

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SIMON DeWARD,
Plaintiff,
vs.

No. C 298717

JOHNS-MANVILLE, et al.,
Defendants.

MODESTO GOMEZ,
Plaintiff,
vs.

No. C 310916

JOHNS-MANVILLE, et al.,
Defendants.

CARLOS M. GONZALES,
Plaintiff,
vs.

No. C 310917

JOHNS-MANVILLE, et al.,
Defendants.

GABRIEL VALDES,
Plaintiff,
vs.

No. C 310915

JOHNS-MANVILLE, et al.,
Defendants.

FRANCISCO O. VILA,
Plaintiff,
vs.

No. C 310918

JOHNS-MANVILLE, et al.,
Defendants.

DEPOSITION OF JOHN L. MYERS

Reported by:

Jennie Babich, CSR #3029
Notary Public

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DEPOSITION

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Deposition of JOHN L. MYERS
taken on behalf of Plaintiffs,
at 333 South Grand Avenue,
Los Angeles, California 90017,
commencing at 1:45 P.M.,
Thursday, August 30, 1984,
pursuant to Notice.

APPEARANCES OF COUNSEL:

FOR ALL PLAINTIFFS:

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1308 West 8th Street
3rd Floor
Los Angeles, California 90017

FOR DEFENDANT UNION CARBIDE CORPORATION:

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3356 Barham Boulevard
Los Angeles, California 90068

I N D E XTHURSDAY, AUGUST 30, 1984:WITNESSEXAMINATION

JOHN L. MYERS

(By Mr. Roseman) 3

(By Mr. Castaldi) 74

PLAINTIFFS' EXHIBITS

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENTIFIED</u>
1	A multi-page document entitled "'Calidria' Asbestos SG-130 and SG-210 for tape joint compounds"	23
2	A multi-page document entitled "Stipulation and Protective Order"	74
2-A	A multi-page document entitled "Notice to Produce"	77

1 MR. IVIE: Before we begin the deposition, I
2 would like to note for the record that Union Carbide
3 has produced certain documents at the deposition
4 consisting of a stack of approximately six or seven
5 inches and exemplar SG-130 bag pursuant to the terms
6 of a stipulation and protective order that has just
7 been executed by Mr. Roseman and Ms. Grimes of our
8 office, and that following the deposition session,
9 we expect to mark each of the documents produced
10 with an appropriate stamp, indicating that they were
11 produced pursuant to protective order and at that
12 time we will make duplicates of the documents and
13 supply them to any counsel at the deposition who
14 has subscribed to the protective order.

15 MR. ROSEMAN: I think that is correct with
16 respect to my office and myself, in any event.

17 Please swear in the witness.

18
19 JOHN L. MYERS,
20 having been duly sworn, testified as follows:

21
22 EXAMINATION

23 BY MR. ROSEMAN:

24 Q Mr. Myers, would you please tell us
25 your full name?

26 A John L. Myers.

27 Q What is your business or occupation,
28 please?

1 A I am a chemical engineer.

2 Q And by whom are you employed?

3 A Calidria Corporation.

4 Q And at what address, please?

5 A Post Office Box K, King City, California.

6 Q Is there a street address?

7 A No.

8 Q Do you have an address that is permanent
9 where you can be located in the event, for example,
10 that you have to be subpoenaed in the trial for
11 this matter?

12 A At that address. That is my company
13 address.

14 Q But I am sure you understand that no
15 one can serve a Post Office Box and have that
16 effective service.

17 So can you tell us how one might
18 contact you personally if it becomes necessary to
19 do so?

20 A At a home address?

21 Q Yes. Tell us.

22 A 102 River Drive, King City, California.

23 Q Thank you.

24 MR. IVIE: We would, of course, ask that there
25 be no direct contact with Mr. Myers respecting this
26 matter, and if, indeed, his appearance is requested
27 at trial, Mr. Roseman should contact our office
28 first and there would probably be no need for a

1 subpoena.

2 MR. ROSEMAN: I assume that would be the case.
3 I would send out the usual notice, but it was just
4 kind of a safety measure that I made that inquiry
5 for.

6 Q Mr. Myers, I am sure you have had your
7 deposition taken before from what I understand of my
8 research; is that correct?

9 A Yes.

10 Q And so you know that the oath that has
11 been given to you is the same oath that you would
12 take if you were testifying in court and has the same
13 significance and the same rules apply. Do you
14 understand that?

15 A Yes.

16 Q After the deposition has been completed,
17 everything that has been said here today will be put
18 into a transcript form by the court reporter.

19 Your counsel will be given the original
20 of that deposition for you to review and sign
21 probably under the penalty of perjury.

22 In the event that you make any changes
23 in the transcript, at the time of trial any of the
24 parties to this case have the right to call those
25 changes to the attention of the court and the jury.
26 Do you understand that?

27 A Yes.

28 Q Likewise, in any event this matter

1 proceeds to trial and you are called as a witness
2 and your testimony at the trial is different in any
3 respect than it is here today, that inconsistency
4 can also be brought to the attention of the court
5 and jury. Do you understand that?

6 A Yes.

7 Q In the deposition today, I probably will
8 be asking you questions about events, perhaps dates
9 and circumstances that have occurred in the past,
10 possibly the past 10 to 15 years, and we would, of
11 course, prefer you not to guess at any answers.

12 If you do not have that information
13 ready in your mind, please tell us that.

14 On the other hand, when it comes to
15 questions such as dates, times and even occurrences,
16 if you can, give a reasonable approximation.

17 We are entitled to that. We are entitled
18 to your best estimate. Do you understand that?

19 A Yes.

20 Q For how long have you been employed by
21 Calidria Corporation?

22 A Since April 2nd, 1984.

23 Q Is Calidria a new corporate entity?

24 A Yes.

25 Q When did it come into being?

26 A On April 2nd, 1984.

27 Q What is the business of Calidria?

28 A Mining, milling and marketing *as of JLM*

1 asbestos fiber.

2 Q Does the mining and milling take place
3 in the same approximate location?

4 A Approximately, yes.

5 Q Where is that?

6 A Near King City, California.

7 Q Before April 2, 1984, who was your
8 employer?

9 A Union Carbide Corporation.

10 Q For what period of time were you employed
11 by Union Carbide?

12 A For 33 years.

13 Q Did Union Carbide operate the mine and
14 milling facilities at Calidria

15 A Yes.

16 Q What is your position with Calidria?

17 A I am Product and Production Manager.

18 Q Can you tell us briefly what your duties
19 or function is?

20 A My responsibility is the management of
21 the operation of the mining and milling operation.

22 Q Would it be correct to say that you are,
23 in effect, the number one man in regard to the mining
24 and milling operations?

25 A Yes.

26 Q For how long have you held this position?

27 A 1981.

28 Q When you were employed by Union Carbide

1 in this capacity, what was your title?

2 A The same.

3 Q Before 1981, what was your title?

4 A Marketing Manager, Asbestos.

5 Q For what period of time were you the
6 Marketing Manager?

7 A From 1970 to 1981.

8 Q Before that, what did you do? What was
9 your title, we should say?

10 A I was Technical Superintendent.

11 Q I gather from 1970 to 1981 you worked
12 at the same location?

13 A No.

14 Q Tell us about that, then, please. Where
15 did you work from 1970 to 1981?

16 A In Niagara Falls, New York.

17 Q I see. What type of facility did Union
18 Carbide have in Niagara Falls at that time?

19 A What do you mean?

20 Q Was there another mining operation there
21 or was it a plant of another type or office structure?

22 A It was primarily an office structure and
23 a plant of another type.

24 Q Will you tell us please what type of
25 plant it was?

26 A It included research and development
27 facilities and some metal operations with which I am
28 not familiar.

1 Q Now, is Union Carbide what might be
2 termed a diversified corporation? Did it engage in
3 different businesses?

4 A Yes.

5 Q Can you tell us with respect to your
6 title of being Marketing Manager during the period
7 of 1970 to 1981 what, in general, your function was?

8 A I was responsible for the sales of --
9 for the marketing of asbestos.

10 Q During the period of 1970 to 1981, did
11 Union Carbide mine asbestos at any other location
12 other than King City?

13 A No.

14 Q Now, before 1970, what did you do?

15 A I was Technical Superintendent.

16 Q Still at Niagara Falls?

17 A At King City.

18 Q During what period were you Technical
19 Superintendent?

20 A From 1967 to 1970.

21 Q And as Technical Superintendent, what
22 were your duties?

23 A I was responsible for the laboratory
24 operation, quality control.

25 Q Are you a graduate chemist?

26 A No.

27 Q Do you have any degrees?

28 A Chemical engineering.

1 Q Can you tell us where you received your
2 degree?

3 A Purdue University.

4 Q In what year?

5 A 1951.

6 Q That was a very good year.

7 A Good.

8 Q Now, it takes us back to 1967.

9 Can you please tell us what your title
10 was before that date with Union Carbide?

11 A Research Engineer.

12 Q During what period of time did you have
13 that title?

14 A 1966 to 1967.

15 Q Where was your employment at that time?

16 A Niagara Falls.

17 Q Did your research pertain to any
18 particular entity or item?

19 A Yes.

20 Q Tell us what that involved?

21 A It involved asbestos applications.

22 Q Before 1966, what did you do or what
23 was your title or both?

24 A I do not remember the title. I was
25 with our Nuclear Division in Paducah, Kentucky.

26 Q Had you done any research in the field
27 of asbestos before the year 1966?

28 A No.

1 Q Had you performed any function on
2 behalf of Union Carbide that had anything to do with
3 asbestos before 1966?

4 A No.

5 Q Outside of your employment in relationship
6 with Union Carbide, before 1966 did you involve your-
7 self in any way with asbestos research?

8 A No.

9 Q Do you know when Union Carbide obtained
10 any ownership interest in the mine at King City?

11 A Not -- I do not know a year or a date,
12 no.

13 Q Would 1963 be a fair approximation, to
14 your knowledge?

15 A Yes.

16 Q Do you know how long the mine at King
17 City was in existence before Union Carbide took
18 ownership interest in it?

19 A What do you mean by mine?

20 Q Was there a mine at the same location
21 operated or owned by another entity or another person
22 before Union Carbide began to do mining there?

23 A No.

24 Q In effect, when Union Carbide went into
25 the mining of asbestos, it essentially started a
26 brand new operation?

27 A Yes.

28 Q Is that the same with reference to the

1 mill? Would your answer be same in reference to the
2 mill?

3 A Yes.

4 Q When you were assigned to do research
5 in the year 1966, can you tell us what the problem
6 or aim was to your research at that time? What pur-
7 pose did you have in mind?

8 MR. IVIE: Objection; mischaracterizing the
9 testimony. He may answer.

10 THE WITNESS: I am sorry.

11 MR. IVIE: I objected on the grounds that it
12 mischaracterized your prior answer, but you may
13 answer that question.

14 THE WITNESS: Would you repeat it, please?

15 MR. ROSEMAN: Q You indicated you did research
16 when you were in Niagara Falls in 1966; isn't that
17 correct?

18 A Yes.

19 Q And that research did involve the field
20 of asbestos in some way?

21 A Yes.

22 Q Can you tell us what the purpose and
23 objective of the research was?

24 A Yes. As I stated before, it involved
25 the development of applications for asbestos. That
26 may not be classified as research. My title was
27 Research Engineer.

28 Q Research Engineer. You mean by the

1 development of applications of asbestos how one
2 could use the product, what use could be made of the
3 product?

4 A Yes.

5 Q From whom did you receive this
6 assignment?

7 A I do not recall a person's name.

8 Q When you participated in this development
9 in 1966 and 1967, did you work by yourself as opposed
10 to having a staff?

