

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

MARIE B. SOIGNET, ET AL. *
* CIVIL ACTION
VS. * NO. B-86-1193
*
MONTELLO, INC., ET AL. *

DEPOSITION OF
JOHN LESTER MYERS

November 4, 1988

8181 Airport Boulevard
Houston, Texas

Reported by:

Joyce Ann Smith, RPR, CM

Texas CSR No. 2463

Louisiana CSR No. 83083

Nell McCallum & Associates, Inc.

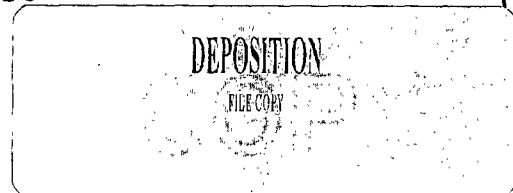
87 IH 10 North, Suite 111

Beaumont, Texas 77707

Taxable Cost: \$_____

Charged to Hon. Daniel J. Caruso

Attorney for Plaintiffs



deposed by VC

1 Appearances:

2
3 For the Plaintiffs:

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15
16 For Montello, Inc.:

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1 In attendance:

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8 * * *

9 Deposition of JOHN LESTER MYERS, a witness
10 called by Plaintiffs on November 4, 1988, at Hobby
11 Airport Hilton, Cancun Room, 8181 Airport Boulevard,
12 Houston, Texas, commencing at 10:30 a.m., before
13 Joyce Ann Smith, RPR, CM, Texas CSR No. 2463,
14 Louisiana CSR No. 83083, pursuant to the following
15 stipulations:

16 COURT REPORTER: What would you
17 like to do on stipulations?

18 MR. CARUSO: For all purposes
19 under the Rules.

20 Sir, you have the right to read
21 and sign this deposition when it's
22 done, when it is made into a book
23 form, and make whatever corrections
24 you think are appropriate when you
25 review it, or you can waive that right

1 on the assumption that she will take
2 what you say down, take it down
3 accurately. That's your right as a
4 witness in this case. If you want to
5 consult with one of the many attorneys
6 here, you can do so.

7 MR. WILLIAMS: I think you
8 probably would like to read and sign
9 it.

10 THE WITNESS: Yes, I would.

11 MR. WILLIAMS: You can send it to
12 Ms. Clark and we will make
13 arrangements to get it to him for
14 signing before a notary public and
15 returned.

1 JOHN LESTER MYERS,
2 having been duly sworn, testified as follows, to wit:

3 EXAMINATION BY MR. CARUSO:

4 Q. Would you state your full name for the
5 record, please.

6 A. John Lester Myers.

7 Q. Where do you live, Mr. Myers?

8 A. In King City, California.

9 Q. What is your address there?

10 A. 102 River Drive.

11 Q. By whom are you presently employed?

12 A. By KCAC, Incorporated.

13 Q. In what position with KCAC?

14 A. President.

15 Q. What is the business of KCAC?

16 A. The mining, milling, marketing of
17 chrysotile asbestos.

18 Q. What is your educational background?

19 A. I have a bachelor in chemical engineering,
20 Bachelor of Science in chemical engineering.

21 Q. From what university?

22 A. From Purdue University.

23 Q. The KCAC, what do those initials stand
24 for?

25 A. They don't stand for anything. It was

1 incorporated that way.

2 Q. Do you know who the principal shareholder
3 is of KCAC?

4 A. Yes.

5 Q. Who is that?

6 A. Wilbur-Ellis Company.

7 Q. Does Union Carbide have any interest in
8 KCAC at this time?

9 A. No.

10 Q. Does Montello Corporation have any
11 interest in KCAC?

12 A. No.

13 Q. When did you become president of KCAC?

14 A. In July of 1985.

15 Q. Is that the time the company was formed or
16 was it in existence before that time?

17 A. It was incorporated for that purpose, to
18 purchase the business.

19 Q. Where is the mine located?

20 A. In San Benito, California -- or San Benito
21 County in California.

22 Q. From what entity did KCAC purchase mines
23 that it operates now?

24 A. From Union Carbide Corporation.

25 Q. How many mining sites are we talking about

1 that KCAC purchased from Union Carbide?

2 A. One.

3 Q. That's the one that's located in San
4 Benito County, California?

5 A. Yes.

6 Q. Prior to your employment with KCAC, by
7 whom were you employed?

8 A. By Union Carbide Corporation.

9 Q. How long were you employed by Union
10 Carbide?

11 A. For 34 years.

12 Q. Beginning in 1951 up through 1985?

13 A. Right.

14 Q. Was this at Union Carbide in California?

15 A. Partly. At various locations.

16 Q. Give me a resume of your job history with
17 Union Carbide while you were employed there.

18 A. I started in 1951 in Oak Ridge, Tennessee.

19 Q. In what capacity?

20 A. In various technical and supervisory roles
21 in the process that was operated at Oak Ridge,
22 Tennessee.

23 Q. What process was that?

24 A. This was the gaseous diffusion process for
25 uranium enrichment. Transferred from there to the

1 same type of operation in Paducah, Kentucky.

2 Q. About what year would that have been?

3 A. I transferred in 1952 and was there until
4 1966.

5 Q. I take it in that period from 1952 to
6 1966, there would have been some type of upward
7 movement in your job, some type of supervisory
8 positions?

9 A. Yes. I was in charge of different kinds
10 of operations in the two operations, both in Oak
11 Ridge and Paducah, all of them in the same area of
12 engineering or supervisory responsibilities.

13 Q. In 1966, where did you move to?

14 A. I transferred to Niagara Falls, New York,
15 to the asbestos group located in Niagara Falls.

16 Q. What was the asbestos group in Niagara
17 Falls?

18 A. The group there was responsible for
19 research and development of asbestos products for
20 different applications.

21 Q. What was your position within that group?

22 A. I was called a research engineer.

23 Q. When you arrived there in 1966 to work
24 with the asbestos group, what type of products --
25 what type of asbestos products was Union Carbide

1 developing at that time?

2 A. Well, the products were in existence being
3 produced. They were just short-fiber chrysotile
4 asbestos fibers.

5 Q. Was Union Carbide producing any finished
6 asbestos products, such as wallboards or tiles or
7 anything like that?

8 A. Not to my knowledge.

9 Q. Was it the business of the asbestos group
10 when you arrived in 1966 to determine the
11 applications that could be used with regard to the
12 short-fiber chrysotile asbestos fibers you were
13 producing?

14 A. That was the basic function of the group,
15 yes.

16 Q. When you arrived there in 1966, who was
17 the person in charge of that group?

18 A. I believe that would have been Hal
19 Reichard.

20 Q. How are you saying Howell?

21 A. Hal, H-A-L.

22 Q. H-A-L. Reichard?

23 A. Yes.

24 Q. R-E-I-C-K-E-R-T?

25 A. I think, C-H-A-R-D.

1 Q. What title did he have?

2 A. I don't remember.

3 Q. When we talk about a group, how many
4 individuals are we talking about in this group?

5 A. I would guess eight or ten, probably.

6 Q. What would be the various disciplines
7 involved within the group? Without having to tell me
8 who the people were, what type of disciplines were at
9 work in this group?

10 A. What do you mean?

11 Q. Whether they were engineering, whether
12 there were people with medical disciplines,
13 engineering disciplines, scientific background? How
14 did it break down, if you can recall?

15 A. As I recall, there were primarily
16 engineers, technicians. I don't know the backgrounds
17 of the people.

18 Q. Was there a marketing arm of this group?

19 A. No.

20 Q. How long were you with this group?

21 A. For about a little over one year.

22 Q. What type of applications were proposed by
23 Union Carbide for the use of this short-fiber
24 chrysotile asbestos when you arrived there in 1966?

25 A. I don't recall that any -- I would put it

1 in that fashion that they were proposed. There were
2 people looking into an application in the paper
3 industry. As I recall, that was the main application
4 that they had been looking at.

5 Q. When you arrived there in 1966, was there
6 an application for this asbestos in the oil field
7 industry?

8 A. I don't know whether it was there
9 beforehand, but that was during my time there, that
10 was one of the applications.

11 Q. To determine the application, was some
12 type of testing done by this group to make that
13 determination?

14 A. Yes.

15 Q. What was the oil field application of the
16 short-fiber chrysotile asbestos?

17 A. The application was to thicken drilling
18 fluids.

19 Q. What was the source of the asbestos that
20 we're talking about here? You all had a mine at that
21 time?

22 A. Yes.

23 Q. Where was it?

24 A. In San Benito, California.

25 Q. Same mine we have been talking about

1 before?

2 A. Yes.

3 Q. Do you know when it was that Union Carbide
4 purchased that mine?

5 A. Well, you don't purchase a mine. The mine
6 was --

7 Q. Okay. Gained control of the mine?

8 A. The mine was discovered and certain
9 options were taken, some property was purchased,
10 other parts of it were leased.

11 Q. Do you know when that whole process began?

12 A. As I understand it, the mine was
13 discovered in 1959, and I assume that's when the
14 process began of acquiring the properties.

15 Q. When the determination was made that this
16 product was useful as a thickener in drilling fluid,
17 how did that get from the lab out into the general --
18 out into the oil field purchasing public?

19 A. At that time, Union Carbide had other
20 products going into the oil field application, and as
21 I recall, the contact was made with that group for a
22 marketing-type approach to introduce the product.

23 Q. So, you fellows, or ladies and gents,
24 determined that this had an application for oil field
25 use. Then you contacted the marketing people

1 someplace and hit upon a program to get it out into
2 the oil patch?

3 A. It was determined that it might have an
4 application in that field, and then that would have
5 been determined by the marketing approach to see if
6 it did fit that application.

7 Q. Where was the marketing arm of this
8 operation? Was that in Niagara, too, or was that
9 someplace else?

10 A. No, it was located in New York, in the
11 Union Carbide headquarters.

12 Q. Just to make sure we have this straight,
13 was this product -- was a product produced by Union
14 Carbide for use in the oil field already being
15 marketed when you arrived at the product group in
16 1966, or was this something you all developed when
17 you were there?

18 A. The marketing group was not -- I was not
19 in the marketing group.

20 Q. My question was: Was Union Carbide
21 already marketing --

22 (OFF-RECORD DISCUSSION)

23 BY MR. CARUSO:

24 Q. When you arrived at the marketing group in
25 1966 --

1 A. I was not in the marketing.

2 Q. Excuse me, when you arrived at the -- what
3 did you call this thing?

4 A. Research.

5 Q. Research and development group in 1966,
6 was this asbestos product already out in the market,
7 or is this something you developed when -- you and
8 the people there developed while you were there?

9 A. It was developed, the idea was developed
10 while I was there.

11 Q. Did Union Carbide market this product
12 under some type of trade name?

13 A. The trade name of the product, of the
14 asbestos products of all of them was Calidria,
15 Calidria Asbestos. I'm not sure when that trade name
16 was initiated, but as far as I can remember, it was
17 -- well, I'm not sure when the Calidria trade name
18 began to be used, but it would have been in that time
19 frame.

20 Q. In Answers to Interrogatories that Union
21 Carbide has submitted in this case, the answer
22 states: "From 1963 until 1985, Union Carbide mined
23 and sold short-fiber chrysotile asbestos under the
24 trade name Calidria."

25 Does that strike you as being accurate,

Table 34-22

Tracheal Insufflation to Rats Sacrificed 180 Days After Dosing

		Ml of 1% Solution		
		1	0.5	0.0
<u>TOTAL NUMBER EXAMINED GROSSLY:</u>		4	6	5
<u>LUNG: Number Examined</u>	(M)	4	6	5
Edema	(G)	2	0	1
Pneumonia	(G)	4	5	1
Atelectasis	(G)	2	0	1
Emphysema	(G)	0	0	1
Emphysema	(M)	1	2	1
Atelectasis	(M)	4	1	0
Inhalation pneumonia	(M)	1	0	0
Interstitial pneumonia	(M)	0	4	0
Abscess bronchopneumonia	(M)	0	0	1
Suppurative bronchiectasis	(M)	1	0	0
Acute bronchitis	(M)	0	0	1
Lymphoid cell accumulations	(M)	3	0	0
Foam cell accumulations	(M)	2	1	3
Fibrotic foreign body tissue	(M)	4	6	0
Granulation tissue foci	(M)	0	1	0
Pink hyalin material	(M)	2	0	0
Bluish homogeneous material	(M)	3	1	0
Numerous mononuclear cells	(M)	1	0	0
Mucoid infiltration	(M)	2	0	0
Proliferation bronchiole epithelium	(M)	0	0	1
<u>LIVER: Number Examined</u>	(M)	4	6	5
Bile duct proliferation	(M)	0	2	1
Round cell foci	(M)	1	0	0
<u>KIDNEY: Number Examined</u>	(M)	4	6	5
Hydronephrosis	(G)	0	1	0
Sand calculi	(G)	0	1	0
Hydronephrosis	(M)	0	1	0
Sand calculi	(M)	0	1	0
Dilated tubules	(M)	0	2	2
Pink casts	(M)	0	2	1
Interstitial nephritis	(M)	0	1	0
Cellular infiltration	(M)	0	1	0
Slight tubular regeneration	(M)	0	1	3
Moderate tubular regeneration	(M)	0	0	1
<u>TRACHEA: Number Examined</u>	(M)	4	6	5
Acute tracheitis	(M)	1	0	0
Chronic tracheitis	(M)	0	4	0

The following tissues were examined microscopically on all animals: Lung, Liver, Kidneys, Heart, Spleen, Adrenal, Thyroid, Parathyroid, Trachea and Esophagus.

G = Gross

M = Microscopic

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1 Q. So that you understand my question -- if
2 you know, and believe me, if you don't know, you just
3 tell us, it's no problem. But was there an
4 organization within Union Carbide in the sixties,
5 let's say starting in the sixties, after this product
6 was developed, of men who were out in the field
7 contacting drilling mud companies or oil companies to
8 sell the product, taking orders for the product if
9 they were successful in their sales endeavors, and
10 then able to transport this product to the customers
11 who wanted it?

12 A. That would not have been -- there was no
13 sales to the drilling mud industry from the
14 beginning. Those were developed -- I think the first
15 production of product for that was in 1968.

16 Q. Who was it being sold to before 1968?

17 A. For the drilling mud application?

18 Q. Yes.

19 A. No one that I know of.

20 Q. Did you sell this stuff between '63 and
21 '68? Was it sold to anyone?

22 A. Oh, yes.

23 Q. Who was buying it?

24 A. Various customers in the paper industry,
25 the floor tile industry.

1 Q. What you're saying is the earliest oil
2 field application that you know of began in 1968?

3 A. That's correct.

4 Q. Okay. Now, in 1968, when this product
5 began being sold for use in the oil field, was it
6 sold directly by Union Carbide to the mud companies
7 or the oil companies?

8 A. Not to my knowledge.

9 Q. How was it sold?

10 A. As far as I remember and am aware, all
11 sales were made through Montello Corporation first
12 starting in 1968. If there were any sales directly
13 prior to that time, I'm not aware of it and don't
14 remember it.

15 Q. So, beginning in 1968, Montello was
16 selling this product, this Union Carbide product into
17 the oil field?

18 A. Yes.

19 Q. Can you tell us, do you know --

20 A. Let me --

21 Q. Go ahead.

22 A. The production was started in 1968 of the
23 product for the oil field. Whether it was actually
24 sold in that year, it could have been the following
25 year; but the production was started in 1968.

1 Q. By 1968, you had moved on to the asbestos
2 processing mill?

3 A. Yes.

4 Q. Were you privy in any fashion to any
5 discussions or negotiations between Montello and
6 Union Carbide by which the business arrangement was
7 made for Montello to sell this product?

8 A. I was involved to some extent, more later
9 years rather than in the early years.

10 Q. Well, what was your involvement at the
11 earliest time?

12 A. As I remember, I visited Montello with
13 Union Carbide marketing representatives to discuss
14 the potential application of Union Carbide's asbestos
15 product in the drilling mud industry.

16 Q. Was this meeting initiated by Union
17 Carbide or was it initiated by Montello, if you can
18 recall?

19 A. I don't recall.

20 Q. Do you know who the marketing man from
21 Union Carbide was who attended this meeting?

22 A. The name that I remember is Pat Colpoys.

23 Q. Is he still with Union Carbide?

24 A. I don't know.

25 Q. Do you know where he is now?

1 A. No.

2 Q. Who from Montello was at that initial
3 meeting, do you recall?

4 A. Well, as I remember, it probably would
5 have been Ken Campbell, perhaps Harry Wyatt.

6 Q. Can you tell us what was the substance of
7 the discussions of that meeting with Mr. Campbell and
8 possibly Mr. Wyatt?

9 A. No, I don't remember.

10 Q. Do you know approximately what year it was
11 that the meeting took place?

12 A. No. I can only assume that it was 1968.

13 Q. Would this meeting have been to discuss
14 the possibility of Montello marketing this product?

15 A. Yes.

16 Q. Was the actual agreement between Montello
17 and Union Carbide for Montello to market the product
18 struck at this first meeting?

19 A. I don't recall.

20 Q. Eventually, though, Montello did become a
21 seller of this Union Carbide product; is that
22 correct?

23 A. For the drilling industry, yes.

24 Q. Was Montello the only company that sold
25 the Union Carbide asbestos product to the oil field?

1 A. To the best of my knowledge, yes.

2 Q. Now, besides being at that initial meeting
3 in 1968, what other contact did you have with
4 Montello once the agreement -- once the original
5 agreement to sell the product was reached?

6 A. During what period of time?

7 Q. Well, what's the next contact? Let's put
8 it that way.

9 A. I wouldn't recall anything specific. It
10 probably would have been several years, perhaps,
11 although there may have been infrequent meetings or
12 discussions. I don't recall anything specifically.

13 Q. Well, to get the product from the mine to
14 the ultimate Montello customer involves several
15 steps, I would imagine. First of all, the product
16 has to be put in some type of container, such as a
17 bag or something, for it to be sold; is that correct?

18 A. Yes.

19 Q. Who was it who determined the type of bag,
20 the size of bag, the lettering on the bag, the name
21 on the bag that would ultimately contain this
22 product?

23 A. That would have, I am sure, been
24 discussions between Union Carbide representatives and
25 Montello representatives.

1 Q. Who at Union Carbide, other than yourself,
2 would have been involved in those discussions?

3 A. Probably more the marketing people for our
4 asbestos products; and I'm sure plant personnel,
5 plant management would have been involved in the type
6 of packaging.

7 Q. Do you know who any of these marketing
8 people might be that you're talking about? Can you
9 identify some of them for us?

10 A. The one I remember who was -- I think he
11 was called marketing manager -- was Norman Setter.

12 Q. Setter?

13 A. Like in dog, yes.

14 Q. Do you know where Mr. Setter is today?

15 A. No, I don't know.

16 Q. Was he at California, where he resided at
17 the time you knew him?

18 A. No, in New York.

19 Q. New York.

20 By 1967 or so, you were at the asbestos
21 processing mill, you said.

22 A. Yes.

23 Q. Where is that located?

24 A. As I said before, near King City,
25 California.

1 Q. Would you have been involved in any way in
2 the delivery of the asbestos that was being bagged
3 for Montello?

4 A. I don't recall that I was involved. You
5 mean in the packaging? I was at the mill, but I
6 don't recall any specific involvement with Montello's
7 product versus other products.

8 Q. What would have been your job at the
9 asbestos processing mill beginning in 1967?

10 A. The main purpose of my being transferred
11 was to assist in the development of a production of a
12 new product, a treated product that was going to be
13 -- had been developed in Niagara Falls and was going
14 to then be produced in King City.

