. Okay, sir, you told us earlier in  
25 your deposition, I believe, that the purchasing

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1 of fiber was a centralized function. Is that  
2 correct, yes or no?

3 A. Came from division.

4 Q. Division headquarters would purchase  
5 the fibers from various suppliers?

6 A. Division would consolidate all the plants  
7 and purchase of fiber, a purchase for all the 6  
8 plants.

9 Q. They would then distribute it among  
10 all of the pipe plants?

11 A. They would designate where it would go.

12 Q. Sir --

13 MR. MC CARTHY: May I interrupt, are  
14 we going to end promptly at 4:30?

15 MR. BROMBERG: Yes.

16 MR. MC CARTHY: May I have time to  
17 ask a couple of questions?

18 MR. LACEY: Fine.

19 MR. MC CARTHY: Do you mind?

20 MR. LACEY: Fine, I finished my  
21 questioning.

22 MR. RASNEK: I assume the plaintiff  
23 in Bialy has waived the right to question this  
24 witness. Is that right?

25 MR. LACEY: I believe that is what

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1 he said.

2 MR. BROMBERG: Let's get on before  
3 time runs. You people do what you have to do, if  
4 you people want to talk, that is fine. 4:30 is  
5 going to come.

6

7 CROSS EXAMINATION BY MR. MC CARTHY:

8

9 Q. My name is Bill McCarthy I represent  
10 NORCA Corporation. You stated previously that  
11 you were not responsible as part of your  
12 functions in I Building for purchasing fiber.  
13 That was done through the division headquarters?

14 A. That is correct.

15 Q. You also stated earlier today you  
16 don't recall the names of the suppliers or the  
17 points of origin of asbestos fiber. Is that  
18 correct?

19 MR. TORTORETI: Objection to the  
20 form of the question.

21 Q. You can answer it.

22 A. That wasn't part of my job.

23 Q. You also stated you were familiar  
24 with the grades of fiber?

25 A. Grades of fiber.

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1 Q. And when Ms. Brophy was asking some  
2 names, naming names of suppliers of asbestos  
3 fiber, were you testifying as to your familiarity  
4 with the grade of fiber or the name of the  
5 supplier?

6 MR. TORTORETI: Objection to the  
7 form of the question.

8 A. When she was questioning, she did not  
9 question me as to the type of fiber or the grade.  
10 She gave me something over and above that. Which  
11 I was not familiar with. Now, if she mentions --  
12 can I mention names?

13 Q. You said you were familiar with the  
14 name NORCA.

15 A. I remembered NORCA.

16 Q. Do you recall that as being -- are  
17 you familiar with that name as a grade of fiber.

18 MR. TORTORETI: Objection to the  
19 form of the question.

20 Q. You could answer it.

21 A. The fiber we had from NORCA was NC 300. I  
22 remember that.

23 Q. Is that a grade of fiber?

24 MR. TORTORETI: Objection to the  
25 form of the question.

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1 Q. You can answer it.

2 A. NC 300, now, whether it was a grade or what,  
3 I remember seeing it, just like I saw other names  
4 on.

5 Q. Do you know the supplier of that  
6 particular type of asbestos product?

7 A. No, I don't.

8 MR. TORTORETI: Objection to the  
9 form of question.

10 Q. Could you repeat your answer?

11 A. No.

12 Q. You don't recall the time period  
13 within which that particular type of asbestos  
14 fiber was supplied to the Manville Plant, I  
15 Building, correct?

16 A. Well, if you said 47 to 67, it was in that  
17 time period.

18 Q. But you don't recall specifically in  
19 47 to 67 when that was?

20 A. No.

21 MR. MC CARTHY: Thank you. I have  
22 no further questions.

23 MR. BROMBERG: Are there any further  
24 questions?

25 MR. MC GRATH I have a couple of

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1 questions. But I'm not in Bialy.

2 MR. TORTORETI: Of course, I have

3 questions too.

4 MR. MC CARTHY: Well, if I can just

5 put on the record. There is a few more questions

6 I would like to ask. I realize Mr. Sfiscko has

7 been here 4 days now, it is almost 4:30, I don't

8 know if my watch is accurate.

9 THE WITNESS: 4:32.

10 MR. RASNEK: Can we find out the

11 position of Bialy, have you withdrawn your

12 questions?

13 MR. PETILLO: I withdraw for time

14 constraints mainly in deference to the defendants

15 who still had a couple more as opposed to waiving

16 per se. I never said we waived the rights to

17 question. And I believe that that was mentioned

18 by counsel, that we have, and I don't necessarily

19 agree with that.

20 MR. RASNEK: Well, counsel for

21 plaintiffs in the other litigation is not in the

22 same -- are not in the same shoes as counsel for

23 the plaintiffs in Bialy.

24 MR. LACEY: It was my understanding

25 that the statement used by plaintiff's counsel

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1 was I'll withdraw my questions. That was just my  
2 understanding.

3 MR. TORTORETI: Since we're making a  
4 record I want to confirm that I would like to  
5 have the opportunity to ask Mr. Sfiscko some  
6 questions at some point in time before the end of  
7 July 1986.

8 MR. BROMBERG: That is correct, Mr.  
9 Tortoreti. You originally deferred your  
10 questioning to allow the Bialy specific  
11 questioning to continue. And I believe  
12 Manville's counsel has consistently advised you  
13 that you will not be foreclosed from having an  
14 opportunity to ask Mr. Sfiscko some questions.  
15 At some point in the future.