11 A No.

12 Q Can you tell us what staff you had, then,
13 please?

14 A As I recall, I had a technician.

15 Q Did you at that time do any research that
16 caused you to delve into the literature on the subject
17 of asbestos?

18 A No.

19 Q Can you tell us essentially what you did
20 to further the project?

21 A Do you mean physically?

22 Q Yes.

23 A We tested asbestos mixtures with water
24 to determine the thickening ability of the asbestos.

25 Q Were you trying to find out something
26 about the industrial uses of asbestos?

27 A Yes.

28 Q Did you at the end of that period,

1 namely 1966 to 1967, come to some conclusions or
2 recommendations about how asbestos may be used?

3 A As I recall, that was a -- it was a
4 very short period of time.

5 I would say the conclusion when I left
6 was that, yes, the application did appear promising.

7 Q In what fields did it appear promising?

8 A In drilling fluids.

9 Q Did you come to any decisions or findings
10 having to do with floor tile?

11 A No.

12 Q Did your work at that time primarily
13 concern how asbestos was to be used in drilling
14 fluids as opposed to any other products?

15 A Yes.

16 Q In 1966, did Union Carbide have a
17 Medical Department?

18 A In what location or what do you mean by --

19 Q Was there such a thing as a corporate
20 Medical Department?

21 A Yes.

22 Q Where was it located?

23 A In New York City.

24 Q Was there such a thing, such an office
25 as a corporate Safety Department?

26 A I do not know.

27 Q Did your development work in 1966 and
28 1967 in any manner involve your Medical Department?

1 A No.

2 Q During that period of time, did you
3 communicate with anyone in the medical profession
4 about your project?

5 A No.

6 Q Did you consult any medical books with
7 reference to the project?

8 A No.

9 Q In 1966, did you know that there was a
10 condition described as asbestosis?

11 A Not that I recall.

12 Q When, to the best of your knowledge,
13 did you first learn anything about asbestosis?

14 A I do not know.

15 Q When you were assigned to the staff in
16 1966, were you provided with any literature that dealt
17 with the subject of hazards or risks involved in being
18 exposed to asbestos dust?

19 A Not that I remember.

20 Q When you were in the development of --
21 doing the development work in 1966 to 1967, did you
22 communicate with any corporate entity or any parties
23 with reference to that project that were not working
24 for Union Carbide?

25 A Would you clarify that?

26 Q Yes. During the year 1966 to 1967
27 when you were involved in a development project
28 with reference to asbestos, did you in any manner

1 involve in that project or was there anyone else
2 involved in that project who was not employed by
3 Union Carbide?

4 A No.

5 Q Do you have any recall on the occasion
6 when it was announced that Union Carbide was going
7 to go into the asbestos mining business?

8 A No.

9 Q Do you know anyone associated with Union
10 Carbide who participated in the decision to enter into
11 the asbestos mining business?

12 A No.

13 Q By the way, do you know how many
14 employees there are in the Union Carbide organization?

15 A No.

16 Q Do you have an estimate?

17 A U.S. employees or --

18 Q Yes.

19 A I guess it would be 40,000.

20 Q Where is the current headquarters for
21 Union Carbide?

22 A In Danbury, Connecticut.

23 Q For how long have the headquarters been
24 in Danbury?

25 A I do not recall exactly.

26 Q Were the headquarters in Danbury in
27 1966?

28 A No.

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1 Q Where were they at that time?

2 A New York City.

3 Q I see. During the period of 1967 to
4 1970 when you were Technical Superintendent or
5 Supervisor at King City, who was your supervisor?

6 A John Riddle.

7 Q Is Mr. Riddle currently employed with
8 Union Carbide or Calidria?

9 A No.

10 Q Do you know where he is located?

11 A No, I do not.

12 Q What type of a lab was there at King
13 City when you had this position of Technical
14 Superintendent?

15 A Quality control.

16 Q Can you define for us what was done in
17 quality control; what the purpose of quality control
18 was?

19 A To determine the quality of the product
20 in process and in final form.

21 Q By the product, you mean the raw
22 asbestos that was taken from the earth?

23 A Yes.

24 Q And what was the objective with respect
25 to processing the asbestos?

26 A The objective of the processing?

27 Q Yes. Evidently, the asbestos was taken
28 from the earth and went through some process before

1 it was packaged and shipped or else shipped in bulk;
2 is that correct?

3 A Yes.

4 Q What was the purpose of processing it?
5 What was the purpose of changing it in any way from
6 the raw state that it had when it was removed from
7 the earth? What did you hope to accomplish?

8 A To remove the fibers from the ore to put
9 them into a usable form.

10 Q And then what would your job as Technical
11 Superintendent have to do with putting the fibers into
12 a usable form?

13 A To determine, based on the quality
14 control tests, whether or not the process was working
15 correctly and that the final product met our
16 requirements.

17 Q Can you tell us, to the best of your
18 ability, what those requirements were?

19 A That is very difficult with regard to
20 asbestos.

21 The material, the final product is
22 required to pass certain screen tests and purity
23 tests.

24 Q With respect to the purity, do you mean
25 by that that you had to remove some substances from
26 the ore that was mined?

27 A Yes.

28 Q Was there anything else involved in

1 removing foreign substances in having the result of
2 the final product of asbestos?

3 A Removing foreign substances and
4 separating fiber from bundles of fibers as it occurs
5 in the raw ore.

6 Q Was there anything added to the
7 ingredients that were obtained from the earth?

8 A Water.

9 Q Anything else?

10 A To produce the products involved in the
11 companies we are talking about?

12 Q To produce the final product, yes.

13 A No.

14 (A short recess was taken.)

15 MR. ROSEMAN: Q I do not recall the last
16 question, but in any event, I know we were asking
17 you about the period of 1967 to 1970 when you were
18 Technical Superintendent in the lab and quality
19 control operation.

20 When you were assigned to that parti-
21 cular position, were you given any written information
22 having to do with the hazards or risks involved in
23 asbestos dust?

24 A Not that I recall.

25 Q Did you, up to that point in time, do
26 any research on your own on that subject?

27 A No.

28 Q Up to that point in time, had you

1 attended any meetings of a company, namely, Union
2 Carbide, where the subject of hazards or risks was
3 discussed, hazards and risks of asbestos?

4 A Not that I recall.

5 Q When you worked as the Technical
6 Superintendent at King City, was there a Safety
7 Committee?

8 A I really do not know for sure.

9 Q Up to the year 1970 when you were
10 employed at King City, did you have anything to do
11 with designating information on the labels that went
12 out with the product?

13 A No.

14 Q Did you engage in any procedure where
15 you sent memorandums or instructions in writing
16 having to do with the laboratory operation?

17 A Would you clarify that?

18 Q When you were the Technical
19 Superintendent during the period of 1967 to 1970,
20 did you participate in writing memorandum or other
21 documents pertaining to your work there in the
22 laboratory?

23 A Yes.

24 Q And to whom were these directed?

25 A To various people.

26 Q When you were at King City during the
27 period of 1967 to 1970, to your knowledge, was there
28 any individual or department at Union Carbide

1 assumes facts not testified to.

2 MR. ROSEMAN: It probably is a little con-
3 fusing.

4 Q During the period -- I will withdraw
5 it -- 1967 to 1970, to your knowledge, could one
6 contact the King City operation and order asbestos
7 material directly?

8 A I do not remember. I do not think so,
9 or let me clarify that. What do you mean by someone?

10 Q Well, any user, any plant, for example?

11 A I do not think so.

12 Q To your best recollection, what procedure
13 was utilized in ordering asbestos from King City?

14 A The potential customer would contact a
15 salesperson.

16 Q Were there sales people on the staff of
17 the King City operation?

18 A No.

19 Q Where were they located?

20 A Various cities in the United States.

21 Q Were the orders for delivery of
22 asbestos placed by the individual salesmen from
23 their various locations in the United States as
24 opposed to coming from a central location, such as
25 headquarters?

26 A Yes.

27 Q And any salesman could, then, contact
28 an individual or an office at King City and direct

1 that a certain amount of asbestos or a certain
2 number of bags of asbestos be shipped to a particular
3 location?

4 A Yes.

5 Q During the period of 1967 to 1970, did
6 you have any knowledge of warnings that were given
7 to customers who purchase asbestos from King City
8 about risks or hazards involved in using asbestos?

9 A Not that I recall, except that beginning in 1968
10 there was a warning on every bag of asbestos Union Carbide shipped to U.S. Customers.
MR. ROSEMAN: Please mark this. JLM

11 (The document referred to was
12 marked by the Notary Public as
13 Plaintiffs' Exhibit No. 1 for
14 Identification, and is attached hereto.)

15 MR. ROSEMAN: Q Showing you what has been
16 marked as Plaintiffs' 1 for Identification in this
17 deposition and ask you to please, if you have seen
18 this document in the past or a copy of it or a
19 facsimile of it?

20 A Yes.

21 Q Now, the first page of this document
22 which has six pages, the lower right-hand corner has
23 the date of October 1968.

24 Can you tell us when you first became
25 aware of a document of this type?

26 MR. IVIE: I object as ambiguous.

27 MR. ROSEMAN: Q First became aware of this
28 document?

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1 A No.

2 Q Do you have a recall of seeing it during
3 the period that you were Technical Superintendent?

4 A No.

5 Q During the period that you were Technical
6 Superintendent, did you discuss the subject of TLV
7 with anyone?

8 A Not that I recall.

9 Q During the period that you were employed
10 as a Technical Superintendent, 1967 to 1970, did you
11 have annual physical examinations?

12 A I do not know.

13 Q Do you know whether it was the policy
14 of the company to require its employees to have
15 periodic physical examinations during the period of
16 1967 to 1970?

17 A I cannot recall the policy.

18 Q I think before the break I was asking
19 you about a Safety Committee at King City during the
20 period of 1967 to 1970. Can you tell us whether
21 there was such, to your knowledge?

22 A You did ask and I did answer that I
23 could not recall.

24 Q Okay, I am sorry.

25 Can you recall during this period of
26 1967 to 1970 being given instructions by anyone
27 employed or retained by Union Carbide dealing with
28 the subject of health hazards as a result of being

1 exposed to asbestos dust?

2 A No.

3 Q Now, with reference to 'Plaintiffs' Exhibit 1 that you have before you, now that has a date of October 1968 on it.

4 Do you know, with reference to any
5 subsequent knowledge that might have come to you,
6 for what period of time this particular publication
7 was issued by Union Carbide and distributed?

8 A You will have to repeat that.

9 Q Yes. This particular document which is
10 in front of you, I think you have told us that you
11 recognize it; is that correct?

12 A Yes.

13 Q To your best recollection, where did you
14 first see it?

15 A I do not remember.

16 Q Did you, in any of your assignments
17 subsequent to 1970, have to communicate with anyone
18 from Union Carbide about the contents of this
19 document?

20 A What do you mean "communicate with"?

21 Q Did anyone ask you your opinion about
22 the contents of the document?

23 A Not that I recall.

24 Q Did you give your opinion to anyone
25 concerning the document?

26 A In what time frame?

1 Q After 1970?

2 A No.

3 Q Then, did you have any input with
4 reference to the document or a modification of this
5 document?

6 A No.

7 Q Is this a document that was distributed
8 by Union Carbide to its asbestos customers?

9 A Yes.

10 Q To the best of your knowledge, is this
11 document in its current form still distributed to
12 asbestos customers of Calidria?

13 A No.

14 Q When was the last time a document of
15 this type was distributed to Calidria customers?

16 MR. IVIE: I object as being vague and
17 ambiguous.

18 MR. ROSEMAN: Q All right. When was the last
19 time, to your knowledge, that this particular
20 document or a copy of it was distributed to a
21 Calidria customer?

22 A I do not know.

23 Q Are you aware of any modifications
24 that were made to that particular document in the
25 course of years beginning with 1968?

26 A No.

27 Q Do you know who was responsible for
28 offering this particular document?

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1 A No.

