FILE NAME: Avondale (AVD)

DATE: мфту Wdzy Ŝ c

DOC#: AVD1но

DOCUMENT DESCRIPTIObY 5NlꞏŦűƶŦ ! Ř I ƶŎ a ŜŜűʌyƎ ƶy ! ăōŜăűƶă

PLEASE RETURN COMMENTS TO KESTERMAN BY DECEMBER 4th.

SHIPBUILDERS COUNCIL OF AMERICA

Ad Hoc Committee on Asbestos
Draft Report to the Board of Directors

The Ad Hoc Committee on Asbestos has reviewed the facts associated with the asbestos claim potential and has reached certain conclusions as follows:

1. The number of workers compensation claims and third party litigation actions is increasing exponentially as can be seen from the results of the SCA asbestos questionnaire attached. The potential liability for workers compensation alone is in the $billions. For example it has been estimated that for claims where the last exposure occurred before the 1972 amendments to the Longshoremen's and Harbor Workers' Act, the claim value will probably be under $100,000 per claim. However, where exposure last occurred after the 1972 amendments, the value of a claim will probably be in the range of $250,000-$750,000 including escalation and litigation costs. Even the most conservative assumptions made about claim experience in the future will produce a figure which could be potentially ruinous for the industry. This is particularly true since Federal Government advisory initiatives are likely to result in claims being filed by or on behalf of a substantial portion of all respiratory disease and cancer victims who ever worked in a shipyard. Given the liberal presumptions under the LHWCA successful defense of unwarrented claims is exceedingly difficult.

2. It is clear that the shipbuilding/ship repair industry could not have known of the alleged correlation between asbestos exposure and cancer until the 1960's or later. In fact, the U.S. Government required asbestos to be used, provided specifications and maintained responsibility for public health standards. Therefore, the Government is the ultimate "responsible party", even more responsible than asbestos manufacturers. The Committee believes that the case for Government responsibility should be documented for possible use in litigation, and to convince the Government that it should support some type of indemnification of shipyards or victims. There is added merit in this concept to provide legal recourse for former employees of the many shipyards that have gone out of business. After proper preparation, it is recommended that meetings be held with the Department of Defense, Department of Labor and the Maritime Administration to gain their support for this approach.

PLAINTIFF'S EXHIBIT
SBCA 5013
exhibitsticker.com

3. The indemnification sought could be in the form of "white lung" legislation or a National Toxic Substances Indemnification bill. The Committee recommends that, the Council pursue Toxic Substances Indemnification legislation because of the likelihood of additional substances being related to occupational diseases and growing to epidemic proportions. In addition to asbestos, shipyards must be prepared to deal with welding fumes, lead fumes, silica dust and a host of other toxic or carcinogenic substances. The mechanics of such a legislative remedy have not been thought out. The proposed legislation would have to have sufficient safeguards on presumption of casual relationship, mal-administration, and offsets to workers compensation and social security programs. The source of funds would be the U.S. Treasury and most likely a general tax on industry.

SENT TO: Asbestos Comm.

DATE: 11-6-78

EMH: ✓

FRK: ✓

NDP: ✓

WGK: ✓

GW: ✓

Return to file.