15 Q. What product was that?

16 A. It's called RG 244.

17 Q. What is RG 244?

18 A. It's a treated asbestos product used for
19 thixotropic purposes in resin systems.

20 Q. Define thixotropic for me.

21 A. Thixotropic -- thixotropy has the ability
22 to cause material, a liquid, to be thin when it has
23 no energy being applied to it or to be thick when
24 it's -- I'm sorry, to be thin when energy is applied
25 to it and to be thick when it is not; such as I

1 usually use a description of DuPont Lucite wall paint
2 that in a can looks very thick but if you put a brush
3 in it, you are putting some energy into it and it is
4 thin enough to apply a coat of paint.

5 Q. So, your job at the asbestos processing
6 mill beginning in 1967 was really developmental in
7 nature, to develop a new product and not to actually
8 be involved in the day-to-day running of this mill?

9 A. I was called technical superintendent. I
10 was in charge in that job, in addition to starting up
11 the operation of this site facility, to be
12 responsible for the laboratory operations. I can't
13 recall any other thing specific.

14 Q. Who was the person who was just in charge
15 of day-to-day seeing to it that the orders got filled
16 and everything got going in the direction it was
17 supposed to go in?

18 A. You mean like the plant manager?

19 Q. Yes, the plant manager.

20 A. It was John Riddle.

21 Q. How long did you stay with the asbestos
22 processing mill?

23 A. I am still with the asbestos processing
24 mill.

25 Q. Under new ownership?

1 A. Yes.

2 Q. That's where you were -- when your job at
3 Union Carbide ended in 1985, you were still at the
4 mill, you were there continuously from '67 to '85?

5 A. No.

6 Q. There was some other jump-off there
7 someplace? Where did you go?

8 A. In 1970, I transferred back to Niagara
9 Falls.

10 Q. What were you being punished for? What
11 did you do in '70 in Niagara Falls?

12 A. I was at that point made marketing manager
13 of Union Carbide's asbestos products.

14 MR. CARUSO: Off the record.

15 (OFF-RECORD DISCUSSION)

16 BY MR. CARUSO:

17 Q. You became marketing manager of Union
18 Carbide's asbestos products. Is that a division?

19 A. As I recall, in 1970 the asbestos business
20 was under the mining and metals division of Union
21 Carbide.

22 Q. So, you went back to Niagara in 1970 and
23 you became the marketing manager for the asbestos
24 products. When you got there in 1970, could you tell
25 us what types of asbestos products Union Carbide was

1 marketing?

2 A. The same types that we had been all along,
3 again, under Calidria Asbestos, the products for
4 floor tile, and drilling fluid applications, and
5 fairly typical -- or typical applications for
6 short-fiber chrysotile, which are very limited, the
7 number of applications.

8 Q. You mentioned some application in the
9 paper industry.

10 A. Yes.

11 Q. So, this product has an application in
12 what, the manufacture of floor tiling?

13 A. In the production of --

14 Q. Production of floor tiling?

15 A. -- vinyl asbestos floor tiles.

16 Q. It has an application in the paper
17 industry. What is its application in the paper
18 industry?

19 A. It doesn't have that application anymore,
20 but it was used in the production of typical bond
21 paper as what is called a pitch control agent, to
22 remove the tar and resins that are in the wood used
23 to make paper.

24 Q. We know what the application in the
25 drilling industry is. Are there any other

1 applications you can think of for which Union Carbide
2 was marketing this product in 1970 when you arrived
3 in the marketing department?

4 A. I can't remember any specifically in 1970.
5 The applications in general, if that's what you would
6 like.

7 Q. Yes.

8 A. In tape joint compounds, in asphalt
9 roofing materials, and acoustical ceiling tile. As I
10 say, there are probably others that I can't recall
11 that would be typical of a short-fiber chrysotile
12 application.

13 Q. How many people did you have working under
14 you as the marketing manager when you took the job in
15 1970?

16 A. I don't recall the exact number, probably
17 seven or eight or ten, somewhere in that vicinity.

18 Q. Were they divided up geographically, did
19 they have certain areas of the country, or how was
20 their labor divided?

21 A. It was different at various times during
22 my tenure. At one point, I think the first division
23 of personnel was geographically, and then we made a
24 change and had part of them responsible for sales and
25 others for the more technological or technical

1 aspects of marketing.

2 Q. How long did you hold the job as marketing
3 manager?

4 A. Until 1981.

5 Q. And then in 1981, what happened to you?

6 A. Back to King City, to the mill.

7 Q. You had served your time and they sent you
8 back to King City.

9 In '81, what title did you assume at the
10 mill?

11 A. Product and production manager.

12 Q. What is the job description for that one?

13 A. I was essentially in charge of -- or I was
14 in charge of the mining and milling operations.

15 Q. From the period beginning in 1968 up until
16 the time -- I say you left the company, because I
17 know this operation was sold in '85 -- was there any
18 department in Union Carbide that was charged with
19 industrial hygiene responsibilities?

20 A. Yes.

21 Q. Where was that department located?

22 A. In New York.

23 Q. At the headquarters?

24 A. Yes.

25 Q. Did that department monitor in any fashion

1 the potential health side effects, or deleterious
2 side effects associated with Union Carbide products,
3 and then report those problems to the different
4 people in charge of the responsibility of producing
5 and marketing those products?

6 A. Well, I wasn't in the department, I don't
7 know exactly what their procedure was. We were -- at
8 the plant operation, the industrial hygienists would
9 be in King City periodically.

10 Q. I take it when he came to King City, he
11 was to check the operation at the mine to make sure
12 everything was in line with whatever safety
13 regulations he wanted to see followed; was that his
14 job?

15 A. What he wanted to see followed, or the
16 safety groups.

17 Q. I want to distinguish here between
18 internal industrial hygiene work, that is the work
19 that the hygienists do within the company to make
20 sure the people who work for the company are being
21 protected, and information that would have been
22 supplied to Union Carbide by their industrial hygiene
23 group with regard to the possible dangers associated
24 with the products that it was selling and the harm it
25 might cause the public. Was any information being

1 given to you while you were involved with these
2 asbestos products by Union Carbide that any of these
3 products might pose -- these asbestos products might
4 pose a health hazard?

5 A. In what time frame, now?

6 Q. Beginning in 1968 up until the time you
7 left.

8 A. Was anything during that period? Yes.

9 Q. Besides what you read in the newspaper,
10 was Union Carbide generating its own information to
11 its people, such as the marketing people when you
12 were marketing man, or when you were in production,
13 whatever, that these asbestos products were a
14 potential health hazard?

15 A. I don't know what you mean by generating
16 the information, but there was information received
17 from them, as well as other sources, not particularly
18 about Union Carbide's products, but about asbestos in
19 general.

20 Q. Do you have any recollection as to when
21 you, personally, when you knew or began to know that
22 there might be health hazards associated with the use
23 of asbestos?

24 A. I can't recall a specific date, but it
25 would have been -- as I recall, would have started

1 developing or receiving information and becoming
2 aware of that in the early seventies.

3 Q. Let me show you a letter, a memo that's
4 dated January the 19th, 1968, authored by a gentleman
5 named Paul W. McDaniel, and see if you have any
6 recollection of ever having seen this before
7 (tendering document).

8 A. I can't recall reading this before, but I
9 may have. My name is on the distribution list.

10 Q. This distribution list down here with
11 various names on it, this was how documents were
12 circulated within the Union Carbide organization, if
13 your name appeared on it --

14 A. Yes.

15 Q. -- you would get a copy of whatever it was
16 that was being circulated?

17 A. You wouldn't necessarily get a copy, you
18 would be on a circulation list, such as that.

19 Q. This document that we're talking about, is
20 this an internal Union Carbide memo?

21 A. It's marked "Internal Correspondence,"
22 yes.

23 Q. Who is Mr. Paul W. McDaniel?

24 A. He was the industrial hygienist.

25 Q. In New York?

1 A. Yes.

2 Q. You say "the." Was he the head of the
3 hygiene department or was he an industrial hygienist?

4 A. He was one or the other. I don't know
5 whether he was head of the department, but he was an
6 industrial hygienist.

7 Q. Did they have more than one in New York?

8 A. I don't know.

9 Q. Industrial hygiene people?

10 A. I don't know.

11 Q. Who is Mr. John A. Riddle?

12 A. As identified earlier, he was the plant
13 manager at the King City operation.

14 Q. In 1968 -- I'm trying to see where you
15 were in 1968. Where were you in '68 --

16 A. In King City.

17 Q. -- that you would have gotten a copy of
18 this?

19 A. At the King City milling operation, and I
20 did not necessarily receive a copy of that.

21 Q. You mean it came across your desk and you
22 bucked it to the next person on the list?

23 A. It was routed, according to that
24 distribution stamp.

25 Q. So, you may never have gotten it?

1 A. As I said, I may have seen it, I don't
2 remember reading it before, but I am on the
3 distribution.

4 Q. Who is L. F. Crow?

5 A. I'm not sure what his title was. He was
6 in charge of the operations at King City.

7 Q. R. O. Marsten?

8 A. He was the plant engineer.

9 Q. King City?

10 A. Yes. And mining superintendent.

11 Q. W. E. Hohapple?

12 A. He was at the mill. I think he was
13 maintenance superintendent.

14 Q. A. A. Andrade?

15 A. I think he was -- I'm not sure what he was
16 at that time. He was involved with shipping at one
17 point.

18 Q. G. C. Brice?

19 A. He was also in maintenance.

20 Q. Of the mine?

21 A. Of the milling operation.

22 Q. K. A. Wood?

23 A. He was office manager.

24 Q. D. S. Kamens?

25 A. He was laboratory supervisor.

1 Q. K. West?

2 A. He was purchasing.

3 Q. There is a name here I can't quite make
4 out. It's "G." and then the last name is
5 E-S-S-E-L-S, with a letter in front of it I can't
6 make out.

7 A. Vessels.

8 Q. Vessels. What was Mr. or Ms. Vessels'
9 job?

10 A. He was like the accountant in the office.

11 Q. It says here "Originating Dept. Medical."
12 What was the medical department? Was that part of
13 the hygiene department?

14 A. As I recall, it was the other way around.
15 I think industrial hygiene was under the medical
16 department, under Union Carbide's medical department.

17 Q. Union Carbide had a medical department in
18 New York?

19 A. Yes.

20 Q. What was the function or role of the
21 medical department at Union Carbide?

22 A. I couldn't respond, other than what would
23 be true of any corporation, I suppose, that had a
24 medical department. They were responsible for giving
25 physicals or guaranteeing that people had their

1 physicals, probably maintained a library. I don't
2 know. I wasn't in the department.

3 Q. What I'm trying to get to, to shortcut all
4 this stuff, is: Was there a system within Union
5 Carbide's organization -- and we will just pick 1968
6 since that's when this memo is dated, up until 1985,
7 where the medical department or the industrial
8 hygienists were routinely monitoring studies that
9 were ongoing, learning about possible problems with
10 the products, and then disseminating that information
11 to the various department heads who might be
12 interested in that?

13 A. Yes. I don't know how well organized it
14 was or whether it was -- I forget the term you used
15 -- but I assume that there would be people doing
16 that, not only medical department but other groups,
17 depending on what the product -- what product was
18 involved.

19 Q. Now, that memo that we've been talking
20 about, which I will mark in a minute, talks about the
21 association between crocidolite and mesothelioma. Do
22 you want to verify that for me?

23 A. Yes, it does.

24 Q. And since I don't have it in front of me,
25 I think it also talks about the fact that the

1 relationship between chrysotile and mesothelioma is
2 not established yet, or it says something like that
3 in that letter, does it not?

4 A. It says it's not clear.

5 Q. Not clear. But this letter does in fact
6 alert anyone who did receive it to the fact that
7 asbestos has at least some potential for
8 carcinogenesis; does it not?

9 A. I don't think it says that. It says that
10 the crocidolite and mesothelioma, the relationship
11 seems clear -- or seems established. But as it says,
12 the relationship between chrysotile and cancer or
13 mesothelioma is not clear.

14 MR. WILLIAMS: You said cancer.
15 Did you mean chrysotile?

16 THE WITNESS: I mean chrysotile.

17 MR. CARUSO: Let's mark this for
18 me as Myers No. 1, would you, please.

19 (WHEREUPON DOCUMENT ON THE
20 LETTERHEAD OF UNION CARBIDE
21 CORPORATION, DATED JANUARY 19, 1968,
22 ADDRESSED TO MR. JOHN A. RIDDLE, FROM
23 PAUL W. McDANIEL, WAS MARKED FOR
24 IDENTIFICATION AS MYERS EXHIBIT NO. 1,
25 COPY OF WHICH IS ATTACHED AT THE

CONCLUSION HEREOF)

BY MR. CARUSO:

Q. I believe your testimony was earlier that you personally became aware of health problems associated with asbestos sometime in the early seventies?

A. That's the best I could recall. I can't pin down a date, obviously, when I began becoming aware of health problems between asbestos and -- health problems with asbestos.

Q. What were the health problems that you were made aware of?

A. During some time span, I became aware of asbestosis and lung cancer and mesothelioma.

Q. How were you learning about all these things?

A. I can't remember specifically or recall, but I would say by public -- or published literature; I'm sure internal mailings, such as the letter that is Exhibit 1; probably personal conversations with people.

Q. Were you ever present at any meetings held at Union Carbide to discuss the health hazards associated with asbestos?

A. I'm sure I was at meetings where the

1 health aspects were discussed. I don't recall any
2 specific meeting to discuss only health hazards.

3 Q. Health hazards or potential health hazards
4 that might be associated with a product is, among
5 other things, a marketing problem, is it not, as to
6 how you and the marketing department are going to
7 handle that particular problem with your customers?

8 A. That would be a factor in marketing, yes.

9 Q. It would also affect how the product might
10 have to be labeled for sale to the customers with
11 regard to any cautionary wording that has to be
12 placed on the product; is that correct?

13 A. Well, why don't you restate the question.

14 Q. It's a marketing problem in the sense of
15 what are you going to tell people about it and be
16 accurate about it, and it also raises the question of
17 how you are going to label your products on the
18 packaging, what warnings you are going to put on the
19 packaging; is that correct?

20 A. That would be part of marketing. I'm not
21 sure that marketing would make a decision on what
22 warnings were placed on a package.

23 Q. Well, eventually, cautionary wording was
24 put on the bags, was it not, with regard to asbestos?

25 A. You're talking about -- you're talking

1 about bags of Calidria Asbestos?

2 Q. Yes.

3 A. They had a warning on them, yes.

4 Q. Did they have a warning on them as early
5 as 1968?

6 A. That's when a warning was first used was
7 1968.

8 Q. Let me show you a document which was
9 produced by your attorneys and ask you if the wording
10 that appears on the bottom of that document, the
11 cautionary wording is the wording that was put on the
12 bags in 1968?

13 A. I'm not sure whether this was the warning
14 in 1968 or whether this was the one required by OSHA
15 in 1972. I don't remember which one is which.

16 Q. Do you remember the wording of the other
17 warning? Is it different than that?

18 A. That's why I can't tell you, because I
19 don't remember which one this is. They were very
20 similar. Union Carbide, as I say, began in 1968, and
21 then when OSHA developed their rule in 1972, Union
22 Carbide adopted the new wording as prescribed by
23 OSHA. But I cannot remember which one this is.

24 Q. Would you read that wording into the
25 record, please?

1 A. The caution wording or the whole label?

2 Q. The caution warning.

3 A. It says: "CAUTION Contains Asbestos
4 Fibers, Avoid Creating Dust, Breathing Asbestos Dust
5 May Cause Serious Bodily Harm."

6 Q. Now, were you present at any meetings
7 where that wording was discussed as to whether or not
8 it should be put on the bags?

9 A. Not that I recall.

10 Q. Who had the ultimate decision or the
11 ultimate authority to decide what type of wording
12 went on the bags, as far as cautionary wording was
13 concerned?

14 A. I don't remember for sure. I would
15 imagine it would have been probably a joint decision
16 between the Union Carbide medical department and
17 legal department and the asbestos business group or
18 asbestos department. That would be for the original
19 1968 warning. The use of the other, the new warning
20 in '72 was prescribed by OSHA.

21 Q. What does the phrase "Serious Bodily Harm"
22 mean on this warning?

23 A. What does it mean?

24 Q. Yeah, what does it mean?

25 A. Well, to me, it would mean something done

1 to the body that was harmful.

2 Q. Does it mean cancer?

3 A. Could be, yes. I would call that a
4 serious bodily harm.

5 Q. How is the guy working out in the field
6 with this stuff supposed to know that serious bodily
7 harm means cancer?

8 MR. WILLIAMS: I don't mean to
9 break in, Mr. Caruso, but you are
10 asking him for a hypothetical as to
11 what somebody else might know, and I
12 don't think that's a proper question,
13 so I'm going to object to it.

14 MR. ADAMS: Further object to the
15 question as leading and calling for
16 the witness to render an expert
17 opinion with regard to adequacy of
18 warnings.

19 BY MR. CARUSO:

20 Q. Well, how is the guy in the field supposed
21 to know that serious bodily injury means a
22 distinctive carcinogen?

23 MR. WILLIAMS: Again, we'll
24 restate the same objections, including
25 Mr. Adams'.

1 MR. ADAMS: Correct.

2 A. I don't know that the label necessarily
3 would be related to cancer -- or the wording, I mean,
4 would be related to cancer. You asked me what a
5 bodily harm was and I said -- or asked me if cancer
6 would be a bodily harm and I said yes, it would be.
7 How someone else may interpret the label or the
8 wording would be entirely up to them.

9 BY MR. CARUSO:

10 Q. When did you all first know that
11 chrysotile asbestos causes mesothelioma at Union
12 Carbide?

13 A. I don't know that chrysotile asbestos
14 causes mesothelioma.

15 Q. You don't know that personally, or was
16 that Union Carbide's position that it didn't cause
17 mesothelioma?

18 A. I wouldn't speak for Union Carbide's
19 position. In my personal opinion, and I'm obviously
20 not a Medical Doctor, but from what I have read, I
21 don't believe chrysotile asbestos causes
22 mesothelioma.

23 MR. CARUSO: Before we go on,
24 would you please mark this as Myers
25 No. 2.

(WHEREUPON XEROX COPY WITH
CAUTIONARY WORDING WAS MARKED FOR
IDENTIFICATION AS MYERS EXHIBIT NO. 2;
COPY OF WHICH IS ATTACHED AT THE
CONCLUSION HEREOF)

BY MR. CARUSO:

Q. Sir, are you familiar with a document that
bears the title "Material Safety Data Sheet"?

A. I am familiar with some documents that
contain that title, yes.

Q. What is the purpose, to your knowledge, of
the Material Safety Data Sheet?

A. To my knowledge, it was -- I think it was
initiated by OSHA for shipyard workers, and the
purpose today is to identify the materials which may
create a hazard in the workplace.

Q. Did Union Carbide or the Calidria
Corporation publish Material Safety Data Sheets with
regard to its chrysotile asbestos products?

A. Yes.

Q. While I'm on the subject, what is the
Calidria Corporation?

A. That was a subsidiary corporation created
in 1984, I think, when Union Carbide was reorganizing
its entire metals division. Several of the materials

1 or products that were produced by the metals division
2 were put into one subsidiary; the asbestos business
3 was put into another one called Calidria Corporation.

4 Q. At some point in time, did you actually
5 become employed by Calidria Corporation?

6 A. For that short --

7 Q. For that short period?

8 A. For that short period, yes.

9 Q. Who was it at the Calidria Corporation who
10 was charged with the responsibility of preparing the
11 Material Safety Data Sheet?

12 A. I don't know that there was any single
13 person. It would have been probably a joint effort
14 between -- again, between marketing, medical
15 department, and probably the legal department.