2 Q Do you know what department was
3 responsible for formulating it and printing it up?

4 A No.

5 Q Did you, prior to this particular
6 occasion, discuss the contents of this document
7 which is Plaintiffs' Exhibit 1 with anyone?

8 A Would you repeat that, please?

9 Q Yes. Prior to this occasion, have you
10 discussed the contents of this particular document
11 with anyone?

12 A Yes.

13 Q When is the last time you discussed it
14 with anyone?

15 A I cannot recall an exact date.

16 Q Can you recall the year that you last
17 discussed it with anyone?

18 A Within the last year.

19 Q And with whom was it that you discussed
20 it?

21 A With counsel in Oregon.

22 Q I see. Was this particular document
23 utilized in a lawsuit in Oregon?

24 A Yes.

25 Q Did you this particular document
26 to anyone in connection with the litigation in Oregon?

27 A No.

28 Q When you say you discussed this document

1 with counsel, do you mean with your own attorney or
2 with an attorney representing someone other than
3 Union Carbide?

4 A Which question -- or what is the
5 question?

6 Q The question is, you indicated a moment
7 ago that the last time you discussed the contents of
8 this document was when you spoke with counsel within
9 the last year on the matter having to do with Oregon
10 litigation.

11 The question asked is whether it was
12 your own attorney or the attorney for another party?

13 A Yes.

14 Q The attorney for another party?

15 A No.

16 Q Your own attorney?

17 A Yes.

18 Q Now, did your recall with reference to
19 your last discussion about this document refresh
20 your memory as to whether this particular document
21 was being sent to customers as late as one year ago?

22 A No.

23 Q Is there anyone within the corporate
24 structure of Union Carbide or Calidria that you
25 think would be in a position to know over what period
26 of time this document was sent to Union Carbide
27 customers?

28 A I do not know.

UCAREF00012282

1 Q Now, to your knowledge, at any time was
2 information about the health hazards of asbestos
3 mailed to the King City operation or otherwise
4 delivered from the King City operation to customers?

5 A Not to my knowledge, *except that starting in 1968*
there was a warning on every bag of asbestos Union Carbide shipped to

6 Q In other words, if documents of this *U.S. customers,*
7 type, then, were sent to customers, from where would *JLM*
8 they originate?

9 MR. IVIE: Objection; vague and ambiguous.

10 MR. ROSEMAN: Q Where would they be sent to
11 the customers? What office or location would be
12 responsible for sending them out to customers?

13 A The sales offices.

14 Q And up to this point in time, has there
15 been a sales office at the King City location?

16 A No.

17 Q And is it the case that the King City
18 location did not, in any manner, participate in
19 sending warnings or cautionary information about the
20 use of asbestos to the customers of Union Carbide?

21 A Not to my knowledge, *except that starting in 1968*
there was a warning on every bag of asbestos Union Carbide shipped to U.S.

22 Q Well, you were, of course, the chief *customers.*
23 operating officer at King City for a time. *JLM*

24 You are now, but you were also -- you
25 also held that position on behalf of Union Carbide.

26 A No.

27 MR. IVIE: I object as mischaracterizing his
28 testimony.

1 MR. ROSEMAN: Q Is that right?

2 A (Witness shakes his head.)

3 Q Well, I think I used the term of "never
4 one man," and I think you agreed that you were a
5 chief person, especially, of course, with respect to
6 production at the King City operation; is that
7 correct?

8 A Would you repeat that?

9 Q You are the chief supervisor of
10 operations at King City?

11 A No.

12 Q I see. Can you tell us who is?

13 A I can give you my title. I am Product
14 and Production Manager.

15 Q To whom do you answer or to whom do you
16 report?

17 A Mr. Thurber.

18 Q And where is Mr. Thurber's office?

19 A Danbury, Connecticut.

20 Q I see. How many people are employed at
21 King City, including the mine and the mill?

22 A Approximately 60.

23 Q Do you at King City receive shipping orders
24 from the Danbury office?

25 A No.

26 Q When you make a shipment of asbestos
27 from King City, do you normally transmit that
28 information to the Danbury office or any other office?

1 A Yes.

2 Q To whom do you advise of such shipments?

3 A The sales office.

4 Q The sales office that originated the
5 order?

6 A Yes.

7 Q Any other office?

8 A The customer.

9 Q Anyone else?

10 A No.

11 Q When you ship merchandise from King
12 City, do you send the customer anything else than
13 the product, itself; namely, asbestos, and a bill of
14 lading or document verifying the shipment?

15 A No.

16 Q And has this been the procedure that
17 has been followed during the period of 1970 to 1981,
18 to your knowledge?

19 A Which procedure?

20 Q When merchandise is shipped to a
21 customer, that no other information is sent to the
22 customer from King City, such as pamphlets of the
23 type before you, and that the only thing sent to the
24 customer is a bill of lading or sales slip confirming
25 the sale?

26 MR. IVIE: Objection; compound. You may
27 answer.

28 MR. ROSEMAN: Q So far as you know, has that

1 been the procedure?

2 A To the best of my knowledge.

3 Q Since you have been employed by Union
4 Carbide and Calidria, have you been aware of any
5 policy or arrangement that involves the sending of
6 written information to Union Carbide customers having
7 to do with hazards or risks in utilizing asbestos?

8 A Yes.

9 Q Can you tell us what the policy or
10 arrangement is?

11 A Yes.

12 Q Please do so.

13 A The Sales Department periodically sends
14 mailings to customers of record which includes
15 information regarding the health effects of asbestos
16 and safe work practices regarding asbestos.

17 Q When you say the Sales Department, are
18 you referring to a central Sales Department or are
19 you referring to these individual sales offices that
20 we spoke about earlier?

21 A The central sales office.

22 Q Is that in Danbury?

23 A No.

24 Q Pardon?

25 A No.

26 Q Where is the central sales office now?

27 A Pittsburgh, Pennsylvania.

28 Q For how long has it been in Pittsburgh?

1 A Two or three years.

2 Q Before then, where was the central sales
3 office?

4 A Niagara Falls, New York.

5 Q For what period of time was it in
6 Niagara Falls?

7 A 1970 to 1981.

8 Q Before that, where was the sales office?

9 A You mean the central sales office?

10 Q Yes.

11 A In New York City.

12 Q Now, of course, in 1970 to 1981, you
13 indicated that you were Marketing Manager; is that
14 correct?

15 A Right, from mid-1970 to 1981.

16 Q And as Marketing Manager, can you tell
17 us please what you did?

18 A I managed sales personnel who sold
19 asbestos.

20 Q How many sales personnel were under your
21 jurisdiction?

22 A I do not recall the early years. It
23 would probably vary from three to seven.

24 Q Individuals?

25 A Yes.

26 Q How many sales offices were there?

27 A Again, that would vary from probably
28 the same number, three to seven.

1 Q Did you personally handle the GAF
2 account?

3 A Yes.

4 Q Can you tell us what the usual procedure
5 was with respect to GAF ordering asbestos?

6 A Yes.

7 Q Please do.

8 A Their purchasing agent would call myself
9 or one of our salesmen and place an order.

10 Q And when you say their purchasing agent,
11 do you have in mind a single individual or a single
12 office of GAF?

13 A No.

14 Q I see. In other words, could any
15 purchasing agent from any of the GAF plants place
16 a call to you or place an order with you?

17 A Yes.

18 Q And after the order was placed, would
19 you communicate this information to King City?

20 A Yes, if by you you mean the person to
21 whom the order was given.

22 Q Yes. Now, to your knowledge, could the
23 purchasing agent at GAF telephone or communicate with
24 King City directly and order asbestos?

25 A I think, yes, on some occasions that
26 would be done; especially if a blanket purchase order
27 had been issued. This would be affecting a release
28 on a blanket order.

UCAREF00012288

1 Q Are you familiar with the procedure
2 of the purchasing agent in Long Beach, California,
3 with respect to ordering asbestos to a GAF plant
4 there?

5 A What do you mean by his procedure?

6 Q I mean, would the purchasing agent there
7 contact your sales office in Niagara Falls as
8 opposed, for example, to just calling up to King
9 City or communicating with them directly and
10 ordering the product?

11 A As I recall, he would do both or could
12 do either.

13 Q Do you recall the name or names of any
14 purchasing agents you dealt with from GAF in Long
15 Beach?

16 A Yes.

17 Q What names do you recall?

18 A I think this is correct. It could be
19 verified by GAF records. I think there was a name
20 of Sid Brown.

21 Q Did you know Mr. Brown personally?

22 A By personally, what do you mean?

23 Q Did you know him other than to communi-
24 cate with him about sales and delivering orders?

25 A No.

26 Q Did you meet him face to face?

27 A Yes.

28 Q At Long Beach?

UCAREF00012289

1 A Yes.

2 Q How many times did you visit the Long
3 Beach plant?

4 A I cannot recall.

5 Q As Marketing Manager, did you give
6 direction to anyone on your staff to mail documents,
7 such as Plaintiffs' Exhibit 1, to customers?

8 MR. IVIE: I object as being vague and
9 ambiguous. He may answer.

10 THE WITNESS: Would you repeat it, please?

11 MR. ROSEMAN: Q Yes. As Marketing Manager,
12 did you give instructions to anyone on your staff
13 to send a document such as Plaintiffs' Exhibit 1
14 to Union Carbide customers?

15 MR. IVIE: Same objection. He may answer.

16 THE WITNESS: Yes.

17 MR. ROSEMAN: Q When did you first get such
18 instructions?

19 A I cannot recall a specific date.

20 Q Would it be fair to say that you gave
21 such instructions during the entire period that you
22 were Marketing Manager?

23 A Yes.

24 Q Did you personally receive direction
25 with respect to requiring the sending of such
26 documents?

27 A You will have to repeat that.

28 Q Why is it that you did instruct your

1 staff to send communications of this type to your
2 customers?

3 A Why did we send --

4 Q Yes.

5 A To describe the asbestos products we
6 had for sale.

7 Q Well, this particular document has
8 reference to the toxicological properties of
9 asbestos, beginning at Page 3 and over to Page 5
10 and/or Page 3 and 4.

11 Now, did you receive instructions from
12 anyone that was superior to you to inform a customer
13 about the toxicological properties of asbestos?

14 A I do not recall.

15 Q When you gave directions for information
16 about asbestos to be sent to customers, did you
17 instruct your staff what type of information they
18 should send?

19 A Yes.

20 Q What did you tell them?

21 A As I recall, I would tell them to send
22 appropriate literature for the customer or potential
23 customer.

24 Q Well, when you say appropriate literature,
25 what did you have reference to?

26 A Appropriate to the application to which
27 the asbestos would be put.

28 Q I see. When you say appropriate, does

1 that involve the concept of informing the customer
2 about any health hazards associated with the use of
3 the product?

4 A The information about health hazards
5 would apply to all customers.

6 Q Now, when you were the Marketing Manager,
7 do you know who was responsible for authoring the
8 information that you sent to the customers?

9 A Not by name.

10 Q Well, by source or department?

11 A Information was usually prepared by a
12 committee or a group of people familiar with the
13 application and the information required.

14 Q Would this group be identified in any
15 way by name or department?

16 A No. It would include several departments.

17 Q Is there any individual that was in
18 charge of this group?

19 A Okay, which group?

20 Q The group that was responsible for
21 formulating the information that was printed up and
22 sent to the customers.

23 A Our Promotion Department would prepare
24 the actual information, literature, yes.

25 Q Were you personally contacted at any
26 time about any matter having to do with the contents
27 of the literature?

28 A That would have to be put into a time

1 frame.

2 Q During 1970 to 1981?

3 A Yes.

4 Q Now, during the period that GAF ordered
5 asbestos from Union Carbide, were all of the payments
6 for the merchandise made from a single office of GAF?

7 A I do not recall.

8 Q Do you know whether written information
9 about health hazards of asbestos was mailed at any
10 time to the Long Beach office of GAF?

