

FILE NAME: Calaveras (CALV)

DATE: 1999

DOC#: CALV001

DOCUMENT DESCRIPTION: Legal – Trial Transcript with BC Notes

Gordon Coats testimony in trial of Heas
3/17-18/99

- 661 ~~He~~ went to see Calaveras asbestos mine (7/75)
and mill that had been closed 2 yrs
- 663 ~~He~~ then went to Cal OSHA, MSHA, EPA
- 680 ~~He~~ hired certified CIH, did air sampling (Kathy Fraser)
Bob Hoyleman CIH, Jerry Toney Safety Supervisor
- 681 ~~He~~ production resumed 1/76
- 701 ~~He~~ advised workers abt. Asis, LCa, Meso
mentioned Sealeff in a letter as mill re-opened
("well respected doctor from Mt. Sinai")
- 715 aware 10 f/cc not visibly dirty
- 719 testified in 1992 that at time of mine purchase
EPA and media were in "mass hysteria mode"
- 722 testified in 1996 that when mine re-opening occurred
that a person would have to breathe in
100 f/cc for 8 h/day for ^{5-10 or} 10-20 yrs to get sick
- 727-28 cited for spill in mill (10/1/77) & ventilation system
- 729 cited 2/15/78 for exceeding TLV, workers used respirators on/off
- 730 talked abt. Sealeff at AIA mtgs.
- 731 he thought NS told people they were sick
when they weren't, when he ran the mine & mill
- 735 called gov regulators "doomologists" in speech notes
(731) (appears to be from 1979)
- 740 mined 44000 tons in 1983, 220 employees by 1980
- 741-42 all info the managers got on hazards of A went to Coats
- 744-45 A sacks were shrink wrapped if customer requested
(1979) Cited rail shipment had broken P...

- 746⁵⁸ bags shipped by truck full off, not
shrink wrapped or stretch wrapped
- 749 caution label could be read at 3 ft. distance
- 754 cancer warning put on Calaveras bags 1983 or 1984
- 757 he got AIA memo on Mass. considering reg.
shock cross bones and cancer labels for A in CT
"We talked about all those sort of safety items"
- 774 he never saw production areas of any Asian or
other foreign customer plants
production ended Dec. 1987 for cost reasons

1979 ~~Calaveras~~ Calaveras (document) Bd. of Directors 5/16/79
lists Coats as President

IN THE SUPERIOR COURT, STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT NUMBER 608

BEFORE THE HONORABLE CHARLENE PADOVANI MITCHELL, JUDGE

MICHAEL HAAS AND PAMELA HAAS,)

PLAINTIFF(S)

COURT NO. 996120

VS,
RAYBESTOS-MANHATTAN, INC.,
ET AL.,

DEFENDANT(S)

COPY

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MARCH 17, 1999 AND
MARCH 18, 1999

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A P P E A R A N C E S

FOR THE PLAINTIFF:

WARTNICK, CHABER, HAROWITZ,
SMITH & TIGERMAN
STEVEN HAROWITZ, ESQ.
101 CALIFORNIA ST. STE 2200
SAN FRANCISCO, CA 94108

FOR THE DEFENDANT(S):
CALEVARAS ASTESTOS INC.

ADAMS, NYE, SINUNU, WALKER
DOUG WAB, ESQ.
ONE JACKSON PLACE
633 BATTERY STREET, 5TH FL.
SAN FRANCISCO, CA 94111

REPORTED BY:

DEBORAH NEVILLE, CSR #9703

DEBORAH L. NEVILLE CSR 9703

PID00011102

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1 SAN FRANCISCO, CALIFORNIA; WEDNESDAY, MARCH 17, 1999

2 THE HONORABLE CHARLENE PADOVANI MITCHELL, JUDGE

3 PROCEEDINGS IN OPEN COURT

4 * * * * *

5 THE COURT: 996120. RECORD SHOULD NOTE THAT
6 ALL PERSONS ARE PRESENT.

7 MR. HAROWITZ: YOUR HONOR, I BELIEVE THAT WE
8 HAVE AGREED TO CALL A WITNESS OUT OF ORDER BECAUSE OF
9 SCHEDULING.

10 THE COURT: ALL RIGHT. MR. WAH WILL BE
11 CALLING A WITNESS NOW. LET ME EXPLAIN THAT TO THE
12 JURY. PARTICULARLY SUCH AS THIS WHEN PERSONS ARE COMING
13 FROM OUT OF TOWN AND OTHER PLACES, SOMETIMES IT'S AGREED
14 UPON TO CALL A WITNESS OUT OF ORDER TO ACCOMMODATE THE
15 SCHEDULE OF THE DIFFERENT WITNESSES. SO IN THE
16 BEGINNING OF THIS TRIAL WHEN I PREINSTRUCTED YOU I TOLD
17 YOU THAT THE PLAINTIFF WOULD PUT ON THEIR CASE AND THEN
18 REST THEIR CASE AND THEN THE DEFENSE WOULD PUT ON THEIR
19 SIDE. THAT'S GENERALLY TRUE. WHEN WE CALL A WITNESS
20 OUT OF ORDER, IT MEANS THAT EVEN THOUGH THE PLAINTIFF
21 HAS NOT FINISHED THE CASE IN CHIEF AND RESTED, THE
22 DEFENSE IS GOING TO CALL A WITNESS FROM THE DEFENSE SIDE
23 FOR THOSE SCHEDULING REASONS THAT I JUST EXPLAINED.

24 SO MR. WAH, YOU MAY PROCEED TO CALL YOUR
25 WITNESS.

26 MR. WAH: THANK YOU, YOUR HONOR. I WOULD CALL
27 AT THIS TIME GORDON COATS.

28 THE COURT: ALL RIGHT.

1 THE WITNESS: GOOD MORNING, YOUR HONOR.

2 THE COURT: GOOD MORNING.

3 THE WITNESS: GOOD MORNING.

4 GORDON A. COATS

5 CALLED AS A WITNESS ON BEHALF OF THE DEFENSE,
6 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS
7 FOLLOWS:

8 THE COURT: MR. COATS, WOULD YOU PLEASE
9 RESTATE YOUR NAME FOR OUR RECORD AND SPELL IT.

10 THE WITNESS: MY NAME IS GORDON A. COATS.
11 G-O-R-D-O-N. A. C-O-A-T-S.

12 THE COURT: THANK YOU. YOU MAY PROCEED WHEN
13 READY, MR. WAH.

14 DIRECT EXAMINATION

15 BY MR. WAH:

16 Q MR. COATS, WHERE DO YOU LIVE?

17 A. I LIVE IN ORINDA, CALIFORNIA.

18 Q. WHAT IS YOUR AGE?

19 A. IN TWO WEEKS I WILL BE 74 YEARS OLD.

20 Q. WOULD YOU DESCRIBE FOR THE JURY, PLEASE,
21 MR. COATS, YOUR EDUCATIONAL BACKGROUND?

22 A. YES. I GRADUATED FROM BERKELEY HIGH SCHOOL IN
23 1943. I WENT INTO THE NAVY UPON GRADUATION AND THEY PUT
24 ME IN WHAT THEY CALL THE V-12 PROGRAM AND THAT WAS A
25 COLLEGE PROGRAM. I WAS SENT TO THE UNIVERSITY OF
26 CALIFORNIA, BERKELEY FOR ONE YEAR AND THEN TRANSFERRED
27 TO UCLA FOR ABOUT A YEAR AND A HALF BECAUSE IN THOSE
28 DAYS IT WAS A TWO AND A HALF YEAR, FOUR-YEAR PROGRAM. I

1 Q. YOU CALLED H. K. PORTER, IN FACT?
2 A. YES.
3 Q. DID YOU EVER GO SEE THE PROPERTY YOURSELF?
4 A. YES.
5 Q. WHEN DID YOU FIRST GO SEE THE PROPERTY?
6 A. YES, IT WOULD HAVE BEEN IN JULY OF 1975.
7 Q. AND WHAT DID YOU DO WHEN YOU WENT UP THERE?
8 A. WELL, I GOT PERMISSION FROM THE H. K. PORTER
9 PRESIDENT TO VISIT THE PROPERTY AND HE ADVISED ME THERE
10 WAS A MAN UP THERE WHO HAD WORKED FOR THEM PREVIOUSLY
11 WHO WAS MORE OR LESS RETAINED NOW FOR SECURITY REASONS,
12 AND HE WOULD BE GLAD TO RECEIVE ME AND SHOW ME THE
13 FACILITY.
14 Q. THE MINE WAS NOT IN OPERATION, WAS IT,
15 MR. COATS?
16 A. NO, SIR, IT HAD BEEN SHUT DOWN FOR TWO YEARS.
17 Q. WHAT WAS THE GENERAL CONDITION OF THE
18 PROPERTY?
19 A. I WOULD SAY IT WAS IN DISORDER. NOT THE WAY I
20 WOULD HAVE LIKED TO HAVE SEEN IT. WE HAVE TO REALIZE
21 THERE'S A MINE AND A MILL. IN THE MINE WHERE YOU HAVE
22 THE BIG TRUCKS THEY WERE IN DISREPAIR AND THEY WERE
23 OLD. THE MILL HAD JUST BEEN SHUT DOWN AS IF SOMEBODY
24 TURNED OFF A LIGHT AND THAT WAS THE END. NOBODY HAD
25 DONE ANY CLEANUP OR -- IT LOOKED LIKE A LOT OF WORK HAD
26 TO BE DONE.
27 Q. OKAY. WHAT HAPPENED NEXT WITH REGARDS TO THIS
28 TRANSACTION?

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1 A. I ATTEMPTED TO -- OR I DID CONTACT SEVERAL OF
2 MY FRIENDS IN DIFFERENT INDUSTRIES THINKING THERE MIGHT
3 BE INTEREST, BUT I WAS UNSUCCESSFUL IN FINDING ANYONE
4 WHO WOULD EVEN MAKE AN OFFER.

5 Q. WHAT HAPPENED NEXT?

6 A. I CALLED THE PRESIDENT IN AUGUST, SEPTEMBER,
7 END OF AUGUST '75 TOLD HIM THAT I HAD NOT BEEN
8 SUCCESSFUL IN FINDING A BUYER AND HE SAID WELL, WHY
9 DON'T YOU BY THE PROPERTY. WELL, I TOLD HIM, OF COURSE
10 I DIDN'T HAVE ANY CAPITAL TO BUY SUCH A FACILITY AND
11 THEY SAID WELL, WHY DON'T YOU DESIGN SOME SORT OF A
12 PROPOSAL AND SEE IF WE WILL -- AND WE WILL CONSIDER IT,
13 AND THAT IS WHAT I DID.

14 Q. AND BY PROPOSAL, WHAT DID YOU ENVISION?

15 A. I ENVISIONED PRETTY MUCH THAT WE WOULD BUY THE
16 ASSETS, THAT WE WOULD -- I WOULD HAVE TO RAISE CAPITAL
17 FROM INVESTORS AND THAT THE H. K. PORTER COMPANY HAD TO
18 FINANCE A LOT OF IT, THEY HAD TO TAKE MY NOTES FOR A LOT
19 OF IT.

20 Q. DID YOU HAVE AN UNDERSTANDING AT THAT TIME OF
21 WHY THE MINE WAS CLOSED?

22 A. THE ONLY UNDERSTANDING I HAD WAS THE EXPENSES
23 WERE GREATER THAN THEIR REVENUES AND THEY WENT BROKE.

24 Q. UP TO THE TIME THAT -- WELL, STRIKE THAT,
25 MA'AM REPORTER. I'M SORRY.

26 AT THIS TIME DID YOU BEGIN YOURSELF TO
27 INVESTIGATE OR TAKE A LOOK AT ASBESTOS AND ASBESTOS
28 MINING AND MANUFACTURING ISSUES?

1 A. ABSOLUTELY, THAT WAS NECESSARY. IN FACT, I
2 HAD DONE SOME OF THAT PRIOR WHEN I WAS CONTACTING OTHER
3 COMPANIES TO ALERT THEM AND FIND OUT WHAT REQUIREMENTS
4 WERE TO REOPEN.

5 Q. OKAY. PRIOR TO THIS INITIAL INVESTIGATION,
6 PRIOR TO THE TIME THAT YOU DISCUSSED THE ISSUE OF --
7 STRIKE THAT.

8 WHEN DID YOU BEGIN TO MAKE THESE KIND OF
9 INVESTIGATIONS?

10 A. I WOULD SAY THAT THAT WAS DONE ALMOST
11 IMMEDIATELY AFTER H. K. PORTER GAVE ME THE GO AHEAD TO
12 TRY TO FIND A BUYER. I VISITED THE REGULATORY AGENCIES,
13 AND DID RESEARCH ON CONSUMPTION, WHAT THE PRICING OF THE
14 PRODUCT WAS.

15 Q. OKAY. YOU TALK ABOUT REGULATORY AGENCIES,
16 WHAT REGULATORY AGENCIES DID YOU VISIT?

17 A. THERE ARE MANY.

18 Q. LET'S LIST THEM.

19 A. THE KEY ONES WAS THE OSHA, OCCUPATIONAL SAFETY
20 AND HEALTH ADMINISTRATION.

21 Q. WHERE DID YOU VISIT THEM?

22 A. THEY'RE IN SACRAMENTO. I VISITED THE CAL OSHA
23 PEOPLE. I'VE VISITED THE MSHA WHICH IS THE MINE SAFETY
24 AND HEALTH ADMINISTRATION WHICH HAS JURISDICTION OVER
25 MINES. AND I VISITED THEM IN ALAMEDA, CALIFORNIA.

26 Q. OKAY. WHO ELSE?

27 A. I VISITED EPA, BOTH THE FEDERAL AND THE STATE
28 OFFICES. THE STATE -- FEDERAL WAS HERE IN SAN FRANCISCO

1 A. PARDON ME?

2 Q. DID YOU BEGIN HIRING PEOPLE FOR CALAVERAS
3 ASBESTOS?

4 A. YES, WE BEGAN HIRING.

5 Q. WHAT KIND OF PEOPLE DID YOU BEGIN HIRING?

6 A. FIRST I NEEDED SOMEONE IN THE OFFICE AS LIKE
7 OUR CONTROLLER, AND FROM OPERATIONS I NEEDED A MILL
8 SUPERINTENDENT, A MINE SUPERINTENDENT, AND A MAINTENANCE
9 SUPERINTENDENT.

10 Q. WERE YOU ALSO HIRING PEOPLE WITH KNOWLEDGE
11 ABOUT INDUSTRIAL HYGIENE ISSUES?

12 A. YES.

13 Q. AND WHO WERE THEY?

14 A. WE ALSO HAD A MAN, HOYLMAN, BOB HOYLMAN, WHO
15 WAS OUR CERTIFIED HYGIENIST WHO DEVELOPED HIS OWN
16 DEPARTMENT FOR SAFETY AND ENVIRONMENTAL CONTROL.

17 Q. ANY OTHER PEOPLE?

18 A. WELL, HE DEVELOPED HIS DEPARTMENT WHICH WAS A
19 GENTLEMAN WHO WAS A SAFETY SUPERVISOR AND A YOUNG WOMAN
20 WHO WOULD TAKE AIR SAMPLING, AND SHE WOULD DO THIS ON A
21 DAILY BASIS. AND THEN SHE WAS TRAINED IN MICROSCOPY,
22 AND SHE WOULD READ THE SAMPLES AND PREPARE A REPORT
23 WHICH WOULD GO TO MR. HOYLMAN.