16 Q. How often would a Material --

17 A. Let me add one more. And probably the
18 asbestos business management.

19 Q. How often would a Material Safety Data
20 Sheet be published on the asbestos products?

21 A. Do you mean when it would be revised?

22 Q. Right.

23 A. I would -- I think it was only revised one
24 or two times, and probably when new information was
25 developed. As I recall, it was revised when the OSHA

1 regulations were revised, so that the information was
2 as current as possible.

3 Q. I know there is a date on this thing and
4 I'm just trying to find it.

5 Let me show you this document, which I
6 will ask the court reporter to mark as Myers No. 3,
7 and ask you if you recognize that as a Material
8 Safety Data Sheet regarding the Calidria Asbestos
9 products.

10 (WHEREUPON DOCUMENT ON THE
11 LETTERHEAD OF CALIDRIA CORPORATION
12 ENTITLED "MATERIAL SAFETY DATA SHEET"
13 WAS MARKED FOR IDENTIFICATION AS MYERS
14 EXHIBIT NO. 3, COPY OF WHICH IS
15 ATTACHED AT THE CONCLUSION HEREOF)

16 A. Yes, that is a Material Safety Data Sheet
17 describing Calidria Asbestos.

18 BY MR. CARUSO:

19 Q. Can you tell what year that data sheet was
20 published?

21 A. Well, it says on the back sheet, December
22 31st, 1984.

23 Q. Would that be the publication date for
24 that Material Safety Data Sheet?

25 A. I couldn't answer that. It does say

1 "Effective Date," so I assume that that's when it was
2 produced and distributed.

3 Q. Once that sheet is made up, to whom is it
4 distributed?

5 A. I can't recall specifically whether these
6 were sent out to customers, but we made a -- they
7 were certainly sent out on request, and they were
8 probably sent out on an annual basis to our customers
9 and distributors as part of an education-type
10 package.

11 Q. And the customer reading that Material
12 Safety Data Sheet, or the distributor reading that
13 Material Safety Data Sheet, could determine from
14 looking at it what possible health side effects there
15 might be associated with the use of that product?

16 A. I'm not sure that this would include all
17 of the possible health effects or side effects, but
18 it was put together at the best of Union Carbide's
19 ability to fully describe the short-fiber chrysotile
20 and its potential health effects or hazards.

21 Q. So, that document represents an expression
22 by Union Carbide as to what Union Carbide's belief is
23 with regard to the potential side effects of the
24 product?

25 A. I would assume that in that period of

1 time, it would reflect that feeling, yes.

2 Q. You already testified in your judgment,
3 your belief, that chrysotile asbestos fibers do not
4 cause mesothelioma. Was that your testimony earlier
5 on?

6 A. That is my belief, that the chrysotile
7 does not cause mesothelioma.

8 Q. Okay, under the title "Chronic Effects of
9 Overexposure" in this Material Safety Data Sheet, it
10 says: "Overexposure to chrysotile asbestos has
11 caused damage to lungs (asbestosis), lung cancer and
12 mesothelioma of the pleura and peritoneum."

13 Now, when did Union Carbide, to your
14 knowledge, first come into possession of the fact
15 that this chrysotile asbestos does cause
16 mesothelioma?

17 A. I would have no idea.

18 Q. Would it have been the policy of Union
19 Carbide to advise its customers and distributors as
20 soon as possible about possible side effects or
21 health effects, once it was known to Union Carbide?

22 A. I would think that would be a general
23 policy. I don't think -- when you say it was known,
24 again, I think the health effects of asbestos have
25 become known over a long period of time, and I don't

1 think they would have distributed something based on
2 perhaps inconclusive evidence. I think they would
3 have made sure that what they were distributing was,
4 as I said, to the best of their knowledge the best
5 and most accurate information at the time. To my
6 knowledge, there was never any attempt to hide any
7 information or conceal any information.

8 Q. So, this document here, since it was
9 published by Union Carbide, represents a statement by
10 Union Carbide that it is satisfied that, based on its
11 own search of the literature, investigation, or from
12 whatever source, that the chrysotile asbestos fiber
13 has the potential to cause mesothelioma?

14 A. Based on what it says, that would have
15 been -- that would have been the conclusion, yes.

16 Q. Now, those Material Safety Data Sheets, as
17 they were published, were they catalogued and kept
18 anywhere in a library of any fashion, so that we
19 could trace them to go from '84 back and see all the
20 Material Safety Data Sheets that apply to this
21 product?

22 A. I doubt if there would be any one place,
23 unless it would be the Union Carbide medical
24 department may have kept such a file.

25 Q. Do you have a name in mind of a person who

1 you would identify as the head of the Union Carbide
2 medical department?

3 A. At the present time?

4 Q. Let's start with the present.

5 A. No, I have no idea.

6 Q. All right. Let's start with the period
7 from 1968 up to 1985. Do you know anybody who held
8 that position? Can you identify them for us?

9 A. I think that Carl Dernehl was the -- I
10 think he was head of the medical department. At
11 least that's a name that I remember in the 1970's.

12 Q. Do you know who the head of the medical
13 department was in 1984 when that Material Safety Data
14 Sheet was prepared?

15 A. No, I don't. Let me say I probably know,
16 but I can't recall a name. It's probably in there
17 somewhere.

18 Q. All right. Was any consideration ever
19 given to placing a warning on the bags containing the
20 asbestos products that the chrysotile asbestos caused
21 cancer?

22 A. I don't recall that that was. Again, I
23 was not involved with developing warning wording. To
24 the best of my knowledge, I don't remember a
25 suggestion like that.

1 Q. Were you ever present at any meetings or
2 discussions of any kind, and with anyone, where it
3 was discussed that if it got out into the public that
4 this stuff caused cancer, you would have trouble
5 marketing it?

6 A. No, not that I recall. I think at the
7 time we're talking about, that kind of information
8 was already out. I don't think we had -- there
9 wasn't any attempt to conceal that kind of thing.

10 Q. Well, there had to be some attempt to try
11 to soften the effects of the health hazards
12 associated with the asbestos; was there not?

13 A. What do you mean by "soften"?

14 Q. Well, to sort of assuage people's fears
15 that this stuff might hurt them, so you could sell
16 it.

17 A. I think the only -- as I recall, the
18 message was that the material can cause lung disease,
19 and therefore should be treated as a material of that
20 kind, but there are ways to use it safely. That was
21 normally the meat of our message was this is an
22 industrial material, like many others, that could
23 cause health problems, and therefore should be used
24 with certain precautions and safety practices.

25 Q. Let me show you a document that we were

1 given by Union Carbide's counsel, a series of papers,
2 and the first one, the first page is entitled -- let
3 me get them in the right order here -- "Questions,"
4 and then below it it has "Short and simple answers to
5 difficult questions. Page 1 to 5." And it has no
6 heading or title on it to show where it ever came
7 from, but I want to ask you, have you ever seen these
8 papers before? Just look through all of them. Take
9 your time.

10 A. My answer to your question is no, I'm not
11 familiar with this and I don't recall ever having
12 seen it before.

13 Q. Thank you.

14 Were meetings held in the marketing
15 department, or by the marketing department, with the
16 salesmen to keep them abreast of the developing
17 information regarding health hazards associated with
18 asbestos, and to give them information on what to
19 tell the customers when the subject came up?

20 A. Yes, there would have been meetings, would
21 have been a lot of communications by sending the
22 salesmen literature or whatever. Again, I can't
23 recall a specific meeting to discuss the health
24 hazards, but that obviously, I think, would have been
25 discussed in meetings with sales people. And as I

1 said, mailings would have been sent to sales people
2 explaining or passing on different kinds of
3 literature.

4 Q. Did these meetings result in a unified
5 policy by which Union Carbide required its sales
6 people or marketing people to respond to the
7 inquiries regarding the health effects? What I'm
8 saying is: If they ask you this, tell them that; if
9 they ask you this, tell them that; if they ask you
10 this, tell them that?

11 A. I don't recall anything like that, no.

12 Q. Outside of the literature and studies that
13 were being performed in the medical community, was
14 Union Carbide itself involved in any studies or
15 research regarding the health hazards associated with
16 asbestos?

17 A. Yes.

18 Q. When did that begin, if you know?

19 A. I don't know the date.

20 Q. Was it in the sixties or was it in the
21 seventies?

22 A. Well, I would have to say yes to that. It
23 could have been late sixties or early seventies, I
24 don't recall the dates.

25 Q. Do you know what the nature of the

1 research was?

2 A. Yes.

3 Q. What was it directed towards?

4 A. There were, I would say, very limited
5 studies done at the Mellon Institute on the Union
6 Carbide fiber, both the regular short-fiber
7 chrysotile fiber and the RG 244 product.

8 Q. Did that study result in a written report
9 as to its findings?

10 A. Yes.

11 Q. Were you favored with a copy of that
12 report?

13 A. I have seen copies, yes.

14 Q. After studying the report, what did it
15 tell you?

16 A. Basically, that the short-fiber chrysotile
17 that Union Carbide was mining and milling was no
18 different than other forms of chrysotile fiber with
19 regard to its effects in the animals tested.

20 Q. Well, as I read this report, it said that
21 they found that they had several cases of lung
22 collapse, they had emphysema, they had fibrotic
23 foreign body nodules. Is that generally what you
24 expect with all chrysotile asbestos exposure?

25 A. I'm not -- again, I can't speak from a

1 medical terminology, but if that's in the report, I
2 would assume that's what they would expect. As I
3 said, as I recall, the conclusion was that the Union
4 Carbide asbestos caused the same types of reactions
5 in the animals.

6 Q. As other asbestos?

7 A. As other chrysotile.

8 Q. Let me show you a report of the -- it's
9 dated, apparently, 9-3-71, and it's entitled
10 "Calidria Asbestos-Resin Grade RG 244 Tracheal
11 Insufflation of Rat Lungs with Interpretation of
12 Pathology after 30, 60, 90 and 180 Days." Something
13 you might want to curl up with at night. And ask you
14 if that was the report you were talking about as a
15 result of the Mellon study. And please look at all
16 of it and take your time.

17 (OFF-RECORD DISCUSSION)

18 A. That is one of the two reports that I
19 mentioned, yes.

20 BY MR. CARUSO:

21 Q. Let me see if I have the other one. I may
22 have it. Here we go -- no, that's the same one.

23 MR. CARUSO: Would you mark this
24 as Myers No. 4.

25 (WHEREUPON DOCUMENT ENTITLED

1 "CALIDRIA ASBESTOS-RESIN GRADE RG 244
2 TRACHEAL INSUFFLATION OF RAT LUNGS
3 WITH INTERPRETATION OF PATHOLOGY AFTER
4 30, 60, 90 AND 180 DAYS," CONSISTING
5 OF SEVEN PAGES, WAS MARKED FOR
6 IDENTIFICATION AS MYERS EXHIBIT NO. 4,
7 COPY OF WHICH IS ATTACHED AT THE
8 CONCLUSION HEREOF)

9 BY MR. CARUSO:

10 Q. You said that's one of the two reports,
11 that Myers 4 is one of two reports that you read. Do
12 you have any recollection as to when the second
13 report came out?

14 A. No.

15 Q. This one is dated in 1971.

16 A. As I say, both of them, to my knowledge,
17 were done either in the late sixties or early
18 seventies. As I remember, the other one was before
19 this one.

20 Q. Who is Dr. A. E. Pufahl, P-U-F-A-H-L?

21 A. He was -- he was involved with the
22 asbestos business in the very early parts of my
23 involvement with the business. As I remember -- I
24 don't remember what his title was. He was more or
25 less an "expert," in quotation marks, in the paper

1 industry application for Union Carbide's asbestos.

2 Q. Do you know who P. R. Cheston was?

3 A. No.

4 Q. Did you have any dealings yourself with
5 the London offices of Union Carbide?

6 A. I was trying to remember when I was in
7 marketing if I dealt with the London office, but I
8 don't believe I had any direct dealings with them,
9 no.

10 Q. When did Union Carbide join the Asbestos
11 Information Association?

12 A. I'm not sure exactly, but in the early
13 seventies, perhaps -- I'm not sure of the date
14 exactly, but it would have been prior to 1975, I
15 think.

16 Q. What was the purpose of joining that
17 organization?

18 A. I don't know. I wasn't involved with the
19 decision on joining, that I recall.

20 Q. Did you receive or were you copied on or
21 provided with copies of information received from
22 that association?

23 A. In what time period?

24 Q. 1970 -- well, from the time you joined it
25 until the time you left.

1 A. Yes, I have received quite a bit of
2 information from them, yes.

3 Q. Based on what you learned about asbestos,
4 what you were learning about asbestos, in your
5 position as marketing director from '70 to '84 --
6 marketing manager -- did you think the warning you
7 all were putting on the bags was adequate to tell the
8 people what the dangers were with regard to this
9 stuff?

10 MR. WILLIAMS: Excuse me, I am
11 going to object to that. You are
12 asking him for an opinion I think is
13 more proper from an expert.

14 A. Did I think the warning was adequate?

15 BY MR. CARUSO:

16 Q. Yes.

17 A. As counsel says, I'm not an expert in
18 warning labels or wording. I don't recall that I had
19 an opinion whether or not it was adequate. I think
20 the decision was made by people that would have been
21 more expert in that than I was. There are -- or at
22 the time the knowledge was known, when the warning
23 wording was decided, yes, in my opinion that would
24 have been an adequate warning.

25 Q. In 1984, in your Material Safety Data

1 Sheet, you were telling your customers that your
2 product could cause cancer and mesothelioma and
3 asbestosis and a bunch of other things that's in
4 there. Why didn't you all change the labeling to put
5 some of those things on the bags?

6 A. Well, first of all, I don't think those
7 things were telling our customers that our asbestos
8 caused those things. That Material Safety Data Sheet
9 and other information was related to chrysotile
10 asbestos in general, not necessarily Calidria
11 Asbestos.

12 Q. I'm sorry, Calidria Asbestos is not a
13 chrysotile asbestos?

14 A. Yes, it is. But as I say, the
15 information in there is general to chrysotile
16 asbestos, so we were telling customers that
17 chrysotile could cause these various diseases. I
18 think mailings such as this are a very good means to
19 get the information to the user. The users, the
20 customers were encouraged to pass this information on
21 to their employees, and I believe that's as good a
22 way or probably a better way than putting a label on
23 a package.

24 Q. In other words, you think it's better to
25 send one of these sheets to one of your distributors,

1 who in turn is selling this stuff out into the field,
2 where you say, "Overexposure to Chrysotile Asbestos
3 has caused damage to lungs (asbestosis), lung cancer
4 and mesothelioma of the pleura and peritoneum." You
5 also go on to say which could result in "labored
6 breathing, chest pains, weakness, and chest
7 tightness. Pleural thickening, plaques and effusion
8 are nondisabling conditions, seen separately..." You
9 say, "The risk of lung cancer greatly increased for
10 those who smoke cigarettes regularly in addition to
11 having asbestos exposure." That it's much better to
12 send this to your distributor than to take this
13 warning label and put on here "Caution, this may
14 cause cancer," is that what you're telling me?

15 A. No.

16 MR. WILLIAMS: Excuse me, just a
17 second. You keep saying "you." He
18 testified a little earlier that he was
19 not involved directly with the
20 preparation of that but it came from
21 several different sources, and you and
22 I both know those are prepared based
23 on certain federal criteria. So, to
24 ask him to compare that -- you know,
25 you keep asking "you." That was a

1 joint decision. I think he said he
2 didn't have any input into it.

3 BY MR. CARUSO:

4 Q. Well, as a former employee of Union
5 Carbide, you think it was responsible, a responsible
6 reaction by Union Carbide, that gives you no problem
7 to this day that you were involved in all of this,
8 that you just didn't change the wording and say, you
9 know, "can cause cancer"? I mean, wouldn't you want
10 to know if you were using this stuff? If you would
11 have gotten out in the field, wouldn't you want to
12 know about that?

13 MS. CLARK: I think you have
14 asked three questions in one.

15 MR. BISSELL: Is all of this
16 argument prefaced on his being a
17 former employee of Union Carbide?

18 MR. CARUSO: Yes. He was the
19 marketing man from 1970 to 1984.

20 MS. CLARK: I don't think there
21 is a question on the table to be
22 answered. I think there are about
23 three or four questions.

24 MR. MARSHALL: I object to the
25 form of the question as multiple.

1 BY MR. CARUSO:

2 Q. Let me go back again, because I'm not so
3 sure I'm clear about this. You said there probably,
4 as far as your recollection, were two types of
5 wordings that were put on the bags, cautionary
6 wordings, one that predates OSHA and one that came in
7 with or at the time that OSHA was put into effect; is
8 that correct?

9 A. That is true. I am not speculating, that
10 is true.

11 Q. That is true. And as far as you recall,
12 this is the OSHA wording I have here on Exhibit 2?

13 A. No, I told you my recollection -- I don't
14 know which one it is.

15 Q. You don't know which one it is, one way or
16 the other. Okay.

17 We are clear on one thing: Never, ever in
18 the history of the marketing of this asbestos product
19 at any time did Union Carbide ever put on these bags
20 that this product was a carcinogen, or could cause
21 cancer, or wording to that effect? That was never on
22 a bag?

23 A. No.

24 Q. No one working in the field would have
25 ever seen any wording like that?

1 A. Not on a bag.

2 Q. Was the same thing true for the Montello
3 bags, the warnings were the same?

4 A. The warnings on all our bags were
5 identical, yes.

6 Q. Now, if Montello would have wanted to
7 change the wording or add wording or put a different
8 wording on there, could they have done that?

9 MR. WILLIAMS: Excuse me. Again,
10 I'm going to object that he is not a
11 Montello employee, and I don't think
12 he can answer a question based on what
13 they might or might not have done.

14 BY MR. CARUSO:

15 Q. Can you answer that question?

16 A. Why don't you repeat it.

17 Q. If Montello had not been satisfied with
18 the wording that you all had proposed, that Union
19 Carbide had proposed insofar as adopting the federal
20 standard, if they wanted to add something to the bag
21 in the way of cautionary wording, was there anything
22 within Union Carbide's organization that would have
23 stopped them from doing that?

24 A. I'm not sure whether there was any
25 restriction on changing any of the wording that was

1 on the bag. If they would have wanted to change
2 something, it would have been considered -- it would
3 have been considered and discussed with whoever was
4 making those kinds of decisions.

5 Q. Do you know why, can you tell me why Union
6 Carbide never published on the bags the fact that
7 this product was a potential carcinogen?

8 A. No, I can't tell you why they wouldn't
9 have put that on there. As I said earlier, the
10 labels and the other information was developed and
11 distributed, or whatever, with the knowledge
12 contained at the time it was put out.

13 Q. Now, who --

14 A. I can't see why they would not have for
15 any other -- any less a reason than OSHA did not
16 prescribe that with their, you know, being a federal
17 agency and with all of the testimony and whatever
18 that they went through in developing the standards,
19 that they did not prescribe the word "cancer" be
20 included in the label.

21 Q. Who was it at Union Carbide, or maybe more
22 than one person, who would make the ultimate decision
23 as to what wording went on the bags?

24 A. I think I have testified to that. I don't
25 believe there was any one person.

1 Q. Well, who was the group? Who was the
2 group?

3 A. The same that I said before, probably the
4 medical department, the legal department, and the
5 asbestos management people.

6 Q. Does that include the marketing people?

7 A. No, I don't -- well, yeah, the marketing
8 department, also, would have been involved.

9 Q. Now, were you called upon at any time to
10 give your input as to the type of wording that you
11 think should go on the bags, as marketing manager?

12 A. Not in 1968 when the original warning was
13 developed, and then the second warning in '72, as I
14 said, was prescribed by OSHA.

15 Q. And there were never any discussions to
16 expand that OSHA wording?

17 A. Not that I recall.

18 Let me change that last answer.

19 Q. Sure.

20 A. You gave me some time to think.

21 Q. I don't mean to rush you. Anytime you
22 want to take some time, just let us know.

23 Go ahead and change your answer.

24 A. I do now recall, and I'm not sure of the
25 year, it was probably early 1985 or 1984, where there

1 were some discussions about changing the label.