16 MR. LACEY: Shanley and Fisher is  
17 also counsel for Asbestos Corporation Limited in  
18 numerous other asbestos related cases. Including  
19 many of those wherein the firm of Wilentz,  
20 Goldman Spitzer is involved. For that reason, we  
21 obviously reserve the right to question this  
22 witness concerning those other cases, and this  
23 deposition has been held solely with respect to  
24 the Bialy matter. And I want to make it clear  
25 for the record that we're not waiving questions

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1 of this witness at a later time.

2 MR. TORTORETI: Since we're making a  
3 record. I don't necessarily agree with that  
4 position by Shanley and Fisher. I think I am --

5 MR. RASNEK: We would join.

6 MS. COLLINS: United States joins.

7 MR. TORTORETI: I was clearly not  
8 entitled timed to ask any questions about I  
9 Building or anything else during the course of  
10 this deposition, because of the circumstances  
11 created by the Bialy trail. But I do think it  
12 was Judge Sarokin's clear instruction that to the  
13 extent examination was done it should be  
14 comprehensive as to I Building. I think  
15 everybody has stated that they have finished  
16 their questioning except counsel for NORCA and  
17 counsel for Wellington group.

18 MS. TONELLI: For the record, earlier  
19 in the day I deferred to the U.S. I still have  
20 remaining questions. I reserve the right to  
21 finish my cross examination of Mr. Sfisko at a  
22 later date.

23 MR. TORTORETI: If that is the  
24 position taken by the defense, I would insist  
25 that when we continue, if Johns-Manville is of

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1 the opinion that position taken by the defense  
2 may have some viability that the defendants  
3 continue their questioning before I start mine.

4 MR. MC GRATH I would like the record  
5 to reflect not to be left out --

6 MR. TORTORETI: And counsel for Bell,  
7 definitely has stated all along that they -- that  
8 he is not a party to Bialy.

9 MR. MC GRATH: That is right, and  
10 the record should reflect that name Bell was  
11 first introduced after 4 days of depositions with  
12 about 15 minutes remaining in this deposition.  
13 And I didn't have the opportunity to cross  
14 examine at all on the identification of Bell, or  
15 lack thereof. And I would like the opportunity  
16 to ask additional questions on that specific  
17 issue at some time.

18 MR. BROMBERG: I think the record is  
19 replete with statements, objections and other  
20 things from all counsel as to what their relatives  
21 positions are vis-a-vis Bialy, Smith, Middlesex  
22 County and anything else. I think the record is  
23 clear as to that point. I don't think there is  
24 any sense in continuing to make representations.

25 As I had indicated, we had agreed to

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1 produce this individual for Mr. Tortoreti for the  
2 Middlesex County cases, specifically as well as  
3 Smith.

4 MR. TORTORETI: And any other case  
5 that I represent.

6 MR. BROMBERG: Non-Bialy cases. We  
7 appreciate the fact that also there are parties  
8 who are not in Bialy and Smith who may be in the  
9 Middlesex County cases who are not represented  
10 here today. Who I believe may have standing at  
11 some point in the future to insist upon  
12 questioning. As to the other people I'm not  
13 going to take a position at this time. I think  
14 the record will ultimately have to speak for  
15 itself. If anyone can ever decipher it, and know  
16 what it says. But be that as it may, the witness  
17 is certainly not going to be produced before the  
18 Bialy trial commences and that may make a lot of  
19 things moot as to some people.

20 MS. TONELLI: For the record, not Mr.  
21 Sfiscko's deposition, the deposition of Fred  
22 Henry was deferred with the intention that it  
23 would be scheduled at some later date. I've  
24 spoken to Mr. LaSalla, and asked him if he had  
25 spoken to anyone from the Budd Lerner firm in

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1 order to schedule that deposition. He said he  
2 had not. One of the attorneys from Budd Lerner  
3 represented it was a bad week for Mr. Henry next  
4 week and he might not be able to be produced next  
5 week. He said he will get in touch with you at  
6 the beginning of the week in order to try to  
7 arrange for an additional day to depose him.

8 MR. BROMBERG: I believe we will  
9 discuss with Mr. LaSalla at the end of next week  
10 the few remaining dates between now and April 7th  
11 and depositions will be schedule on those dates  
12 and circulated to the parties.

13 MR. MC CARTHY: To my knowledge a  
14 few topics was brought up in this deposition late  
15 in the afternoon after four o'clock. It opened  
16 up some new areas that I think I would have liked  
17 to explore a little deeper. But I understand  
18 that because Mr. Sfiscko has been here for a  
19 fourth day and according to Judge Sarokin's order  
20 this would be the last day he would have to  
21 appear or at least by agreement with Mr. LaSalla  
22 and the defense group, I just reserve the right  
23 to be able to bring back Mr. Sfiscko at some  
24 other time by whatever means are available.

25 ( Whereupon, depositon is adjourned

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1 at 4:40 P.M.)

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## C E R T I F I C A T E

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I, DEBORAH A. BEVERE, a Notary Public and  
Certified Shorthand Reporter of the State of New  
Jersey, do hereby certify that prior to the  
commencement of the examination, NICHOLAS SFISCKO,  
was duly sworn by me to testify the truth, the  
whole truth and nothing but the truth.

9

10

11

12

13

I DO FURTHER CERTIFY that the foregoing is  
a true and accurate transcript of the testimony  
as taken stenographically by and before me at the  
time, place and on the date hereinbefore set  
forth, to the best of my ability.

14

15

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19

I DO FURTHER CERTIFY that I am neither a  
relative nor employee nor attorney nor counsel of  
any of the parties to this action, and that I am  
neither a relative nor employee of such attorney  
or counsel, and that I am not financially  
interested in the action.

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Deborah A. Bevere C.S.R.