24 Q. DOES THE NAME -- ARE YOU FAMILIAR WITH THE
25 NAME JOEY TONEY?

26 A. YES, I AM.

27 Q. WHO IS JOEY TONEY?

28 A. WAS OUR SAFETY SUPERVISOR.

1 Q. DO YOU KNOW A KATHY FRASIER?

2 A. SHE WAS THE YOUNG WOMAN WHO DID THE
3 MONITORING.

4 Q. DID YOU ALSO HIRE MINERS?

5 A. YES, THAT WAS THE RESPONSIBILITY OF THE
6 SUPERINTENDENT OF THE MINES TO GO OUT AND GET HIS CREW.
7 TRUCK DRIVERS, DRILL OPERATORS FRONT-END OPERATORS.

8 Q. WHO WAS THE SUPERVISOR OF THE MINE?

9 A. MR. FRANCIS NELSON.

10 Q. DID YOU ALSO HIRE A GENTLEMAN NAMED DARYL
11 LARSON?

12 A. MR. LARSON WAS OUR CONTROLLER.

13 Q. IMMEDIATELY AFTER OCTOBER OF '75, HOW LONG WAS
14 IT BEFORE YOU WENT INTO PRODUCTION OF ASBESTOS ORE?

15 A. I BELIEVE OUR FIRST COMMERCIAL RUN WAS
16 SOMETIME IN JANUARY OF '76.

17 Q. BETWEEN OCTOBER '75 AND JANUARY OF '76, WHAT
18 WAS GOING ON AT THE MINE?

19 A. IN ANTICIPATION OF US GETTING CONTROL OF IT
20 PROPERLY, WE HAD LINED UP ENGINEERING PEOPLE WHO HAD
21 BEEN OUT. AND THEY IMMEDIATELY STARTED TO WORK, TO
22 CLEAN UP THE FACILITIES, PUTTING IN NEW EQUIPMENT AND
23 FIXING ANYTHING THAT THEY THOUGHT HAD TO BE FIXED IN
24 ORDER TO BE IN COMPLIANCE.

25 Q. MR. COATS, LET ME SHOW YOU WHAT'S BEEN MARKED
26 EXHIBIT 21, PLAINTIFF'S EXHIBIT 21. ARE YOU FAMILIAR
27 WITH THAT, MR. COATS?

28 A. YES. THAT IS A BAG WE USED TO PACK ASBESTOS

1 OBJECT. THIS IS LEADING.

2 THE COURT: SUSTAINED. YOU CAN ASK THE
3 QUESTION ANOTHER WAY.

4 MR. WAH: ALL RIGHT.

5 Q. WHAT WERE THE DISEASES THAT CALAVERAS ADVISED
6 ITS WORKERS WERE RELATED TO ASBESTOS EXPOSURE?

7 A. ONE WAS ASBESTOSIS, ONE WAS LUNG CANCER, AND
8 THE OTHER IN VERY RARE INSTANCES COULD BE MESOTHELIOMA.

9 Q. MR. COATS, I'M GOING TO HAND YOU WHAT'S BEEN
10 MARKED, THIS ISN'T THE ACTUAL ONE.

11 THE COURT: LET'S USE THE ONE THAT'S BEEN
12 MARKED.

13 MR. WAH: LET'S USE THE ONE --

14 THE COURT: TELL MR. LACY WHAT THE NUMBER IS.

15 MR. WAH: NUMBER 52.

16 Q DO YOU RECOGNIZE THAT AS A LETTER THAT YOU
17 AUTHORED?

18 A. YES, THAT WAS JUST -- WE JUST OPENED THE MILL,
19 YES.

20 Q. AND WHO IS DR. SELIKOFF THAT'S REFERRED TO IN
21 THAT LETTER?

22 A. I BELIEVE HE'S PASSED AWAY, BUT DR. SELIKOFF
23 WAS A WELL-RESPECTED DOCTOR FROM MT. SINAI, NEW YORK
24 HOSPITAL WHO DID A VERY IMPORTANT STUDY ON INSULATION
25 WORKERS, I BELIEVE IT WAS IN NEW JERSEY.

26 Q. WHAT WAS YOUR PURPOSE IN WRITING THIS LETTER
27 TO MR. CHAMBERS?

28 A. MR. CHAMBERS WAS THE CHIEF OF THE DEPARTMENT

1 Q. I'M SORRY, PAGE TWO, WHERE IT STARTS PARAGRAPH
2 THREE, RESULTS OF MILL EMPLOYEE EXAMINATIONS. DO YOU
3 SEE THAT?

4 A. RESULTS OF MILL EMPLOYEE EXAMINATION -- YES, I
5 DO HAVE IT. ITEM THREE.

6 Q. YES.. DO YOU SEE THAT ON -- MY COPY THERE
7 IS --

8 A. THAT'S NOT MY HANDWRITING.

9 Q. ALL RIGHT. I WAS JUST TRYING TO FIND OUT.
10 DO YOU KNOW IF STAN HINTON WAS ONE OF THE
11 PEOPLE WHO WAS STUDIED BY DR. SELIKOFF --

12 A. YES, HE WAS.

13 Q. ARE YOU FAMILIAR WITH THE TERM "PULPABLE BAG"?

14 A. YES, I AM.

15 Q. WHAT IS A PULPABLE BAG?

16 A. A PULPABLE BAG WOULD BE OF A PAPER NATURE. OF
17 A CERTAIN TYPE OF PAPER WHICH JOHNS-MANSVILLE
18 EXPERIMENTED WITH. SO THAT INSTEAD OF HAVING TO CUT
19 OPEN THE BAG, THEY COULD THROW THE BAG INTO A BATCH
20 WHERE A BEATER IN A LIQUID, SLURRY, WOULD CAUSE THE BAG
21 TO DISINTEGRATE.

22 Q. AND I ASSUME THAT THEREFORE NO ONE HAD TO OPEN
23 THE BAG, BUT THE BAG JUST WENT INTO WHAT'S BEEN REFERRED
24 TO AS THE SLURRY OR THE MIX?

25 A. THAT'S RIGHT.

26 Q. DID THE BAG WORK?

27 A. NO, IT DID NOT WORK.

28 Q. WHY DIDN'T IT WORK?

1 MR. WAH THAT YOU BELIEVED IT WAS IMPORTANT THAT THE
2 WORKERS HAVE AS MUCH INFORMATION AS POSSIBLE.

3 A. IN REGARD TO THE HEALTH ASPECTS AND THE
4 SAFETY.

5 Q. RIGHT. WHY?

6 A. BECAUSE I RAN A VERY HEALTHFUL OPERATION AND I
7 CERTAINLY DIDN'T WANT TO BE THE CAUSE OF ANY OF MY
8 EMPLOYEES DEVELOPING ANY DISEASE RELATED TO ASBESTOS ORE
9 OR ANY OTHER TYPE OF INJURY THAT MIGHT BE CAUSED BY
10 WORKING WITH MACHINERY.

11 Q. AND YOU KNEW FOR A WORKER TO EFFECTIVELY
12 PROTECT HIMSELF HE HAD TO HAVE INFORMATION, CORRECT?

13 A. YES, THAT'S TRUE.

14 Q. HAD TO KNOW ABOUT THE THE HAZARDS THAT WERE
15 ASSOCIATED WITH ANY PARTICULAR PRODUCT BEING WORKED
16 WITH, CORRECT?

17 A. THAT IS CORRECT.

18 Q. NOW, LET ME BACK UP A LITTLE BIT. I'M GOING
19 TO GO BACK AND START FROM THE BEGINNING, BUT WE ARE
20 GOING TO START IN 1975, AND I'D LIKE TO TALK TO YOU
21 BEGINNING WITH WHEN YOU FIRST GOT INVOLVED WITH THIS
22 MINE IN CALAVERAS COUNTY.

23 MR. HAROWITZ: AND YOUR HONOR, MAY I HAVE
24 MARKED AS PLAINTIFF'S NEXT IN ORDER A DOCUMENT, IT'S
25 ENTITLED, IT'S A JANUARY 1975 EDITION OF ASBESTOS
26 MAGAZINE. I HAVE THE ENTIRE MAGAZINE HERE AND I HAVE A
27 COPY OF THE PAGE THAT I WAS INTERESTED IN, AND THAT
28 WOULD BE THE COVER PAGE, AND PAGE 31.

1 THE COURT: ALL RIGHT. THAT'S PLAINTIFF'S 57
2 (PLAINTIFF'S EXHIBIT 57 MARKED FOR
3 IDENTIFICATION.)

4 MR. HAROWITZ: THANK YOU. AND MAY I APPROACH
5 THE WITNESS, PLEASE?

6 THE COURT: YOU MAY.

7 MR. HAROWITZ:

8 Q MR. COATS, YOU WERE A SUBSCRIBER OF ASBESTOS
9 MAGAZINE DURING THE TIME THAT YOU WERE INVOLVED WITH
10 CALAVERAS MINE; IS THAT RIGHT?

11 A. THAT'S RIGHT.

12 Q. OKAY. AND WHEN YOU FIRST BECAME INVOLVED IN
13 LOOKING AT THE ISSUE OF BUYING A MINE, YOU BECAME AWARE
14 OF THIS JANUARY 1975 ADVERTISEMENT FOR THE SALE OF THE
15 CALAVERAS MINE; IS THAT CORRECT?

16 A. NOT AT THAT TIME PERIOD.

17 Q. WHEN DID YOU BECOME AWARE OF THIS?

18 A. IN JULY OF 1975.

19 Q. OKAY. FINE. AND TELL US, WHAT DOES THAT AD
20 INDICATE REGARDING THE SALE OF AN ASBESTOS MINE?

21 THE COURT: MR. HAROWITZ, WHY DON'T YOU MOVE
22 BACK A LITTLE BIT?

23 MR. HAROWITZ: I'M SORRY, YOUR HONOR.

24 THE WITNESS: THIS INDICATES THAT THE H. K.
25 PORTER COMPANY OF PITTSBURGH, PENNSYLVANIA HAD FOR SALE
26 A COMPLETE ASBESTOS MINE AND MILL LOCATED AT
27 COPPEROPOLIS, CALIFORNIA.

28 Q. OKAY. DOES IT INDICATE THE AMOUNT OF TONS OF

1 ORE THAT WERE AVAILABLE AT THAT MINE?

2 A. THEY ESTIMATED THAT THERE WERE APPROXIMATELY
3 30 MILLION TONS OF ORE IN PLACE WITH A GRADE OF \$20 PER
4 TON IN FIBER.

5 Q GROUPS FOUR THROUGH SEVEN?

6 A. YES.

7 Q. AND HOW LARGE WAS THE LOCATION, THE MINE SITE,
8 ACCORDING TO THIS ADVERTISEMENT?

9 A. 560 ACRES.

10 Q. NOW, YOU'VE ALREADY TOLD US, MR. COATS, THAT
11 WHEN YOU FIRST BECAME INVOLVED IN CONSIDERING BUYING THE
12 MINE, AND PRIOR TO THAT TIME, I SHOULD SAY, YOU HAD NO
13 INFORMATION ABOUT ASBESTOS, NO KNOWLEDGE ABOUT ASBESTOS,
14 OR THE RISKS OF WORKING WITH ASBESTOS?

15 A. THAT IS TRUE.

16 Q. OKAY. SO BEFORE YOU PUT THIS PACKAGE TOGETHER
17 THAT WE'VE HEARD A LITTLE BIT ABOUT, YOU DID A THOROUGH
18 STUDY AND INVESTIGATION OF ASBESTOS, THE RISKS OF
19 ASBESTOS, THE REGULATIONS SURROUNDING THE MINING AND
20 MILLING OF ASBESTOS, WHAT YOU WOULD HAVE TO DO IN ORDER
21 TO BRING THE MINE AND MILL UP TO SAFETY STANDARDS TOO;
22 IS THAT CORRECT?

23 A. THAT IS CORRECT, DEPENDING ON THE DEFINITION
24 OF "THOROUGH." YOU USED THE WORD "THOROUGH."

25 Q. I DID?

26 A. YEAH. SO IN MY UNDERSTANDING OF THE WORD
27 "THOROUGH" FROM A BUSINESS POINT OF VIEW, YES, I DID
28 MAKE SUCH A STUDY.

1 Q. AND THIS STUDY TOOK YOU FROM JULY OR AUGUST OF
2 1975 UNTIL ABOUT OCTOBER OF 1975?

3 A. CORRECT.

4 Q. AND YOU TOLD US YOU CONSULTED WITH EPA, OSHA,
5 WITH -- YOU DIDN'T MENTION IF YOU CONSULTED WITH THE
6 DEPARTMENT OF THE INTERIOR, DID YOU?

7 A. DEPARTMENT OF INTERIOR IS MSHA.

8 Q. OH, EXCUSE ME, OKAY.

9 AND THEN THE JOHNS-MANSVILLE COMPANY TO GATHER
10 INFORMATION SO YOU COULD MAKE A DECISION AS TO WHETHER
11 YOU WANTED TO ACTUALLY GET INVOLVED IN THIS MINING
12 PROCESS, CORRECT?

13 A. THAT IS CORRECT.

14 Q. YOU FOUND OUT ABOUT THE NEED AT THAT TIME FOR
15 CHEST X-RAYS TO BE TAKEN, AND PULMONARY FUNCTION STUDIES
16 TO BE TAKEN OF WORKERS AT THE MINE, CORRECT?

17 A. YES.

18 Q. AND YOU ALSO AT THIS TIME YOU TOLD US THAT YOU
19 LOOKED INTO THE ENGINEERING REQUIREMENTS TO BRING THE
20 MINE UP TO SAFETY STANDARDS SO THAT IT WOULD BE
21 HEALTHFUL; IS THAT CORRECT?

22 A. THAT'S CORRECT.

23 Q. AND WHAT YOU FOUND OUT WAS IT WAS GOING TO
24 COST SOMETHING LIKE \$800,000 TO BRING THE MINE UP TO
25 SNUFF, SO THAT YOU COULD RUN THIS MINE IN A SAFE MANNER?

26 A. CORRECT.

27 Q. ISN'T IT CORRECT, MR. COATS, THAT THE
28 ENVIRONMENTAL PROTECTION AGENCY TOLD YOU YOU CAN'T OPEN

1 THIS MINE UNLESS YOU DID ALL OF THESE THINGS?

2 A. YES.

3 Q. SO YOU LOOKED AT THE WHOLE MIXTURE, YOU KNEW
4 WHAT IT WAS GOING TO COST YOU AND YOU MADE A
5 DETERMINATION OF WHETHER IT COULD STILL BE PROFITABLE TO
6 MINE AND MILL AND SELL ASBESTOS OUT OF THIS COPPEROPOLIS
7 LOCATION GIVEN WHAT YOU WOULD HAVE TO SPEND, CORRECT?

8 A. YES.

9 Q AND YOU REACHED THE CONCLUSION THAT YES, YOU
10 STILL COULD MAKE MONEY SELLING ASBESTOS EVEN THOUGH YOU
11 HAD TO DO ALL OF THESE CHANGES AND UPGRADES AND THE
12 LIKE, CORRECT?

13 A. YES.

14 Q. AT THE TIME THAT YOU DID THESE STUDIES --
15 EXCUSE ME.

16 AT THE TIME YOU DID THAT INVESTIGATION, ONE OF
17 THE THINGS YOU ALSO DID IS YOU WENT TO LIBRARIES,
18 REFERENCE LIBRARIES TO GET A LITTLE BIT OF INFORMATION
19 FOR YOURSELF, CORRECT?