11 A Yes.

12 Q What do you recall about that?

13 A As I stated earlier, the Marketing
14 Department made periodic mailings of health
15 information concerning asbestos to all customers.

16 That would include GAF Long Beach.

17 Q I see. Do you have a record of such a
18 mailing?

19 A No, I do not.

20 Q Do you have a personal recall of
21 documents going to GAF in Long Beach?

22 A No.

23 Q Do you have a personal recall of
24 documents going to the main office of GAF dealing
25 with the subject of explaining the use of asbestos
26 and health hazards?

27 A Maybe I should^{ask} what you mean by personal
28 recall. *gpm*

1 Q Well, in your mind's eye, you can
2 reflect backwards and have -- think independently
3 and picture that certain documents were made to
4 various addresses or certain addresses, I should say?

5 A No, not certain addresses.

6 Q Did Union Carbide, to your knowledge,
7 send representatives to its customers for the purpose
8 of explaining health hazards involved in using
9 asbestos?

10 A Yes.

11 Q During what period of time?

12 A I cannot recall.

13 Q From where were these representatives
14 sent?

15 A From Niagara Falls and New York City.

16 Q Do you know of your own knowledge
17 whether --

18 A Let me correct that last one and just
19 say Niagara Falls. Strike New York City. I cannot
20 recall that for sure.

21 Q What is it that you recall about these
22 representatives?

23 You indicated that representatives would
24 go from Niagara Falls to various customers to explain
25 the health hazards associated with the use of
26 asbestos; correct?

27 A Yes.

28 Q And on what do you base your response

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1 in this regard?

2 A I would be the one to have requested
3 a person to travel to a customer and explain the
4 health hazards.

5 Q

I see.

6 A

Or I would be aware of it.

7 Q

8 I see. Can you tell us what the
9 customers' practice was with respect to sending
10 individuals to customers to explain health hazards?

11 A

What do you mean?

12 Q

13 In other words, did you do it on a
14 regular basis or did you do it as the occasion arose?
15 Did you do it when someone requested information?

16 A

Yes.

17 Q

Which of those?

18 A

When requested.

19 Q

20 I see. When requested, how would you
21 respond?

22 A

Normally by sending someone.

23 Q

24 Someone, and was there a special
25 department at Union Carbide at that time that
26 concerns itself with informing customers on health
27 hazards of asbestos?

28 A

No.

Q

29 Well, how would you determine who to
30 select?

31 A

32 It would be ^{based} on the people knowledgeable
33 about the health effects. *JLM*

1 Q How would you learn who was knowledgeable
2 in the corporate structure about hazards and risks
3 of asbestos?

4 A It was normally people involved with
5 the asbestos marketing group.

6 Q Normally that would be people in your
7 department?

8 A Yes.

9 Q Was there some type of educational
10 program or other means for people in your department
11 who obtained knowledge about the hazards of using
12 asbestos?

13 A There was no program.

14 Q How did individuals in your department
15 come to know about hazards of asbestos?

16 A By reading or listening to others.

17 Q Is there an individual basis as opposed
18 to a group orientation?

19 A Both.

20 Q Was there during the time that you were
21 Marketing Manager a program of any kind set up for
22 the purpose of informing employees, including
23 employees in the Marketing Department, about the
24 hazards of asbestos?

25 A Not that I remember.

26 Q Were there meetings held in which
27 instruction was received having to do with the
28 hazards of asbestos?

1 A What do you mean by instruction?

2 Q I mean where someone with special
3 knowledge in the area of the use of asbestos, such
4 as a physician or a chemist or another individual
5 who had done research on the subject, someone from
6 the government?

7 A Not that I recall.

8 Q Well, how did you personally know which
9 individual to select to send out of the Niagara Falls
10 office to a customer to inform them about asbestos?

11 A Most of the people on my staff, or I
12 should say all of the people on my staff were aware
13 of the hazards and would be able to explain this to
14 customers or to provide them with literature which
15 explained the hazards.

16 Q Where did they obtain the literature?

17 A Various sources.

18 Q Is any such literature -- was any such
19 literature transmitted to employees of Union Carbide
20 by Union Carbide?

21 A Yes.

22 Q During what period of time?

23 A I cannot recall.

24 Q Was such information transmitted as
25 far as you know, since you became Marketing Manager?

26 A Sorry. Would you repeat that?

27 Q With reference to the information
28 disseminated by Union Carbide to its employees, has

UCAREF00012297

1 that occurred, so far as you know, since you have
2 been Marketing Manager?

3 ~~know~~ A: You mean to all of Union Carbide
4 employees?

5 Q: Some Union Carbide employees that you managed?

6 I think you told me you would send people out from
7 your staff who had knowledge about hazards of
8 asbestos, and you also indicated that people on your
9 staff would receive information that was disseminated
10 or distributed by Union Carbide.

11 My question asked whether this
12 information to the Union Carbide employees insofar
13 as you know that were on your staff was transmitted
14 to them during the period that you were Marketing
15 Manager?

16 MR. IVIE: I object. It is vague, ambiguous
17 and unintelligible. He may answer.

18 THE WITNESS: I would like you to try to make
19 it more direct.

20 MR. ROSEMAN: Q All right. During what period
21 of time, if you know, was written information
22 transmitted to employees on your staff about the
23 hazards of asbestos?

24 A The early '70's.

25 Q With reference to the author of such
26 information, do you know who wrote it?

27 A Which information?

28 Q The information that was given to the

1 employees on your staff.

2 A Various authors.

3 Q Were some of the authors on the company
4 payroll?

5 A Yes.

6 MR. CASTALDI: Can we go off the record briefly?

7 (There was a brief recess taken.)

8 MR. ROSEMAN: Q May I ask you with reference
9 to this document which is Plaintiffs' 1, you indicated
10 a little earlier that this document, documents like
11 it, are provided the Sales Department by the
12 Promotional Department; is that correct?

13 A Yes.

14 Q Now, is the Promotional Department at
15 the headquarters' office?

16 A No.

17 Q Where are they located?

18 A In New York City.

19 Q Do you know their address?

20 A No, I do not.

21 Q Do you know whether they retain their
22 documents of this type, their promotional papers?

23 A Retain them as far as the file copy?

24 Q Yes.

25 A I do not know.

26 Q Did you, in the Sales Department, have
27 a particular name or denominate this document in any
28 certain way?

1 In other words, if you wanted this
2 document to be mailed out to one of the customers,
3 how would you designate it?

4 A Probably as information on asbestos
5 for tape joint compounds.

6 Q Were there other documents that might
7 be utilized; for example, in the floor tile industry?

8 A Yes.

9 Q Are you familiar with these documents
10 sufficiently to tell us how often there would be a
11 new printing of them?

12 A No.

13 Q To your knowledge, did anyone from
14 Union Carbide conduct dust studies or dust tests
15 of any kind at the customers?

16 A Yes.

17 Q When, to your knowledge, did they start
18 doing that?

19 A As I recall, 1971.

20 Q Did the people who conduct these dust
21 studies come under your supervision?

22 A Yes.

23 Q Did they belong to a special department?

24 A The Marketing Department, Marketing
25 Group.

26 Q Were they essentially salesmen, also,
27 in addition to individuals who knew how to conduct
28 the studies?

1 A Maybe you should define studies.

2 Q Dust counts.

3 A No.

4 Q Were there people in your group that
5 were trained to do dust counts?

6 A Yes.

7 Q Did you know how to do dust counts?

8 A No.

9 Q Now, were the people who were trained
10 to do dust counts also salesmen?

11 A No.

12 Q Were the people who were trained to do
13 dust counts in a special department that was limited
14 to that purpose?

15 A No.

16 Q What title or titles did they have?

17 A I cannot recall any exact titles.

18 Q What did they do for Union Carbide other
19 than take dust counts?

20 A Laboratory work.

21 Q What type of laboratory work?

22 A Quality control verification, work on
23 new -- or work on applications for asbestos, and the
24 development of new products for varieties of
25 asbestos -- I am sorry, not varieties of asbestos,
26 but new asbestos products that could be made by
27 Calidria.

28 Q How many individuals were there in the

1 Laboratory Department that participated in these
2 dust counts?

3 A Normally only one at a time.

4 Q Were you the person that would decide
5 whether they would be sent to any particular location
6 to do dust counting?

7 A Yes. Not necessarily me alone, but yes,
8 I would.

9 Q What are the factors that would go to
10 determine whether this individual should be sent to
11 one location or the other?

12 A Customer requests.

13 Q Would they, this person, be sent out to
14 do a dust count in any instance where he was not
15 requested by the customer?

16 A No.

17 Q Do you know whether there is any record
18 that would indicate the occasions that this individual
19 was sent out to do the dust counting?

20 A Would you repeat that one, please?

21 Q Can you tell us whether there is a record
22 anywhere that would indicate the occasions, the dates
23 or approximate dates this individual was sent out to
24 do dust counting?

25 A Yes.

26 Q And how would that record be denominated?
27 Do you know what the record would be called?

28 A No. Let us say air monitoring reports,

1 I suppose, if it had a name.

2 Q Where are they located? Do you know?

3 A In Niagara Falls. *They were recently sent to the*
4 *offices of Gibson, Dunn & Crutcher. Jfen*

5 Q Do you know whether any such individuals
6 have ever been sent to the Long Beach plant at GAF?

7 A No.

8 Q Do you know whether any such individual
9 was sent to the Kentile factory in Torrance?

10 A No.

11 Q Did you personally have anything to do
12 with taking orders from or making deliveries to the
13 Kentile factory in Torrance?

14 A I do not recall.

15 Q Did you ever visit the Kentile factory
16 in Torrance?

17 A Yes.

18 Q During what period or periods?

19 A I cannot recall.

20 Q Were you personally acquainted with
21 anyone at Kentile factory in Torrance?

22 A By personally?

23 Q Did you know any individuals there by
24 name to this date?

25 A No. I am sorry. Do you mean do I
26 remember any of the names at this time?

27 Q Yes.

28 A No, I do not.

Q Do you know whether anyone from Union

1 Carbide at any time visited the Kentile plant to do
2 dust counts?

3 A No, again.

4 Q I think I asked you with reference to
5 GAF. ever been sent to the Long Beach plant in 1968?

6 A I think you asked both.

7 Q Did I?

8 A Yes.

9 Q I might have. Now, you answered some
10 Interrogatories. At least your name was signed to
11 Interrogatories that the plaintiffs in the DeWard
12 case, I believe the Kentile case also, asked of
13 Union Carbide. Do you recall that?

14 A Yes.

15 Q And with reference to the Interrogatories
16 on the Simon DeWard case, it was indicated that there
17 were shipments made to the GAF plant in Long Beach in
18 1968 and then again commencing in 1971. Do you recall
19 on what information those Answers were based?

20 MS. GRIMES: May I request that you give
21 Mr. Myers the benefit of reviewing a copy of the
22 Interrogatory responses?

23 MR. ROSEMAN: Sure. I am glad I looked at that
24 because I was mistaken in the date that I told you
25 in the '60's.

26 Just for the record, in response to
27 Interrogatory No. 21 on Page 19, it is indicated
28 there that Union Carbide did ship to the GAF

1 Corporation in Long Beach in 1964 and then commencing
2 again in 1971 through 1978.

3 Q I am going to hand you these
4 Interrogatories and the response to see if they
5 refresh your memory.

6 A What was the question?

7 Q The question was, on what information
8 did you base your responses to that particular
9 question; namely, that shipments were made in 1964
10 and then commencing again in 1971?

11 A It would be based on retained copies
12 of invoices.

13 Q Do you or does your company currently
14 have a group of retained copies of invoices?

15 A Yes.

16 Q Where are they located?

17 A In King City, California.

18 Q Can you tell us whether they are
19 catalogued on a yearly basis, or if you want to
20 explain how they are catalogued, why, I will certainly
21 accept that as an answer.