2 Q. Tell me everything you remember about
3 that.

4 A. That's basically about it. There were
5 discussions about using more specific wording on the
6 labels. As I say, this was in the very end of Union
7 Carbide's involvement with the asbestos business.

8 Q. Let me see if we can probe you a little
9 bit on that. Do you know, was there a meeting, was
10 it like a room where they were having a meeting about
11 it?

12 A. No, I don't recall that there was any
13 meeting. There were certain people assigned to be
14 involved with the wording change. I can't remember
15 what brought -- you know, what prompted or who
16 prompted it.

17 Q. How did you get to know about it?

18 A. I was involved from a standpoint of
19 commenting on various proposals.

20 Q. The proposals we're talking about, were
21 these circulation of different types of warning
22 language that people were proposing might be put on
23 the bags?

24 A. Yes.

25 Q. And you were asked to comment on it?

1 A. Yes.

2 Q. How would you make your comments with
3 regard to the proposed wording change?

4 A. As I recall, sometimes by phone and
5 sometimes by handwritten.

6 Q. Handwritten memo of some type?

7 A. Note on the copy, making notes on whatever
8 I was sent.

9 Q. Now, do you remember anybody else who was
10 consulted about these wording changes?

11 A. Sure. As I say, there was probably
12 someone in the medical department. The man that I
13 was -- that was involved with it was Dr. Rhodes,
14 R-H-O-D-E-S.

15 Q. He was in the medical department?

16 A. No, he was a Ph.D.

17 Q. When was --

18 A. I think he --

19 Q. I'm sorry, finish your answer.

20 A. I think he was -- I'm not sure what
21 department he was in. He was in Niagara Falls.

22 Q. How was he involved in this?

23 A. I'm not sure whether he was the
24 coordinator of this idea or not, but he was -- I
25 probably did most of my discussions with him. He was

1 the one that would call me.

2 Q. Is that Harry Rhodes?

3 A. Harrison B., yes.

4 Q. What was the scope of this project? How
5 many people were being consulted about it, do you
6 know?

7 A. No, I don't know.

8 Q. In '84, you were product manager by that
9 time?

10 A. Product and production manager.

11 Q. In King City?

12 A. In King City.

13 Q. Then this fellow Harry Rhodes from
14 Niagara, he was involved in some fashion in this?

15 A. Yes.

16 Q. I'm sorry, what department? Was he in
17 medical or was he in some other department?

18 A. No. I'm not sure. He was in the metals
19 division, or I think by that time it was called
20 another subsidiary, UMETCO or something. I don't
21 know what his responsibilities were, exactly.

22 Q. Now, when you received the proposed
23 wording changes, was it just attached to a buck slip
24 of some type that was being circulated around the
25 company, or did you get your own individual copies to

1 look at and then write a comment or call back?

2 A. As I recall, I got a direct mailing of
3 that.

4 Q. Then what were you supposed to do with it?

5 A. Make comments on it.

6 Q. Did you call other people in who were in
7 your department in King City to also look at these
8 things and comment, or did you just handle this on
9 your own?

10 A. That's two questions, but I think I
11 basically did it on my own.

12 Q. And your responses were either by
13 telephone back to Dr. Rhodes, or in writing?

14 A. Yes.

15 Q. One or the other?

16 A. Yes.

17 Q. Did you keep copies of your responses,
18 your written responses?

19 A. I may have. I'm not sure after the
20 business was sold what copies I have kept.

21 Q. Did any of the proposed wording changes
22 include a warning against cancer?

23 A. As I recall, that word was proposed in the
24 revised warning.

25 Q. Whatever happened to the project to change

1 the wording?

2 A. I think it ended when the business was
3 sold.

4 Q. At the time that the wording change was
5 being discussed, had the OSHA -- had the mandatory
6 OSHA wording changed?

7 A. No.

8 Q. The product that Union Carbide sold
9 through Montello carried the name Visbestos; is that
10 correct?

11 A. That's one of the names, yes.

12 Q. Did any of the products, the chrysotile
13 asbestos products sold through Montello carry any
14 other names besides Visbestos?

15 A. There was another trademark called Crushed
16 Super Visbestos and another one called Univis.

17 Q. These were all sold through Montello?

18 A. Yes.

19 Q. Did Union Carbide make any sales, or
20 eventually Calidria, make any oil field sales through
21 any other company besides Montello?

22 A. No, not to my knowledge.

23 Q. Did Union Carbide recommend the use of
24 respirators or respiratory protection devices while
25 an individual was using this chrysotile asbestos

1 product?

2 A. At what point in time?

3 Q. Beginning in '68.

4 A. I'm not sure when any specific
5 recommendation was made, but I recall that our policy
6 was to recommend the use of respirators under certain
7 conditions, or to wear them all the time if someone
8 felt comfortable in them.

9 Q. How was that recommendation given to the
10 users of this product?

11 A. Well, usually, it wasn't -- well, other
12 than our direct customers. But if we are speaking --
13 are we speaking about drilling fluids now?

14 Q. Yes, let's just talk about drilling
15 fluids.

16 A. That recommendation would have been made
17 to Montello and then they would implement it with
18 their customers.

19 Q. There was never anything on the bags to
20 say use a respirator while using this product?

21 A. No, because that wouldn't have been
22 necessary all the time because of the very low dust
23 levels that were normally encountered in this
24 application.

25 Q. So, it wasn't necessary to use -- let me

1 ask the question more specifically.

2 A man using this product on a drilling rig
3 where he would be dumping the asbestos into a hopper
4 in the mud room, he wouldn't have to use a
5 respirator?

6 A. Based on the air monitoring results that
7 we had and the recommendations or the threshold limit
8 values established by OSHA, there would have been no
9 regulatory requirement to wear a respirator. But as
10 I said, it was recommended. Obviously, a respirator
11 wouldn't do any harm, assuming the person didn't have
12 another breathing problem or claustrophobia problem.

13 Q. Excuse me for a second.

14 I want to make sure I understand this. In
15 Interrogatories that we propounded to Union Carbide,
16 the question, Interrogatory No. 23 to Union Carbide
17 was: "Do you make or have you ever made any
18 recommendation that respiratory protective equipment
19 be worn while a person is exposed to asbestos
20 products?"

21 And then, naturally, Union Carbide
22 objected and said, "Subject to its objections, Union
23 Carbide responds as follows: Yes, Union Carbide
24 encouraged the use of instructions and guidelines for
25 the use of respirators."

1 So, given that vague response to an
2 Interrogatory, what I really want to find out is:
3 First of all, when the products first went out into
4 the oil fields, around '68, '69, whenever that was,
5 to be marketed out for an oil field-related use, did
6 Union Carbide at that time recommend to its
7 distributors that they tell their customers, "when
8 using this product use a respirator"?

9 MR. WILLIAMS: Excuse me just a
10 second. Mr. Caruso, would you mind
11 restating your question without the
12 surplus, your opinion as to our answer
13 in the Interrogatory?

14 MR. CARUSO: Just strike that
15 part. You don't know me that well,
16 but a lot of my questions have that in
17 there.

18 MR. WILLIAMS: I don't want to
19 have it read to a Jury at some later
20 time with that in there.

21 MR. CARUSO: I admit that would
22 never go before the Jury.

23 MR. WILLIAMS: If you don't mind,
24 please restate it.

25 BY MR. CARUSO:

1 Q. When the product went out into the field
2 in 1968 or '69, did Union Carbide in any fashion,
3 either by writing or by your salesmen telling people,
4 or any way you would communicate with somebody, tell
5 its distributors that "when your customers use this
6 product, a respirator should be worn when it's being
7 used"?

8 A. Not that I recall or not that I'm aware
9 of. I was not directly involved in that early
10 period.

11 Q. At any time after 1968-69, same question,
12 did Union Carbide ever tell its distributors to
13 advise the customers that "when using this product,
14 you should use a respirator"?

15 A. I think I would repeat my earlier comments
16 or testimony, that as I remember, it was our general
17 practice to encourage -- or to advise people that a
18 respirator was not required but could be worn for
19 extra protection.

20 Q. So, as far as Union Carbide was concerned,
21 it was not necessary for a person to use a respirator
22 when he was handling this product in its oil field
23 application?

24 A. It was not required by federal or any
25 other regulations.

1 Q. Regulations aside, did Union Carbide
2 express to anyone that, regardless of the
3 regulations, a person should still wear a respirator
4 in using this product?

5 A. As I say, we didn't say "should use," we
6 encouraged the use of a respirator as additional
7 protection.

8 Q. Why did you encourage the use of the
9 respirators?

10 A. To provide additional protection.

11 Q. Additional protection from what?

12 A. Inhalation of fibers or any other foreign
13 materials that might be on the drilling rig.

14 Q. And the inhalation of fibers might produce
15 what result in an individual?

16 A. That's a very broad question. The
17 excessive inhalation over long periods of time may
18 cause a lung impairment or other lung disease.

19 Q. So, you were concerned at least as to the
20 possibility if a person inhaled enough of this
21 product that he might contract some type of lung
22 disease?

23 A. There was always that possibility. As I
24 say, over -- in excessive amounts over long periods
25 of time, asbestos -- chrysotile asbestos may cause

1 lung disease. In recent studies --

2 MR. WILLIAMS: Just answer his
3 question.

4 THE WITNESS: Okay.

5 BY MR. CARUSO:

6 Q. Other than the use of respirators, did
7 Union Carbide ever advise its distributors of any
8 other safety precautions Union Carbide thought was
9 necessary in the handling of the chrysotile asbestos
10 product?

11 A. Well, the most general work practice to
12 prevent inhalation of fibers would be to prevent the
13 distribution of the fibers or prevent making them
14 airborne; so, it was recommended that when emptying a
15 bag that the man or the operator use care to prevent
16 the creation of dust. Just as the warning label has
17 said, do not create dust.

18 I don't recall any other -- well, some
19 other safe work practices would include the cleanup
20 of the operation; if some material was spilled, that
21 it be done in a wet manner so that fibers would not
22 be created. And in a drilling fluid, of course, the
23 water is the main ingredient in a drilling fluid and
24 asbestos is immediately wet, so it was probably
25 possible that you could use water exactly as you were

1 adding the material. So, that would have been a safe
2 work practice.

3 Q. Have you ever been in a mud room of a
4 drilling rig when this product was being mixed?

5 A. I'm not familiar with the term "mud room."
6 I have been on a rig in the open when the products
7 have been added.

8 Q. You mean the hopper was just out in the
9 open?

10 A. To the best of my recollection, the whole
11 operation was in the open.

12 Q. So, in other words, it was important in
13 safely handling this product just to keep the fibers
14 from getting airborne? You didn't want them to get
15 airborne?

16 A. That's correct. If you don't breathe
17 them, they are not a hazard to the skin.

18 Q. Now, those things we have just discussed,
19 how were those safety measures conveyed to the
20 distributors?

21 A. I think the Material Safety Data Sheet
22 would be one way. I'm sure there was other oral
23 communications, discussions, telephone or face to
24 face. In most cases, the rigs -- or a lot of the
25 people had used asbestos before, so they were not

1 unfamiliar with it.

2 Q. Did Union Carbide send its representatives
3 into the field to watch various drilling companies
4 apply this product and use it?

5 A. Yes.

6 Q. Were you one of the people who did that?

7 A. I was on maybe one rig or two, at the
8 most.

9 Q. Off the coast of Louisiana or Texas, or
10 was this someplace else?

11 A. I don't remember. It wasn't off the
12 coast, though. It was on dry land.

13 Q. What was the purpose of Union Carbide's
14 people attending these drilling operations?

15 A. I think in my case, I just wanted to see
16 what was going on. I had never been on a drilling
17 rig before and this was the opportunity to see what
18 was happening, not just with the asbestos but with
19 the whole operation. We also sent -- well, when you
20 say Union Carbide did this and Union Carbide did
21 that, I assume you are not talking about the
22 corporate as a whole, but the people that were
23 responsible for the asbestos business.

24 Q. Well, they worked for Union Carbide;
25 didn't they?

1 A. Yes. I lost my train -- the main purpose
2 that we sent people into the field was to do air
3 monitoring.

4 Q. All right. Were those studies recorded
5 and kept someplace?

6 A. They were recorded, yes, and reports made.

7 Q. How often was this done?

8 A. Well, as I recall, we did quite a series
9 to establish a general idea of what the dust levels
10 were in a typical drilling mud application. In some
11 cases, someone would request that this air monitoring
12 be done. This would always come through Montello.
13 We wouldn't necessarily know the source of the
14 request, but often many of them, as I said, were done
15 at the volition of Montello and Union Carbide to
16 establish what could be called an expected dust
17 level.

18 Q. What department within the asbestos
19 organization handled that, actually went out and did
20 the sampling?

21 A. It was done by the marketing department.

22 Q. Did you all bring any industrial
23 hygienists with you, some people who had experience
24 in collecting and measuring the samples?

25 A. I don't recall that we ever took an

1 industrial hygienist, but the people that we sent
2 were trained in the collection of the samples and in
3 the analysis of the filters to determine the
4 concentration of the fibers.

5 Q. Do you know whether or not the areas where
6 they were sampling were exposed areas, that is where
7 it was being mixed was outdoors and not inside of a
8 room?

9 A. Well, as I said, you mention "mud room,"
10 and I don't really know what that term means. The
11 description of each setup where samples were
12 collected was recorded in the reports, and I don't
13 recall any of the specific descriptions.

14 Q. I take it you were satisfied the product
15 was not producing dust levels beyond governmental
16 regulations?

17 A. As I recall, there were never any levels
18 in excess of either the ceiling values or the
19 time-weighted average values established by OSHA.

20 Q. How long did this study -- when did it
21 begin and when did it end with regard to these
22 studies?

23 A. Well, it was not a -- you know, I don't
24 want to make it sound like a single study that was
25 started and stopped. It was fairly, I would say,

1 continuing, and I really couldn't be specific on the
2 first one. I think we started doing customer air
3 monitoring in 1971.

4 Q. Would you still have been doing it as late
5 as 1984, or did it stop after some point?

6 A. The request to do these, I think, dropped
7 off in later years; but the service, to the best of
8 my recollection, was maintained through '84 and '85,
9 up to the date of the sale of the business.

10 MR. CARUSO: Can we take about a
11 30-minute break and get a sandwich or
12 something like that?

13 MS. CLARK: That's fine.

14 (LUNCH RECESS)

15 BY MR. CARUSO:

16 Q. Mr. Myers, we took the deposition awhile
17 back of a fellow named Ken Campbell, who was
18 president of Montello. Did you know Mr. Campbell?

19 A. Yes.

20 Q. How was it that you knew Mr. Campbell?

21 A. I think I mentioned earlier in the
22 testimony that I met him when we were introducing
23 asbestos to the drilling mud industry.

24 Q. Besides that initial meeting with
25 Mr. Campbell, were you in touch with him over the

1 years as Montello was marketing the Visbestos
2 product?

3 A. Yes.

4 Q. Would that be face-to-face meetings or
5 would it just be by telephone?

6 A. Both.

7 Q. Or both?

8 A. Both.

9 Q. What would be the circumstances by which
10 you would meet Mr. Campbell face to face?

11 A. I think it would be a typical relationship
12 between a supplier and a distributor to discuss his
13 sales efforts, his sales. We also became close
14 personal friends.

15 Q. Would you fly down to Texas to meet with
16 him just on a sort of customer-call basis?

17 A. Not that I recall.

18 Q. Excuse me -- Oklahoma?

19 A. I have flown to Tulsa.

20 Q. To meet with Mr. Campbell?

21 A. Yes.

22 Q. Was this a routine, was it done once a
23 year, twice a year, or anything like that?

24 A. There was no routine, no.

25 Q. During the course of these meetings with

1 Mr. Campbell, was the emerging information regarding
2 the health effects of asbestos discussed?

3 A. I don't recall any specifics, but I'm sure
4 that we did discuss all phases of asbestos and
5 marketing it to the drilling fluid application.

6 Q. That would include the health hazards
7 associated with it?

8 A. As I say, I assume that was discussed. I
9 can't remember any specifics.

10 Q. Besides meeting Mr. Campbell face to face
11 on occasion, would you receive telephone calls from
12 him?

13 A. Yes, I have talked to him.

14 Q. Would those telephone -- what would be the
15 reason for a telephone call like that being
16 initiated?

17 A. The same reasons as stated before, normal
18 discussions between a supplier and a customer that
19 could have involved shipments or product quality,
20 things of that nature.

21 Q. Were there any discussions on the
22 telephone regarding the health hazards associated
23 with asbestos?

24 A. I don't recall anything specific.

25 Q. During the period that you were involved

1 with marketing between 1970 and 1984 --

2 A. 1981.

3 Q. 1981 -- was there a particular salesman or
4 salesmen who were assigned to the Southwestern part
5 of the United States, including Oklahoma?

6 A. Yes. I can't remember whether there was
7 more than one, but I know that there was one that
8 dealt with Montello, as well as other customers in
9 the South.

10 Q. Do you know what his name was?

11 A. Yes.

12 Q. What was it?

13 A. Jack Walsh. Actually, John Walsh.

14 Q. Did he live and work in Niagara and then
15 just come down to the Southwest on sales calls, or
16 was he a resident of this area?

17 A. No, he was based in Atlanta, Georgia.

18 Q. He was an employee of Union Carbide?

19 A. Yes.

20 Q. Do you know where he is today?

21 A. He's still in Atlanta.

22 Q. Still working for Union Carbide?

23 A. No.

24 Q. Do you know who he works for now?

25 A. For KCAC, Incorporated.

1 Q. Is his job with KCAC also in marketing?

2 A. In sales.

3 Q. Sales. Besides Mr. Walsh, were there any
4 other salesmen whose names come to mind who may have
5 been in contact with Montello over that period of
6 time?

7 A. I don't recall -- we had a salesman named
8 Dickson and he was at one point the marketing manager
9 or sales manager, Gordon Dickson, D-I-C-K-S-O-N, and
10 a fellow named Bob Byrne, B-Y-R-N-E, who were
11 involved with sales throughout the country. I don't
12 recall if there was anyone else specifically assigned
13 to the Southwest or not.

14 Q. Mr. George Dickson?

15 A. Gordon.

16 Q. Gordon Dickson. Where did he live?

17 A. During that period of time, he lived in
18 Niagara Falls.

19 Q. Do you know where he is today?

20 A. He's passed on.

21 Q. Mr. Byrne, do you know where he is today?

22 A. He's in Michigan somewhere.

23 Q. Do you know where in Michigan?

24 A. No. I think -- let's see. I think it's
25 -- no, I don't know the name of the town.

1 Q. Do you know -- do you want to think about
2 that for a second?

3 A. I started to say Paw Paw, Michigan. I'm
4 not sure whether that's where he lives or whether
5 that even is a town, but for some reason that comes
6 to my mind.

7 Q. Do you know who he is employed by, if
8 anyone?

9 A. He's retired, to the best of my knowledge.

10 Q. These men, as I understand it, were not
11 assigned specifically to the Southwest, they had some
12 type of national sales or marketing position?

13 A. As I recall, I don't believe any of them
14 were assigned specifically to the South or Southwest,
15 other than Mr. Walsh.

16 Q. Do you know who Blair Engles is?

17 A. Yes.

18 Q. Who is that?

19 A. He was in the marketing group in Niagara
20 Falls as our -- I don't remember what the title was,
21 but he was responsible for technical -- the technical
22 phases of marketing, laboratory work on product
23 development; and then he was our first, let's say,
24 "expert," in quotation marks, on air monitoring.