20 A. NO, I DON'T THINK I DID GO TO A PUBLIC
21 LIBRARY.

22 (PAUSE IN PROCEEDINGS.)

23 MR. HAROWITZ:

24 Q OKAY. I GUESS YOU DIDN'T. YOU DIDN'T GO TO
25 ANY LIBRARIES AT THE TIME?

26 A. I WENT TO THE UNIVERSITY OF CALIFORNIA, BUT
27 NOT TO A PUBLIC LIBRARY.

28 Q THIS WAS THE UNIVERSITY OF CALIFORNIA LIBRARY?

1 A. THAT'S WHERE I DID SOME REFERENCE WORK.

2 Q. AND AT THAT TIME YOU LEARNED OR AS A RESULT OF
3 YOUR INVESTIGATION YOU LEARNED THAT WITH SUFFICIENT
4 EXPOSURE TO ASBESTOS THAT WAS INHALED BY WORKERS,
5 WORKERS COULD DEVELOP ASBESTOS-RELATED DISEASES OVER
6 TIME?

7 A. YES.

8 Q. BUT BEYOND THAT, MR. COATS, YOU DIDN'T SEEK
9 THE ASSISTANCE OF AN EPIDEMIOLOGIST, CORRECT?

10 A. NO, I DID NOT.

11 Q. YOU DIDN'T CONSULT WITH AN EPIDEMIOLOGIST TO
12 FIND OUT WHAT THE LONG-TERM EFFECTS OF ASBESTOS MIGHT
13 BE?

14 A. NOT WITH AN EPIDEMIOLOGIST, NO, SIR.

15 Q. AND YOU DIDN'T CONSULT WITH ANY DOCTORS AT THE
16 TIME YOU WERE BUYING THE MINE, TO DETERMINE WHAT THE
17 SPECIFIC HEALTH EFFECTS OF ASBESTOS WOULD BE?

18 A. NO, I DID NOT.

19 Q. NOW, YOU TOLD US THAT YOU FOUND OUT TO BRING
20 THE MINE UP TO SAFETY STANDARDS, YOU WERE GOING TO HAVE
21 TO GET TO A FIBER PER CUBIC CENTIMETER OF SOMETHING LIKE
22 FIVE FIBERS PER CUBIC CENTIMETER?

23 A. YES.

24 Q. WAS THAT FOR THE MINE OR THE MILL OR JUST THE
25 MILL?

26 A. I BELIEVE I SAID THAT THE OSHA, WHICH
27 CONTROLLED THE MILL, WAS ALREADY AT FIVE, AND THE MINE
28 WAS AT 10, AND THEY SAID THAT SHORTLY THEY WOULD BE AT

1 FIVE.

2 Q. DID YOU KNOW THAT THE OSHA STANDARD WHICH WAS
3 ENACTED IN 1972, WHICH WAS AT FIVE, WAS TO BE REDUCED TO
4 TWO IN 1976?

5 A. NO, I DID NOT KNOW THAT.

6 Q. HAVE YOU EVER LEARNED THAT?

7 A. WELL, YES.

8 Q. WHEN DID YOU LEARN THAT?

9 A. WELL, AFTER WE GOT INTO BUSINESS AND WE HAD
10 ALREADY DISCUSSED WITH ENGINEERS TO GO TO AT LEAST BELOW
11 TWO.

12 Q. BY 1976 WHEN YOU BEGAN TO SELL ASBESTOS, THE
13 LEVEL WAS AT TWO FIBERS?

14 A. IT MIGHT HAVE BEEN LATER IN THE YEAR OF 1976.

15 Q. AT ANY RATE, THAT WAS THE LEVEL THAT YOU HAD
16 TO LIVE WITH?

17 A. YES, SIR.

18 Q. WERE YOU PRESENT WHEN SAMPLING WAS BEING DONE
19 OF THE AIR AT THE MILL?

20 A. YES, MANY TIMES.

21 Q. AND DID YOU SEE THE RESULTS OF THE SAMPLING?

22 A. YES, I HAVE SEEN THE RESULTS OF SAMPLING.

23 Q. WERE THERE EVER SITUATIONS WHERE YOU DIDN'T
24 SEE ANYTHING IN THE AIR BUT THERE WAS STILL MEASURABLE
25 ASBESTOS IN THE AIR?

26 A. YES, I WOULD SAY AT A LEVEL OF TWO FIBERS OR
27 FIVE FIBERS OR EVEN 10 FIBERS YOU MAY NOT SEE ANYTHING
28 IN THE AIR. THAT IS WHY WE HAVE TO TAKE THE

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1 MEASUREMENTS TO DETERMINE WHAT THE LEVELS ARE.

2 Q. SOME OF THE THINGS THAT YOU HAD TO DO TO OPEN
3 THIS MINE UP INCLUDED, YOU MENTIONED THE BAG HOUSES THAT
4 YOU DESCRIBED. YOU ALSO HAD TO PUT IN CYCLONES,
5 CORRECT?

6 A. UM-HUM, UH-HUH.

7 Q TELL THE JURY WHAT CYCLONES ARE.

8 A. IN A FACILITY LIKE THIS, AS IF YOUR VACUUM
9 CLEANER, YOU SUCK IN AIR. A CYCLONE IS A BIG FAN THAT
10 CAUSES NEGATIVE AIR OR SUCTION AND THIS AIR WOULD EXTEND
11 DOWN THROUGH PIPES FOR DIFFERENT PIECES OF MACHINERY,
12 AND THEN IT WOULD GO UP THROUGH THE CYCLONE AND THEN
13 FROM THERE INTO THE BAG HOUSE.

14 Q AND YOU BELIEVE THAT THROUGH USE OF THIS
15 PROCESS, YOU COULD REMOVE SOMETHING LIKE 99.99 PERCENT
16 OF THE ASBESTOS DUST IN THE MILL?

17 A. WE COULD MAKE IT VERY HEALTHFUL, YES.

18 Q. NOW, YOU DIDN'T PARTICULARLY LIKE SPENDING ALL
19 THAT MONEY ON CLEANING UP THE MINE AND MILL, BUT YOU
20 RECOGNIZED THAT WAS THE ONLY WAY YOU WERE GOING TO BE
21 ABLE TO OPERATE THIS MINE AND MILL, CORRECT?

22 A. OH, YES.

23 Q. IN FACT, YOU REALLY, AT THE TIME THAT YOU
24 PURCHASED THIS MINE AND MILL, YOU REALLY DIDN'T THINK
25 THAT 10 FIBERS PER CUBIC CENTIMETER OF ASBESTOS WAS A
26 DANGEROUS LEVEL, DID YOU?

27 A. WELL, I DON'T THINK WHAT I THOUGHT WAS TOO
28 IMPORTANT. THE LAW SAID YOU HAD TO BE THERE, BELOW

1 FIVE.

2 Q. BUT YOUR ATTITUDE WAS "THAT'S NOT GOING TO GET
3 ANYBODY SICK"?

4 A. NO, NO. THAT IS NOT CORRECT, SIR.

5 Q. WASN'T IT YOUR POSITION IN THE TIME THAT YOU
6 PURCHASED THIS MINE AND MILL THAT PEOPLE WERE GETTING
7 SICK AT 100 FIBERS PER CUBIC CENTIMETER OVER A 10-YEAR
8 PERIOD AND THAT WOULD BE AN 8-HOUR TIME-WEIGHTED
9 AVERAGE?

10 A. I BELIEVE THAT IS A QUESTION THAT I WAS ASKED
11 IN 1992, AND IT WAS NOT PHRASED THAT WAY. IT SAID AT
12 WHAT LEVELS WOULD YOU BE FEARFUL IF PEOPLE HAD TO WORK
13 IN THOSE THINGS, AND THAT WAS THE NUMBER I TOLD.

14 Q. AND THAT'S THE LEVEL YOU TOLD ME AT THIS TIME
15 YOU THOUGHT PEOPLE WOULD GET SICK?

16 A. THAT THEY WOULD GET SICK AT A LOT LOWER LEVEL
17 ALSO.

18 Q. WHEN I ASKED YOU AT WHAT LEVEL PEOPLE WOULD
19 GET SICK, YOU TOLD ME 100 FIBERS PER CUBIC CENTIMETER
20 OVER AN 8-HOUR TIME-WEIGHTED AVERAGE FOR 10 YEARS; IS
21 THAT CORRECT, SIR?

22 A. I MAY HAVE SAID THAT, YES.

23 Q. NOW, YOU'VE TOLD THIS JURY YOU HAD A GOOD
24 RELATIONSHIP WITH THE ENVIRONMENTAL PROTECTION AGENCY.

25 A. YES.

26 Q. SIR, DIDN'T YOU BELIEVE THAT MEDIA AND
27 GOVERNMENTAL AGENCIES AND MAINLY THE ENVIRONMENTAL
28 PROTECTION AGENCY WAS CREATING -- THIS IS YOUR QUOTE,

1 "MASS HYSTERIA" BECAUSE THEY WERE SCARING THE AMERICAN
2 PUBLIC AND AMERICAN MOTHERS FROM THEIR REPORTS ON
3 ASBESTOS?

4 MR. WAH: OBJECTION. IF HE HAS A QUOTE, LET'S
5 SHOW THE GENTLEMAN HIS TESTIMONY.

6 THE COURT: ALL RIGHT. AND I NEED THE
7 ORIGINAL LODGED WITH THE COURT.

8 MR. HAROWITZ: YOUR HONOR, I HAVE A COPY IF
9 THAT'S ACCEPTABLE.

10 THE COURT: ALL RIGHT.

11 MR. HAROWITZ: YOU WANT THAT MARKED, YOUR
12 HONOR?

13 THE COURT: YES. ALL RIGHT. SO OUR RECORD IS
14 CLEAR, WE HAVE AS PLAINTIFF'S 58 THE DEPOSITION OF
15 GORDON A. COATS ON MARCH 25TH, '92. I DON'T SEE A
16 VOLUME NUMBER ON THIS.

17 MR. HAROWITZ: IT'S JUST ONE VOLUME.

18 MR. WAH: YES.

19 (PLAINTIFF'S EXHIBIT 58 MARKED FOR
20 IDENTIFICATION.)

21 MR. HAROWITZ:

22 Q MR. COATS, YOU RECALL I TOOK YOUR DEPOSITION
23 BACK IN 1992?

24 A. I DO.

25 Q. AND IT WAS A RATHER LENGTHY DEPOSITION, I
26 THINK?

27 A. YES, IT WAS.

28 Q. DURING THAT DEPOSITION, I'M GOING TO BE

1 REFERRING TO PAGE 40, LINES ONE THROUGH ELEVEN. ALL
2 RIGHT. AND I'M GOING TO BE REFERRING TO PAGE 40, LINES
3 ONE THROUGH 11.

4 A. PAGE 40?

5 Q. PAGE 40 LINES ONE THROUGH 11.

6 MR. HAROWITZ: MAY I PROCEED WITH THAT, YOUR
7 HONOR?

8 Q I ASKED YOU THEN, CAN YOU GENERALLY TELL ME
9 WHAT IT WAS THAT YOU LEARNED, AND I MAY BECOME MORE
10 SPECIFIC. I WANT TO LEARN FIRST OF ALL THE GENERAL
11 AREAS OF CONCERN AND GENERALLY WHAT YOU UNCOVERED.

12 YOUR ANSWER WAS, AS A PREAMBLE, I LEARNED THAT
13 THE MEDIA AND CERTAIN GOVERNMENTAL AGENCIES, PRINCIPALLY
14 THE EPA, WERE IN A MASS HYSTERIA MODE, THEY WERE SCARING
15 THE AMERICAN PUBLIC AND MOTHERS WHO HAD LITTLE CHILDREN,
16 TO A DEGREE WHICH WAS UNCONSCIONABLE.

17 AND I CAN CONTINUE WITH THE REST OF THE
18 ANSWER.

19 MR. WAH: YES, YOUR HONOR.

20 MR. HAROWITZ:

21 Q. HAVING SAID THAT I WAS AWARE THAT ASBESTOS
22 FIBERS INHALED IN HIGHER CONCENTRATIONS FOR A LONG
23 PERIOD OF TIME THEY COULD POSSIBLY CAUSE INJURIES,
24 HEALTH INJURIES TO THOSE PERSON'S WHO HAD BEEN IN THAT
25 ENVIRONMENT.

26 NOW, MR. COATS, YOU STATED THAT AT THAT TIME
27 EVEN THOUGH YOU KNEW -- STRIKE THAT.

28 YOU'VE INDICATED IN THIS DEPOSITION AS WELL,

1 WHICH WE CAN GO TO THAT IF YOU LIKE, THAT THE LEVELS OF
2 100 FIBERS PER CUBIC CENTIMETER OVER A 10 YEAR TIME
3 PERIOD THAT PEOPLE WOULD BE GETTING SICK?

4 A. THEY WOULD BE GETTING SICK, YES.

5 Q AND WHEN I ASKED YOU AT WHAT LEVEL PEOPLE GOT
6 SICK, THAT'S WHAT YOU TOLD ME; IS THAT RIGHT?

7 A. I SAID THAT AT THOSE LEVELS PEOPLE WOULD GET
8 SICK AND I DIDN'T WANT TO HAVE MY EMPLOYEES IN ANY
9 CONDITIONS LIKE THAT.

10 Q. OKAY. ALL RIGHT. AND YOU'VE INDICATED TO US
11 THAT YOU HAD RECEIVED -- AND LET ME SEE IF THAT --

12 MR. HAROWITZ: MAY I APPROACH AGAIN YOUR,
13 HONOR?

14 THE COURT: YOU MAY.

15 MR. HAROWITZ: I'LL BE PUTTING BEFORE YOU
16 EXHIBIT NUMBER 52.

17 Q. WHEN YOU MADE THAT STATEMENT IN THE,
18 DEPOSITION YOU HAD ALREADY SEEN AND RECEIVED THIS REPORT
19 BY DR. SELIKOFF; IS THAT CORRECT?

20 A. YES, THAT WAS 16 YEARS PREVIOUSLY.

21 Q. SO YOU KNEW FROM THAT REPORT FROM DR. SELIKOFF
22 THAT IN FACT, PEOPLE WERE GETTING SICK AT MUCH LOWER
23 LEVELS OF EXPOSURE TO ASBESTOS?

24 A. I BELIEVE THAT'S TRUE.

25 Q. OKAY. AND YOU'VE BEEN ASKED SINCE I ASKED YOU
26 AT DEPOSITION WHETHER YOU THOUGHT THAT FOR PEOPLE TO GET
27 SICK FROM ASBESTOS, WHETHER THEY HAD TO BE EXPOSED TO
28 100 FIBERS PER CUBIC CENTIMETER IN THAT 10-YEAR PERIOD

1 ON AN 8-HOUR TIME-WEIGHTED AVERAGE, HAVEN'T YOU, SIR --
2 YOU'VE BEEN ASKED THE SAME QUESTION THE LAST TIME YOU
3 WERE IN COURT, WEREN'T YOU?

4 A. I DON'T RECALL THAT I WAS.

5 MR. HAROWITZ: MAY I HAVE THEN MARKED NEXT IN
6 ORDER REPORTER'S TRANSCRIPT OF PROCEEDINGS FROM JUNE 29,
7 1996.

8 THE COURT: ALL RIGHT. THAT'S 59.

9 (PLAINTIFF'S EXHIBIT 59 MARKED FOR
10 IDENTIFICATION.)