22 A They are filed alphabetically.

23 Q By the customer?

24 A By customer name.

25 Q Are they demarcated further on a yearly
26 basis under the customer name?

27 A Yes.

28 Q Are you personally familiar with the

1 way these records are kept?

2 A Yes.

3 Q Now, can you tell us from your personal
4 knowledge of the way the records are kept whether it
5 does happen sometimes that invoices are not inserted
6 in the file?

7 A You would have to clarify that one.

8 Q Well, is it the case that sometimes an
9 invoice will not find its way to the proper file or
10 it might be lost --

11 A Not to my knowledge.

12 Q Or disposed of in another way? Can
13 you tell us the procedure that is used in making up
14 these files and in retaining them?

15 A Yes.

16 Q Tell us that.

17 A I think the current procedure is on a
18 quarterly basis to insert invoices for the prior
19 quarter into the filing system.

20 Q Have the invoiced files been in the
21 same location over a period of years?

22 A Yes.

23 Q For approximately how long?

24 A 21 years.

25 Q Who is the individual assigned to
26 compiling the invoices quarterly and inserting them
27 in the file?

28 A Not necessarily an individual. It

1 would be someone in the office, of the office
2 personnel.

3 Q In response to these Interrogatories,
4 did you personally visualize the invoices?

5 A Not all of them.

6 Q I see. Well, you obviously checked
7 the files where these invoices were located; is
8 that correct?

9 A What do you mean by check?

10 Q Well, you looked at them?

11 A The files?

12 Q Yes.

13 A I did not look at each individual
14 invoice in the file, no.

15 Q I see. Well, do you know how the
16 numbers and figures in response to this Interrogatory,
17 I guess, 21, were determined?

18 A Yes.

19 Q How was that done?

20 A By adding up the quantities shown on
21 the invoices for those particular years.

22 Q Well, do you know who the individual
23 was that did that?

24 A Yes.

25 Q Who is that?

26 A Mr. Vessels.

27 Q What is Mr. Vessels' first name?

28 A George.

UCAREF00012307

1 Q What is his position with the company?

2 A He is Plant Controller.

3 Q I see. You, of course, have responded
4 to Interrogatories in other cases dealing with
5 asbestos lawsuits; is that correct?

6 A Yes.

7 Q Have you at other times provided similar
8 information as you have in this case with respect to
9 the sales of asbestos to Union Carbide customers?

10 A Yes.

11 Q Has it happened on any occasion where
12 you have discovered that there were certain invoices
13 that were missing from any particular year?

14 A No.

15 Q So far as you know, then, the list and
16 the files that you have indicating the asbestos
17 delivered as indicated in response to Interrogatory
18 21 is accurate?

19 A Yes.

20 Q The only way you would know whether
21 asbestos was delivered from King City, for example,
22 to either the Kentile plant or to the GAF plant in
23 Long Beach was to consult these files; is that
24 correct?

25 A Yes.

26 Q Do you know how long Mr. Vessels has
27 been employed by Union Carbide?

28 A Not exactly, no.

UCAREF00012308

1 Q A long time?

2 A Over 25 years.

3 Q A long time.

4 A Because he has a watch, also.

5 Q Now, are you familiar with the length
6 of the fibers that are mined from the King City
7 location?

8 A Yes.

9 Q To your knowledge, is there something
10 unusual about the length of the fibers that are
11 mined from the King City location?

12 A Yes.

13 Q What would you consider to be unusual
14 with respect to the length?

15 A The entire ore deposit is short fiber.

16 Q Well, does that have any significance
17 with respect to marketing the fiber?

18 A Yes.

19 Q What significance is that?

20 A It very much limits the market.

21 Q To what type of product?

22 A To products which use short fiber.

23 Q Like what?

24 A For example, floor tile.

25 Q Now, is there any particular feature
26 of the short fiber, to your knowledge, that would
27 make the short fiber less of a hazard to one's
28 health than the longer fiber?

1 A I am not qualified to answer.

2 Q Well, has anyone from Union Carbide
3 advised you that the short fiber asbestos poses a
4 lesser problem to one's health than the longer
5 fibers?

6 A No.

7 Q During your period of employment at
8 Union Carbide, did you become familiar with any kind
9 of a library facility where there are books, articles,
10 periodicals dealing with the subject of asbestos?

11 A The library specifically for that
12 purpose?

13 Q No. A library that contained books,
14 articles, periodicals dealing with that subject.

15 A Yes.

16 Q Where is that library located?

17 A I assume that any library would have
18 articles. There is one such library in Niagara
19 Falls.

20 Q I see. Well, at Union Carbide, of
21 course, I am referring to.

22 A Yes.

23 Q Union Carbide facility?

24 A (Witness nods his head.)

25 Q Is there one at King City?

26 A At the plant?

27 Q Yes.

28 A No.

UCAREF00012310

1 Q Is there a Safety Department at King
2 City?

3 A No, unless you would want to define
4 Safety Department. Maybe I should ask that.

5 Q Well, is there a department -- I should
6 say an individual that his main concern or function
7 is to be informed and disseminate information on the
8 health and safety of employees?

9 A Yes.

10 Q I see. Is it a department or an
11 individual?

12 A Yes.

13 Q Which?

14 A An individual.

15 Q What is his name?

16 A Daryl Garcia.

17 Q And what is his title?

18 A Safety and Health Supervisor.

19 Q For how long has he been employed at
20 Union Carbide?

21 A Approximately 20 years.

22 Q Insofar as you know, does he go out to
23 the customers for any reason?

24 A No.

25 Q His main function is right at King
26 City, then?

27 A Yes.

28 Q In answer to question -- or to

UCAREF00012311

1 Interrogatories, it was indicated that the Union
2 Carbide was a member of the Asbestos Information
3 Association of North America. Do you recall that?

4 A Yes.

5 Q Do you know for how long Union Carbide
6 has been a member of that group?

7 A No. I do not recall, unless it was in
8 the Interrogatory.

9 Q Have you attended any meetings of this
10 association?

11 A Yes.

12 Q When did you first attend such a
13 meeting?

14 A I do not remember.

15 Q Was it before 1970?

16 A No.

17 Q Was it while you were in charge of
18 marketing in Niagara Falls?

19 A Yes. It would be between 1970 and 1981.

20 Q How many meetings did you attend?

21 A I have not kept count. I do not know.

22 Q Do you still attend those meetings?

23 A Yes.

24 Q Can you tell us what the purpose of
25 that organization is?

26 A The primary purpose is to disseminate
27 information on the health effects of asbestos.

28 Q Do you know whether that organization

UCAREF00012312

1 was formed prior to your ascending to the position
2 of Head of Marketing?

3 A Was it formed prior to 1970?

4 Q Yes.

5 A No, I do not know.

6 Q There was also mention in the
7 Interrogatories of an Industrial Health Foundation.
8 Are you familiar with that?

9 A Familiar with what?

10 Q The Industrial Health Foundation?

11 A No.

12 Q Aside from Sid Brown, do you recall any
13 other purchasing agent that you dealt with at GAF?

14 A No.

15 Q Can you recall any purchasing agent you
16 dealt with at Kentile?

17 A Kentile, Torrance?

18 Q Yes.

19 A No.

20 Q Do you recall the procedure used in
21 ordering asbestos at Kentile, Torrance, whether it
22 was any different from the one that we mentioned
23 you described with reference to GAF?

24 A What was the question?

25 Q Well, can you tell us what you can
26 recall about the procedure used in ordering and
27 delivering asbestos to the Kentile plant in Torrance?

28 A No.

1 Q Did you, personally -- are you
2 personally familiar with the arrangement to sell
3 and deliver asbestos to Kentile?

4 A I am not sure what you mean.

5 Q Well, during the period of 1970 to
6 1980 when you were marketing it, did you have any-
7 thing to do with handling the account of Kentile?

8 A I think I did.

9 Q Do you have any recall of whether the
10 orders for asbestos from Kentile were made from a
11 central location as opposed to various branches of
12 Kentile?

13 A No.

14 Q Do you recall the name of any individual
15 from Kentile that ordered merchandise from Union
16 Carbide?

17 A Kentile, Torrance?

18 Q Kentile, New York; Kentile, Torrance;
19 or anywhere?

20 A Yes.

21 Q Who was it that you recall?

22 A Andrew Kennedy.

23 Q When did you first know Mr. Kennedy?

24 A I do not remember.

25 Q What is it that you recall about Mr.
26 Kennedy?

27 A In what way?

28 Q Well, in any respect. Do you recall

1 him being associated with Kentile?

2 A Yes.

3 Q Do you recall that he worked for Kentile
4 in New York?

5 A Yes.

6 Q Did you personally speak with Mr. Kennedy
7 with respect to ordering and delivering asbestos?

8 A Yes.

9 Q Do you recall when it was that you first
10 communicated with him?

11 A No.

12 Q Do you recall over what period of time
13 you communicated with him?

14 A No, I do not.

15 Q Do you recall when you last communicated
16 with him?

17 A Probably 1980 or 1981.

18 Q I see. Do you remember any of that
19 associated with the closing of the Kentile plant in
20 Torrance?

21 A Any event?

22 Q Do you remember when the Kentile plant
23 in Torrance closed?

24 A No.

25 Q When you shipped merchandise to Kentile,
26 was it shipped to a central location as opposed to
27 being shipped to some of the periphery plants, such
28 as Torrance?

1 A What is the question?

2 Q Well, you did ship merchandise to
3 Kentile; is that correct?

4 A Yes.

5 Q To what location did you ship it?

6 A Various locations.

7 Q And in the case of Kentile, did you
8 receive orders from various locations, also?

9 A I think so.

10 Q We have mentioned Torrance and we have
11 mentioned New York with respect to Kentile.

12 Do you recall there was any other
13 location that you shipped asbestos to?

14 A Yes.

15 Q What other location?

16 A Chicago.

17 Q Were all the shipments made from the
18 King City location?

19 A Yes.

20 Q And in the case of Kentile, did you
21 receive orders for asbestos from certain sales
22 offices?

23 A I think so.

24 Q You seem a little uncertain about what
25 the procedure is.

26 A I cannot recall every company, whether
27 it was from the Kentile location or through a sales
28 office.

UCAREF00012316

1 I would answer like I did earlier. It
2 would have ~~been~~ probably *been both.* *JS*

3 Now, with respect to Plaintiffs'
4 Exhibit 1, to your knowledge, was this document
5 sent to Kentile?

6 A Not to my knowledge.

7 Q To your knowledge, was a document like
8 it, similar to it, sent to Kentile?

9 A I do not know.

10 Q Likewise, with respect to Kentile, if
11 such a document were sent to Kentile, would there
12 be a record made of it, mailing or other delivery?

13 A Not a record available today, no.

14 Q In answer to Interrogatories, it was
15 indicated that there was testimony given by a
16 representative or representatives of Union Carbide
17 before the United States Department of Labor in the
18 OSHA hearings.

19 Do you know who it was that testified
20 as a representative of Union Carbide?

21 I am pointing now to Interrogatory 34
22 and its response.

23 A What was the question, then?

24 Q The question is, do you know the name
25 of the individual who gave testimony for the
26 Department of Labor in connection with the OSHA
27 hearings?

28 A In 1972?

1 Q Yes.

2 A Yes.

3 Q Who was it?

4 A J. W. Rawlings.

5 Q What was Mr. Rawlings' position with
6 the company?

7 A I think he was Vice President of the
8 Metals Division.

9 Q And the same response to Interrogatory
10 34 indicates the testimony was given before the
11 Cal. OSHA Health Standard Board in 1979 in Fresno
12 and in San Diego.

13 Do you know who it was that testified
14 on behalf of Union Carbide on that occasion?

15 A I am not sure.

16 Q Have you at any time testified at any
17 governmental hearings dealing with the subject of
18 asbestos?

19 A Yes.

20 Q What hearing or hearings have you
21 testified?

22 A I cannot recall the dates.

23 Q Approximately.

24 A That may have been me at those Cal.
25 OSHA hearings you mentioned. I cannot recall for
26 sure.

27 Q I see. Well, do you recall giving
28 testimony having to do with the subject of

1 establishing standards for the safe use of asbestos?