25 Q. Do you know where he is today?

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(1910-1987)

November 15, 1988

RE: Soignet v. Montello

Mr. John Myers
KCAC, Inc.
P. O. Box K
King City, California 93930

Dear Mr. Myers:

Enclosed is the transcript of your deposition taken on November 4, together with a signature page and errata sheet. Please read the deposition and note any changes, if any, on the errata sheet. You then need to sign the signature page before a notary and return it to me so that we can forward same to the Court Reporter by December 14.

If you have any questions, please call me. You may keep the copy of the deposition for your records.

Very truly yours,

Eva Gail Simon

Eva Gail Simon
Certified Legal Assistant

EGS:aem
2179E
Enclosure

UCAREF00013270

COPY

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November 14, 1988
HAND DELIVERED

HON. SANDRA F. CLARK
Mehaffy, Weber,
Keith Gonsoulin
2615 Calder Avenue
Beaumont, Texas
77704

RE: B-86-1193
MARIE B. SOIGNET, ET AL VS. MONTELLO, INC., ET AL

Dear Ms. Clark:

Enclosed with your copy of the deposition of JOHN LESTER MYERS, taken on November 4, 1988, in the above-captioned cause, is the original signature page.

Please have the witness read your copy of transcript and sign the original signature page before a Notary Public. If the signature page is not obtained within thirty (30) days, the transcript will be handled as though signed.

Thank you for your assistance in this matter.

Yours truly,

NELL McCALLUM & ASSOCIATES, INC.

Margaret Hebert
Margaret Hebert

cc: Hon. Daniel J. Caruso
Hon. Gene M. Williams
Hon. D. Allan Jones
Hon. William J. Taylor, Jr.
Hon. Kent Adams
Hon. Joe Guyton

Hon. David L. Landry
Hon. Andrew S. Hartman
Hon. John G. Bissell
Hon. Eugene C. Marshall
Hon. James M. Harris

UCAREF00013271

*Extra
Copy*

1 THE STATE OF TE
2 COUNTY OF JEFFE

3 I, JOHN LESTER MYERS, hereby certify that
4 I have read the foregoing transcript of my testimony
5 given in the foregoing numbered and styled case, and
6 that the same is true and correct to the best of my
7 knowledge and belief.

8 I further certify that any and all
9 corrections have been made on a separate page and
10 initialed by me.

11 This 12th day of December, 1988.

12
13
14 _____
15 JOHN LESTER MYERS

16
17 SWORN AND SUBSCRIBED BEFORE ME this

18 _____ day of _____, 1988.

19
20
21 _____
22 NOTARY PUBLIC
23
24
25

ERRATA SHEET

PAGE	LINE	ERROR	CORRECTION	REASON
86	16	"Ingalls" not "Engles"		
87	19	"Ingalls" not "Engles"		
118	9	My answer for labelling should apply <u>only</u> to bags of Union Carbide asbestos. Union Carbide did not produce or package ceiling tile or floor tile.		
118	19	Insert "for" between "was" & "drilling"		

John L Myers
12/12/88

NELL MC CALLUM & ASSOCIATES. INC.
Beaumont, Texas

UCAREF00013273

FAX

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(1922 - 1991)

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MEL D BAILEY
ERIC D WEWERS
CHRISTOPHER F MANNING
PAUL E HAMILTON
KATHRYN HERMES
W. SCOTT BERRY
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To: Alan Gerson 212/808-7897
John Myers 831/385-6887
Beth McGregor 713/651-1920
From: Todd J. Suddleson
Direct Dial: (214) 210-2432
Subject: Frank Dean III v. Armstrong World Industries
Cause No. 97-57627, 270th Judicial District, Harris County, Texas
Date: January 10, 2000
Pages: 13 (includes cover page)
Client #: 00100
Matter #: 64287

COMMENTS: Please replace pages 3-14 in the John Myers Deposition Transcript which was taken on November 4, 1999.

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3

1 Q. And then did you go to work at that time or continued
2 your education?

3 A. I started with Union Carbide in May of 1951.

4 Q. And where did you begin working for Union Carbide?

5 A. At Oakridge, Tennessee.

6 Q. Were you recruited right from college?

7 A. I don't recall whether I - I think so. I think they
8 were at the - I'm not sure if they were at the campus or how I - I
9 don't remember that.

10 Q. Do you remember how you came to select Union Carbide as
11 an employer for your first job out of college?

12 A. No I don't.

13 Q. And what did they have you doing as a new engineer at
14 Oakridge?

15 A. I was put in to start with - put in to what they called
16 a bullpen awaiting clearance. This was an atomic energy
17 operation. I don't remember how long but reviewing plans and
18 blueprints generally trying to keep us busy while we were waiting
19 to be getting a job - or work - starting to work.

20 Q. And roughly when did you actually start the real work?

21 A. I don't recall.

22 Q. A few months?

23 A. I would say a few months probably.

1 Q. And then without asking you to violate any of the
2 security oaths you took, what generally was the nature of your
3 work there?

4 A. Working on the development of equipment and processes
5 for the startup of a new plant in Paducah, Kentucky.

6 Q. Now Union Carbide, I suppose, was a contractor with the
7 United States Government at the Oakridge facility?

8 A. Yes.

9 MR. SUDDLESON: Object to form.

10 BY MR. BLANKS:

11 Q. And had it been a contractor at Oakridge for earlier
12 years like back into the war years?

13 A. I don't know.

14 MR. SUDDLESON: Object to form.

15 BY MR. BLANKS:

16 Q. What was your understanding of the duration or the
17 history of Carbide's role at Oakridge?

18 A. I don't know.

19 Q. Who did you work for there? Who did you report to?

20 A. I don't remember any names from that. The plant
21 superintendent I remember - no, that was Paducah. I don't
22 remember at Oakridge. I was only there for about a year.

23 Q. And where did you go after that?

24 A. To Paducah Kentucky, yes.

5

1 Q. And was that a nuclear power plant as we use the term
2 today, a place for generating electricity?

3 A. No.

4 Q. So it was, I gather then, a government plant that was
5 involved in defense department work or war department work. Would
6 that be accurate?

7 A. I don't know whether that would be accurate or not. It
8 was a gaseous diffusion plant.

9 Q. How long did you remain at Paducah Kentucky as an
10 employee of Union Carbide Company?

11 A. Until 1966.

12 Q. So that would be approximately mid-1952?

13 A. When I went there, yes.

14 Q. Yes sir, until 1966?

15 A. Yes.

16 Q. And did your responsibilities increase, your job title
17 change while you were there at Paducah?

18 A. Yes.

19 Q. What were your positions there at Paducah?

20 A. Well, I don't recall exactly. I was a process engineer
21 and eventually became the supervisor of a chemical cleaning
22 operation.

23 Q. And you said you recalled your supervisor or
24 superintendent from Paducah. Who would that be?

6

1 A. It was R.A. Winkel (W-I-N-K-E-L).

2 Q. And then where did you go after leaving the Paducah
3 facility?

4 A. To Niagara Falls, New York.

5 Q. And was that a Union Carbide plant there?

6 A. Yes.

7 Q. And you have gone what in the middle of 1966?

8 A. I don't recall.

9 Q. And what was Union Carbide manufacturing at Niagara
10 Falls or what did it back in 1966 when you went there?

11 A. I don't recall what they manufactured. I was in the
12 asbestos research and development. They manufactured different
13 things there. I don't remember what they were.

14 Q. Can you characterize the plant for us any more
15 specifically?

16 A. There was a bunch of brick buildings over a pretty large
17 area.

18 Q. Okay. Was it a chemical plant?

19 A. No. It was more a metals - different metals operations.

20 Q. And what kind of metals would have been involved at the
21 plant that you can remember?

22 A. I don't remember.

23 Q. What did you do there at Niagara Falls?

24 A. I was in the research - R&D Department for asbestos.

1 Q. And how long did you remain there? - -

2 A. Until 1967.

3 Q. And then where did you go, sir?

4 A. To King City, California.

5 Q. Where you reside today?

6 A. Yes.

7 Q. And what Union Carbide business existed in King City,
8 California in 1967?

9 A. The asbestos mining and milling operation.

10 MS. KNIGHT: I'm sorry I didn't hear
11 you.

12 A. The asbestos mining and milling operation.

13 BY MR. BLANKS:

14 Q. And did you remain at the King City California facility
15 of Union Carbide until you retired from that company?

16 A. No.

17 Q. All right. Well, I'm jumping ahead then. So, take us
18 forward chronologically, please.

19 A. In 1970, I was transferred back to Niagara Falls, New
20 York as marketing manager for asbestos.

21 Q. And how long did you remain in Niagara Falls this second
22 occasion?

23 A. Until 1981. I lasted a little longer.

8

1 Q. And did you remain in the same job, marketing manager,
2 through that eleven year period at Niagara Falls?

3 A. Yes.

4 Q. And then in 1981 what did you do?

5 A. Transferred back to King City, California.

6 Q. Now what was your position in King City, California
7 during your first assignment there in 1967 until 1970?

8 A. I was called a technical superintendent.

9 Q. And then in 1981 on your return to King City, California
10 what was your position?

11 A. Product and production manager.

12 Q. And what was the next step in your career with Union
13 Carbide, please?

14 A. I was still with Union Carbide until the operation was
15 sold in 1985.

16 Q. And what did you do then?

17 A. I stayed with the company with the new owners. And I
18 was then called the president of KCAC Incorporated, the current
19 owners of the asbestos operation.

20 Q. That's the letters K-C-A-C?

21 A. Right. No periods, all caps.

22 Q. What do those four letters stand for?

23 A. Nothing. They were just picked out as a name.

24 Q. Kansas City Asbestos Company or - ?

1 MR. SUDDLESON: Objection form.

2 A. No, it was just KCAC.

3 BY MR. BLANKS:

4 Q. And when did you retire from that job?

5 A. At the end of 1993.

6 Q. And did you have further employment after that sir?

7 A. No.

8 Q. Well have you done any consulting work since your
9 retirement in 1993 from KCAC?

10 A. Only at KCAC, I was retained for two years as a
11 consultant.

12 Q. Can you tell us approximately when Union Carbide
13 acquired the asbestos mine in California?

14 A. Well, they never did really acquire it. The mining
15 operation was primarily done by leasing the property. It was
16 discovered in 1959 by a Union Carbide mineralogist. And then the
17 operation was begun mining and milling in 1963.

18 Q. So you're saying I think Union Carbide then leased the
19 land and I suppose obtained the mineral rights to mine there?

20 A. Right.

21 MR. SUDDLESON: Objection form.

22 A. I think maybe they owned a few of the claims but a
23 majority were leased with the mineral rights.

24

10

1 BY MR. BLANKS:

2 Q. What is your understanding of the circumstances that led
3 up to a Union Carbide mineralogist poking around out in this neck
4 of the woods?

5 A. Well as I remember, he was looking for nickel or any
6 other material that might be of interest to Union Carbide's mining
7 company or mining operation.

8 Q. Now I confess I have long thought of Union Carbide as
9 essentially a chemical company but I am gathering from what you
10 say it also had metals operations for some good time. Is that
11 true?

12 A. Yes. They were a major miner at one time.

13 Q. What time frame would that have been in?

14 A. I don't recall.

15 Q. Are we talking about in the years since you joined the
16 company or would that have been earlier?

17 A. No, they were a mining operation before I joined the
18 company.

19 Q. So is it your appreciation that Union Carbide began more
20 as a mining and minerals company and then ended up evolving into
21 or moving into the chemical business?

22 MR. SUDDLESON: Well, I'm going to
23 first object to form and Joe, I think
24 that's kind of beyond the scope of what

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Mr. Myers is here for. - -

MR. BLANKS: Well --

MR. SUDDERSON: He is here to talk about the asbestos mine and not the entire history of Union Carbide.

MR. BLANKS: Well, I think respectfully, Todd, that he's here as a corporate representative and a person with knowledge of specified things per our Notice but anything else he knows is also fair game as anything else. So -

MR. SUDDERSON: I'm just saying that I don't believe that Union Carbide is using Mr. Myers as a corporate representative for the purpose of the entire corporate history of Union Carbide.

MR. BLANKS: I understand. I'm just asking about what he knows and -

MR. SUDDERSON: I know but please understand I need to object that I think that's beyond the scope but Mr. Myers can answer it to the extent that he knows the answer.

12

1 A. And I would correct something I said that it was a
2 mining company before I - you asked if it was before I started
3 with the company. I'm not familiar with the period from 1951
4 until I became involved in 1967. And I don't know how the
5 corporation was started or found - or switched into chemicals or -
6 no, I don't know anything about that.

7 BY MR. BLANKS:

8 Q. Well, I was just asking what your understanding was of
9 that aspect of the company's history and as a roughly forty-year
10 employee at the executive level, I thought perhaps you'd have some
11 awareness of that. Although we shan't look to bind the Union
12 Carbide with your recollection about those topics, how's that?

13 MR. SUDDERSON: And I would object
14 to the form of the question.

15 A. I actually have no remembrance of that. I wasn't an
16 executive for forty years.

17 BY MR. BLANKS:

18 Q. I understand. Okay.

19 A. I really don't know the history of the company.

20 Q. Did you ever see any kind of a book or booklet or
21 pamphlet that actually describes the history of the company?

22 A. I probably have. I don't recall specifically.

23 Q. So what - what mineral operations of Union Carbide
24 besides the asbestos mine have you ever heard of?

13

1 MR. SUDDERSON: Objection form.

2 A. Tungsten, uranium, vanadium and that's all I can recall.

3 BY MR. BLANKS:

4 Q. And what is - what is the Carbide aspect of the business
5 that would - you know, that appears in the name of the company?

6 MR. SUDDERSON: Objection to form.

7 A. I don't understand the question.

8 BY MR. BLANKS:

9 Q. Well, the company started out being what the Carbon and
10 Carbide Company or something like that. Have you ever heard of
11 that?

12 MR. SUDDERSON: Objection form.

13 A. That sounds familiar, yes. I don't if that was the
14 start of it.

15 BY MR. BLANKS:

16 Q. So what is carbide?

17 MR. SUDDERSON: Objection form. I
18 don't understand what you mean, what is
19 carbide?

20 A. I don't know what you mean by what is carbide?

21 BY MR. BLANKS:

22 Q. Well, I mean is that a chemical compound or is that just
23 a made-up name, or what?

14

1 A. You know, I don't know. It's a material that is used in
2 industry. Carbide lamps, I have heard of those. It must be
3 something that burns, but I don't know what its chemical makeup
4 is.

5 Q. During your years with the company, did you ever hear of
6 any plants that made carbide products?

7 A. I don't recall.

8 Q. Okay. What other research and development activities
9 took place at the Niagara Falls facility of Union Carbide during
10 the years you worked up there besides research on asbestos?

11 A. There was research on other metals but I'm not familiar
12 with it.

13 Q. Was the Niagara Falls Union Carbide facility the place
14 where the research and development activities for the mineral side
15 of the business took place?

16 A. At least part of them. I'm not sure if that was the
17 only location or not.

18 Q. You're not aware of any others?

19 A. I'm not aware of any others, no. There may have been.

20 Q. Are you aware of any Union Carbide research and
21 development facility for activities other than minerals?

22 A. Yes, there were other facilities.

23 Q. Where were those?

24 A. South Charleston, that's Virginia.

1 A. He's still in Niagara Falls.

2 Q. He still works for Union Carbide?

3 A. No.

4 Q. Do you know who he works for?

5 A. He works for a company called ASTECO.

6 Q. A-S --

7 A. A-S-T-E-C-O.

8 Q. Is he the gentleman who set the protocol
9 for the air sampling to be used by the people you all
10 train to go do that work?

11 A. He would probably not do that on his own,
12 but he would be involved with establishing the
13 criteria for collecting samples, as well as analyzing
14 them.

15 Q. Do you know a gentleman named Ed Kleber,
16 K-L-E-B-E-R?

17 A. Yes.

18 Q. Who was Ed Kleber?

19 A. He worked for Mr. Engles and was a
20 technician, and also became proficient in the air
21 monitoring. These men had been trained or had been
22 -- received training through, I think, NIOSH for the
23 air sampling and monitoring.

24 Q. Do you know where Mr. Kleber is today?

25 A. He's in San Francisco.

(OFF-RECORD DISCUSSION)

BY MR. CARUSO:

Q. Do you know who Mr. Kleber is presently employed by in San Francisco?

A. He works for Wilbur-Ellis-Connell Brothers.

Q. How is Connell spelled?

A. C-O-N-N-E-L-L.

Q. The Answers to Interrogatories that were submitted by Union Carbide identify the beginning date for the sale of asbestos products, this type of chrysotile asbestos product, as 1963. Am I to understand that you were selling this type of product beginning in '63, but it was not for oil field use until '68?

A. That's correct.

Q. Before this product was put on the market, this chrysotile asbestos product for oil field use, were any studies done by Union Carbide to determine whether or not it was or presented any type of health hazards to the users?

A. Nothing that I'm aware of, other than the studies we've already discussed. I'm not sure that -- you asked the question before 1968. I don't know, as I told you, I couldn't remember the dates of those

1 studies.

2 Q. So, the only studies you're aware of are
3 the ones that we've discussed?

4 A. Yes.

5 Q. Did Union Carbide ever sell any of its
6 products to Barium Supply Company as a distributor?

7 A. Not that I remember.

8 Q. The Milwhite Company?

9 A. Not to my knowledge.

10 Please understand that I was not in the
11 marketing group prior to '68 and would not
12 necessarily know the answer. That's why I am
13 answering that; but I don't know would be simpler.

14 Q. In Coalinga, California, the mine that
15 we've been talking about, that's where it's located?

16 A. No. It's in San Benito County, and it's
17 probably 30 or 40 miles from the town of Coalinga.

18 Q. This is where the mine is and also the
19 processing facility, it's all in one location?

20 A. The Union Carbide operation?

21 Q. Yes, the Union Carbide operation.

22 A. No. The mine is in San Benito County; the
23 milling operation is in King City, California, in
24 Monterey County, about 60 miles from the mine.

25 Q. Has there been any requirement that the

1 people who work at the mill wear respiratory
2 protection while working there?

3 A. Yes.

4 Q. How long has that been in place?

5 A. Again, to the best of my knowledge, that's
6 been in place since the start of the operation, and
7 the requirement is only in certain areas where the
8 dust levels have shown to be near the threshold limit
9 values.

10 Q. What's the date of the start of the
11 operation?

12 A. 1963.

13 Q. So, it's not used throughout the facility,
14 but only in certain areas?

15 A. That's correct.

16 Q. And the type of respirators we're talking
17 about, these are mechanical-filter respirators, as
18 opposed to air-supplied respirators?

19 A. They are not air-supplied respirators,
20 although we have those available if it's needed for
21 any reason -- if they would be needed for any reason.

22 Q. When you were at Union Carbide, did you
23 keep a personal reading file of any type?

24 A. No, nothing organized.

25 Q. For example, you know, memoranda that you

1 sent back to other people within the company, did you
2 keep a copy and put it in a file somewhere?

3 A. In some cases, I would keep files, yes.

4 Q. These responses that we were talking about
5 earlier when you were asked to comment on proposed
6 wording changes in the warnings around 1984 -- you
7 remember we talked about that before?

8 A. Yes.

9 Q. Would any written response that you made
10 regarding those proposals be in that reading file?

11 A. Presently? .

12 Q. At the time you did it, did you put a copy
13 in the reading file?

14 A. Possibly. Again, I can't remember a
15 specific case where I would have put it in, but I
16 usually keep things like that.

17 Q. Do you still have those files?

18 A. No.

19 Q. Where are they, do you know?

20 A. No, I don't. When I left Niagara Falls,
21 the files were left there, of course, and I don't
22 know where they are now.