11 THE COURT: WHAT IS THE DATE ON THAT?

12 MR. HAROWITZ: JUNE 29, 1996.

13 THE COURT: THIS IS THE DEPOSITION OF
14 MR. COATS?

15 MR. HAROWITZ: THIS IS HIS TRIAL TESTIMONY IN
16 THE CASE OF ISOLA. AND MAY I APPROACH THE WITNESS?

17 THE COURT: YOU MAY.

18 MR. HAROWITZ:

19 Q REFERRING TO PAGE 67, LINES TWO THROUGH 21.

20 MR. HAROWITZ: MAY I PROCEED, YOUR HONOR?

21 THE COURT: I NEED YOU TO APPROACH.

22 (COUNSEL APPROACH THE BENCH.)

23 THE COURT: ALL RIGHT. YOU MAY PROCEED,
24 MR. HAROWITZ.

25 MR. HAROWITZ:

26 Q SIR, YOU WERE, LET'S SEE, 1996 YOU WERE
27 PROBABLY ON FOLSOM STREET WHEN YOU TESTIFIED IN THE
28 ISOLA CASE; IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. AT THAT TIME MY PARTNER ASKED YOU SOME --

3 A. MS. CHABER.

4 Q. AT THIS TIME SHE ASKED YOU QUESTION, AND AT
5 THE TIME YOU WENT INTO THIS BUSINESS YOU THOUGHT THAT
6 DESPITE WHAT THE STANDARDS WERE OF 10 GOING TO FIVE
7 GOING TO TWO, THAT UNLESS A PERSON BREATHED IN 100
8 FIBERS PER CC FOR 8 HOURS A DAY FOR TEN OR 20 YEARS,
9 THAT THEY WOULDN'T GET ASBESTOS DISEASE, CORRECT, YOUR
10 ANSWER WAS THAT'S A GENERALITY?

11 A. YES.

12 Q. AND THEN SHE READ FROM THE DEPOSITION THAT I
13 JUST READ FROM BEFORE. AND THE QUESTION WAS PAGE 63
14 LINES 23 THROUGH 26.

15 "THE ANSWER: I'M SURE THAT I'VE SAID AS A
16 NUMBER, IF YOU EVER BREATHED IN 100 FIBERS PER CC FOR A
17 LONG PERIOD OF TIME THAT WOULD NOT BE VERY HEALTHFUL.

18 THEN SHE READ: QUESTION, YOU SAID IN 1975
19 YOUR BELIEF THAT A CONCENTRATION OF ASBESTOS HIGH ENOUGH
20 TO CREATE ASBESTOS DISEASE WAS 100 FIBERS PER CC 8 HOURS
21 A DAY, FIVE TO 10 YEARS; IS THAT YOUR OPINION, WAS THAT
22 YOUR OPINION AT THE TIME?

23 ANSWER: THAT WAS MY OPINION AT THE TIME.

24 QUESTION: HAS THAT OPINION CHANGED SINCE
25 THEN?

26 ANSWER: NO, NOT REALLY."

27 I ASK YOU, MR. COATS, IS THAT STILL YOUR
28 OPINION TODAY?

1 A. ABSOLUTELY NOT.

2 Q. WHEN DID THIS CHANGE BETWEEN 1996 AND NOW?

3 A. WELL, I WOULD SAY BETWEEN 1992, WE NEVER, EVER
4 WOULD SUGGEST THAT AN EMPLOYEE SHOULD BE SUBJECTED TO
5 THOSE LEVELS.

6 Q. YOU TOLD US THAT WHEN YOU GOT THE SELIKOFF
7 REPORT AND --

8 MR. HAROWITZ: MAY I APPROACH AGAIN, YOUR
9 HONOR?

10 THE COURT: YOU MAY.

11 MR. HAROWITZ:

12 Q -- WHAT HAS BEEN IDENTIFIED AS NUMBER 52, THAT
13 YOU HAD SOMEBODY IN YOUR EMPLOY LOOK INTO THE EMPLOYEES
14 AT YOUR PLANT; IS THAT CORRECT?

15 A. YES.

16 Q. WHO WAS THAT?

17 A. MR. HOYLMAN.

18 Q. WAS THAT DR. HOYLMAN?

19 A. HE WAS NOT A DOCTOR.

20 Q. SO YOU WERE GOING TO ACCEPT WHAT MR. HOYLMAN
21 SAID OVER WHAT DR. SELIKOFF HAD TO SAY ABOUT EMPLOYEES;
22 IS THAT CORRECT?

23 A. ONCE WE HAD THE EMPLOYEES EXAMINED BY OUR
24 CONTRACT HOSPITAL AND THE DOCTORS AND THE B READER, THAT
25 WE FOUND THAT THEY WERE HEALTHY AND HAD NO INDICATION OF
26 AN ASBESTOS-RELATED DISEASE, WE PUT OUR TRUST IN OUR
27 DOCTOR'S OPINION.

28 Q. OKAY. NOW, ISN'T IT CORRECT, MR. COATS, THAT

1 MANY OF THE EMPLOYEES THAT WORKED FOR PACIFIC ASBESTOS
2 NEVER CAME TO WORK FOR CALAVERAS?

3 A. I DON'T KNOW THAT.

4 Q. WELL, HOW MANY PEOPLE FROM PACIFIC CAME TO
5 WORK FOR CALAVERAS?

6 A. I DON'T KNOW THE PRECISE NUMBER, BUT MANY.

7 Q. SO YOU DON'T KNOW WHETHER THE PEOPLE WHO HAD
8 DEVELOPED ASBESTOSIS WHEN THEY WORKED FOR PACIFIC
9 ASBESTOS HAD RETIRED OR WERE TOO SICK TO COME TO WORK AT
10 CALAVERAS; IS THAT RIGHT?

11 A. I DON'T KNOW OF ANY EMPLOYEE WHO WORKED FOR
12 PACIFIC THAT CONTRACTED ASBESTOSIS.

13 Q. NOW, AFTER THIS INITIAL PROCEDURE, INITIAL
14 TIME PERIOD WHEN YOU WERE LOOKING INTO INVESTIGATING
15 WHAT YOU HAD TO DO IN ORDER TO OPEN THE MINE, AND WHEN
16 YOU ACTUALLY OPENED THE MINE, THE AGENCIES THAT YOU
17 DISCUSSED CONTINUED TO COME BACK ON A REGULAR BASIS TO
18 THE MINE AND THE MILL TO INSPECT, CORRECT?

19 A. YES.

20 Q. OKAY. AND I KNOW YOU'VE TOLD THIS JURY YOU
21 HAD A VERY GOOD RELATIONSHIP WITH OSHA THAT DEVELOPED
22 OVER THE YEARS; IS THAT CORRECT?

23 A. YES.

24 MR. HAROWITZ: YOUR HONOR, MAY I HAVE MARKED
25 AS NEXT IN ORDER A MARCH 30, 1978 LETTER WHICH PURPORTS
26 TO BE FROM MR. COATS TO TASK GROUP A?

27 THE COURT: OKAY. THAT WOULD BE 60.

28 (PLAINTIFF'S EXHIBIT 60 MARKED FOR

IDENTIFICATION.)

MR. HAROWITZ: MAY I APPROACH THE WITNESS,
PLEASE?

THE COURT: YOU MAY.

MR. HAROWITZ:

Q MR. COATS, I'M PLACING BEFORE YOU WHAT HAS
BEEN MARKED AS PLAINTIFF'S EXHIBIT NUMBER 60. I ASK YOU
TO TAKE A LOOK AT THAT TO SEE IT THAT'S FAMILIAR TO
YOU.

A. YES, I HAVE.

Q. AND THAT'S YOUR SIGNATURE ON THAT LETTER?

A. ABSOLUTELY.

Q. THAT WAS PREPARED IN THE ORDINARY COURSE OF
THE BUSINESS OF CALAVERAS ASBESTOS MINING COMPANY?

A. YES, AND I DRAFTED THE LETTER.

MR. HAROWITZ: YOUR HONOR, I WOULD LIKE TO PUT
THIS UP BEFORE THE JURY.

THE COURT: MR. WAH, OBJECTION?

MR. WAH: NO, YOUR HONOR.

MR. HAROWITZ:

Q OKAY. MR. COATS, I'M GOING TO READ THE
LETTER. YOU FOLLOW ALONG WITH ME. IT GOES:

"TASK GROUP A INTER-AGENCY TASK FORCE.

SUBJECT: MSHA/ OSHA JURISDICTION.

AND IT'S DATED MARCH 30, 1978.

AND IT READS:

WE ARE A SMALL OPEN PIT MINING AND MILLING
COMPANY EMPLOYING 200 PEOPLE. OUR ECONOMIC IMPACT ON

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1 THE RURAL, MOUNTAINOUS COMMUNITIES IN WHICH OUR
2 EMPLOYEES LIVE IS SUBSTANTIAL.

3 WE PLACE HUMAN LIFE AND OCCUPATIONAL SAFETY AS
4 TOP PRIORITY. WE HAVE A RECORD OF COOPERATION WITH THE
5 MANY LEVELS OF GOVERNMENTAL AGENCIES THAT REGULARLY
6 DUPLICATE EACH OTHERS ROUTINE INSPECTIONS. I AM PLEASED
7 TO THINK OUR ATTITUDE AND PHILOSOPHY IS ONE OF
8 CORPORATION RATHER THAN AS AN ADVERSARY OF GOVERNMENT.

9 I MUST POINT OUT HOWEVER, THAT WE ARE
10 CONSTANTLY PLAGUED WITH UNEXPECTED VISITS FROM FEDERAL,
11 STATE, AND LOCAL AGENCIES. ALSO, WE ARE ASKED TO SUPPLY
12 CONFIDENTIAL BUSINESS DATA TO THESE AGENCIES. THE TIME
13 CONSUMED BY OUR EMPLOYEES TO ASSIST THESE VISITS AND
14 COMPLETE THE FORMS AND OTHER PEOPLE PAPERWORK IS
15 EXTREMELY COSTLY. FURTHERMORE, MUCH OF THE INFORMATION
16 IS OF NO VALUE TO THE GOVERNMENT AND SHOULD NOT BE
17 BLITHLY GIVEN.

18 OSHA AND MSHA PAPERWORK GETS MORE COMPLICATED
19 AND EXTENSIVE EACH DAY WITH DUPLICATION AND REPETITION.
20 GOVERNMENT HAS TAKEN THE FREE OUT OF 'FREE ENTERPRISE',
21 AS WE FIND OURSELVES BECOMING SLAVES OF PAPERWORK AND
22 REPORTS.

23 PAGE TWO. MSHA EMPLOYEES HAVE BEEN FOUND TO
24 BE HELPFUL, COOPERATIVE, FIRM AND FAIR. THEY ARE
25 KNOWLEDGEABLE WITH YEARS OF MINING EXPERIENCE. THEY
26 KNOW OUR PROBLEMS AND BECAUSE OF THEIR VAST EXPERIENCE
27 ARE HELPFUL IN FINDING SOLUTIONS.

28 OSHA PEOPLE GENERALLY LACK PRACTICAL MINING

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1 EXPERIENCE, HENSE ARE NOT PROBLEM SOLVERS. THEY CAN BE
2 THOUGHT OF RATHER AS A GROUP OF POLICE TYPE INSPECTORS
3 WHO READ GOVERNMENT REGULATIONS, INTERPRET THEM AND THEN
4 ISSUE CITATIONS. A KNOWLEDGE OF REAL WORLD IS LACKING.
5 INSTEAD OF WORKING IN CONCERT WITH INDUSTRY TO ACHIEVE A
6 COMMON SAFETY GOAL, OSHA SEEMS TO THINK OF THE PRIVATE
7 SECTOR AS THEIR ADVERSARY.

8 IT IS HOPED OUR OPINIONS WILL BE CONSIDERED BY
9 THIS TASK GROUP. GORDON A COATS, PRESIDENT."

10 SO, MR. COATS, THE RELATIONSHIP -- STRIKE
11 THAT.

12 YOU DIDN'T HOLD OSHA IN QUITE SO HIGH ESTEEM
13 AS YOU MIGHT HAVE SUGGESTED EARLIER IN YOUR TESTIMONY,
14 SIR?

15 A. AT THAT DATE I DID NOT.

16 Q. AND, IN FACT, ISN'T IT, CORRECT, SIR, THAT
17 OVER THE YEARS YOU WERE CITED FOR VIOLATIONS OF OSHA
18 SPECIFICALLY RELATED TO DUST VIOLATIONS?

19 A. PROBABLY SOME MINOR VIOLATIONS WHICH I DON'T
20 RECALL AT THIS TIME.

21 MR. HAROWITZ: MAY I HAVE MARKED AS NEXT IN
22 ORDER DEPARTMENT OF INDUSTRIAL RELATIONS DIVISION OF
23 INDUSTRIAL SAFETY, CITATION DATED, LOOKS LIKE 10/12
24 1977, AND THERE'S DIFFERENT DATES ON IT -- EXCUSE ME,
25 AUGUST 25, 1977.

26 THE COURT: ALL RIGHT. THAT'S PLAINTIFF'S 61.

27 (PLAINTIFF'S 61 MARKED FOR
28 IDENTIFICATION.)

1 MR. HAROWITZ: MAY I APPROACH THE WITNESS?

2 THE COURT: YOU MAY.

3 MR. HAROWITZ:

4 Q MR. COATS, I'M PLACING BEFORE YOU EXHIBIT
5 NUMBER 61. I'LL ASK YOU TO TAKE A LOOK AT THAT AND SEE
6 IF THAT'S FAMILIAR TO YOU.

7 A YES, I'VE SEEN THIS.

8 Q. AND ON THIS DOCUMENT THERE IS REFERENCE TO A
9 CITATION FOR ASBESTOS WORK PRACTICES ON OCTOBER 1, 1977,
10 CORRECT? THE FIRST PAGE YOU SEE THAT, ASBESTOS WORK
11 PRACTICES?

12 A. ASBESTOS SPILL ON THIRD FLOOR OF MILL.

13 Q. AND IF WE GO DOWN TO THE NEXT PAGE THERE'S
14 ALSO A VIOLATION FOR MECHANICAL VENTILATION SYSTEMS; DO
15 YOU SEE THAT?

16 A. I SEE THAT.

17 Q. OKAY. IT SAYS THE FOLLOWING MECHANICAL
18 VENTILATION SYSTEMS WERE NOT MAINTAINED FREE OF LEAKS TO
19 PREVENT HARMFUL DUST FROM BEING DISPERSED INTO THE
20 ATMOSPHERE?

21 A. UM-HUH.

22 Q. YES?

23 A. YES.

24 Q. AND THAT WAS DATED OCTOBER 12, 1997?

25 A. UM-HUH.

26 Q. AND IF YOU GO DOWN TO THE LAST TWO PAGES OF
27 THE DOCUMENT, YOU SEE THAT IT'S ENTITLED "ASBESTOS DUST
28 CONTROL"?

1 A. YES.

2 Q. FEBRUARY 15, 1978?

3 A. YES.

4 Q. IT SAYS DURING THE PLANT SURVEY ON AUGUST 23,
5 24, 1977, A DUST SURVEY WAS CONDUCTED BY G. DENTON AND
6 S. RHYU. THE LABORATORY ANALYSIS OF THESE DUST SAMPLES
7 IN BREATHING ZONES OF THE ORE PREP PLANT OPERATOR AND
8 CRUSHER OPERATOR EXCEEDS THE THRESHOLD LIMIT VALUES FOR
9 ASBESTOS DUST. THESE EMPLOYEES WERE WEARING RESPIRATORY
10 EQUIPMENT OFF AND ON AT THE TIME OF THIS SURVEY.

