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How many deaths constitute a substantial number of people?

Ans: Substantial = number of deaths that courts will make you pay for after the the "free" deaths.

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METALS DIVISION

To (Name)	Mr. W. C. Thurber	Date	September 30, 1982
Division	Metals - Section J1398		
Location	Danbury, CT	Originating Dept.	E/R - Occupational Health
Area			
		Area	
Copy to	S. L. Baye R.F.X. Fusaro M. T. Manupella J. L. Myers M. A. Smith R. F. Wolff	Subject	Calidria Asbestos Potential Liability - Chemicals and Plastics Operations/Bound Brook, New Jersey (2.2.23)

K-1

Mr. Wolff has asked me to review the subject noted above and to summarize the situation re Calidria Asbestos involvement. Basically, the Chemicals and Plastics Division manufactured asbestos containing phenolic resins at Bound Brook from the 1940's through the early 1970's. These molding compounds are in themselves quite dusty, so during the early part of this period this was a quite dusty operation by present standards. (At least one serious dust explosion.) The contribution of the asbestos to the general dustiness has not been well defined.

During the time period in question, Union Carbide's Calidria Asbestos Department supplied the quantities of asbestos to Bound Brook shown in Table 1. (Source - King City sales records.) It is evident from the table that Calidria was a small supplier, i.e., only about 265 tons (530,000 lbs) in 1965 and about 40 tons (probably experimental) in 1973 out of a very much larger total asbestos usage. The exact total is now being reconstructed by the Bound Brook location and is not yet available.

Many of the familiar names in the asbestos litigation are now involved in the Bound Brook action. They include Tony Mazzochi, Steve Wodka, and Dr. Irving Selikoff. The plaintiffs' law firm is Frederick M. Baron and Associates of Washington, D.C., represented by local counsel in New Jersey. They give the impression that they think they have a "live" one.

At the present time, about 100 of the employees have been examined by a team from Massachusetts General Hospital. Opportunity for examination has been offered to all employees, salaried and union. Results for 50 of these examinations are back with 25 alleging some sort of lung changes relating to their occupational exposure. If this pattern is typical, at least 50 cases can be expected. Four workmen's compensation cases have so far been filed with three for asbestosis and one for mesothelioma. The latter employee worked one year for J/M in Manville and about 14 years for UCC.

The toxicological picture was outlined orally in general terms to Mr. Stephenson at an Asbestos Review Meeting in early 1974 and he found it acceptable. He also made it clear that Union Carbide Corporation should not be in a business that caused undue risks to people. It was also stressed that if any new medical information became available that would change the picture, we should review our position promptly.

I know of no new medical evidence to change this basic view. The Borel Case, however, seems to have altered the concurrent legal situations. The recommendations in the Chamberlain memorandum place the people in the asbestos business in the ambivalent position of being charged with the responsibility of maximizing the use of asbestos (in applications where it can be used in compliance with OSHA regulations) and simultaneously being obligated to inform the potential customer that he should really use something else because asbestos "can cause cancer."

VC

Actually this problem is not unique to asbestos even within Union Carbide. Vinyl chloride is in a very similar situation and styrene, vinyl toluene, and phenol appear to be close behind. In fact, it is my understanding that almost any organic chemical based on the aromatic ring can be considered as a suspected cancer-causing agent. It is suggested that we need to look to broad corporate policy in the area of marketing of potentially hazardous materials for guidance in our particular problem.

In this connection it is relevant to mention that the Union Carbide Corporation vinyl latex marketing group has met their problem by reducing the VC monomer content in the latex to a level where there is little chance for the user's exposure to exceed the OSHA action level. They are not labeling. A competitor also lowered the monomer content to a comparable level but a corporate decision was made that they would also label to be on the safe side. The net result of this was a large "label removing ceremony" with pictures and union representatives participating at the customer's (PPG) plant.

Returning to the immediate question of the assessment of the various risks, Union Carbide does not appear to have "in-house" the specialized medical expertise on asbestos to judge the merits of the minority position on asbestos hazards as expounded by the Mt. Sinai group. It is to be expected, however, that all of the latest research results will be argued in great detail in the next few months during the hearings on the proposed amendments to the OSHA asbestos regulations. It is strongly recommended that we do not take any unilateral action until we have the benefit of this information and the decision of the U.S. Government on what they consider to be a safe level. If appropriate, an outside consultant such as Dr. Wright or Dr. Weill might be used at that time for a final review of our position.

We have been in the asbestos business about ten years, are complying with the OSHA regulations and urging our users to do so, and are looking at the possibility of medical problems which take 15-30 years to develop. A period of 3-6 months to study the very complex medical, legal and ethical problems in sufficient depth to reach a proper decision does not seem unreasonable. It is also possible that the labeling question will be taken out of our hands in this time period and be covered by government mandate for the entire asbestos industry. This may occur in the revised OSHA regulations or as a result of two current government studies on the labeling of hazardous materials.

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To conclude these general comments, I would like to express two personal opinions which I am sure represent the attitude of the Asbestos Group at Niagara Falls:

1. If there is really an appreciable chance that the use of our product will result in serious injury to a substantial number of people we should not be supplying it for that end use.

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2. If it should turn out that exposure to low levels of asbestos does cause serious injury to a substantial number of people, the courts will find a way to assign liability to the producer regardless of the type of warning labels and information dissemination that they may have used.

The first and most basic thing we need is our best assessment of the medical risk and our best judgment on the reliability of the assessment. When this is available, the legal and business problems can be examined in perspective and an objective decision made on the proper course of action.

The foregoing ideas have been used to prepare the attached commentary on Miss Chamberlain's letter. The comments are not intended to imply an adversary position with our Law Department at a time when communication and cooperation are urgently needed. It is my impression, however, that she was working without benefit of much information on the asbestos health controversy or on the nature of our business. One item not covered is our potential obligation to provide warning labels in the language of the countries to which we ship.

We must be sure that the conclusions drawn accurately represent our situation, so I suggest that we have a meeting with the Law Department soon after the new OSHA regulations are published.

H. B. Rhodes

Attachment
/ds

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