2 A You would have to -- I am not sure I
3 understand exactly.

4 Q Do you recall, when you testified, in
5 front of what type of body you testified?

6 A The question is what type of body?

7 Q Yes.

8 A The regulatory agency.

9 Q In California?

10 A Yes.

11 Q What was the nature of the testimony
12 you gave?

13 A I cannot recall.

14 Q Do you know for what purpose you gave
15 your testimony?

16 A For the purpose of providing information
17 to the hearings, but I do not recall the specific
18 nature of the testimony.

19 Q Did you testify with reference to a
20 recommendation for the TLV with respect to asbestos
21 dust?

22 A No, not that I recall.

23 Q Do you know what the phrase, "shrink
24 film" refers to?

25 A Yes.

26 Q That has reference to the packaging
27 of the asbestos product by Union Carbide?

28 A Yes.

1 Q Can you tell us how the shrink film
2 packaging might differ from other types of packaging?

3 A Yes.

4 Q Please do.

5 A Shrink film is used on many things, such
6 as things you buy in a store.

7 A razor or something has plastic which
8 is shrunk around so it conforms to the shape of the
9 razor.

10 We package our asbestos in paper bags
11 and then apply a wrapping of plastic which is shrunk
12 by heat to provide a tight package.

13 Q I see. Of course, you have brought a
14 package with you today; is that correct?

15 A Yes.

16 Q At least a bag that resembles the
17 package that is used; is that correct?

18 A Yes.

19 Q Is this bag that you brought with you
20 today the package -- the bag that is used in packaging
21 asbestos today?

22 A Yes.

23 Q For how long has this particular bag
24 been used?

25 A I could not say. That one has not been
26 used at all. *JFM*

27 Q Well, this type of bag. And, of course,
28 it has --

1 A I cannot say how long it has been in
2 use. I cannot remember.

3 Q Now, do the invoices in your files
4 indicate whether delivery was made in packages that
5 were subjected to the shrink film process?

6 A No.

7 Q Is there any way that one could determine
8 whether the packages were shrink-filmed by looking at
9 invoices or any other paperwork?

10 A No. I do not think so.

11 Q At this time, are all of your packages
12 done in a shrink film made process?

13 A No.

14 Q Some are delivered in these paper
15 packages, such as what we have here today; is that
16 correct, and some are done with shrink film?

17 A Yes.

18 Q At the bottom of this particular
19 package there is a statement to the effect that it
20 has a net weight of 40 pounds.

21 I imagine that there are other bags
22 for the purpose of shipping merchandise with
23 greater weight in them; is that correct?

24 A Yes.

25 Q For how long has the shrink film method
26 been utilized?

27 A I cannot recall when that was started.

28 Q I think before I ask you any additional

1 questions, I think I would like you to just peruse
2 the documents which you and your attorney have brought
3 with you today in response to our request for
4 production, the first of which is a bag that we have
5 been talking about. The designation on the bottom
6 is 40 pounds. Off the record.

7 (There was a brief discussion off
8 the record between counsel.)

9 MR. ROSEMAN: Q Mr. Myers, your counsel has
10 brought certain documents to this deposition in
11 response to the Notice to Produce.

12 Have you seen that Notice, by the way?

13 A Yes, I have.

14 Q Have you reviewed the documents that
15 are here today?

16 A I have not reviewed each single page
17 of all of them, but primarily the invoices which
18 are the major part of that. I have not reviewed
19 each individual invoice.

20 Q Turning to the invoices which I am
21 going to mark, the first invoice has a date on it
22 of May 5, 1964, and I will mark that 3 in the upper
23 right-hand corner as I will mark all of these items.
24 For want of a better word, we will not use the term
25 exhibits because we are not entering them into
26 evidence for the purpose of the deposition.

27 In any event, I am marking the May 5,
28 1964 invoice as 3 and the July 30, 1964 invoice as 4,

1 and ask you to please look at these and identify
2 them for me.

3 Are those accurate copies of invoices
4 that you pulled from your file in preparation for
5 this proceeding?

6 A Yes.

7 Q And do those two invoices indicate the
8 sale and delivery of asbestos to the Long Beach plant
9 of GAF?

10 A No.

11 Q Mastic Tile Division -- excuse me.
12 No. 3 is addressed to Ruberoid Company and Mastic
13 Tile Division. Do you understand these two entities
14 to be predecessors in interest to that plant at Long
15 Beach that GAF did business at?

16 A Yes.

17 Q And No. 4 is addressed to the Ruberoid
18 Company; is that correct?

19 A Yes.

20 Q And then it also indicates a delivery
21 to the Long Beach plant; is that correct?

22 A Yes.

23 Q Do you know when the earliest records
24 are kept at King City with respect to the invoices?

25 A Yes.

26 Q What is the earliest date the records
27 are kept?

28 A 1963.

UCAREF00012323

1 Q Now, these invoices have the designation
2 on of standard rate asbestos pallets. Can you tell
3 us please whether this term is used to describe the
4 asbestos that was packaged?

5 A Yes.

6 Q Can you tell us whether this material is
7 used to designate a form of asbestos; is that correct?

8 A Yes.

9 Q Can you tell us what these pallets are?

10 A Yes.

11 Q What are they?

12 A They are a ^{9 1/4 in} pallet-shaped form of our
13 Calidria asbestos which is approximately one-quarter
14 inch diameter by one-half inch long.

15 Q Now, I am showing you what we are going
16 to mark as No. 5, and is this an invoice which
17 designates that a shipment be made to Kentile in
18 Torrance and dated February 28, 1965?

19 A Yes.

20 Q And No. 6 which I am handing you, does
21 that have a shipping date of February 28 -- excuse
22 me, but February 28th, '65, which is a designation
23 of a shipment to Kentile in Torrance?

24 A Yes.

25 Q Okay, No. 7, a shipment date of May 19,
26 20, 1965, with a shipment to Kentile in Torrance?

27 A Yes.

28 Q No. 8, a shipment date of October 21st,

1 1965, to Kentile in Torrance?

2 A What was the date used?

3 Q October 21, 1965.

4 A Okay, yes.

5 Q And No. 9, a date of 6/16/66 to Kentile
6 in Torrance?

7 A Yes.

8 Q No. 10, 7/14/66, to Kentile in Torrance?

9 A Yes. Could we go back -- can you
10 determine from the record whether this was October 21,
11 what year was given?

12 Q That is, I think -- I did give a year
13 of 1965, and that is a little blurred there, but if
14 you look on the left-hand side, it has a '65 date
15 on it.

16 A I thought you said '68.

17 Q Well, that was No. 8; is that correct?

18 A (Witness nods his head.)

19 Q We will go on to No. 11 which has a
20 date of shipment of 8/7/66 to Kentile plant in
21 Torrance; is that correct?

22 A Yes.

23 Q No. 12, shipment date of 8/18/66 to
24 Kentile in Torrance?

25 A Yes.

26 Q No. 13, a date of 8/28/66 to Torrance,
27 California, but that is obviously to Kentile in
28 Torrance; is that correct?

1 A Yes.

2 Q This next one which is 14 has a date on
3 of 9/1/66 to Kentile Floors in Torrance; is that
4 correct?

5 A Yes.

6 Q No. 15 an invoice date of 9/9/66 to
7 Kentile in Torrance?

8 A Yes.

9 Q No. 16, invoice date of 9/13/66 to
10 Kentile in Torrance?

11 A Yes.

12 Q No. 17, 9/20/66 to Kentile in Torrance?

13 A Yes.

14 Q 18, shipping date of 11/7/66 to Kentile
15 in Torrance?

16 A Right.

17 Q 19, a date of 11/21/66 to Kentile in
18 Torrance?

19 A Yes.

20 Q 20 --

21 A Let me question this one.

22 Q You are looking at 19 now; is that
23 correct?

24 A No. 19 has a shipment to an address
25 typed in of Brooklyn, New York, with a handwritten
26 "Torrance?."

27 Q And the basis of that document, are you
28 ever able to tell where the shipment went?

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1 A No, I could not tell for sure.

2 Q I am handing you No. 20 which has an
3 invoice date of 11/29/66, indicating a shipment to
4 Kentile in Torrance; is that correct?

5 A Yes.

6 Q 21, an invoice date of 12/16/66, a
7 shipment to Kentile in Torrance?

8 A Yes.

9 Q 22, 12/15/66 invoice date to Kentile
10 in Torrance?

11 A Yes. Although No. 22 also has type-
12 written an address in Brooklyn and handwritten,
13 "Torrance, California."

14 Q And 23 has an invoice date of 1/16/67
15 to Kentile in Torrance?

16 MR. IVIE: Can we go off the record for a
17 moment?

18 (There was a discussion off the
19 record between counsel.)

20 MR. ROSEMAN: I do not have any additional
21 questions to ask Mr. Myers. Do you have any
22 questions?

23 MR. CASTALDI: Not unless those documents
24 have something other than the names of Kentile or
25 Union Carbide.

26 In reviewing those, have you seen any
27 names other than that?

28 MR. ROSEMAN: No, I have not seen any of what

1 I have reviewed.

2 MR. CASTALDI: Maybe I could just briefly and
3 quickly browse through them.

4 I thought that you might identify them
5 during the course of the deposition, but since that
6 is not going to be the case, I will quickly go
7 through them.

8 MR. ROSEMAN: We will mark as the next exhibit
9 in order which is No. 2 a copy of the Stipulation and
10 Protective Order that was entered into by Gibson,
11 Dunn and Crutcher and plaintiffs' counsel with
12 reference to the items brought to this deposition
13 in response to the Notice to Produce, the original
14 of which has been signed, and I understand, will be
15 filed with the court.

16 MS. GRIMES: That is correct.

17 (The document referred to was
18 marked by the Notary Public as
19 Plaintiffs' Exhibit No. 2 for
20 Identification, a copy of which is
21 attached hereto.)

22 MR. CASTALDI: I do have a few questions, sir.

23
24 EXAMINATION

25 BY MR. CASTALDI:

26 Q Sir, my name is Joe Castaldi. I
27 represent one of the other defendants in the lawsuit
28 filed by Mr. Roseman's clients.

1 You indicated that you had sent
2 some of your people to conduct dust counts at some
3 customer facilities; correct?

4 A Yes.

5 Q At any of those facilities, is it your
6 understanding that the results of those dust counts
7 were in excess of the threshold limit value standard
8 for that particular time, respective to the period
9 of time that they actually went there, since I do
10 understand that the threshold limit value has
11 changed over the years?

12 A I cannot answer that. I do not know.

13 Q In regard to the periods of time when
14 customers had requested that one of your people
15 conduct a dust count, do you understand or have any
16 knowledge as to why such requests were made?

17 A Yes.

18 MS. GRIMES: Objection; calls for speculation.

19 MR. CASTALDI: Not if he has -- well, in any
20 event, what is your understanding?

21 MS. GRIMES: I move to strike the answer.

22 MR. CASTALDI: Q What is your understanding,
23 sir?

24 A Beginning in 1972, OSHA required an
25 initial dust monitoring of anyone using asbestos,
26 and we encourage people to follow that requirement.

27 Q Were your services or the services of
28 the man who worked with and under you provided at

1 no extra charge in regard to the dust counts?

2 A Yes.

3 Q If there were dust counts that were in
4 excess of the special limit value at customer
5 facilities that your man had gone to, this would
6 be reported to the customer; is that correct?

7 A Yes.

8 Q Beyond reporting that to the customer,
9 would you or any of the men who had gone to take the
10 dust counts perform any further function beyond
11 merely reporting that the dust count there was
12 within the threshold limit value of exceeded it?