11 HOWEVER, RESPIRATOR EQUIPMENT IS NOT PERMITTED AS A
12 SUBSTITUTE FOR ENVIRONMENTAL CONTROLS.

13 DID I READ THAT CORRECTLY?

14 A. YOU READ IT CORRECTLY. THAT WAS IN 1978.

15 Q. ALL RIGHT. MR. COATS, YOU RESENTED THE OSHA
16 PEOPLE COMING OUT THERE ALL THE TIME MEDDLING IN YOUR
17 BUSINESS?

18 A. NO, I DID NOT.

19 MR. WAH: OBJECTION; ARGUMENTATIVE.

20 THE COURT: OVERRULED.

21 MR. HAROWITZ:

22 Q. SIR, DID YOU EVER RESENT DR. SELIKOFF AND HIS
23 MT. SINAI GROUP?

24 A. ABSOLUTELY NOT.

25 Q. YOU ALREADY TOLD US THAT YOU REFERRED TO HIM
26 AS THE INFAMOUS DR. SELIKOFF BEFORE AND YOU SAID THAT
27 WASN'T RIGHT, CORRECT?

28 A. THAT'S CORRECT.

1 Q. WHY DID YOU CALL HIM THE INFAMOUS DR. SELIKOFF
2 WHEN I TOOK YOUR DEPOSITION IN 1992?

3 A. WELL, I THINK YOU HAD ASKED ME A QUESTION AND
4 I CALLED HIM THE FAMOUS DR. SELIKOFF, AND THERE WAS SOME
5 QUESTION RIGHT AFTER THAT AND IN A FLIPPANT WAY WHICH I
6 HAVE APOLOGIZED FOR, I DID SAY INFAMOUS.

7 Q. AND THE REASON YOU CALLED HIM THE INFAMOUS
8 DR. SELIKOFF WAS BECAUSE HE WAS CREATING PROBLEMS FOR
9 YOUR INDUSTRY; ISN'T THAT RIGHT, SIR?

10 A. WELL, I BELIEVE THAT I WAS MORE CLOSELY
11 ASSOCIATED WITH THAT LETTER THAT WE REQUESTED IN JANUARY
12 OF '75 FROM THE DEPARTMENT OF INDUSTRIAL SAFETY
13 REGARDING PREVIOUS, REGARDING EMPLOYEES OF PACIFIC
14 ASBESTOS, AND THEN WHEN WE FOUND THAT NONE OF THOSE WERE
15 CITED OR CALLED IN HAD THESE DISEASES, THAT WAS MY ONLY
16 CONTACT WITH DR. SELIKOFF OTHER THAN HEARING ABOUT HIM
17 AND KNOWING THAT HE WAS AN AUTHORITY ON THE INSULATION
18 WORKERS.

19 Q. DIDN'T YOU TALK ABOUT HIM AT THE ASBESTOS
20 INFORMATION ASSOCIATION MEETINGS?

21 A. YES, I DID.

22 Q. YOU TALKED WITH OTHER PEOPLE IN THE INDUSTRY
23 ABOUT HOW HE WAS CREATING PROBLEMS FOR THE ASBESTOS
24 INDUSTRY, HAVEN'T YOU, SIR?

25 A. THERE WAS DISCUSSIONS OF THAT NATURE, YES.

26 Q. AND IT WAS THE ATTITUDE, YOUR ATTITUDE THAT
27 DR. SELIKOFF WAS BEING PAID BY THE UNIONS, CORRECT?

28 A. HE WAS.

1 Q. AND HE WAS TELLING PEOPLE THEY WERE SICK WHEN
2 THEY WEREN'T SICK?

3 A. THAT IS CORRECT.

4 Q. THAT WAS YOUR OPINION WHEN YOU RAN THAT MINE
5 AND MILL?

6 A. THAT IS CORRECT, BASED ON THE INFORMATION THAT
7 WE HAD.

8 Q. OKAY. SO WHEN YOU SAY WELL-RESPECTED, YOU
9 DIDN'T RESPECT HIM AT THAT TIME?

10 A. I HAVE RESPECTED HIM FOR THAT HE WAS AN
11 AUTHORITY ON ASBESTOS-RELATED DISEASES.

12 Q NOW, MR. COATS, I'VE HAD A LOT OF DOCTORS ON
13 THE STAND. MR. COATS, YOU HAVE SOME STRONG FEELINGS
14 ABOUT REGULATION AND INDUSTRY, DON'T YOU, SIR?

15 A. I THINK I DO, YES.

16 Q. AND YOU DID BACK AT THE TIME THAT YOU WERE
17 RUNNING THE CALAVERAS MINE AND MILL, CORRECT?

18 A. I BELIEVE, YES.

19 Q. OKAY. AND YOU LET THOSE FEELINGS BE KNOWN TO
20 OTHERS BY WAY OF SPEECHES, DIDN'T YOU?

21 A. I DON'T RECALL.

22 Q. DO YOU RECALL GIVING A SPEECH AT UNIVERSITY OF
23 NEVADA, RENO IN 1979 FOR THE MINERAL INDUSTRY MANAGEMENT
24 GROUP?

25 A. NO I DON'T.

26 MR. HAROWITZ: YOUR HONOR, MAY I HAVE MARKED
27 ACTUALLY TWO DOCUMENTS, ONE IS A JANUARY -- IT'S A
28 DOCUMENT SHORT COURSE ANNOUNCEMENT, JANUARY 17, 1979.

1 Q. CONSUMER PRODUCT SAFETY COMMISSION?

2 A. YES, PROBABLY CONSUMER PRODUCT SAFETY
3 COMMISSION.

4 Q. AND THEN YOU GO ON TO TALK ABOUT SOME OF THE
5 COST TO INDUSTRY GENERATED BY THESE PARTICULAR
6 REGULATORY AGENCIES, CORRECT?

7 A. YES. YOU WISH ME TO CONTINUE READING THIS?

8 Q. PLEASE.

9 A. YEAH. "23 MAN DAYS OF GOVERNMENT INSPECTION.
10 DIRECTOR" -- I GUESS THAT MEANS OUR DIRECTOR OF
11 ENVIRONMENTAL AFFAIRS SPENDS THAT. "\$500,000 ON
12 ENVIRONMENTAL REGULATION FIVE PERCENT OF OUR SALES GO
13 GOES TO ENVIRONMENTALLY RELATED PROJECTS."

14 Q. NOW, DOWN AT THE BOTTOM OF THE PAGE IT TALKS
15 ABOUT THAT YOU THOUGHT THESE REGULATORY AGENCIES, WHAT
16 IMPACT YOU THOUGHT THEY WOULD HAVE UPON YOUR COMPANY.
17 YOU SEE THAT, THE LAST TWO LINES GOING OVER TO THE
18 FOLLOWING PAGE?

19 A. "WE WILL EXPECT" -- IS THAT WHERE YOU WISH ME
20 TO START?

21 Q. YES, PLEASE.

22 A. "WE EXPECT TO BE HERE FOR SEVERAL MORE YEARS
23 IF GOVERNMENT REGULATION DOESN'T DO US IN. WE ARE
24 CONSTANTLY PELTED WITH" --

25 Q. IS THAT "SETTLED"?

26 MR. WAH: HE SAID "PELTED"

27 MR. HAROWITZ: EXCUSE ME. THANK YOU.

28 A. -- "WATER POLLUTION, NOISE OSHA, EPA, MSHA,

1 DOP, HEALTH, WELFARE. I DOUBT IF EVERYTHING IS AS BAD
2 AS OUR GOVERNMENT WOULD LIKE US TO BELIEVE. THE
3 GREATEST DANGER FACES IS THE DANGER PERPETRATED BY THESE
4 DOOMOLOGISTS," AS I CALLED THEM. "POSSIBLY WITHOUT EVEN
5 REALIZING WHAT THEY ARE DOING THEY ARE CONTRIBUTING TO
6 THE" -- A WORD I CAN'T READ, "REGARDING THE FREE
7 ENTERPRISE SYSTEM. THEY ARE A DANGER TO OUR
8 SOCIOECONOMIC SYSTEM AND REAL DANGER TO THE PEOPLE THEY
9 PROFESS TO BE PROTECTING, THE CONSUMER."

10 Q. OKAY. AND THEN FINALLY, AND I'M NOT GOING TO
11 HAVE YOU READ THIS, DOES THAT REFRESH YOUR MEMORY?

12 A. I'M SURE I NEVER GAVE THAT AS A SPEECH. I MAY
13 HAVE BEEN INVITED TO DO IT. THESE WERE MY NOTES AND
14 THIS IS WHAT I WOULD HAVE SAID.

15 Q. THAT IS YOUR OPINION AT THE TIME?

16 A. YES.

17 Q. YOU TALK ABOUT DDT AND SUGGEST REGULATIONS
18 REGARDING DDT WERE NOT WELL-FOUNDED, CORRECT?

19 A. I DON'T KNOW WHERE THAT IS.

20 Q. WELL, IF YOU LOOK AT THE BOTTOM OF THAT PAGE
21 WHERE IT SAYS, "YOU ALL REMEMBER DDT."

22 MR. HAROWITZ: MAY I APPROACH, YOUR HONOR?

23 THE COURT: YOU MAY.

24 MR. HAROWITZ:

25 Q. IT SAYS, "YOU ALL REMEMBER DDT, IT KILLED THE
26 INSECTS THAT RAVAGED GRAIN FIELDS"; DO YOU REMEMBER
27 THAT -- I THINK YOU'RE ON THE WRONG PAGE -- RIGHT THERE
28 YOU DON'T HAVE TO READ THAT.

1

A. NO.

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THE FOLLOWING IS A LIST OF THE NAMES OF THE

1 NEXT IN ORDER A MAY 16, 1969 LETTER FROM BILL RUTHERFORD
2 TO GORDON COATS.

3 THE COURT: THAT WILL BE 63. AND I'M SORRY,
4 YOU SAY IT IS A LETTER?

5 (PLAINTIFF'S EXHIBIT 63 MARKED FOR
6 IDENTIFICATION.)

7 MR. HAROWITZ: MAY I APPROACH?

8 THE COURT: YOU MAY.

9 THE WITNESS: THANK YOU.

10 MR. HAROWITZ:

11 Q. YOU'RE WELCOME. WHY DON'T YOU TAKE A LOOK AND
12 SEE IF YOU RECOGNIZE THAT LETTER.

13 A. YES. HE WAS THE PERSONNEL GUY AT THIS TIME.

14 Q. AND THAT WAS A LETTER THAT YOU RECEIVED FROM
15 MR. RUTHERFORD IN MAY OF 1979?

16 A. YES.

17 MR. HAROWITZ: YOUR HONOR, I'D LIKE TO DISPLAY
18 THIS TO THE JURY.

1 SHRINK-WRAPPED?

2 A. THAT'S RIGHT.

3 Q. AND THEN YOU FOLLOWED UP WITH A MARCH 9, 1979,
4 LATER SAYING IF THEY WANTED THEM SHRINK-WRAPPED, THEN
5 THEY CAN ASK FOR IT TO BE SHRINK WRAPPED, CORRECT?

1 THE WITNESS: THEY WERE NOT SHRINK-WRAPPED.

2 MR. HAROWITZ:

3 Q. NOR WERE THEY STRETCH-WRAPPED?

4 A. NO, THEY WERE NOT.

5 Q. NOW, MR. COATS, YOU TOLD US THAT WITH RESPECT
6 TO THE BAG WHICH IS IDENTIFIED AS EXHIBIT 21, THE BROWN
7 PAPER BAG, THE ONE THAT HAS JOHNS-MANSVILLE PRODUCTS
8 CORPORATION ON THE BACK. THE JOHNS-MANVILLE ART
9 DEPARTMENT CREATED THE LOGO AND THE INFORMATION -- NOT
10 THE INFORMATION BUT THE STENCILING ON THIS BAG?

11 A. NO, I DON'T THINK I SAID THEY DESIGNED IT.

1 Q THAT WAS IMPORTANT INFORMATION, THAT GRADE 4T?

2 A. EVERYTHING ON THIS BAG IS IMPORTANT, YES, SIR.

3 Q. WHEN A WORKER IS TRYING TO FIGURE OUT WHAT
4 KIND OF ASBESTOS TO PUT INTO A PARTICULAR BATCH OR A
5 TRANSITE PIPE, THEY'RE GOING TO LOOK FOR THAT 4T, THAT'S
6 VERY IMPORTANT INFORMATION, CORRECT?

7 A. THAT'S CORRECT.

8 Q. SO YOU WANT TO PUT THAT IN BIG BOLD LETTERS;
9 IS THAT RIGHT?

10 A. WELL, THAT IS THE WAY WE SHOWED IT THERE, YES.

11 Q. AND THE LOGO, CERTAINLY YOU WANT EVERYONE TO

- 1 A. NO, I CAN'T READ IT.
- 2 Q. CAN YOU READ IT NOW?
- 3 A. IF I HAD MY OTHER GLASSES I PROBABLY COULD
- 4 READ IT.
- 5 Q. FROM THIS POINT?
- 6 A. I'M GLANCING AT THE BAG. I CAN READ IT, SIR.
- 7 Q. CAN YOU READ IT NOW?
- 8 A. IT TALKS ABOUT THE CAUTION.
- 9 Q. READ IT FOR ME, PLEASE.
- 10 A. I HAVE TO HAVE MY GLASSES ON.
- 11 Q. GO AHEAD.

1 WORLD FOLLOWED THOSE GUIDELINES.

2 Q. MR. COATS, AM I CORRECT THAT THE FEDERAL
3 STANDARDS DID NOT SAY THAT THE LABEL SHOULD BE A
4 SPECIFIC SIZE?

5 A. I DO NOT BELIEVE THE STANDARD SAID IT HAD TO
6 BE A SPECIFIC SIZE.

7 Q. WHAT THE STANDARD SAID, AND TELL ME IF THIS IS
8 REFRESHES YOUR MEMORY. "CAUTION LABELS REQUIRED BY
9 SUBSECTION SHALL BE CONSPICUOUS AND LEGIBLE AND SHALL
10 CONTAIN THE FOLLOWING OR EQUIVALENT WARNING"; DO YOU
11 REMEMBER THAT AS BEING THE --

12 A. THOSE SOUNDS LIKE THE WORDS.

13 Q. AND DO YOU THINK THIS IS CONSPICUOUS,
14 MR. COATS?

15 A. I THINK IF YOU'RE HANDLING A BAG OF ASBESTOS
16 THAT WOULD BE CONSPICUOUS.

17 Q. WHEN YOU'RE HANDLING A BAG OF ASBESTOS AND
18 YOU'RE WORKING AROUND SOMEONE WHO IS HANDLING A BAG OF
19 ASBESTOS?

20 A. I BELIEVE ANYONE WHO WOULD BE IN THAT
21 SITUATION WOULD HAVE HAD EXTENSIVE TRAINING ON THE
22 HANDLING OF ASBESTOS THERE AND THAT WE WOULD HAVE
23 POINTED OUT THE DANGERS TO THE PEOPLE FOR HANDLING RAW
24 ASBESTOS.

25 Q. DIDN'T YOU TELL US IT WAS IMPORTANT THAT THE
26 WORKER GET AS MUCH INFORMATION AS THEY CAN ABOUT THE
27 HAZARDS OF ASBESTOS SO THEY CAN PROTECT THEMSELVES?