23 Q. When you left the company in 1985, who was
24 the head of the medical department?

25 A. I don't remember.

1 Q. Was there a separate industrial hygiene
2 department?

3 A. I don't know whether that was still -- it
4 was probably still part of the medical department.

5 Q. Who was the person, if you know, who was
6 the chief or head industrial hygienist?

7 A. In '85?

8 Q. Yes.

9 A. I don't know.

10 Q. Between 1970 and 1980, who was the head of
11 the medical department?

12 A. I think I have answered --

13 Q. You may have, I just don't remember.

14 A. -- previously, and the only name that I
15 remember, and I don't know his tenure, was Dr. Carl
16 Dernehl.

17 Q. Do you know where Dr. Dernehl is now?

18 A. No.

19 Q. Was there someone between 1970 and 1980
20 who held the position of chief or head industrial
21 hygienist?

22 A. The name that we have discussed earlier,
23 Paul McDaniel, was an industrial hygienist. I don't
24 know whether he was chief.

25 Q. The monitoring studies that we have talked

1 about, were they ever performed inside enclosed
2 areas, such as inside of a warehouse or inside of a
3 building?

4 A. I know, for example, in other
5 applications, like in floor tile manufacture, this
6 would be inside of a building. With regard to the
7 drilling mud application, again, I can't be specific,
8 but I assume that we would have monitored inside
9 warehouses, where the material was stored.

10 Q. So, you think that some of these air
11 sampling studies that we talked about were done
12 inside enclosed areas, like warehouses and so forth?

13 A. As I say, I would assume that there were
14 some done there, yes.

15 Q. But you don't know for a fact, you just
16 assume that?

17 A. No, I can't state that for a fact.

18 Q. Was there any relationship between Union
19 Carbide and Sun Oil Company with regard to this
20 chrysotile asbestos product?

21 A. Not to my knowledge.

22 Q. Did you ever deal with anybody at Sun Oil
23 with regard to this product?

24 A. Not that I recall.

25 Q. Do you know who Wendell Alcorn is?

1 A. I think he's a lawyer.

2 Q. With the firm of Cadwalader, Wickersham &
3 Taft, One Wall Street, New York, New York?

4 A. At one point, he was, yes; I don't know
5 whether he still is.

6 Q. Who was he a lawyer for? Who did he
7 represent?

8 A. I don't know.

9 Q. Do you know who Hans Weill is?

10 A. Yes.

11 Q. Who is Hans Weill?

12 A. He's a Medical Doctor at Tulane
13 University. I should say, the last I knew, he was at
14 Tulane University.

15 Q. What are your initials, sir?

16 A. J. L. M.

17 Q. Let me show you a letter of October 26,
18 1977, to Wendell Alcorn, written by Dr. Hans Weill --
19 which purports to be, as we say in the trade, written
20 by Dr. Hans Weill, and see if you have ever seen this
21 letter before (tendering document).

22 A. You gave me a letter with a letterhead of
23 Tulane University, pages 1 and 3, I don't know
24 whether there was a page 2. There is a Hans Weill
25 typed as the sender of the letter, so I guess I would

1 agree with what you said. I don't recall having seen
2 this before.

3 Q. Those are your initials written on the
4 bottom of the paper?

5 A. Yes.

6 Q. Handwritten in on the bottom of the paper?

7 A. Yes.

8 Q. But you have no recollection of having
9 seen a letter from Dr. Weill like that?

10 A. No, I can't remember.

11 MR. WILLIAMS: Did you write your
12 initials down there?

13 THE WITNESS: No, that's not my
14 handwriting.

15 BY MR. CARUSO:

16 Q. Was Mr. Alcorn an attorney for Union
17 Carbide?

18 A. Not to my knowledge.

19 Q. So, you don't know anything -- you don't
20 recall ever having seen this letter before?

21 A. I don't recall seeing it. I'm not denying
22 that I did, but I don't recall seeing it.

23 Q. That was the question, you don't recall
24 seeing it?

25 MR. BISSELL: Could we see that

1 down here?

2 MR. CARUSO: I want to state for
3 the record, that was what was produced
4 to me by Union Carbide, and God only
5 knows what was on that second page.

6 BY MR. CARUSO:

7 Q. We talked earlier with regard to the
8 people who might have been involved with the
9 formulation of warning wording, and you mentioned
10 people from legal, people from medical, people from
11 asbestos management. Could you tell us who some of
12 these people are that we were talking about? Let's
13 start with legal. Was there an in-house legal person
14 at Union Carbide who would have consulted on the
15 warnings?

16 A. Well, there was a -- Union Carbide had a
17 legal department or law department, a law division.
18 I can't -- let me think. I remember one lawyer's
19 name who was a metals division lawyer. I think he
20 was still in the law department, but handled metals
21 division matters, a R. F. X. Fusaro, F-U-S-A-R-O.
22 And I know the "R" stood for Robert, I don't know the
23 other.

24 Q. Robert Fusaro. Do you remember anybody
25 else in the legal department?

1 A. John Sibley, S-I-B-L-E-Y. I don't recall
2 any other names.

3 Q. As far as what you've called asbestos
4 management -- is that the term you used, "asbestos
5 management"?

6 A. Yes.

7 Q. Who would those people have been? Could
8 you give me their names and titles, around 1968, when
9 we think the first warning was put on the bag.

10 A. I think I can speak to the period like
11 from '66 to '70, or '67 to '70. I think what would
12 be called -- the asbestos business was not a
13 department, it was not a division, and that's why I
14 refer to it as business, because it wasn't anything
15 you could call it offhand. I think the top man in
16 the asbestos business was Frank Dexter.

17 Q. And did Mr. Dexter have some type of title
18 besides "top man"?

19 A. I'm not sure. No, I don't know. Maybe,
20 asbestos business manager.

21 Q. Was his office in Niagara?

22 A. No, in New York City.

23 Q. In New York. Do you know where he is
24 today?

25 A. No, I don't.

1 Q. Do you know if he's still with Union
2 Carbide?

3 A. I don't know.

4 Q. Can you think of any other people who were
5 in the asbestos business of Union Carbide?

6 A. In that time frame, I think, also, was a
7 fellow named Norman J. Setter, which I think we have
8 already mentioned him.

9 Q. Yes. What was his position?

10 A. I think he was marketing manager or
11 involved with marketing.

12 Q. Did you replace him?

13 A. No.

14 Q. What was your title in 1970, marketing --

15 A. Marketing manager.

16 Q. And he was a marketing manager, too?

17 A. No, we weren't marketing managers at the
18 same time.

19 Q. But you had the same job he had, later on
20 in time?

21 A. Bear with me a minute, I'm trying to
22 remember. There was another man, the man that I
23 replaced in marketing was Walter S. Young.

24 Q. When Mr. Setter had the job, was he in New
25 York City or was he in Niagara Falls?

1 A. In New York City.

2 Q. When Mr. Young had the job, where was he?

3 A. In New York City.

4 Q. And then when you got the job, it was in
5 Niagara Falls?

6 A. Yes.

7 Q. Was Mr. Setter still with Union Carbide
8 when you left the company?

9 A. In 1985?

10 Q. Yes.

11 A. I don't think so.

12 Q. Do you know where he is today --

13 A. No, I don't.

14 Q. -- Mr. Young?

15 A. No, I don't know where he is.

16 Q. So, we had Mr. Dexter, then we had three
17 people who you have identified in marketing,
18 including yourself. Was there anybody else who was
19 in the, quote, "management of the asbestos business"?

20 A. I'm sure there were other people, I can't
21 remember any names.

22 Q. Can you remember any other names during
23 any other time period involving the asbestos
24 business?

25 A. You mean during this 22-year period?

1 Q. Say from 1968 to 1985, I guess.

2 A. Seventeen years? Anybody that was
3 involved in asbestos.

4 Q. In upper management.

5 A. Oh, upper management. In 1970, when I
6 became marketing manager, the business reverted back
7 to the metals division. It had been in chemicals and
8 plastics. So, there was then a new group of upper
9 management, all out of New York City, or out of
10 Danbury when they moved to Danbury. I reported
11 directly to a fellow named William C. Thurber.

12 Q. What was Mr. Thurber's position?

13 A. He was vice-president and product general
14 manager for tungsten, uranium, and asbestos.

15 Q. This would have been around 1970?

16 A. It was during the period of '70 to '85.
17 I'm not sure whether he was there in 1970 or not.

18 Q. Do you know --

19 A. I don't think he was there in '70.

20 Q. Do you know where Mr. Thurber is now?

21 A. He's in California, I can't think of the
22 name of the city.

23 Q. Is it near San Francisco?

24 A. In the Silicon Valley area.

25 Q. Close enough. Do you know who he works

1 for?

2 A. He is with KTI Chemicals, a subsidiary of
3 Union Carbide. I should say, that's the last that I
4 know that's where he was. I haven't been in touch
5 with him for several months.

6 Q. Do you know anyone else who held
7 Mr. Thurber's position during this period of time, or
8 one similar to it?

9 A. Different people that I reported to, who I
10 would assume, because I was reporting to them, would
11 have been the business management part, were Francis
12 J. Shortsleeve and James W. Rawlings. We're still in
13 the long period from...

14 Q. Yes.

15 A. J. F. Collins. He was not directly with
16 asbestos. I reported to him. He was the marketing
17 manager for all of the metals division products. And
18 a fellow in between there at some point was George
19 something, but I cannot think of the last name.

20 Q. Do you know where Mr. Shortsleeve is
21 today?

22 A. No.

23 Q. Mr. Rawlings?

24 A. The last I heard, he was in Zimbabwe.

25 Q. Is he still working for Union Carbide in

1 Zimbabwe?

2 A. No, I think he is United States Ambassador
3 to Zimbabwe.

4 Q. And Mr. Collins, do you know where he is?

5 A. The last I heard, he was in Niagara Falls.

6 Q. Still working for Union Carbide?

7 A. No.

8 Q. Do you know who he is working for?

9 A. No, I don't. One of those other major
10 companies in Niagara Falls.

11 MR. CARUSO: Sir, you have been
12 most cooperative. I thank you very
13 much.

14 I will tender the witness.

15 EXAMINATION BY MR. JONES:

16 Q. I have a few questions.

17 A. Could I ask who you represent?

18 Q. I represent Atlas Corporation. My name is
19 Allan Jones.

20 Do you know anything about Montello's
21 involvement in the oil patch with Visbestos prior to
22 1968?

23 A. No.

24 Q. One thing I was not clear on, you
25 indicated that on the product --

(OFF-RECORD DISCUSSION)

BY MR. JONES:

Q. You indicated that in products sold with the Calidria name on it, that the warning was on there from as early as '63?

A. No, I did not.

Q. Or '68?

A. 1968 is when we began.

Q. Was that warning only on products that had the Calidria name on it, or was it also on the bags that had the Visbestos name on it? I was unclear on that.

A. It should have been. It was supposed to be on anything we produced.

Q. Do you know from your own personal knowledge whether it was on the Visbestos bags or not?

A. I know that it was on there at some point in time. I could not swear that it was on there in 1968.

Q. And I take it from your answer, then, if it wasn't on there from the beginning, you would not be sure at what point it did start being put on the Visbestos bags?

A. My belief is it was on starting in 1968,

1 but I have no personal knowledge that it was.

2 Q. With respect to Visbestos when Union
3 Carbide was supplying the asbestos, was this simply a
4 supplier-distributor arrangement? Did you sell the
5 asbestos to Montello, or were you getting a
6 percentage of the profit from the Visbestos sales?

7 A. Can you give me one question?

8 Q. Well, I'm trying to figure out whether
9 your relationship with Montello was that Union
10 Carbide would simply sell asbestos to Montello, or
11 whether Union Carbide was a joint venturer or had
12 some kind of shared relationship with Montello
13 whereby it got a percentage of the property from the
14 sales of the Visbestos.

15 A. The Montello-Union Carbide agreement was a
16 straight, regular, distributor agreement, or reseller
17 agreement, whichever term.

18 Q. Now, I will ask the question they are all
19 expecting.

20 Do you know anything at all about Atlas
21 Corporation?

22 A. Anything at all?

23 Q. Yes.

24 A. Yes.

25 Q. What do you know about Atlas Corporation,

1 if anything, with respect to the use of asbestos in
2 the oil patch?

3 A. The question I have is whether -- I know I
4 am familiar with Atlas asbestos. I don't know
5 whether that's "Company" or "Corporation." Is that
6 the same as Atlas Corporation?

7 Q. If I suggest to you that Atlas Asbestos
8 Company is different from Atlas Corporation, would
9 that be something you were hearing for the first
10 time?

11 A. I don't know whether necessarily for the
12 first time. I know there is more than one Atlas
13 Corporation. I'm familiar with the Atlas whatever
14 that ran the mine near Coalinga, California, that was
15 nearby the Union Carbide operation.

16 Q. During what years?

17 A. I believe they were in operation shortly
18 before or shortly after we started, and I don't
19 remember when they closed down.

20 Q. Other than knowing that there was a
21 competing mine in Coalinga, did you know anything
22 else about the company or its involvement in the
23 asbestos and oil viscosifier area?

24 A. As far as I remember, there were two major
25 applications for the Atlas fiber: One was in vinyl

1 asbestos floor tile, and the other was in the
2 drilling fluid area. I don't know what period of
3 time those took place.

4 Q. I take it you wouldn't know anything about
5 their sales or anything about where their product was
6 being used?

7 A. Other than what I have just stated, no.

8 MR. JONES: That's all I have.

9 Thank you.

10 EXAMINATION BY MR. ADAMS:

11 Q. I just have a couple. My name is Kent
12 Adams, and I represent Milwhite.

13 Do you know if Montello ever mined any
14 asbestos themselves?

15 A. No, I do not know that.

16 Q. Was it your understanding that Montello
17 purchased all of their asbestos from you that they
18 resold, from Union Carbide?

19 A. I think they started buying from us in
20 1968. I have no information on who they purchased
21 from before that.

22 Q. Is it your understanding that at that
23 point Union Carbide was the exclusive supplier to
24 Montello?

25 A. Yes, I think that was the arrangement.

1 Q. You have no reason to believe that
2 Montello had any source of supply of their own, had
3 their own mine?

4 A. I have no reason to believe that.

5 Q. So, in other words, Montello was merely a
6 distributor of the asbestos product from Union
7 Carbide, purchased from Union Carbide?

8 A. Are you asking if that was the only
9 asbestos they distributed?

10 Q. After '68.

11 A. To the best of my knowledge, yes.

12 Q. Now, do you have any reason to believe
13 that Montello would have had any knowledge of the
14 properties of asbestos, independent from the
15 knowledge of asbestos that they would have obtained
16 from Union Carbide?

17 A. I don't think I would be in any position
18 to know what they knew.

19 Q. Well, let me ask it this way: Do you have
20 any reason to believe that Montello would have any
21 greater expertise with regard to asbestos than Union
22 Carbide would have?

23 A. Again, I'm not familiar with their
24 expertise or knowledge. I don't know whether it
25 would be better or more or less than Union Carbide.

1 Q. You just don't know?

2 A. I don't know.

3 Q. Okay, fine.

4 Now, with regard to placing warnings on
5 the bags, would it be reasonable -- do you believe it
6 would be reasonable for Montello to expect Union
7 Carbide to advise Montello with regard to what
8 warning should be placed on the product they were
9 purchasing from Union Carbide?

10 MR. WILLIAMS: Hang on a second.

11 I just got lost. Can we have that
12 either restated or reread?

13 MR. ADAMS: Let me rephrase it
14 again.

15 BY MR. ADAMS:

16 Q. As I understand, Montello was a
17 distributor of the Union Carbide asbestos products
18 after 1968.

19 A. Yes.

20 Q. Would it be your opinion that it was
21 reasonable for Montello, or would have been
22 reasonable for Montello to look to Union Carbide for
23 advice and instructions on what warnings ought to go
24 on those bags?

25 A. You're asking my opinion of what

1 Montello --

2 Q. Yes, sir.

3 A. I don't think I could render an opinion on
4 something like that, trying to speculate on what
5 someone else expected.

6 Q. Well, you're familiar with the
7 relationship between manufacturers and distributors
8 in the mineral mining and mineral industries in the
9 United States; is that a fair statement?

10 A. Well, I guess you would say I'm familiar;
11 I don't know how familiar I am.

12 Q. Well, would it be fair to say that a
13 manufacturer of a product is generally more
14 knowledgeable about the properties of that product
15 than a distributor?

16 A. Again, I don't know whether that would be
17 a fair statement or not. One distributor might be
18 much more informed than a manufacturer about a
19 product, at least some point in time. I just can't
20 speculate over what Montello knew in the specific
21 case that you requested or asked about.

22 Q. You just don't know; is that right?

23 A. I guess, if that's the way you would like
24 to phrase it.

25 Q. Did Union Carbide ever purchase any

1 minerals or manufactured products from any other
2 suppliers and then resell them, to your knowledge?

3 A. Any mineral?

4 Q. Yes, sir.

5 A. Oh, I am sure they did, yes.

6 Q. In those situations -- well, did you have
7 input into warnings to be applied to any products
8 that Union Carbide might have purchased from someone
9 else and placed a Union Carbide label on?

10 A. No.

11 Q. Okay, I will skip that, then.

12 A. I'm answering that as if you are talking
13 about minerals and not asbestos. You said minerals
14 and you were not referring to asbestos, you were
15 referring to any mineral?

16 Q. Did Union Carbide ever purchase any
17 asbestos from other sources and place it in Union
18 Carbide bags?

19 A. No, not to my knowledge.

20 Q. What I'm getting at is: Do you have any
21 knowledge or opinions about who is in a superior
22 position to recommend a warning for a product, the
23 manufacturer or the distributor who has purchased
24 that from the manufacturer under a private label?

25 A. Probably, in most cases, the manufacturer

1 would take a lead role; but with some distributors,
2 again, they may have more knowledge than the
3 manufacturer.

4 Q. Why would the manufacturer take that lead
5 role in most cases?

6 A. I think you're getting into the philosophy
7 of marketing, but if a manufacturer was trying to
8 introduce a new product into the market place, he
9 would be looking for distributors; and in many cases,
10 the distributor, if this is a new product, would not
11 have been handling that product, and therefore the
12 manufacturer, the supplier would know what he was
13 talking about.

14 Q. Isn't it also just good common sense that
15 typically, unless you had an unusual situation, the
16 manufacturer of a product is going to be more
17 knowledgeable about that product than someone he
18 hires to distribute it for him?

19 MR. BISSELL: You are assuming by
20 your question a manufactured product,
21 rather than a naturally-occurring
22 element, I assume?

23 MR. KENT: Yes, that's right.

24 MR. BISSELL: I don't see the
25 relevance.

1 MR. ADAMS: The product in
2 question was patented by Sun Oil
3 Company.

4 BY MR. ADAMS:

5 Q. Let me rephrase the question.

6 Regardless of whether it's a manufactured
7 product or a naturally-occurring mineral mined by
8 someone, the entity that mines that mineral or the
9 company which manufactures the product, common sense
10 tells us they would have greater knowledge with
11 regard to that product than the person or the company
12 that's hired to distribute that product; is that
13 true?

14 MR. TAYLOR: I object to the form
15 of the question as leading. I'm not
16 sure I understand it.

17 MR. ADAMS: You can answer it, if
18 you have an answer.

19 MR. WILLIAMS: If you don't know,
20 just tell him you don't know.

21 A. Well, I wouldn't necessarily agree with
22 the opinion, and therefore I would say I don't know
23 if that's generally the case.

24 BY MR. ADAMS:

25 Q. Do you know anything about the details of

1 the contract between Union Carbide and Montello with
2 regard to the sale of this asbestos product?

3 A. I have been familiar with details of that
4 contract, yes.

5 Q. Was there any limitation placed on
6 Montello in regards to labeling the product, that
7 you're aware of?

8 MR. WILLIAMS: You mean in the
9 contract?

10 MR. ADAMS: In the contract.

11 MR. WILLIAMS: If you recall.

12 A. I can't recall if there was a section on
13 labeling. I'm sure the contract is probably
14 available, but I don't know, I don't recall.