13 A No.

14 Q So you or your men would not report to
15 OSHA in regard to a dust count that was in excess of
16 the threshold limit value; is that correct?

17 A Yes.

18 Q You can rest a little bit. Those are
19 the questions I had in light of other than these
20 documents. I do not have any more questions at
21 this time.

22 MS. GRIMES: Do you want to stipulate?

23 MR. ROSEMAN: All right. We can stipulate that
24 the deposition be signed under the penalty of perjury
25 and that the parties be informed within -- well,
26 probably within 30 days of the return of the
27 deposition of any corrections.

28 The original of the deposition will be

1 lodged with defendant's counsel for safekeeping, and
2 if the original is not available at the trial of
3 this matter or any other proceedings, it requires
4 that a copy be used in its stead.

5 MS. GRIMES: So stipulated.

6 MR. ROSEMAN: And let us mark as Exhibit 2-A
7 the "Notice to Produce."

8 (The document referred to was
9 marked by the Notary Public as
10 Plaintiffs' Exhibit No. 2-A for
11 Identification and is being retained
12 by counsel.)

13 MR. ROSEMAN: I will get the reporter a copy
14 and send it to her.

15 The parties have agreed that the
16 documents presented at the deposition in response
17 to the Notice to Produce be continued in the custody
18 of defendants with the proviso that defendants mark
19 each document consecutively and number the document
20 beginning with No. 3, and that thereafter they will
21 provide me with a copy of it, and that the bag and
22 the other documents be retained with the original
23 stamping by defense counsel in preparation for the
24 trial of this matter.

25 MS. GRIMES: So agreed.

26 (I declare under the penalty of
27 perjury that the foregoing testimony is
28 true and correct.)

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(Executed on October 2,

1984, at Los Angeles,

California.)

John L. Myers
SIGNATURE OF WITNESS

UCAREF00012332

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF LOS ANGELES)

4 I, JENNIE BABICH

5 Certified Shorthand Reporter, No. 3029, and Notary
6 Public within and for the County of Los Angeles, State
7 of California, do hereby certify:

8 That the foregoing deposition of
9 JOHN L. MYERS was taken before
10 me pursuant to Notice
11 at the time and place herein set forth, at which time
12 the witness was put on oath;

13 That the testimony of the witness and
14 all objections made at the time of the examination
15 were recorded in shorthand and were thereafter trans-
16 cribed under my direction and supervision;

17 That the foregoing deposition is a true
18 record of the testimony and of all objections made at
19 the time of the examination.

20 I further certify that I am neither
21 counsel for nor related to any party to said action,
22 not in anywise interested in the outcome thereof.

23 IN WITNESS WHEREOF, I have subscribed my
24 name and affixed my seal this day of September,
25 19 84.

26
27
28 NOTARY PUBLIC IN AND FOR THE COUNTY
OF LOS ANGELES, STATE OF CALIFORNIA

UCAREF00012333

1 GIBSON, DUNN & CRUTCHER
2 CHARLES C. IVIE
3 ELIZABETH A. GRIMES
4 MICHAEL T. WILLIAMS
333 South Grand Avenue
Los Angeles, California 90071
(213) 229-7000

5 Attorneys for Defendant
6 UNION CARBIDE CORPORATION

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 SIMON DeWARD,) NO. C 296717
11)
12 Plaintiff,)
13)
14 v.) STIPULATION AND PROTECTIVE ORDER
15)
16 JOHNS-MANVILLE, et al.,)
17)
18 Defendants.)

19
20 MODESTO GOMEZ,) NO. C 310916
21)
22 Plaintiff,)
23)
24 v.)
25)
26 JOHNS-MANVILLE, et al.,)
27)
28 Defendants.)

29
30 CARLOS M. GONZALES,) NO. C 310917
31)
32 Plaintiff,)
33)
34 v.)
35)
36 JOHNS-MANVILLE, et al.,)
37)
38 Defendants.)

39 ///

40 ///

Name Myers
Date 8/30/84
Identification Plaintiffs' 2
by J. Babich

UCAREF00012334

1 GABRIEL VALDES,) NO. 310915
2)
3 Plaintiff,)
4)
5 v.)
6)
7 JOHNS-MANVILLE, et al.,)
8)
9 Defendants.)

10 FRANCISCO O. VILA,) NO. 310918
11)
12 Plaintiff,)
13)
14 v.)
15)
16 JOHNS-MANVILLE, et al.,)
17)
18 Defendants.)
19)

20 IT IS HEREBY STIPULATED AND AGREED by and between
21 the undersigned attorneys for defendant Union Carbide
22 Corporation ("Union Carbide") and plaintiffs Simon DeWard,
23 Modesto Gomez, Carlos M. Gonzales, Gabriel Valdes and
24 Francisco O. Vila ("Plaintiffs") as follows:
25

26 1. This Protective Order shall apply to all writings
27 as defined in California Evidence Code Section 250 and other
28 items, copies thereof and their contents produced by Union
Carbide in response to plaintiffs' Request for Production
[CCP § 2031] ("such writings") as to which protection is
expressly claimed by Union Carbide at the time of production.
The documents to which this Protective Order shall apply
include all such writings identified in the Response of
Union Carbide Corporation to Plaintiffs' First Request for

1 Production of Documents.

2
3 2. Plaintiffs and their counsel shall not in any
4 manner, directly or indirectly, transfer such writings or
5 copies of such writings, or communicate, orally or in writing
6 any of the data contained in such writings to any person other
7 than for purposes directly related to trial of these cases only.

8 Plaintiffs and their counsel may only transfer or communicate
9 such writings to a person (a) to whom it is necessary and who
10 is required to receive such transfer or communication for
11 purposes directly related to trial of these cases, and
12 (b) who is also an agent, representative or employee of
13 plaintiffs or their counsel, or an expert consultant or
14 court reporter. Any such person to whom any such
15 communication or transfer is made shall be bound by the terms
16 of this Protective Order. Under no circumstances shall
17 plaintiffs or their counsel transfer or communicate such writings
18 to any other person who has claims, past, pending or future, of
19 exposure to asbestos, or to any other counsel or law firm
20 other than the Law Office of Steven Roseman.

21
22 3. Any person permitted access to such writings
23 except a Judge of the above-entitled Court, or a Court Clerk
24 or other employee of said Court, at the trial of these matters,
25 shall treat such writings as confidential and shall not
26 disclose, divulge, reveal, describe, transmit the original,

27 ///

28 ///

1 copies or any other copy or summary of such writings, or
2 otherwise communicate such writings to anyone, except to other
3 persons who have been permitted access under the terms of
4 this Protective Order, and shall make no use of such writings
5 other than for purposes directly related to the trial of these
6 cases only.

7
8 4. Plaintiffs and their counsel shall not make use
9 of any such writing as an exhibit to any pleading, motion,
10 affidavit or declaration before the trial in these cases.
11 Plaintiffs and their counsel shall give notice to Union Carbide
12 and its counsel prior to making use of any such writing
13 as an exhibit at a deposition, hearing or at trial, so as
14 to give Union Carbide and its counsel the opportunity to
15 request in camera treatment and take like protective measures.

16
17 5. Each person, including a court reporter, who
18 is given access to such writings or the information derived
19 from such writings shall be advised that the information is
20 being disclosed pursuant to this Protective Order and may
21 not be disclosed other than pursuant to the terms hereof.
22 The attorneys of record for Plaintiffs in these actions shall
23 assume responsibility for the following:

24
25 (a) to instruct each person given access
26 to such writings or information derived from
27 such writings that such writings are subject
28

///

1 to this Protective Order;

2 otherwise permitted as such writings to anyone other than a person

3 (b) to instruct each person given access

4 to such writings or information derived from

5 such writings of the terms of this Protective

6 Order and that they are bound by this

7 Protective Order; and

8

9 (c) to inform Union Carbide in writing

10 of all persons who were given such writings,

11 including all copies of such writings or

12 summaries thereof. This list should be sent

13 to Union Carbide at the termination of these

14 actions along with the return of such writings,

15 as provided by Paragraph 6 below. Such list

16 should include the name, address and description

17 of the writings received by each person.

18

19 6. Upon termination of these actions, all writings

20 produced hereunder, including all copies of such writings,

21 shall be returned to Union Carbide with an affidavit from

22 the attorneys returning them that they have complied with all

23 of the terms of this Protective Order. Termination of these

24 actions means settlement and release of all claims or final

25 judgment or other resolution by the Court which disposes

26 of all claims.

27 ///

28 ///

1 7. Any summaries of such writings shall be
2 destroyed at the termination of these actions. The affidavit
3 required in Paragraph 6 above shall expressly include a
4 representation that such summaries have been destroyed.

5
6 8. The termination of these lawsuits shall not
7 relieve any person permitted access to such writings
8 pursuant to this Protective Order from the obligations
9 set forth herein.

10
11 9. Neither this Protective Order nor the consent
12 of counsel to the form thereof shall in any way constitute
13 a waiver of the right to raise or assert any objections
14 which may hereafter be raised or asserted in regard to the
15 documents furnished subject to this Protective Order, including,
16 ///
17 ///
18 ///

1 but not limited to, defenses or objections with respect to the
2 use, relevance or admissibility of any of such writings or
3 their contents. I and I above shall expressly and
4 representation that such summaries have been destroyed.

5 DATED: August 30, 1984

GIBSON, DUNN & CRUTCHER
CHARLES C. IVIE
ELIZABETH A. GRIMES
MICHAEL T. WILLIAMS

6
7
8
9 By Elizabeth A. Grimes

10
11 Attorneys for Defendant
UNION CARBIDE CORPORATION

12
13 DATED: August 30, 1984

LAW OFFICES OF STEVEN ROSEMAN

14
15 By Steven Roseman

16 Attorneys for Plaintiffs
17

18
19 O R D E R

20 It is so ordered. The Court does not consider this
21 Stipulation binding upon Court personnel or Court exhibits.
22

23 DATED:

HONORABLE CHRISTIAN E. MARKEY
JUDGE OF THE SUPERIOR COURT

UCAREF00012341

RCV1

1/2 IN. 2-3

Carbon Carbide

NOT WORTH HE IS CUSTOMER OF

READ TO HIM BY BOSS

CALIDRIA ASBESTOS

"CALIDRIA" ASBESTOS SG-130 AND SG-210 For Tape Joint Compounds

134

Lowers Costs Two Ways

CALIDRIA Asbestos acts as a bodying and secondary thickening agent permitting formulation of lower density, more economical tape joint compounds without the sacrifice of performance. CALIDRIA Asbestos is produced by a proprietary manufacturing process that yields unusually high fiber content and more complete fiber liberation from the natural bundles. As a result, CALIDRIA Asbestos goes up to twice as far, pound for pound, as commercial grades of asbestos containing large amounts of other filler materials that have no specific desirable effects on tape joint compound properties.

Reduces Cracking

The fibers of CALIDRIA Asbestos behave as an active lyophobic colloid in aqueous dispersion; by this mechanism CALIDRIA Asbestos increases tape joint compound liquid cohesive strength during drying. Increased liquid cohesive strength greatly reduces the tendency for cracks over nail holes, in thick sections at the center of the joint, and along the feathered edges.

Enhances Sandability

CALIDRIA Asbestos contains mainly chrysotile fiber and is essentially free from abrasive contaminants, such as magnetite and serpentine rock dust. This composition results in a low density product, free from contaminants that interfere with sanding.

Improves Uniformity

Narrow and well-controlled particle size distribution, low alkalinity and high brightness are characteristic of CALIDRIA Asbestos. These properties are consistent from batch to batch and improve the uniformity of tape joint compounds using CALIDRIA Asbestos.