28 A. ABSOLUTELY.

1 Q. AND WASN'T THE WHOLE PURPOSE OF PUTTING A
2 WARNING ON THE BAG TO PROVIDE SUCH INFORMATION TO THE
3 WORKERS?

4 A. THAT WOULD BE ONE OF THE REASONS, YES.

5 Q. WHAT OTHER REASON WOULD THERE BE?

1 Q. SO, IF YOU'RE WORKING IN AN ENVIRONMENT THAT
2 HAS FIVE FIBERS PER CUBIC CENTIMETER OR LESS, YOU CAN'T
3 SEE ANY ASBESTOS IN THE AIR?

4 A. NO, YOU WOULD NOT.

5 Q. SO HOW WOULD YOU KNOW IF YOU'RE CREATING
6 DANGEROUS LEVELS OF ASBESTOS DUST IF YOU CAN'T SEE IT?

7 A. ONLY BECAUSE THE MANAGEMENT HAD A POLICY OF
8 MONITORING THE WORK AREAS, AND THEY KNOW WHAT THE
9 STANDARDS ARE AND WHAT THE ALLOWABLE LIMITS ARE.

10 Q. SO THIS IS THE BAG THAT YOU PUT YOUR PRODUCT
11 OUT IN, CORRECT?

12 A. YES.

13 Q. DID YOU FEEL THAT ONCE THE PRODUCT LEFT YOUR
14 MILL AND WENT TO A CUSTOMER THAT YOU WERE NO LONGER
15 RESPONSIBLE FOR IT?

16 A. YES, I DID, BECAUSE THEY HAD PURCHASED THE
17 PRODUCT, IT MET ALL THE SPECIFICATIONS, THEY WERE
18 EXPERTS AT HANDLING THE FIBER, THE MANUFACTURE, AND SO

1 "BREATHING ASBESTOS DUST MAY CAUSE SERIOUS BODILY
2 HARM."

3 MR. COATS, IN 1975 WHEN YOU DECIDED -- WERE
4 MAKING THE DECISION WHETHER TO BUY THIS MINE AND MILL OR
5 NOT, AT THAT TIME YOU KNEW ASBESTOS COULD CAUSE
6 MESOTHELIOMA?

7 A. YES.

8 Q. AND YOU KNEW THAT ASBESTOS COULD CAUSE LUNG
9 CANCER?

10 A. YES.

11 Q. AND THAT ASBESTOS COULD CAUSE ASBESTOSIS?

12 A. YES.

13 Q. WHEN YOU PUT ON THIS BAG "BREATHING ASBESTOS
14 DUST MAY CAUSE SERIOUS BODILY HARM," WHAT WAS YOUR
15 INTENT?

16 A. MY INTENT WAS TO FOLLOW THE LAWS OF THE UNITED
17 STATES OF AMERICA, SIR. THOSE ARE SPECIFIC WORDS
18 REQUIRED BY OSHA TO PUT ON THE BAG.

19 Q. REQUIRED BY OSHA?

20 A. THEY WERE NOT MY IN THE FEDERAL REGISTER, THEY
21 WERE PUT OUT --

22 MR. HAROWITZ: MAY I HAVE MARKED AS NEXT IN
23 ORDER --

24 THE WITNESS: -- THEY WERE NOT MY WORDS.

25 MR. HAROWITZ: EXCUSE ME, I'M SORRY.

26 Q THE INDUSTRIAL RELATIONS TITLE 8 -- EXCUSE ME
27 FROM 1976.

28 THE COURT: THAT'S 68.

(PLAINTIFF'S EXHIBIT 68 MARKED FOR
IDENTIFICATION.)

MR. HAROWITZ:

Q. MR. COATS, LET ME JUST ASK YOU THIS: DID YOU UNDERSTAND THAT YOU COULD NOT USE ANY INFORMATION, ANY WORDING BEYOND THAT WHICH WAS CONTAINED IN THE FEDERAL STANDARD, THE FEDERAL OSHA STANDARD?

A. I UNDERSTAND THAT BY LAW I WAS REQUIRED TO PUT THAT WORDING ON EACH AND EVERY BAG.

Q. AT A MINIMUM?

A. AT A MINIMUM.

Q. AND THERE WAS NOTHING IN THE REGULATIONS, NOTHING THAT SAID YOU COULDN'T PUT CANCER ON THE BAG, WAS THERE, SIR?

A. NO, THERE WAS NOT, BUT THAT CAME A FEW YEARS LATER.

Q. RIGHT, IN 1963 (SIC) OR '90 --

A. AS A REGULATION OF FEDERAL GOVERNMENT.

Q. IN 1983 OR 1984, YOU STARTED TO USE THE WORDS "CANCER" ON YOUR BAG; IS THAT RIGHT.

A. THAT'S CORRECT.

Q. NOT BEFORE THAT?

A. NOT BEFORE THAT.

Q. AND YOU KNEW AS OF 1975 THAT ASBESTOS CAUSED CANCER, CORRECT?

A. I KNEW THAT.

Q. BUT YOU MADE THE DECISION THAT YOU WOULD JUST PUT THE MINIMUM AS REQUIRED BY THE GOVERNMENT ON YOUR

1 BAG; IS THAT CORRECT?

2 A. I MADE THE DECISION THAT I WOULD PUT ON WHAT
3 WAS REQUIRED BY THE LAW, AND I ALWAYS FOLLOWED THE LAW,
4 AS DID OTHER MILLS AND MINES IN THE ASBESTOS INDUSTRY.

5 Q. NOW, YOU TOLD US THERE WAS DISCUSSION OF
6 ALTERNATIVE LABELS; IS THAT RIGHT?

7 A. I DON'T KNOW WHAT YOU'RE REFERRING TO.

8 Q. I'M SORRY. THE ASBESTOS INFORMATION
9 ASSOCIATION DISCUSSED ALTERNATIVE LABELS, THAT'S ONE OF
10 THINGS THAT YOU TALKED ABOUT AT THESE MEETINGS?

11 A. MANY AIA MEETING, YES, SIR.

12 Q. AND NOT ONLY AT THE AIA, THERE WAS AN
13 INTERNATIONAL BRANCH OF AIA, CORRECT?

14 A. THAT WAS THE INTERNATIONAL AIA, YES.

15 Q. AND IN FACT, YOU WEREN'T JUST A MEMBER OF AIA,
16 YOU WERE A DIRECTOR OF THE AIA?

17 A. NO, I WAS NEVER AN OFFICER.

18 Q. YOU WERE NOT A DIRECTOR?

19 A. NO.

20 Q. OKAY.

21 MR. HAROWITZ: MAY I HAVE MARKED NEXT IN
22 ORDER --

23 THE WITNESS: I DIDN'T KNOW I WAS.

24 MR. HAROWITZ: -- A MARCH 12, 1980 RECORD OF
25 BOARD OF DIRECTORS MEETING OF THE ASBESTOS INFORMATION
26 ASSOCIATION.

27 THE COURT: ALL RIGHT. THAT WILL BE 69

28 (PLAINTIFF'S EXHIBIT 69 MARKED FOR

IDENTIFICATION.)

MR. HAROWITZ: MAY I APPROACH, YOUR HONOR?

THE COURT: YOU MAY.

THE WITNESS: THANK YOU.

MR. HAROWITZ: SURE.

Q. TAKE A LOOK AT THE DIRECTORS WHO ATTENDED THIS MEETING.

A. I GUESS EVERYBODY WHO ATTENDED WAS A DIRECTOR. I WAS THE REPRESENTATIVE OF CALAVERAS ASBESTOS.

Q. LISTED AS ONE THE DIRECTORS?

A. IT DOES SAY THAT UP ABOVE, BOARD OF DIRECTORS MEETING.

Q. YOU WOULD THEN GET THESE MINUTES FROM THE MEETING, CORRECT?

A. THAT'S CORRECT.

Q. THEY WOULD TALK ABOUT WHAT'S GOING ON WITH OSHA, EPA, WITH CONGRESSIONAL SHIFTS REGARDING ASBESTOS?

A. THAT'S TRUE.

Q. AND WITH DIFFERENT STATES?

A. CORRECT.

Q. ONE OF THE DIFFERENT THINGS YOU TALKED ABOUT WAS WHAT OTHER STATES WERE DOING WITH LABELING?

A. I DON'T RECALL THAT, BUT THAT'S VERY LIKELY, YES.

Q. TAKE A LOOK AT PAGE 3, IF YOU WOULD, PLEASE.

A. PAGE THREE.

Q. THE BOTTOM, UNDER MASSACHUSETTS; YOU SEE THAT?

A. I SEE IT.

1 Q. AND THERE'S REFERENCE THERE TO MASSACHUSETTS
2 ATTEMPTING TO INSTITUTE A LAW THAT WOULD REQUIRE THE
3 SKULL AND CROSSBONES ON ASBESTOS AS A WARNING LABEL; DO
4 YOU SEE THAT?

5 A. I SEE THAT.

6 Q. AND THEN CONNECTICUT ALSO CONSIDERED WHAT TO
7 DO ABOUT LABELING ASBESTOS, AND THIS WAS IN 1980. IT'S
8 THE BOTTOM OF PAGE THREE AND UP TO THE TOP OF PAGE FOUR;
9 YOU SEE THAT?

10 A. I SEE IT.

11 Q. AND CONNECTICUT WAS GOING -- CONNECTICUT WAS
12 GOING TO REQUIRE A LABEL THAT SAYS THE ITEM CONTAINS
13 ASBESTOS AS A CAUSE OF CANCER WHEN INHALED, CORRECT?

14 A. THAT'S CORRECT.

15 Q. THAT'S ONE OF THINGS THAT YOU TALKED ABOUT AT
16 THE MEETING, AT LEAST IT WOULD REFLECT THAT WAS
17 SOMETHING THAT THE DIRECTORS TALKED ABOUT?

18 A. WE TALKED ABOUT ALL THOSE SORT OF SAFETY
19 ITEMS, CORRECT.

20 MR. HAROWITZ: AND MAY WE HAVE MARKED NEXT IN
21 ORDER A MAY 25, 1979, CORRESPONDENCE FROM JOHN H. MARSH
22 TO DIRECTORS.

23 (PLAINTIFF'S EXHIBIT 70 MARKED FOR
24 IDENTIFICATION.)

25 MR. HAROWITZ: MAY I APPROACH?

26 THE COURT: YES, YOU MAY.

27 THE WITNESS: THANK YOU.

28 MR. HAROWITZ:

1 Q. WHO WAS MR. MARSH?
2 A. I DON'T SEE HIS TITLE, I DON'T KNOW.
3 Q. AT ANY RATE, YOU READ THIS DOCUMENT, IT WAS IN
4 YOUR FILES.
5 A. SURE.
6 Q. WOULD YOU TURN TO PAGE -- YOU KNOW, THIS IS
7 SET UP NOT WITH PASSAGES.
8 A. WELL, DO THE ITEMS --
9 Q. PARAGRAPHS 4.13.
10 A. OKAY. YOU SEE, I CAN'T --
11 Q. ACTUALLY 4.15.1.1.
12 A. OKAY --
13 Q. IT'S NOT THAT EITHER. LET ME BACK UP.
14 WHAT IS AN A LOGO, QUOTE, A, CLOSE QUOTE,
15 LOGO?
16 A. I THINK THAT WAS A BLACK AND RED LOGO
17 SIGNIFYING ASBESTOS, WHICH WAS TO BE PLACED ON BAGS.
18 Q. WE'LL COME BACK TO THIS PAGE IN A MINUTE. AND
19 I'M SORRY FOR CONFUSING YOU. IF YOU GO DOWN A FEW
20 PAGES, YOU'LL SEE THE PASSAGES START TO GET NUMBERED.
21 A. ALL RIGHT.
22 Q. AND I WANT TO TURN TO PAGE 3.
23 A. ALL RIGHT. GOT IT.
24 Q. IT'S UNDER 3.3.1.5, SECOND ITEM FROM THE
25 BOTTOM. HAVE YOU READ THAT?
26 A. HOW FAR DID YOU WISH ME TO GO, SIR?
27 Q. I'M SORRY, JUST THAT SECTION.
28 WHO IS THE EEC ADVISORY COUNCIL, DO YOU KNOW

1 WHO THAT IS?

2 A. THAT MUST BE THE EUROPEAN ECONOMICS COUNCIL OR
3 COMMITTEE.

4 Q. OF THE AIA?

5 A. OH, I DON'T KNOW. I THOUGHT EEC WOULD BE THE
6 EUROPEAN ECONOMICS COUNCIL BUT --

7 Q. MAYBE THIS WAS SOMETHING THAT CAME TOGETHER
8 WITH YOUR AIA MINUTES. SO DID YOU RECEIVE INFORMATION
9 FROM THE EEC ON OCCASION?

10 A. NO, I NEVER DID. BUT EXCUSE ME, IF I MAY SAY
11 IF YOU READ IT, SHOULD THIS LABELING BECOME MANDATORY,
12 THEN ALL ASBESTOS FIBER COMING INTO THE EEC -- MEANING
13 IT SOUNDS LIKE IT'S A GROUP OF COUNTRIES, SO THAT'S WHY
14 I GOT THE IDEA IT WOULD BE THE EUROPEAN, LIKE THE COMMON
15 MARKET, FOR EXAMPLE.

16 Q. AT ANY RATE, IT INDICATES THAT THIS IS A
17 SUBCOMMITTEE WORKING ON THE SUBJECT OF LABELING.
18 THEY'RE PROPOSING ALL BAGS OF ASBESTOS FIBER ARE
19 LABELED, AND THE PRESENT INTENTION IS TO DECLARE
20 ASBESTOS TOXIC WHICH WOULD AUTOMATICALLY REQUIRE THE
21 SKULL AND CROSS BONES WARNING LABEL. OUR OBJECTIVE IS
22 TO GAIN -- I HAVE QUOTE A CLOSE QUOTE SIGN OF ASBESTOS
23 IS A UNIQUE SUBSTANCE.

24 WHAT DOES THAT MEAN?

25 A. TO ME, THIS MEANS INSTEAD OF PUTTING ON LIKE
26 ON STRYCHNINE, YOUR RAT POISON, THE SKULL AND
27 CROSSBONES, YOU WILL PUT THE BIG A ON IT IN RED AND
28 BLACK, AS I RECALL. BECAUSE ASBESTOS IS A VERY UNIQUE

1 PRODUCT.

2 Q. AND TO YOUR WAY OF THINKING, WOULD IT BE MORE
3 EFFECTIVE TO PUT A BIG RED A ON THE BAG OR SKULL AND
4 CROSSBONES IF YOU WANTED TO LET PEOPLE KNOW THAT
5 ASBESTOS COULD CAUSE LIFE-THREATENING DISEASE?

6 A. I WOULD HAVE -- I WOULD HAVE HAD NO OBJECTION
7 TO THE SKULL AND CROSSBONE ON IT.

8 Q. OKAY. DID YOU EVER CONSIDER USING A SKULL AND
9 CROSSBONE?

10 A. ONLY THROUGH THIS IS WHERE WE HAD HEARD ABOUT
11 IT.

12 Q. NOW, THE AIA, THE ASBESTOS INFORMATION
13 ASSOCIATION, ALSO DEALT WITH OTHER ISSUES THAN LABELING,
14 DID THEY NOT?