15 BY MR. ADAMS:

16 Q. When Mr. Caruso was asking you about the
17 warnings that Montello placed on the product, he
18 asked you whether or not Montello could have changed
19 that warning label if they had wanted to, and you
20 answered yes, they could have. I wanted to ask
21 you --

22 MS. CLARK: That wasn't his
23 answer.

24 MR. WILLIAMS: That wasn't his
25 testimony.

1 A. There are some errors in there. First of
2 all, to my knowledge, Montello did not put any labels
3 on the packages. You can check the testimony that I
4 gave, but I believe I responded that if Montello did
5 wish to change any part of the label, that they would
6 not have done that independently. They would have
7 contacted the appropriate Union Carbide people and
8 offered a proposal and then there would have been
9 some discussion of that, some decision made between
10 the two entities.

11 BY MR. ADAMS:

12 Q. Well, I apologize. I obviously
13 misunderstood your earlier testimony. That's my
14 mistake.

15 Why is your answer such as it is? Was
16 there some contractual limitation on Montello
17 changing the format of the bags?

18 A. As I said, I don't remember whether or not
19 bag labeling was addressed in the contract.

20 Q. Why do you answer --

21 A. I think if a supplier is lending his name
22 to a material that's being introduced in commerce,
23 he would not want that information changed without
24 being consulted.

25

(OFF-RECORD DISCUSSION)

1 BY MR. ADAMS:

2 Q. That's got so fouled up, I'm sorry.

3 A. Why don't you restate the question.

4 MR. ADAMS: Can you read the
5 question back?

6 COURT REPORTER: "Why is your
7 answer such as it is? Was there some
8 contractual limitation on Montello
9 changing the format of the bags?"

10 MR. WILLIAMS: Was there a
11 contractual limitation, if you recall.

12 BY MR. ADAMS:

13 Q. You gave an answer, and I didn't hear all
14 of it.

15 A. Okay.

16 Q. You can repeat your answer, if you recall
17 it.

18 A. My answer was that I don't recall if there
19 was a specific item in the contract dealing with bag
20 labeling.

21 Q. But there was some additional part to your
22 answer, such as the manufacturer had some interest in
23 making sure the labeling wasn't changed without their
24 consultation?

25 A. I think you asked the question why would

1 Union Carbide care what Montello did, and I said that
2 in my opinion, and in any cases if I was a supplier
3 of a product in a package, shipping this out to
4 various customers, I would not want a distributor who
5 would have the option to change that label or that
6 marking or the packaging without consulting with the
7 manufacturer.

8 Q. Why is that?

9 A. I think that could jeopardize the
10 manufacturer. The distributor might choose to put a
11 -- to cover up a warning label or the place of
12 manufacture, and I don't think any supplier would
13 want that to happen.

14 MR. ADAMS: Thank you.

15 I pass the witness.

16 EXAMINATION BY MR. TAYLOR:

17 Q. Mr. Myers, my name is Bill Taylor. I
18 represent Sun.

19 When was it, sir, that the idea for this
20 application of chrysotile asbestos was developed?

21 A. I can't recall a specific date, but it was
22 after my -- well, I transferred to the asbestos
23 operation from the Oak Ridge -- from the Paducah
24 operation in 1966 and the product was produced in
25 King City in 1968, so the idea may have come earlier

1 than that, but it was culminated during that period,
2 obviously.

3 Q. You're speaking of Union Carbide's
4 application of chrysotile asbestos. I guess my
5 question is in general, when was that idea first
6 developed?

7 A. I have no idea.

8 Q. Do you know how it was first developed?

9 A. No.

10 Q. Do you know who first developed it?

11 A. I know that Sun Oil has a patent on the
12 application.

13 Q. How do you know that?

14 A. By I was made aware of that and remember
15 having copies of the patent from Montello, and then
16 paying a royalty for that use of that patent.

17 Q. With respect to the warning label that has
18 been marked as Exhibit 2, and I think you've
19 testified that in 1968 a warning label, whether it
20 was that particular wording or not, was placed on
21 Union Carbide's asbestos drilling mud bags; is that
22 correct?

23 A. I testified that to the best of my
24 knowledge, that warning label -- a warning label,
25 that one or similar to it, was placed on all packages

1 leaving King City.

2 Q. And my question is: Would that be true,
3 that is would that warning or one similar to that be
4 placed on all of Union Carbide's products that
5 contained chrysotile asbestos -- that is the asphalt
6 you testified to, the ceiling tiles, and the floor
7 tiles -- or was it simply placed only on the bags of
8 drilling mud?

9 A. It was placed on all bags. I remember one
10 exception to that of a customer who was exporting one
11 of our products and they requested that we not put
12 the warning label on. So, this was an exclusive
13 agreement, this was prior to the OSHA requirement for
14 labeling. The packages were loaded, as I recall, in
15 a container in King City, and not opened until they
16 were delivered in the foreign country. Other than
17 that one exception, my best recollection is that the
18 warning went on every other package that was shipped,
19 whether it was drilling mud, roofing compounds, floor
20 tile, or whatever.

21 MR. TAYLOR: That's all. Thank
22 you.

23 EXAMINATION BY MR. MARSHALL:

24 Q. I represent Drilling Specialties Company
25 in this lawsuit.

1 Does the chrysotile asbestos at the San
2 Benito mine have a water content?

3 A. Are you speaking of the ore, in the
4 naturally occurring?

5 Q. Yes, sir.

6 A. Yes. The ore body that we mine normally
7 contains 18 to 20 percent moisture in the ore.

8 Q. Has that level of water in the ore
9 remained constant over the years, or has it increased
10 or decreased significantly?

11 A. The years with which I'm familiar, it's
12 remained the same.

13 Q. And that would include the earliest years
14 that you're familiar with, 1963, did you say?

15 A. That's when I -- no, that's when the
16 operation was started.

17 Q. And your familiarity started which year?
18 '68?

19 A. I moved to the asbestos operation in '66.
20 I have no reason to believe that it was anything
21 other than 18 percent.

22 Q. When the ore is milled at King City, after
23 it is processed there, are there any changes in the
24 water moisture content of the product?

25 A. Well, it's a hygroscopic material, so when

1 we package it, normally the water content ranges from
2 1 to 3 percent, but if stored in a high humidity, I
3 think that could go to 4 or 5 percent.

4 Q. What is it about the milling process used
5 by Union Carbide at the King City mill that removes a
6 portion of the water from the ore?

7 A. How do we dry the product?

8 Q. It is an intentional drying? That was my
9 question. How does the water content get lowered?
10 Is it something intentional, or is it a by-product in
11 the milling process? How does that work?

12 A. Well, the first thing we do to the ore is
13 add water to make a slurry, and the final step is to
14 remove that water down to a 1 or 3 percent range.

15 Q. The processing, the milling process used
16 by Carbide, and now by KCAC, at the King City mill is
17 a wet process in which water is added?

18 A. That's correct.

19 Q. Do you know whether or not other -- excuse
20 me.

21 Has it always been that sort of process or
22 have there been changes over the years?

23 A. It's always been the same hydraulic
24 beneficiation process.

25 Q. And then as a final step or a final stage

1 of that processing of the ore, the water is removed
2 down to 1 percent, it's dried out?

3 A. Yes, 1 to 3 percent.

4 Q. And is that 1 to 3 percent water content
5 in the finished product as it leaves the mill, is
6 that the same for all the different labels that the
7 product has gone out under?

8 A. Yes. As I said, the products that we
9 produce, the final product that's put in a package
10 ranges from 1 to 3 percent.

11 Q. Does the finished product at the King City
12 mill have a particular standard that it can be
13 measured against, as far as its physical
14 characteristics?

15 A. We do different types of quality control
16 checks, depending on the application to which the
17 product is going to be used.

18 Q. Are there standards for fiber length that
19 the finished product should have, sir?

20 A. No, this deposit is all one fiber length.
21 It's all short, very short fiber.

22 Q. It's my understanding, sir, that a
23 Canadian asbestos, for example, has different
24 standards, Canadian 1, Canadian 5, different numbers
25 associated with it. Are there similar standards for

1 the Coalinga-type ore?

2 A. No.

3 Q. Are you familiar with the term Canadian 7,
4 sir --

5 A. Yes.

6 Q. -- as a standard?

7 Can you compare for me, sir, the physical
8 characteristics, including fiber length, of the ore
9 mined and milled by Carbide to Canadian 7 standard?

10 A. The ore mined by Union Carbide contains
11 only short-fiber chrysotile asbestos. The process
12 that we use is a wet process, and it's not used by
13 any other manufacturer. The Canadian Grade 7, as I
14 understand it, is a kind of a by-product of the
15 Canadian operation. The Grade 7 product from Canada,
16 I don't know what the fiber lengths are, but they are
17 in general longer than the Calidria fibers, and they
18 are also not as pure.

19 Q. Define "pure" for me, sir.

20 A. We generally promote our products as
21 having over 90 percent fiber. They are probably over
22 95 percent fiber. In a more typical Canadian grade,
23 you could get maybe 20 to 30 percent of ground-up
24 rock dust, rather than fibrous asbestos.

25 Q. What is the length of the fibers in the

1 Union Carbide asbestos, chrysotile?

2 A. We don't monitor that on a continuing
3 basis, but based on prior data, they would average
4 about 5 microns in length.

5 Q. What is your understanding of the fiber
6 length of Canadian 7?

7 A. I don't know.

8 Q. Then, help me to understand, sir, if you
9 don't know what the fiber length of the Canadian 7
10 is, what is the basis of your understanding that the
11 Union Carbide fibers are shorter than Canadian 7?

12 A. Just literature that I have read stating
13 that. I don't recall that I -- I mean I don't recall
14 a length for Canadian fiber.

15 Q. Do you have any personal knowledge, sir,
16 that no chrysotile asbestos from the Carbide mine
17 ever wound up ultimately being used in the oil fields
18 prior to 1968?

19 A. May I --

20 MR. WILLIAMS: Do you mind if we
21 have that one again? I got lost. I'm
22 sorry.

23 BY MR. MARSHALL:

24 Q. This is a follow-up to your testimony that
25 you did not market, that is Carbide did not market

1 chrysotile asbestos for oil field use until 1968. My
2 question to you, sir, is a follow-up to the testimony
3 that you had manufactured or had mined chrysotile
4 asbestos from 1963 to 1968 at that mine, and the
5 question is, sir: Do you know whether or not any of
6 the asbestos from '63 to '68 ever wound up being used
7 in the oil fields?

8 A. To the best of my knowledge, it did not.

9 Q. And what would be the basis of your
10 knowledge that it was not used? That is, how could
11 you follow the ultimate use of all of the asbestos
12 mined there from '63 to '68?

13 A. I can't. I said, to the best of my
14 knowledge, it was not.

15 Q. You don't know whether it did wind up
16 being used in the oil field or not?

17 MR. WILLIAMS: That's not what he
18 said.

19 A. To the best of my knowledge, I do not
20 know.

21 BY MR. MARSHALL:

22 Q. Do you have any definite knowledge that it
23 did not?

24 MR. WILLIAMS: He just said to
25 the best of his knowledge, he did not.

1 A. That's the way I would prefer to answer
2 the question, the way I did answer it. To the best
3 of my knowledge, I am not aware that any Union
4 Carbide asbestos ended up in the oil field prior to
5 1968.

6 BY MR. MARSHALL:

7 Q. But so that the Jury listening to this
8 answer will not be confused about what you mean, sir,
9 you're not able to deny, are you, sir, that some of
10 that asbestos might have wound up being used in the
11 oil patch during those years; are you?

12 MR. WILLIAMS: I'm going to
13 object to that. That's the third time
14 you have attempted to rephrase the
15 question. He does not have to answer
16 it in your words. He has answered in
17 his words the same way three times
18 now.

19 Don't answer that question.

20 Certify it, if you would like.

21 BY MR. MARSHALL:

22 Q. I take it, sir, you are going to follow
23 the instructions of your lawyer and not answer the
24 question, which was whether or not you were able to
25 deny --

1 MR. BISSELL: The instruction was
2 don't answer it again. He has
3 answered about three times.

4 MR. WILLIAMS: I would suggest
5 you follow my advice. Just tell him
6 you are going to follow my advice.

7 A. Yes, I am going to follow counsel's
8 advice.

9 BY MR. MARSHALL:

10 Q. Okay.

11 Regarding the contract between Montello
12 and Union Carbide that you said you had some
13 familiarity with, was that amended or changed over
14 the years?

15 A. I don't recall. I'm sure that it probably
16 was, but I don't recall any specific changes.

17 Q. You characterized it as a distributorship
18 agreement. I would like to ask you, sir, whether or
19 not at any time Montello ever participated in any
20 manner in the profits or the losses arising out of
21 the sale of chrysotile asbestos?

22 A. You mean did they make any money on their
23 sales?

24 Q. No, sir. The question was whether or not
25 Montello in any way participated in any profits or

1 any losses arising out of the sale of chrysotile
2 asbestos, as a part of the agreement?

3 MR. WILLIAMS: You mean by
4 Montello, profits made by Montello?

5 MR. BISSELL: He's asking about
6 whether or not Montello made a profit.

7 MR. WILLIAMS: I'm completely
8 confused.

9 MR. ADAMS: Wait a minute. He's
10 not asking you the question. Why
11 don't you see if he can answer the
12 question.

13 MR. WILLIAMS: I think I am
14 entitled to understand.

15 MR. ADAMS: You can object.

16 MR. WILLIAMS: I can't object if
17 I don't understand it. All I am
18 asking -- if you would like to have it
19 read back, that's fine.

20 MR. ADAMS: I think what he is
21 asking is did the agreement call for
22 Montello to share in the profits or
23 losses from the sale of this product.

24 Is that right, like a joint
25 venture agreement?

1 MR. HARTMAN: Why don't you just
2 read back Mr. Marshall's question and
3 let the witness respond?

4 MR. BISSELL: The question, as I
5 understand it, does Montello make
6 money if they sell the product.

7 MR. MARSHALL: No.

8 MR. WILLIAMS: Let's start over.

9 A. Are you asking me if Montello shared in
10 Union Carbide's profits?

11 BY MR. MARSHALL:

12 Q. Or vice versa. I'm asking if there was
13 any sharing of the profits and losses of the sale of
14 chrysotile asbestos by Montello or by Carbide, as a
15 part of their arrangement?

16 A. If we shared profits with Montello of our
17 business or if they shared profits with us?

18 Q. Or vice versa?

19 A. Like a kickback or something?

20 Q. Yes, sir, as a part of a distributorship
21 agreement?

22 A. No.

23 Q. Let me tell you what I am trying to ask.
24 You denied it was a joint venture. That's sort of a
25 legal conclusion. I'm merely asking what the details

1 of the contract are to determine whether or not there
2 may have been such an arrangement, even though you
3 might not characterize it as such and a lawyer might.
4 Do you understand?

5 A. I could maybe summarize the contract, at
6 least as far as I --

7 MR. WILLIAMS: Just wait a
8 minute. Let him ask --

9 BY MR. MARSHALL:

10 Q. Would you summarize the contract, as far
11 as you understood it.

12 MR. WILLIAMS: With regard to
13 sales or profits?

14 BY MR. MARSHALL:

15 Q. With regard to how the money was made.

16 A. It was my understanding that we would sell
17 asbestos to Montello FOB King City, California, and
18 they would distribute it to customers, to their
19 customers as they saw fit. There was no other
20 financial arrangement between the two companies.

21 Q. Was there any price differentials as a
22 function of volumes?

23 A. Not that I recall.

24 Q. Were there any price incentives that were
25 designed to have the volume promoted of the product,

1 so that you get a lesser price for --

2 A. Not that I recall.

3 Q. Did the contract ever contain any
4 indemnities by which Union Carbide would indemnify
5 Montello in lawsuits of any kind?

6 A. I think there was an indemnity clause, but
7 I don't remember any details whether it discussed
8 defending -- but I don't remember the details.

9 Q. Did the indemnity in that clause flow from
10 Carbide to Montello?

11 A. As I remember, it went both ways, but I
12 don't remember the details.

13 Q. Is it true that Johns-Manville at one time
14 also had a mine in the Coalinga area?

15 A. Yes.

16 Q. What is the distance of the former
17 Johns-Manville mine from the San Benito mine of
18 Carbide?

19 A. I don't know. You mean in miles?

20 Q. Yes, sir.

21 A. Probably five or ten miles. I really
22 don't know. I have never been to the Johns-Manville
23 site.

24 Q. Was the Johns-Manville mine in the same
25 formation as the San Benito Carbide mine?

1 A. To my knowledge, there is only one
2 deposit, and all three operations -- Atlas,
3 Johns-Manville, and Union Carbide -- were operating
4 in the same deposit of asbestos.

5 Q. Are there any differences, physical
6 differences -- let me start again.

7 Are there any differences in the physical
8 characteristics of the ore at different locations in
9 the Coalinga area?

10 A. Not to my knowledge. Although, as the ore
11 reaches the end somewhere, I'm sure there would be
12 different purities and different -- other
13 contaminates in the ore as you reach the edge of the
14 deposits.

15 Q. Are you aware of any differences in
16 physical characteristics between the chrysotile
17 asbestos at the Union Carbide San Benito mine, and
18 the chrysotile asbestos at the Johns-Manville mine in
19 Coalinga?

20 A. I have never seen any such comparison and
21 I am not aware of any differences or similarities.

22 Q. Does the milling process at the King City
23 mine --

24 A. There is no milling process at the King
25 City mine.

1 Q. Excuse me.

2 A. I mean, there is no King City mine.

3 Q. There is no King City mine, thank you.

4 Does the milling process at King City
5 shorten any of the fibers from their length, as mined
6 at San Benito?

7 A. No.

8 Q. Does the process do anything other than
9 open up the fibers as mined?

10 A. Well, I don't know what you mean by "open
11 up." The ore is processed to get rid of impurities
12 in the ore and to provide a fibrous product.

13 MR. MARSHALL: That's all I have.

14 Thank you, sir.

15 RE-EXAMINATION BY MR. JONES:

16 Q. I have got one question.

17 In response to some of Mr. Adams'
18 questions, you were talking about the marketing
19 relationship, and you said assuming that you had a
20 manufacturer or a miner who was interested in
21 marketing its product, it would look for a supplier
22 that would help him market that; and under those
23 circumstances the manufacturer or supplier might have
24 more knowledge about the item. Do you remember that
25 answer?

1 A. Something like that. I wouldn't swear
2 that that was --

3 Q. That's a rough paraphrase. By the same
4 token, if you have someone that's looking to market a
5 product, and they are going around looking for
6 suppliers, you would expect them to have a better
7 knowledge of the product than the people that were
8 suppliers; would you not?

9 A. That's a conclusion that I would have no
10 idea.

11 MR. JONES: Okay. That's it.

12 (WHEREUPON THE DEPOSITION WAS CONCLUDED)

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1 THE STATE OF TEXAS:

2 COUNTY OF JEFFERSON:

3 I, JOHN LESTER MYERS, hereby certify that
4 I have read the foregoing transcript of my testimony
5 given in the foregoing numbered and styled case, and
6 that the same is true and correct to the best of my
7 knowledge and belief.

8 I further certify that any and all
9 corrections have been made on a separate page and
10 initialed by me.

11 This ____ day of _____, 1988.

12
13
14 _____
15 JOHN LESTER MYERS
16

17 SWORN AND SUBSCRIBED BEFORE ME this

18 _____ day of _____, 1988.

19
20
21 _____
22 NOTARY PUBLIC
23
24
25

1 THE STATE OF TEXAS:

2 COUNTY OF JEFFERSON:

3 I, JOYCE ANN SMITH, a Certified Shorthand
4 Reporter, hereby certify that the foregoing testimony
5 was given before me after the Witness had been first
6 duly sworn.