Suggestions for Use of CALIDRIA Asbestos

CALIDRIA Asbestos can be readily used in your present tape joint compound formulation. Add approximately one-half the proportion of asbestos you now use. Increase the proportion of calcium carbonate or other inert filler to make up for the lower quantity of asbestos. You may also be able to use slightly more water in your ready-mix and maintain your present viscosity level. No other changes in your

Name

Myers

Date

8/30/84

by J. Babich

Identification

Plaintiffs' 1

CALIDRIA, CELLOSIZ, UCAR and UNION CARBIDE are trade marks of Union Carbide Corporation.

October, 1968

F-42258

"CALIDRIA" ASBESTOS SG-130 AND SG-210

For Tape Joint Compounds

Suggestions for Use of CALIDRIA

Asbestos (Continued)

formulation or manufacturing procedure are required.

CALIDRIA Asbestos SG-130 has the coarser particle size; it finds use for

bedding compounds or perhaps spackling compound. The SG-210 has the finer particle size and is favored for topping compounds, all-purpose compositions, texture paints, and similar formulas.

A Suggested Ready-Mix Tape Joint Compound

For Use With CALIDRIA Asbestos

	Parts by Weight Dry Basis
Fillers:	
Calcium Carbonate, No. 1 White (Thompson Weinman)	61.42
Mica, P80F (Western Mica)	21.00
Clay, ASP-400 (Minerals and Chemicals Philipp Corp.)	4.00
CALIDRIA Asbestos, SG-210 (Union Carbide)	4.58
Binder:	
UCAR Latex 131 (Union Carbide)	6.60*
Workability Control Agent:	
CELLOSIZ Thickener, TJC Grade (Union Carbide)	0.50
Drying Control:	
Ethylene Glycol (Union Carbide)	1.00
Defoamer:	
"Nopco" PD-1 (Nopco Chemical Company)	0.10
Dispersant:	
"Doxod" 30 (Dewey & Almy Chemical Div.)	0.60*
Bacteriostat:	
"Dawicide" A (Dow Chemical Co.)	0.20
	100.00

Total Water: about 56 parts by weight per 100 parts dry solids

*Contained solids basis

"CALIDRIA" ASBESTOS SG-130 AND SG-210

For Tape Joint Compounds

Typical Product Characteristics

Asbestos (CG-130)

Reflectance (G.E. Photovolt)
 Contained magnetite
 Alkalinity (as % of Na₂O)
 pH (5% aqueous slurry)
 Surface area (BET)
 Oil Adsorption (DOP #/100# asbestos)
 Wet Bulk, settled vol. (ml.) 10g/250 ml./1 hr.
 Dry Bulk (#/ft.³)
 Water absorption (wt. % in filter cake)
 Size distribution (cumulative % retained)
 Wet Screen mesh size
 100
 200
 325

CALIDRIA Asbestos	
SG-130	SG-210
68%	
2% max.	
0.05 to 0.06	
8.5 to 9.5	
50 to 60 m ² /g.	
90 to 100	110 to 120
200	220
7 to 8	5 to 6
55 to 60	62 to 65
5	Trace
17	3
28 to 32	10 to 15

Packaging and Shipping Information

Product Form - Opened (finely ground) chrysotile asbestos fiber.

Packaging -

One Package
 Pallet Weight
 Carload
 Truckload

CALIDRIA Asbestos	
SG-130	SG-210
40 lb.	30 lb.
1,600 lb.	1,050 lb.
2,000 lb.	1,500 lb.

Shipping -

Classification - asbestos shorts

Rail point of origin - Welby, California (King City, California)

TOXICOLOGICAL PROPERTIES

It has been known for many years that some persons working in asbestos production were prone to develop a disabling lung disease. In time, this condition became known as asbestosis and was related to exposure to high concentrations of asbestos dust. With further experience, it was found that men could work with asbestos without development of lung disease if

dust concentrations were kept below a certain level. It is now generally accepted that a man can work a 40-hour week for a lifetime without developing asbestosis if the asbestos dust particle count is kept at or below 5 million particles per cubic foot of air. This dust concentration of 5 million particles per cubic foot of air is the Threshold Limit Value for asbestos, and no cases

TOXICOLOGICAL PROPERTIES (Continued)

of asbestosis are believed to have occurred when exposures have been maintained at or below this level, despite large-scale utilization (now approaching one million tons per year in the U.S.A.). This concentration of dust is generally not visible in the average work area unless a beam of light causing a Tyndall effect is present. Usually the dust concentration must be from 8-10 million particles per cubic foot before its presence is visible in average lighting conditions.

Several years ago, it was reported that there was an increase in the incidence of cancerous tumors, especially of the lung, associated with asbestosis. Recently there have been reports of some cancers occurring in individuals exposed to asbestos dust, but who have not developed clinical asbestosis. It is believed by most authorities that these cases have been associated with exposures significantly exceeding the Threshold Limit Value. A major manufacturer of asbestos products who also mines asbestos has not been able to show an increase in cancerous growths in men working where dust concentrations were maintained at the Threshold Limit Value.

Control of asbestos dust exposure is therefore necessary. The control methods are the standard ones applicable to a variety of dusty operations. They include closed

flow systems, wet processes where possible, and adequate exhaust ventilation where openings in the system are necessary.

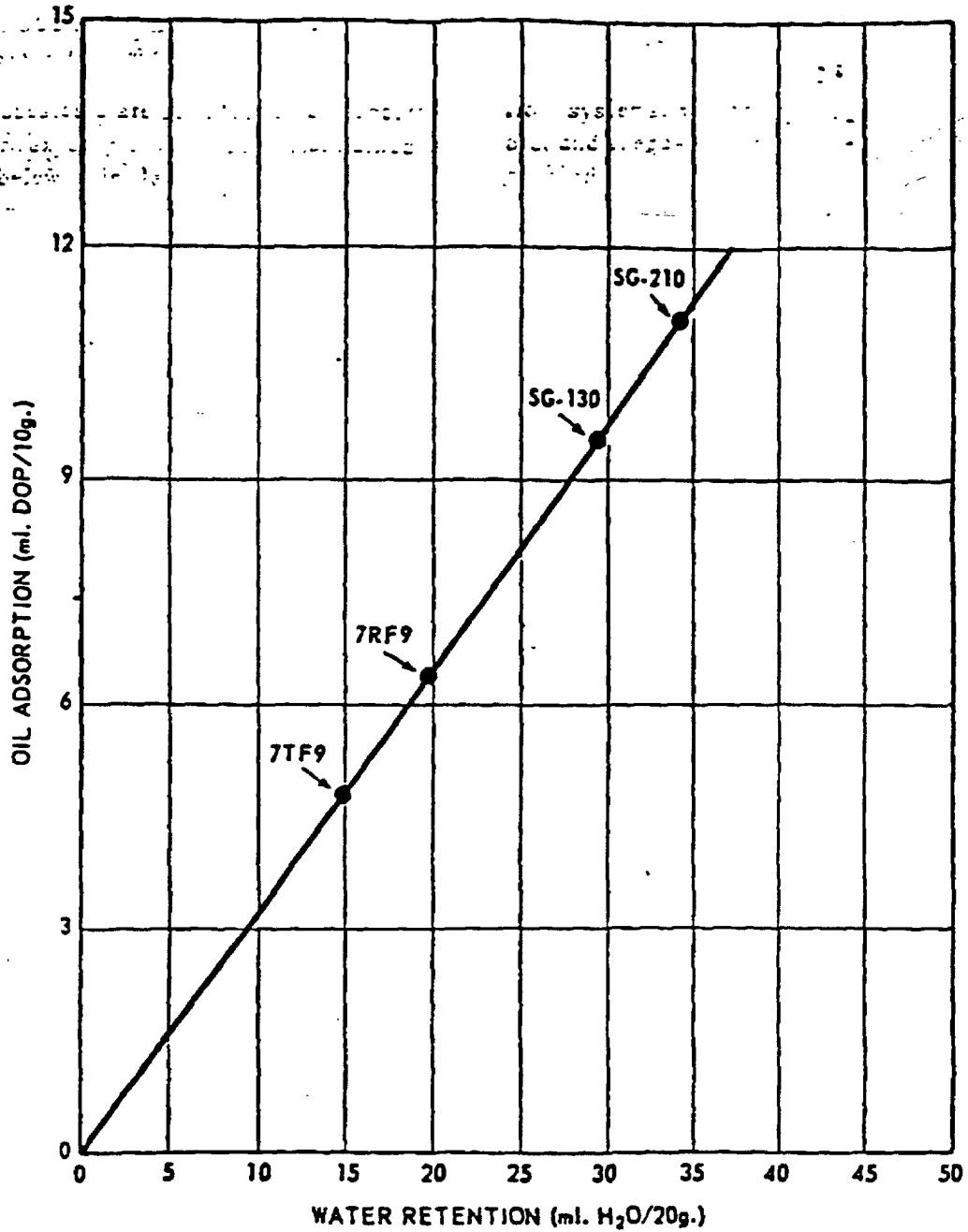
Pelletizing is sometimes used to improve the handling characteristics of otherwise dusty materials. Where satisfactory containment to stay within the Threshold Limit Value is impractical or impossible, efficient and reliable respirators are available for the protection of the employee. A program of environmental monitoring in manufacturing operations is highly desirable to determine that Threshold Limit Values are not being exceeded. Employees should wear respirators where dusting occurs in finishing products such as sanding taped joints.

Pre-employment and periodic physical examinations of workers are desirable. These should include chest X-rays to insure that the worker has no chest condition prior to work with asbestos and to determine that no lung changes are resulting from work with asbestos.

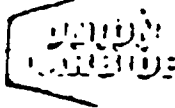
In conclusion, while asbestos dust in excess of the Threshold Limit Value is potentially harmful, as are many other dusts encountered in industry, it is as readily controlled as other such dusts and it can be used safely with appropriate precautions.

"CALIDRIA" ASBESTOS SG-130 AND SG-210

For Tape Joint Compounds



RELATIONSHIP BETWEEN WATER & OIL ADSORPTION
CAPACITY OF SOME ASBESTOS PRODUCTS
FOR TAPE JOINT ADHESIVE FORMULATIONS



THE DISCOVERY COMPANY

UNION CARBIDE CORPORATION
CHEMICALS AND PLASTICS
270 PARK AVENUE, NEW YORK, N.Y. 10017

Sales Offices

ATLANTA, GEORGIA 30309	1371 Peachtree St., N. E.	404-892-7500
BALTIMORE, MARYLAND 21207	Beltway Bldg., 6707 Whitestone Rd.	301-944-8211
BOSTON, MASSACHUSETTS 02194	300 First Ave., Needham Hgts.	617-444-5400
BUFFALO, NEW YORK 14225	3343 Harlem Rd.	716-837-6450
CHARLOTTE, NORTH CAROLINA 28210	6230 Fairview Rd.	704-364-1400
CHICAGO, ILLINOIS 60606	120 South Riverside Plaza	312-822-7000
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CLEVELAND, OHIO 44114	1300 Lakeside Ave., N.E.	216-621-4202
CLIFTON, NEW JERSEY 07012	935 Allwood Rd.	201-778-2900
DALLAS, TEXAS 75207	2710 Stemmons Freeway	214-631-0010
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INDIANAPOLIS, INDIANA 46220	720 Broad Ripple Ave.	317-255-3181
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MINNEAPOLIS, MINNESOTA 55416	3033 Excelsior Blvd.	612-927-4221
MOORESTOWN, NEW JERSEY 08057	Route 38 and Pleasant Valley Rd.	609-235-6200
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SAN FRANCISCO, CALIFORNIA 94106	22 Battery St.	415-982-1360
SEATTLE, WASHINGTON 98118	4726 Rainier Ave., South	206-723-8660
TULSA, OKLAHOMA 74114	2901 South Harvard	918-742-5524

United States

Affiliates

ARGENTINA	Union Carbide Inter-America, Inc., Buenos Aires
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INDIA	Union Carbide India Ltd., Calcutta, Bombay, Madras, New Delhi
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SINGAPORE	Union Carbide Singapore Ltd., Singapore

Eastern

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