15 A. YES, THEY WOULD TALK ABOUT OTHER WORK
16 HAZARDS. THEY WOULD HAVE SEMINARS WHERE YOU COULD GO IN
17 AND MAYBE THERE WOULD BE AN EXPERT ON EXPLOSIVES. WE
18 COULD ATTEND THOSE SEMINARS IF WE WISH.

19 Q. OKAY. AND THEY TALKED ABOUT DIFFERENT FIBER
20 TYPES OF ASBESTOS, DID THEY NOT, AS ONE OF THE ISSUES,
21 FOR EXAMPLE, CROCIDOLITE, AMOSITE, TREMOLITE?

22 YES, I'M SORRY. EXCUSE ME.

23 A. WE DISCUSSED THOSE.

24 Q. AND HOW TO DEAL WITH THOSE DIFFERENT FIBER
25 TYPES?

26 A. YES.

27 Q. SIR, IN 1980 -- STRIKE THAT.

28 IN 1981, DID YOU HAVE AN UNDERSTANDING THAT

1 CROCIDOLITE WAS A MORE HAZARDOUS FIBER THAN OTHER
2 ASBESTOS FIBERS IN THE DEVELOPMENT OF DISEASE?

3 A. ABSOLUTELY, YES.

4 Q. OKAY. WOULD YOU TURN TO PAGE 9 WHICH IS THE
5 LAST PAGE OF THE THIS DOCUMENT.

6 AND YOU WERE CERTAINLY A MEMBER OF AIA IN
7 1981, WERE YOU NOT?

8 A. YES, I WAS.

9 Q. AND YOU REMEMBER -- YOU DIDN'T REALIZE YOU
10 WERE A DIRECTOR?

11 A. NO, I DIDN'T.

12 Q. DO YOU KNOW IF YOU WERE A DIRECTOR IN 1981 --
13 YOU WOULDN'T. I'LL WITHDRAW THAT.

14 THERE WOULD BE NO FOUNDATION FOR KNOWING YOU
15 WERE A DIRECTOR IF YOU DIDN'T KNOW YOU WERE A DIRECTOR
16 EARLIER.

17 LET ME REFER YOU TO 5.3.

18 A. OKAY.

19 Q 5.3 ON PAGE 9 AT THE TOP, IT'S THE LAST PAGE.

20 MR. WAH: OKAY.

21 MR. HAROWITZ:

22 Q OKAY. YOU'VE READ THAT? AND THAT STATES,
23 "FOLLOWING LENGTHY DISCUSSION, IT WAS AGREED THAT THE
24 AIA'S POLICY MUST BE TO DEFEND AND SUPPORT CROCIDOLITE
25 (BLUE) ASBESTOS AS FORCIBLY AS POSSIBLE. MEMBERS WERE
26 ASKED TO APPLY THE FOLLOWING GUIDELINES.

27 A, THE RISK IS THE SAME AS OTHER TYPES, AND
28 SHOULD NOT BE AGREED THAT CROCIDOLITE IS MORE DANGEROUS;

1 B, FIGHT TO HAVE THAT SAME TLV -- FIGHT TO
2 HAVE THE SAME TLV FOR ALL TYPES.

3 C, SUPPORT BY FURTHER STUDY."

4 AND THAT WAS THE AIA'S MOTION IN 1981; WAS IT,
5 MR. COATS?

6 A. I THINK THAT WAS THAT DR. ROBOCK MUST HAVE
7 BEEN FROM SOUTH AFRICA WOULD HAVE PROPOSED THIS. I
8 DON'T KNOW, I DOUBT -- THIS IS WHAT THEY'RE PROPOSING
9 HERE AND UNDER NEW BUSINESS, BUT -- OR OTHER BUSINESS.
10 BUT I CERTAINLY WOULD NEVER HAVE SUPPORTED THAT NOR
11 WOULD ANY OTHER COMPANY IN THE INDUSTRY OR ANY COUNTRY
12 OTHER THAN SOUTH AFRICA.

13 Q. OKAY. WOULD YOU TURN TO PAGE 6 THEN. EXCUSE
14 ME, PAGE FIVE. IT'S LIKE FOUR PASSAGES BACK.

15 A. WHAT IS THE -- THE SUBSECTION 3.3.3?

16 A. 3.3.3, OKAY. DOWN AT THE BOTTOM?

17 Q. RIGHT. SEE WHERE IT SAYS, "IT WAS AGREED."

18 A. NO, IT SAYS "MEDICAL ADVISORY PANEL."

19 Q. RIGHT ABOVE SCIENTIFIC ADVISORY PANEL, THE
20 PARAGRAPH ABOVE THAT.

21 A. DR. ROBOCK.

22 MR. HAROWITZ: MAY I APPROACH, YOUR HONOR?

23 THE COURT: YOU MAY.

24 THE WITNESS: 3.3.3?

25 THIS PART RIGHT HERE, THIS WAS AGREED?

26 MR. HAROWITZ:

27 Q. YES.

28 A. YES, I'VE READ IT.

1 Q. AND THIS 3.3.3 HAS TO DO WITH THE MEDICAL
2 ADVISORY PANEL AND WHAT THEY HAD TO SAY, CORRECT?

3 A. THAT'S CORRECT.

4 Q. AND THAT WAS THE MEDICAL ADVISORY PANEL FROM
5 AUSTRALIA, BELGIUM, FRANCE, SOUTH AFRICA, UK, USA,
6 CANADA, DENMARK, RIGHT?

7 A. RIGHT.

8 Q. AND WHAT THEY SAID WAS, IT WAS AGREED THAT THE
9 AIA'S POLICY MUST BE NOT TO DISCRIMINATE BETWEEN THE
10 TYPES OF ASBESTOS, AND THE CHAIRMAN THANKED DR. GAYS
11 (PHONETIC) FOR THE TACTFUL WAYS IN WHICH HE HAD
12 POINTED THIS FACT OUT TO THE CHAIRMAN OF THE MAP,
13 CORRECT?

14 A. THAT'S WHAT IT SAYS, YES.

15 Q. THAT WAS THE POLICY OF THE ASBESTOS
16 INFORMATION ASSOCIATION AT THAT TIME?

17 A. AT THAT TIME, WHICH I CERTAINLY WOULD NOT HAVE
18 SUPPORTED.

19 Q. NOW, WOULD YOU AGREE WITH ME, MR. COATS, THAT
20 THE ASBESTOS INFORMATION ASSOCIATION NEGOTIATED WITH THE
21 GOVERNMENT IN SETTING PERMISSIBLE EXPOSURE LIMITS, OR AS
22 YOU CALLED THEM, TLVS?

23 A. YES, I DO BELIEVE THAT THEY PARTICIPATED IN
24 THE SETTING OF STANDARDS.

25 Q. IT WAS ACTUALLY A NEGOTIATING KIND OF
26 ARRANGEMENT WHERE THE INDUSTRY WOULD TAKE ONE POSITION,
27 AND OTHERS WOULD TAKE ANOTHER POSITION, AND THEN THERE
28 WOULD BE A COMPROMISE?

1 A. THERE WOULD BE A COMPROMISE, PROBABLY, YES.

2 Q. WERE YOU FAMILIAR WITH SOME OF THE PEOPLE ON
3 THE OTHER SIDE OF ISSUE, THAT IS, WHO WOULD WANT LOWER
4 PERMISSIBLE EXPOSURE LIMITS SUCH AS SELIKOFF; DID YOU
5 KNOW WHAT HIS THOUGHTS WERE ABOUT PELS?

6 A. NO, I DID NOT KNOW.

7 MR. HAROWITZ: YOUR HONOR, I'M ABOUT TO MOVE
8 INTO ONE FINAL AREA. SHALL I PROCEED OR...

9 THE COURT: NO, I THINK WE SHOULD BREAK NOW.

10 IT'S 1:30.

11 MR. HAROWITZ: OKAY.

12 THE COURT: UNLESS YOU'RE GOING TO BE THROUGH.

13 MR. HAROWITZ: YOU KNOW, IT'S NOT GOING TO BE
14 THAT QUICK. IT'S NOT GOING TO BE LONG EITHER.

15 THE COURT: WOULD YOU APPROACH, PLEASE?

16 (COUNSEL APPROACH THE BENCH.)

17 THE COURT: ALL RIGHT. WE ARE GOING TO RECESS
18 FOR THIS AFTERNOON NOW IN JUST A MINUTE. MR. COATS,
19 YOU'RE NOT EXCUSED FROM TESTIFYING.

20 THE WITNESS: I UNDERSTAND.

21 THE COURT: YOU WILL NEED TO COME BACK AND THE
22 ATTORNEYS -- MR. WAH WILL SPEAK WITH YOU ABOUT
23 SCHEDULING A TIME FOR YOU TO COME BACK THAT WORKS.

24 THE WITNESS: THANK YOU.

25 THE COURT: THAT WORKS FOR EVERYONE,
26 HOPEFULLY. AND I WANT TO ADVISE THE JURY, I TOLD YOU
27 THAT I WILL TRY TO LET YOU KNOW AS SOON AS WE KNOW IF
28 THERE MIGHT BE SOME CHANGES IN OUR SCHEDULE TO BE

1 Q. ARE YOU FAMILIAR WITH THESE DOCUMENTS?
2 A. I DON'T RECALL THEM, BUT I'M SURE I RECEIVED
3 IT AND I KNEW THAT THAT WAS THE PURPOSE OF THE AIA/NORTH
4 AMERICA.
5 Q. AND WHY DO YOU BELIEVE YOU RECEIVED THESE
6 DOCUMENTS?
7 A. BECAUSE WE WERE MEMBERS OF AIA/NORTH AMERICA.
8 Q. AND YOU PERSONALLY YOU DON'T RECALL DIRECTLY,
9 YOU PERSONALLY, WERE SOMEONE WHO ATTENDED THE MEETINGS
10 OF AIA?
11 A. NOT ALL OF THE MEETINGS. I WOULD ATTEND THE
12 ANNUAL MEETING.
13 Q. AND IF INFORMATION SUCH AS THIS CAME TO
14 CALAVERAS ASBESTOS COMPANY, WOULD YOU RECEIVE IT
15 PERSONALLY?
16 A. YES, IT WOULD GET TO MY DESK.
17 Q. AND DID YOU MAKE AN EFFORT TO REVIEW MATERIAL
18 THAT YOU RECEIVED FROM THE AIA?
19 A. YES, I DID.
20 Q. SIR, THE POSITION STATEMENT THAT IS ATTACHED
21 TO THE LETTER -- STRIKE THAT.
22 LET ME ASK YOU FIRST, WHO'S MR. PETRIE?
23 A. I DO NOT KNOW MR. PETRIE.
24 Q. WHO IS MR. PIGG?
25 A. MR. PIGG WAS THE EXECUTIVE DIRECTOR OF THE
26 AIA/NORTH AMERICA.
27 Q. AND YOU ARE FAMILIAR WITH THE POSITION OF THE
28 AIA ON ASBESTOS, CORRECT?

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1 A AS STATED IN THIS LETTER?

2 Q. YES.

3 A. YES, I AM.

4 Q. OKAY. WOULD YOU FIRST READ THE FIRST
5 PARAGRAPH OF THE POSITION STATEMENT.

6 A. YOU MEAN FOLLOWING WHERE IT SAYS THE
7 OBJECTIVES OR AT THE TOP?

8 Q. AT THE TOP. THE FIRST FULL PARAGRAPH.

9 A "THE ASBESTOS INFORMATION ASSOCIATION/NORTH
10 AMERICA, (AIA/NA), IS AN INCORPORATED NONPROFIT
11 ORGANIZATION OF 54 FIRMS ENGAGED IN THE MANUFACTURE AND
12 SALE OF PRODUCTS CONTAINING ASBESTOS FIBER OR IN THE
13 MINING, MILLING, OR SALE OF ASBESTOS FIBER IN NORTH
14 AMERICA."

15 Q SIR, DOES THIS PARTICULAR DOCUMENT INDICATING
16 THE POSITION OF THE ASBESTOS INFORMATION ASSOCIATION
17 REFRESH YOUR MEMORY THAT IN FACT THERE WERE MANUFACTURES
18 OF ASBESTOS-CONTAINING PRODUCTS THAT WERE MEMBERS?

19 A. YES.

20 Q. AND THIS WAS IN 1979?

21 A. YES, IT IS FIVE YEARS AFTER WE STARTED -- FOUR
22 YEARS AFTER WE WERE IN BUSINESS, YES.

23 Q. OKAY. THEN COULD YOU GO TO THE LAST PARAGRAPH
24 ON THE PAGE, IT'S A FAIRLY LONG PARAGRAPH.

25 A. YES.

26 Q. COULD YOU READ THAT FOR THE JURY, PLEASE?

27 A. "THIS ASSOCIATION IS UNAWARE OF ANY SCIENTIFIC
28 EVIDENCE WHICH INDICATES THAT ASBESTOS PRESENTS AN

1 INCREASED HEALTH RISK TO THE GENERAL PUBLIC. LIKE IN
2 MOST ASBESTOS-CONTAINING PRODUCTS, THE FIBERS ARE QUOTE,
3 LOCKED IN, CLOSE QUOTE, BY CEMENT, PLASTIC OR OTHER
4 BINDERS. SUCH FIBERS ARE NOT EASILY RELEASED DURING
5 NORMAL HANDLING AND APPLICATION. ASBESTOS-RELATED
6 DISEASE TODAY IS CONFINED PRIMARILY TO INDIVIDUALS FROM
7 OCCUPATIONAL AND OCCUPATIONALLY-RELATED ENVIRONMENTS AND
8 RELATES DIRECTLY TO THE INHALATION OF HIGH LEVELS OF
9 ASBESTOS DUST IN THE PAST. WORKING ENVIRONMENTS OF THE
10 PAST CANNOT BE RELATED TO PRESENT REGULATED CONDITIONS.
11 MEDICAL RESEARCH INDICATES THAT THERE IS A DOSE-RESPONSE
12 RELATIONSHIP IN THE DEVELOPMENT OF ASBESTOS-RELATED
13 DISEASE. THUS, THE ASBESTOS INDUSTRY IS CONFIDENT
14 THAT WITH PROPER PRECAUTIONS, ASBESTOS AND
15 ASBESTOS-CONTAINING PRODUCTS CAN CONTINUE TO BE USED IN
16 MANY INDUSTRIAL AND CONSUMER PRODUCTS WITHOUT RISK TO
17 THE HEALTH OF PEOPLE MAKING OR USING THESE PRODUCTS."

18 Q. THAT'S FINE. THANK YOU.

19 SO MR. COATS, IS THAT YOUR UNDERSTANDING OF
20 THE POSITION OF THE ASBESTOS INFORMATION ASSOCIATION IN
21 1979?

22 A. YES, IT IS.

23 Q. AND WAS IT THE ASBESTOS INFORMATION
24 ASSOCIATION'S POSITION, AND YOU WERE A MEMBER OF THAT
25 ASSOCIATION, THAT IF THE LEVEL OF EXPOSURE TO ASBESTOS
26 WAS KEPT WITHIN THE PERMISSIBLE EXPOSURE LEVELS, OR THE
27 TLVS AS YOU CALLED THEM, PEOPLE WEREN'T GOING TO GET
28 SICK?

1 A. IF THE EXPOSURE WAS LIMITED TO THOSE TLVS
2 MANDATED BY THE ENVIRONMENTAL AGENCIES, BE IT MSHA, OSHA
3 OR EPA, THAT THE PEOPLE MOST LIKELY WOULD NOT BE EXPOSED
4 TO AN ASBESTOS-RELATED DISEASE.