7 I further certify that this deposition was
8 prepared under my direction and is a complete and
9 correct transcript of the proceedings; and that it is
10 being given to the Hon. Daniel J. Caruso.

11 I further certify that I am neither
12 attorney for, related to, nor employed by any of the
13 parties to the lawsuit in which this deposition was
14 taken. Further, I am neither related to, nor
15 employed by any attorney of record in this cause; nor
16 do I have a financial interest in the matter.

17 SWORN TO AND SUBSCRIBED BY ME IN Beaumont,
18 Texas, on this 11th day of November, 1988.

19 Joyce Ann Smith
20 JOYCE ANN SMITH, CSR, RPR, CM

21 Certificate No.:	Texas CSR No. 2463
22 Date of Expiration:	December 31, 1989
23 Address:	Nell McCallum & Associates
24	87 IH 10 North, Suite 111
25 (409) 838-0333	Beaumont, Texas 77707

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MYERS EXHIBIT NO. 1

**UNION
CARBIDE****INTERNAL CORRESPONDENCE****UNION CARBIDE CORPORATION**

270 PARK AVENUE, NEW YORK, NEW YORK 10017

Name
Title
LocationMr. John A. Riddle
Chemicals & Plastics
P. O. Box K
King City, California 93930

Date January 19, 1968

Originating Dept. Medical

Answering letter date

Subject

Copy to

Dear John:

The relation between crocidolite and mesothelioma seems to be pretty strongly established by experience in South Africa and elsewhere. The relation between chrysotile and mesothelioma is not clear. If it exists, it apparently is much less pronounced than that shown by crocidolite.

The limit of 5 MPPCF that we observe in our operations is still recognized in the United States as satisfactory for chrysotile, but there is strong feeling that it is much too high for crocidolite. I wouldn't be at all surprised to see supplied-air respirators recommended for handling the latter.

In our own operations with chrysotile, I feel that we should try to control the dust to levels as far below 5 MPPCF as reasonably possible. That is, I don't believe we should be content with control that just maintains the level at 5 MPPCF. Actually, this figure is known as a threshold guide and not a level that strictly defines safe and unsafe conditions.

There is some thought that metals associated with asbestos either from the ore or from milling machines, etc., may be part of the problem. Investigation is underway to evaluate this potential; and as soon as I hear more about it, I'll let you know.

Very truly yours,


Paul W. McDaniel
Industrial Hygiene Engineer

DISTRIBUTION

J. A. Riddle ☐
L. F. Crow ☒
R. O. Hansen ☐
W. E. Huppel ☐
A. A. Andrade ☐
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K. West ☐
R. ☐

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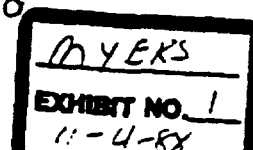
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MYERS EXHIBIT NO. 2

**UNION
CARBIDE**

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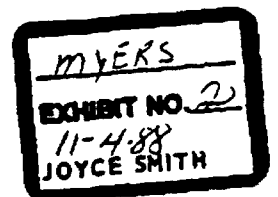
***Calidria* ASBESTOS**

CAUTION

**Contains Asbestos Fibers
Avoid Creating Dust**

**Breathing Asbestos Dust May Cause
Serious Bodily Harm**

A23735



UCAREF00013339

Material Safety Data Sheet



Calidria Corporation requests that users of "Calidria" Asbestos study this data sheet to become aware of the product's hazards, and promote safe handling of the product by making this information available to its employees, agents, and contractors. If the

material is resold, Calidria Corporation requests that the purchaser be furnished a copy of this data sheet and advised to provide the information herein to its employees, agents and contractors.

SECTION I PRODUCT IDENTIFICATION

Product Name: CALIDRIA® ASBESTOS.	C.A.S. Numbers: 1332-21-4, 1309-38-2
Chemical/Alloy Name: Chrysotile Asbestos.	Formula/Composition: $Mg_3(OH)_4Si_4O_{10} \cdot Fe_3O_4$
Synonyms: Asbestos, White Asbestos, Hydrated Magnesium Silicate.	

SECTION II PHYSICAL DATA

Sizes: 3/8" pellets to powder.	Solubility in Water: Very slightly soluble.
Specific Gravity: 2.45 approximately. ($H_2O=1$).	Melting Point: °F (°C) Dehydrates above 1112 (600).
Odor: None.	Boiling Point: °F (°C) Not applicable.
Appearance: White fibrous solid or pellets.	Vapor Pressure: Not applicable.
Bulk Density: 15-45 lb/ft ³ , as packaged. (Depends on product form.)	Percent Volatile: Absorbed H_2O 1-4% by weight. Structural H_2O - 13% by weight.
Molecular Weight: Not applicable.	Evaporation Rate: Not applicable.

myers
EXHIBIT NO. 3
11-4-68
JOYCE SMITH

SECTION III HAZARDOUS INGREDIENTS

Material or Component (CAS #)	Weight %	PEL Data (TWA Unless Noted)
Chrysotile Asbestos (1332-21-4)	95-98%	2 fibers/cc longer than 5μ (1)(2)(3)(5) 10 fibers/cc longer than 5μ, ceiling (1)(2)(3)(5) 0.1 fibers/cc longer than 5μ (4) 0.2-0.5 fibers/cc longer than 5μ (1) (Proposed)
Magnetite Fe_3O_4 (1309-38-2)	0.5-2	5 mg/cu m respirable dust (1)(2)(5) 15 mg/cu m total dust (1) 10 mg/cu m total dust (2)(3)

References: 1 OSHA Standard 1910.1001 2 NIOSH Standard 3 Current ACGIH 4 NIOSH Recommendation 5 Calidria Internal Standard

Emergency H.E.L.P. Telephone: 304-744-3487

Calidria Corporation • P.O. Box K, King City, California • 93930

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MYERS EXHIBIT NO. 3

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Odor: None.	Boiling Point: °F (°C) Not applicable.
Appearance: White fibrous solid or pellets.	Vapor Pressure: Not applicable.
Bulk Density: 15-45 lb/ft ³ , as packaged. (Depends on product form.)	Percent Volatile: Absorbed H_2O 1-4% by weight. Structural H_2O - 13% by weight.
Molecular Weight: Not applicable.	Evaporation Rate: Not applicable.

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SECTION III HAZARDOUS INGREDIENTS

Material or Component (CAS #)	Weight %	PEL Data (TWA Unless Noted)
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Magnetite Fe_3O_4 (1309-38-2)	0.5-2	5 mg/cu m respirable dust (1)(2)(5) 15 mg/cu m total dust (1) 10 mg/cu m total dust (2)(3)

References: 1 OSHA Standard 1910.1001 2 NIOSH Standard 3 Current ACGIH 4 NIOSH Recommendation 5 Calidria Internal Standard

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SECTION V FIRE AND EXPLOSION DATA

Combustibility: Not combustible. Flammable Limits: Not applicable.
Flash Point (Test Method): Not applicable. Autoignition Temperature: Not applicable.
Explosion Tendency: Not applicable.
Extinguishing Media: Use media appropriate for surrounding material in fire situation.
Special Fire-Fighting Procedures: Avoid media and procedures that cause airborne dust. Personnel involved in fire-fighting should use NIOSH/MSHA-approved self-contained breathing apparatus and full protective clothing.
Unusual Fire and Explosive Hazard: See above.

SECTION VI REACTIVITY DATA

Stability: Stable (Temperatures in excess of 1112 °F (600 °C) cause loss of bound water).
Conditions to Avoid: None.
Hazardous Decomposition Products: None.
Material to Avoid: None.

SECTION VII SPILL, LEAK, AND DISPOSAL INFORMATION

Steps to be Taken if Material is Spilled or Released: Avoid breathing dust. Notify Safety personnel of spill. Permit only trained clean-up personnel in the spill area. Use wet methods or approved vacuum cleaning system to pick up spilled materials. Use water or other dust suppressants where sweeping is unavoidable. Do not stir up dust. Clean-up personnel should wear approved respirators and protective clothing. Waste and contaminated protective clothing must be placed in dust-tight containers and be properly labeled for disposal.

Neutralizing Agents: Not applicable.

Waste Disposal Method: Bags, friable asbestos, waste and scrap material should be disposed of in a manner which will avoid airborne concentrations of asbestos, such as the use of dust-tight trash bags or containers. Such containers should be labeled in accordance with 40 CFR 61.20. Asbestos is also classified as a hazardous material under CWA 307(a) and has a reportable quantity of one pound. Deposit waste containers in a secured landfill in accordance with Federal, State, and local regulations.

SECTION VIII SPECIAL PROTECTION INFORMATION

Ventilation: Provide adequate exhaust ventilation and capture filtration to remove asbestos particulate from the workplace and minimize its dispersion into the environment. Isolate work areas and post signs where asbestos contamination may exceed PEL. Hand- or power-operated tools which may release asbestos in excess of the PEL must be equipped with local exhaust systems.

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MYERS EXHIBIT NO. 4

Chemical Hygiene Fellowship
MELLON INSTITUTE
Carnegie-Mellon University

Calidria Asbestos-Resin Grade RC 244

Tracheal Insufflation of Rat Lungs with Interpretation
of Pathology after 30, 60, 90 and 180 Days

Editor: C. P. Carpenter

Contributors: D. L. Geary, Jr., E. R. Kinkead,
R. C. Myers, D. J. Nachreiner

For: UNION CARBIDE CORPORATION, Chemicals and Plastics Operations Division

Sample

A 500-gram sample of Resin Grade RC 244 UCC Calidria Asbestos was received 11-30-70, from King City, California, pursuant to arrangements made by Paul McDaniel of the New York Office. The sample was identified by the Chemical Hygiene Fellowship #33-251.

Tracheal Insufflation

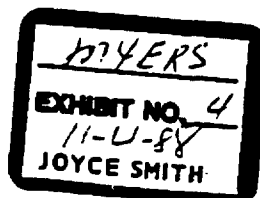
A 1% (W/V) suspension of the RC 244 sample was prepared in 0.85% saline. All needles, syringes and suspensions were sterilized prior to use. Either 1 ml or 0.5 ml amounts of the sterile 1% suspension were injected into the rat lung through the trachea, exposed by blunt dissection, after a midline cervical incision. Following injection of these 200 to 300 gram, male albino, Harlan Wistar rats the incisions were closed with Michael wound clamps until healing ensued.

A total of 13 rats were dosed with 1 ml and 15 with 0.5 ml of the 1% suspension while 11 control rats received 1 ml of sterile 0.85% NaCl. Three rats from each asbestos dosed group and 2 controls were killed for histopathologic examination of the lung after intervals of 30, 60 and 90 days which left groups of 4, 6 and 5 rats on the 1 ml, 0.5 ml asbestos and control for the 180 day sacrifice.

Summary of Microscopic Pathology Found 30, 60, 90 and 180 Days

Following Tracheal Insufflation of Rats

The 30-day pathology was marked by the presence of granulation tissue with thickening of the structural elements of the lung (stroma) and the accumulation of giant cells often associated with foreign bodies.



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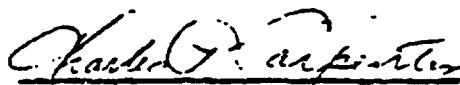
After 60 days one rat on the 0.5 ml dosage level had inflammation and in-growth of connective tissue which blocked a terminal bronchus. Two of 3 rats on both the 1.0 and 0.5 ml dosage level had atelectasis (collapse) of one or more lobes of the lung. Fibrotic foreign body nodules were present in all cases.

After 90 days there was chronic foreign body pneumonia in 2 of 3 rats at both dosage levels, fibrotic foreign nodules in 3 of 3 and emphysema in 2 of 3. Chronic inflammatory cell foci and atelectasis were present. Bronchioles were dilated in 2 of 3 rats on both dosage levels and all but one on both dosage levels had some lung hemorrhage.

The final 180 day sacrifice revealed interstitial pneumonia in 4 rats on the 0.5 ml dose. This is a chronic form of pneumonia of interstitial tissue with decrease of the normal lung tissue. Atelectasis was present in the 4 rats on 1 ml and on 1 rat on the 0.5 ml dose of asbestos with the 5 controls normal. Fibrotic foreign body tissue was present in all dosed lungs with none in the controls. Pink hyalin material was found in 2 of 4 lungs from rats on the 1 ml dose while in 3 of 4 there was a bluish homogeneous material evident.

In essence, a total of 10 of 13 rats on the 1 ml dose and 12 of 15 on the 0.5 ml dose had fibrotic foreign body nodules or tissue. There were 3 cases of emphysema on the high dose and 4 on the low dose and 1 in the control. Atelectasis (essentially collapse of lung alveoli) was present in 9 rats on 1 ml and 6 on 0.5 ml of asbestos with none reported in the controls. In general, because of the overwhelming preponderance of effect in the asbestos dosed lungs versus the controls, we have sufficient evidence of damage to warn us to do our best to prevent inhalation of concentrations of asbestos in excess of the Threshold Limit Value proposed for 1970, (Threshold Limit Values of Airborne Contaminants and Intended Changes. Adopted by ACGIH for 1970. American Conference of Governmental Hygienists, 1014 Broadway, Cincinnati, Ohio 45202).

Summary Tables for each of the four sacrifices are included. Detailed pathology reports on each animal are available and copies can be furnished if the need for them arises. A literature review prepared in connection with another request for information is attached although not requested.


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Acknowledgments:

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Table 34-19

Tracheal Insufflation to Rats Sacrificed 30 Days After Dosing

		Ml of 1% Solution		
		1	0.5	0.0
<u>TOTAL NUMBER EXAMINED GROSSLY:</u>		3	3	2
<u>LUNG:</u> Number Examined	(M)	3	3	2
Pneumonia	(G)	3	3	0
Hemorrhage	(G)	1	0	0
Pleural adhesions	(G)	1	2	0
Stromal thickening	(M)	3	2	0
Foam cell accumulations	(M)	3	2	0
Granulation tissue foci	(M)	3	3	0
Multinucleated giant cells	(M)	3	2	0
Abscess bronchopneumonia	(M)	0	1	0
Round cell accumulations	(M)	0	0	1
<u>TRACHEA:</u> Number Examined	(M)	3	3	2
Chronic tracheitis	(M)	0	0	1

The following tissues were examined microscopically on all animals: Lung, Liver, Kidney, Heart, Spleen, Adrenal, Thyroid, Parathyroid, Trachea and Esophagus. G = Gross M = Microscopic

Table 34-20

Tracheal Insufflation to Rats Sacrificed 60 Days After Dosing

		Ml of 1% Solution		
		1	0.5	0.0
<u>TOTAL NUMBER EXAMINED GROSSLY:</u> A 23733		3	3	2
<u>LUNG:</u> Number Examined	(M)	3	3	2
Hemorrhage	(G)	0	0	1
Pneumonia	(G)	3	3	0
Atelectasis	(G)	0	2	0
Edema	(G)	1	2	0
Hemorrhage	(M)	1	0	0
Atelectasis	(M)	2	2	0
Fibrotic foreign body nodules	(M)	3	3	0
Bronchiolitis fibrosa obliterans	(M)	0	1	0
<u>KIDNEY:</u> Number Examined	(M)	3	3	2
Round cell accumulations	(M)	1	0	0
<u>HEART:</u> Number Examined	(M)	3	3	2
Focal myocarditis	(M)	0	1	0
<u>MUSCLE:</u> Number Examined	(M)	1	0	0
Purulent mass	(G)	1	0	0
Large suppurative process, striated muscle	(M)	1	-	-

The following tissues were examined microscopically on all animals: Lung, Liver, Kidney, Heart, Spleen, Adrenal, Thyroid, Parathyroid, Trachea and Esophagus. G = Gross M = Microscopic

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Table 34-21

Tracheal Insufflation to Rats Sacrificed 90 Days After Dosing

		<u>Ml of 1% Solution</u>		
		<u>1</u>	<u>0.5</u>	<u>0.0</u>
<u>TOTAL NUMBER EXAMINED GROSSLY:</u>		3	3	2
<u>LUNG:</u> Number Examined	(M)	3	3	2
Pleural adhesions	(G)	0	2	0
Hemorrhage	(G)	0	2	0
Edema	(G)	3	3	0
Pneumonia	(G)	3	3	0
Chronic foreign body pneumonia	(M)	2	2	0
Fibrotic foreign body nodules	(M)	3	3	0
Emphysema	(M)	2	2	0
Chronic inflammatory cell foci	(M)	3	3	0
Round cell foci	(M)	0	1	1
Atelectasis	(M)	3	3	0
Bronchiectasis	(M)	2	2	0
Stromal thickening	(M)	1	0	0
Hemorrhage	(M)	3	2	0
Inhaled blood	(M)	0	1	0
<u>KIDNEY:</u> Number Examined	(M)	3	3	3
Hydronephrosis	(G)	0	0	1
Hydronephrosis	(M)	0	0	1
Round cell focus	(M)	0	1	0
<u>TRACHEA:</u> Number Examined	(M)	3	3	3
Chronic tracheitis	(M)	2	1	2
<u>HEART:</u> Number Examined	(M)	3	3	3
Myxoid change, interstitium	(M)	0	1	0

The following tissues were examined microscopically on all animals: Lung, Liver, Kidney, Heart, Spleen, Adrenal, Thyroid, Parathyroid, Trachea and Esophagus. G = Gross M = Microscopic

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Table 34-22

Tracheal Insufflation to Rats Sacrificed 180 Days After Dosing

		Ml of 1% Solution		
		1	0.5	0.0
<u>TOTAL NUMBER EXAMINED GROSSLY:</u>		4	6	5
<u>LUNG: Number Examined</u>	(M)	4	6	5
Edema	(G)	2	0	1
Pneumonia	(G)	4	5	1
Atelectasis	(G)	2	0	1
Emphysema	(G)	0	0	1
Emphysema	(M)	1	2	1
Atelectasis	(M)	4	1	0
Inhalation pneumonia	(M)	1	0	0
Interstitial pneumonia	(M)	0	4	0
Abscess bronchopneumonia	(M)	0	0	1
Suppurative bronchiectasis	(M)	1	0	0
Acute bronchitis	(M)	0	0	1
Lymphoid cell accumulations	(M)	3	0	0
Foam cell accumulations	(M)	2	1	3
Fibrotic foreign body tissue	(M)	4	6	0
Granulation tissue foci	(M)	0	1	0
Pink hyalin material	(M)	2	0	0
Bluish homogeneous material	(M)	3	1	0
Numerous mononuclear cells	(M)	1	0	0
Mucoid infiltration	(M)	2	0	0
Proliferation bronchiole epithelium	(M)	0	0	1
<u>LIVER: Number Examined</u>	(M)	4	6	5
Bile duct proliferation	(M)	0	2	1
Round cell foci	(M)	1	0	0
<u>KIDNEY: Number Examined</u>	(M)	4	6	5
Hydronephrosis	(G)	0	1	0
Sand calculi	(G)	0	1	0
Hydronephrosis	(M)	0	1	0
Sand calculi	(M)	0	1	0
Dilated tubules	(M)	0	2	2
Pink casts	(M)	0	2	1
Interstitial nephritis	(M)	0	1	0
Cellular infiltration	(M)	0	1	0
Slight tubular regeneration	(M)	0	1	3
Moderate tubular regeneration	(M)	0	0	1
<u>TRACHEA: Number Examined</u>	(M)	4	6	5
Acute tracheitis	(M)	1	0	0
Chronic tracheitis	(M)	0	4	0

The following tissues were examined microscopically on all animals: Lung, Liver, Kidneys, Heart, Spleen, Adrenal, Thyroid, Parathyroid, Trachea and Esophagus.

G = Gross

M = Microscopic

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