5 Q. DID YOU BELIEVE THAT PEOPLE WHO WORKED IN
6 ENVIRONMENTS SUCH AS THE ENVIRONMENT AT YOUR MINE AND
7 MILL, THE LEVELS WERE KEPT TO TWO FIBERS PER CUBIC
8 CENTIMETER, THAT THOSE PEOPLE WERE NOT AT RISK FOR THE
9 DEVELOPMENT OF AN ASBESTOS-RELATED DISEASE?

10 A. THAT IS WHAT WE BELIEVED.

11 Q. BUT YOU WERE WRONG, CORRECT?

12 A. NO.

13 Q. OKAY. SIR, THEN CAN YOU EXPLAIN MICHAEL
14 HAAS'S SITUATION?

15 MR. WAH: OBJECTION; YOUR HONOR,
16 ARGUMENTATIVE; LACKS FOUNDATION.

17 THE COURT: SUSTAINED.

18 MR. HAROWITZ:

19 Q. MR. COATS, DID YOU EVER VISIT THE
20 JOHNS-MANSVILLE PLANT IN STOCKTON?

21 A. YES, I DID.

22 Q. AND DID YOU TAKE NOTE OF WHETHER THE
23 JOHNS-MANSVILLE PLANT IN STOCKTON HAD THE SAME KIND OF
24 EQUIPMENT THAT IS TO REMOVE ASBESTOS FROM THE AIR AS YOU
25 HAD AT THE MILL AND MINE?

26 A. IT WAS NOT PRECISELY THE SAME, BUT IT
27 PERFORMED THE SAME FUNCTION.

28 Q. TO BRING THE LEVELS DOWN TO THE OSHA REGULATED

1 FIBERS PER CUBIC CENTIMETER?

2 A. YES.

3 Q. DID YOU VISIT -- EXCUSE ME.

4 DID YOU VISIT THE OPERATIONS OF OTHER
5 CUSTOMERS DURING THE TIME PERIOD THAT YOU HAD THE MINE
6 OPEN? LET'S LIMIT IT TO 1976 TO 1981.

7 A. IN THE UNITED STATES YOU'RE REFERRING TO?

8 Q. FIRST, LET'S START THERE.

9 A. I WAS ONLY ALLOWED IN ONE OTHER PLANT, AND
10 THAT WAS THE PABCO VANBUREN (PHONETIC) PLANT IN
11 VANBUREN, ARKANSAS.

12 Q. DID THAT PLANT HAVE THE SAME TYPE OF
13 OCCUPATIONAL EQUIPMENT TO KEEP THE LEVELS OF ASBESTOS
14 DOWN THAT YOU HAD AT YOUR OPERATION?

15 A. NOT THE IDENTICAL EQUIPMENT, BUT EQUIPMENT
16 THAT WOULD PERFORM THE SAME FUNCTION, YES.

17 Q. AND WERE THERE OTHER CUSTOMERS' PLANTS THAT
18 YOU WERE NOT ALLOWED?

19 A. THE CERTAINTIED PLANTS.

20 Q. YOU DON'T KNOW WHAT KIND OF EQUIPMENT
21 CERTAINTIED PLANT HAD TO KEEP THE ASBESTOS LEVELS DOWN?

22 A. NO.

23 Q. INTERNATIONALLY, DID YOU VISIT THE PLANTS OF
24 CUSTOMERS WHERE ASBESTOS WAS USED?

25 A. I VISITED GENERALLY WHEN YOU WENT OVERSEAS.
26 YOU WERE NOT ALLOWED TO GO INTO THE PRODUCTION AREAS.
27 YOU WERE ALLOWED TO ENTER THE OFFICES AND DISCUSS
28 WHATEVER BUSINESS YOU HAD IN MIND. SO I WAS THE

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1 SALESMAN AND THAT'S WHAT WE DISCUSSED. EXCUSE ME, I'M
2 TRYING TO THINK OF THE DIFFERENT COUNTRIES. I DON'T
3 THINK I WAS ALLOWED IN ANY OF THE MANUFACTURING
4 FACILITIES.

5 Q. SO YOU DID NOT KNOW WHAT TYPE OF EQUIPMENT WAS
6 IN PLACE THOSE FOREIGN COMPANIES HAD TO KEEP THE LEVELS
7 OF ASBESTOS DOWN?

8 A. NO, I WAS NOT AWARE.

9 Q. YOU DIDN'T KNOW WHAT TYPES OF RESPIRATORS, IF
10 ANY, WERE BEING USED IN THOSE PLANTS?

11 A. I WAS NOT ALLOWED IN THE PLANTS.

12 Q. OR WHAT TYPES OF ASBESTOS-COLLECTION SYSTEMS
13 WERE IN PLACE IN THOSE PLANTS?

14 A. NO, I HAD NO KNOWLEDGE OF THAT.

15 Q. NOW, MR. COATS, THE REASON THAT YOU BOUGHT THE
16 CALAVERAS MINE, WHICH WAS THEN NOT CALLED THE CALAVERAS
17 MINE, BUT HAD PREVIOUSLY BEEN THE PACIFIC ASBESTOS MINE,
18 WAS THAT YOU THOUGHT THAT YOU COULD OPERATE THE MINE
19 PROFITABLY; AM I CORRECT?

20 A. THAT'S CORRECT.

21 Q. AND YOU CONTINUED TO RUN THE MINE BECAUSE YOU
22 FELT AS THOUGH YOU COULD CONTINUE TO OPERATE IT
23 PROFITABLY?

24 A. THAT'S CORRECT.

25 Q. AND YOU STOPPED THE PRODUCTION OF ASBESTOS
26 FROM THE MINE IN 1987?

27 A. DECEMBER 1987.

28 Q. AND THE REASON YOU STOPPED WAS BECAUSE YOU

1 BASICALLY RAN OUT OF ASBESTOS ORE, OR CAME VERY CLOSE TO
2 RUNNING OUT OF ASBESTOS ORE?

3 A. THE SHORT ANSWER IS YES, THAT'S IT. BUT IF
4 YOU WISH, I WOULD BE GLAD TO EXPLAIN.

5 Q. FINE. GO AHEAD.

6 A. WHEN YOU MINE, IF YOU REMEMBER YESTERDAY WE
7 DREW A PICTURE OF THE INTERIOR OF THE PIT WITH THE
8 BENCHES. NOW, THERE WAS THROUGH GEOLOGICAL STUDY MORE
9 ORE, THAT'S ROCK AND SERPENTINE ROCK CONTAINING ASBESTOS
10 FIBER, DOWN AT THE BOTTOM AND OUT UNDERNEATH THESE
11 BENCHES. TO GET TO IT WE WOULD HAVE HAD TO START AT THE
12 TOP AGAIN, GO BACK MAYBE 300 YARDS AND START ALL OVER
13 AGAIN. AND WE WOULD HAVE HAD TO GO DOWN MAYBE 500 FEET
14 BEFORE WE EVER HAD HIT ANY ASBESTOS ORE AGAIN. THE
15 COST, AS I RECALL, WOULD HAVE BEEN IN EXCESS OF FIVE
16 MILLION DOLLARS, AND MANAGEMENT DECIDED, THEY MADE THE
17 RECOMMENDATION TO OUR BOARD THAT WE CEASE OPERATIONS IN
18 DECEMBER OF 1987.

19 Q. THAT TYPE OF COST WOULD PRODUCE A SITUATION
20 WHERE YOU COULD NO LONGER PROFITABLY OPERATE THE MINE?

21 A. THAT'S CORRECT.

22 Q. AND THEN AT THAT POINT THE MINE WAS TURNED
23 INTO A LANDFILL?

24 A. AFTER WE CEASED OPERATION, I APPLIED TO THE
25 VARIOUS AGENCIES TO GET A PERMIT TO ESTABLISH THE FIRST
26 ASBESTOS-CONTAINING WASTE ONLY LANDFILL IN THE UNITED
27 STATES THAT WOULD BE CALLED A MONO-FILL, MEANING WE
28 COULD NOT ACCEPT ANY OTHER FORM OF WASTE. IT HAD TO

1 CONTAIN SOME ASBESTOS AND WE COULD CONTROL IT RIGHT
2 THERE.

3 Q. THEN AT THAT POINT THE SITE WAS USED, IN
4 EFFECT, TO RETURN ASBESTOS TO THE EARTH?

5 A. WHICH MAYBE WILL BE DUG OUT AGAIN IN 100
6 YEARS.

7 Q. OKAY.

8 MR. HAROWITZ: YOUR HONOR, MAY I APPROACH?

9 THE COURT: YOU MAY.

10 MR. HAROWITZ:

11 Q. MR. COATS, I'M GOING TO SHOW YOU WHAT I HAD
12 ASKED THE CLERK TO MARK AS EXHIBIT 73, AND I'M ALSO
13 GOING TO RETURN TO YOU --

14 THE COURT: DO WE NOT HAVE A 72?

15 MR. HAROWITZ: WE DO, I HAVEN'T USED IT YET.

16 MAY I APPROACH THE CLERK FOR A MOMENT?

17 THE COURT: YES, YOU MAY.

18 MR. HAROWITZ: MAY I APPROACH THE WITNESS?

19 THE COURT: YOU MAY.

20 MR. HAROWITZ:

21 Q. SIR, I'M GOING TO RETURN TO YOU 62-B WHICH ARE
22 THOSE NOTES THAT WE TALKED ABOUT YESTERDAY THAT I HAD
23 SUGGESTED MIGHT BE FROM A SPEECH.

24 A. OH, YES. YES.

25 Q. AND I'M ALSO GOING TO SHOW YOU 73 WHICH ARE
26 SOME TYPEWRITTEN NOTES, AND I WANT YOU TO LOOK AT THOSE
27 AND SEE IF THAT REFRESHES YOUR MEMORY AS HAVING EVER
28 GIVEN THAT SPEECH AT THE UNIVERSITY OF NEVADA, RENO.

1 A. THIS LOOKS LIKE IT'S TAKEN FROM THIS; IS THAT
2 CORRECT?

3 Q. WELL, I DON'T KNOW. AND THAT'S WHAT I WAS
4 ASKING YOU. WHEN YOU SAY THIS, YOU'RE REFERRING TO
5 WHICH IS NUMBER...

6 A. 73 APPEARS TO BE A SHORTENED FORM AND
7 TYPEWRITTEN OF SOME OF THE NOTES THAT I HAD IN THIS
8 LONGHAND DOCUMENT.

9 Q. OKAY. ARE THOSE YOUR HANDWRITTEN NOTES ON THE
10 73 DOCUMENT?

11 A. YES, THESE ARE MY NOTES.

12 Q. DO YOU SEE THERE WHERE YOU SAID UNDER --

13 MR. WAH: WAIT A MINUTE. I'M GOING TO OBJECT,
14 IT'S AN INCOMPLETE DOCUMENT. IT'S ONLY ONE PAGE.

15 THE COURT: FIRST OF ALL, THERE ISN'T A FULL
16 QUESTION PENDING SO LET MR. HAROWITZ ASK WHATEVER
17 QUESTION HE INTENDS TO ASK. AND THEN, MR. COATS, PLEASE
18 PAUSE BEFORE YOU START YOUR ANSWER SO I CAN SEE WHETHER
19 THERE'S AN OBJECTION AND HAVE AN OPPORTUNITY TO RULE ON
20 IT.

21 MR. HAROWITZ:

22 Q. ON THIS TYPEWRITTEN SHEET, DO YOU SEE WHERE
23 IT'S INDICATED, FOREIGNERS, QUOTE, LAUGHING, CLOSE QUOTE
24 AT US. IT'S F?

25 A. YES, UP ABOVE.

26 Q. WHAT DID YOU MEAN BY THAT, SIR?

27 MR. WAH: ALL RIGHT. MAY WE APPROACH, YOUR
28 HONOR?

1 THE COURT: YOU MAY.

2 (COUNSEL APPROACH THE BENCH.)

3 THE COURT: ALL RIGHT. OVERRULED.

4 MR. HAROWITZ:

5 Q. MR. COATS, WHAT DID YOU MEAN BY FOREIGNERS,
6 QUOTE, LAUGHING AT US, CLOSE QUOTES?

7 A MR. HAROWITZ, D, E, F, AND G, AND I DON'T KNOW
8 WHAT A, B, AND C IS. WHAT WOULD BE THE GENERAL TITLE OF
9 THAT? DO YOU HAVE THAT, PLEASE?

10 Q. I DON'T, MR. COATS, BECAUSE THAT IS WHAT WAS
11 GIVEN TO ME BY YOUR COUNSEL. I DON'T HAVE THE FIRST
12 PAGE. I WISH I DID.

13 A. BECAUSE WE ARE TALKING -- IT'S SO CONFUSING.
14 WE ARE TALKING ABOUT STEEL AND HOUSES, AUTOMOBILES, AND
15 FOREIGNERS.

16 Q. IF YOU DON'T KNOW, SIR..,

17 A. YES, I DON'T KNOW WHAT I WAS REFERRING TO
18 THERE.

19 Q. WOULD YOU READ THE HANDWRITTEN NOTE NEXT TO
20 WHERE IT SAYS, FOREIGNERS, QUOTE, LAUGHING, CLOSE QUOTE,
21 LAUGHING AT US. THAT'S IN YOUR HANDWRITING?

22 A. I THINK BUS, BUSINESS HAS 4,400 DIFFERENT
23 FORMS PER YEAR WHICH REQUIRE 143 MAN HOURS -- OH,
24 143,000 MAN HOURS TO COMPLETE WHICH COST A 25 BILLION
25 DOLLAR EXPENSE. GENERAL MOTORS SPENDS ONE BILLION
26 DOLLARS PER YEAR, WHICH IS EQUIVALENT TO ONE-THIRD OF
27 THEIR NET PROFITS. 41 REGULATORY AGENCIES COST, COST
28 INCREASE 100 PERCENT IN FIVE YEARS.

1 Q. OKAY. DOES THAT REFRESH YOUR MEMORY AS TO
2 WHAT YOU MEANT FOREIGNERS, QUOTE, LAUGHING AT US, CLOSE
3 QUOTE?

4 A. WELL, I'M NOT SO SURE THAT THOSE HANDWRITTEN
5 NOTES ARE IN -- NECESSARILY IN RELATION TO FOREIGNERS
6 LAUGHING. IF WE ASSUME THAT LAUGHING MEANT THE
7 FOREIGNERS WHERE WHEN -- IF I CAN ASSUME THIS, BUT I
8 WOULD SAY THAT BECAUSE WE FILED SO MANY MORE FORMS THAN

1 CAN STATE THAT. AND WE'LL PROCEED FROM THERE.

2 THE WITNESS: I THINK I WOULD AGREE IT SAYS

3 PEOPLE ON A -- THEN I CAN'T READ THE LAST WORD, THEN I

4 CAN'T READ THE LAST TWO WORDS ON MY COPY.

5 MR. HAROWITZ: MAY I APPROACH, YOUR HONOR?

1 THESE SAME PEOPLE WHO THEY PROFESS TO BE PROTECTING.

2 WOULD DR. IRVING SELIKOFF BE ONE OF THOSE

1 MR. HAROWITZ:

2 Q. ON THE LAST PAGE OF EXHIBIT NUMBER 62-B, AGAIN

3 THIS IS IN YOUR HANDWRITING; IS IT NOT?

4 A. THIS IS IN MY HANDWRITING.

5 Q. WOULD YOU READ THAT LINE THERE THAT STARTS