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PRODUCT LIABILITY
SPEECH TO BE GIVEN BY HERBERT MORTON BALL
TO HEALTH AND SAFETY COUNCIL
ASBESTOS CEMENT PRODUCTS ASSOCIATION
FIRST ANNUAL MEETING (NOVEMBER 21, 1969)

GENTLEMEN, I AM GOING TO DEPART FROM THE CUSTOM OF CONTEMPORARY SPEAKING AND NOT BEGIN MY ADDRESS THIS MORNING WITH A JOKE OR ANECDOTE. THE SUBJECT IS TOO SERIOUS.

WE ARE GOING TO TALK THIS MORNING ABOUT THE POTENTIAL PROBLEMS OF COMMON LAW LIABILITY FACING YOUR COMPANIES AS MANUFACTURERS OF PRODUCTS THAT CONTAIN ASBESTOS FIBER AS AN INGREDIENT. AT THE OUTSET, LET IT BE CLEARLY UNDERSTOOD THAT WE ARE NOT GOING TO DISCUSS "IN HOUSE" PROBLEMS, THAT IS, THE POSSIBLE HEALTH PROBLEMS OF YOUR OWN EMPLOYEES AS A RESULT OF THEIR INHALATION OF ASBESTOS FIBERS DURING THE COURSE OF THEIR JOB PERFORMANCE IN YOUR VARIOUS MANUFACTURING OPERATIONS. THESE PROBLEMS ARE GENERALLY COVERED BY WORKMEN'S COMPENSATION INSURANCE AND, LEGALLY SPEAKING, PRESENT A DIFFERENT SUBJECT THAN THAT OF THIRD-PARTY PRODUCT LIABILITY.

TODAY WE ARE ONLY DISCUSSING YOUR POTENTIAL EXPOSURE UNDER THE COMMON LAW TO ASBESTOSIS CLAIMS BY THIRD PARTIES, THAT IS, PERSONS WHO ARE NOT YOUR EMPLOYEES. INsofar AS ASBESTOSIS IS CONCERNED THERE ARE ESSENTIALLY FOUR CLASSES OF POTENTIAL PLAINTIFFS:

1. THE FIRST CLASS WOULD ENCOMPASS PEOPLE WHO NORMALLY WORK DAY TO DAY WITH PRODUCTS MADE BY YOU THAT CONTAIN ASBESTOS AND WHO, BECAUSE OF THEIR HANDLING, SAWING, NAILING, AND SO FORTH, OF THESE PRODUCTS ARE EXPOSED TO THE ASBESTOS FIBERS THAT ARE UNAVOIDABLY LIBERATED

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INTO THE ATMOSPHERE. THIS EXPOSURE, IF PROPER SAFETY AND HOUSEKEEPING PROCEDURES ARE NOT FOLLOWED, IS A MORE OR LESS CONTINUING ONE.

2. THE SECOND CLASS OF POTENTIAL PLAINTIFFS WOULD BE COMPOSED OF THE SO-CALLED "NEIGHBORHOOD PLAINTIFFS". THESE ARE PEOPLE WHO LIVED NEAR A PLANT OR MINING OR MILLING FACILITY THAT EMITTED ASBESTOS FIBERS INTO THE ATMOSPHERE ON A MORE OR LESS CONTINUOUS BASIS FOR A LENGTHY PERIOD OF TIME. THE POSSIBILITY OF SUCH A CLASS OF PLAINTIFFS APPEARING ON THE SCENE IN THE FORESEEABLE FUTURE MUST BE RECOGNIZED.
3. THE THIRD GROUP OF POTENTIAL PLAINTIFFS ARE THOSE PEOPLE WHO MIGHT USE ASBESTOS CEMENT PRODUCTS FROM TIME TO TIME WITHOUT BEING EMPLOYED AS FULL-TIME APPLICATORS OR INSTALLERS OF SUCH PRODUCTS. AN EXAMPLE WOULD BE A FARMER WHO OCCASIONALLY PURCHASED ASBESTOS CEMENT SHINGLES DIRECTLY FROM A DEALER AND INSTALLED THEM HIMSELF UPON VARIOUS BUILDINGS ON HIS FARM. ON THE BASIS OF PRESENT MEDICAL KNOWLEDGE WE DO NOT BELIEVE THAT THERE IS ANY ASBESTOSIS RISK TO SUCH PERSONS.
4. THE LAST CATEGORY OF POTENTIAL PLAINTIFFS IS BOTH THE LARGEST AND LEAST. IT IS THE LARGEST BECAUSE IT IS THE PUBLIC GENERALLY. IT COMPRISES ALL PERSONS WHO ARE NOT EMPLOYEES INVOLVED IN THE MINING, MILLING OR FABRICATING PROCESSES AND WHO DO NOT FALL WITHIN THE FIRST THREE CATEGORIES DESCRIBED. HOWEVER, IT IS THE LEAST BECAUSE

BASED ON OUR PRESENT UNDERSTANDING OF THE DISEASE OF ASBESTOSIS AND ITS CAUSATION, WE DO NOT BELIEVE THAT THERE IS ANY ASBESTOSIS RISK TO THE PUBLIC GENERALLY. HERE, HOWEVER, I WANT TO MAKE ONE VERY IMPORTANT POINT. WE ARE TODAY SPEAKING ABOUT THE RISKS OF ASBESTOSIS. WE ARE NOT SPEAKING ABOUT OTHER DISEASES WHICH SOME MEDICAL MEN ATTRIBUTE TO ASBESTOS INHALATION SUCH AS BRONCHOGENIC CANCER OR MESOTHELIOMA.

SOME RATHER "WILD" THEORIES HAVE BEEN EXPOUNDED AS TO THE RELATIONSHIP BETWEEN ASBESTOS AND SUCH DISEASES. ONE SUCH THEORY HOLDS THAT THE INHALATION AND RETENTION IN THE BODY OF ONE SINGLE FIBER OF ASBESTOS MAY CAUSE MESOTHELIOMA THIRTY YEARS LATER.

WE DO NOT SUBSCRIBE TO THIS THEORY. OBVIOUSLY, IF SUCH A THEORY SHOULD, HOWEVER, ULTIMATELY BE SUBSTANTIATED WE WOULD BE TALKING ABOUT AN ENTIRELY DIFFERENT BALL GAME, BOTH IN LEGAL THEORY AND AS A PRACTICAL MATTER. FOR TODAY, HOWEVER, MY REMARKS WILL BE CONFINED TO THE SPECIFIC PROBLEM OF ASBESTOSIS. THEREFORE, WE WILL ONLY BE CONSIDERING PLAINTIFFS IN THE FIRST ~~OF THE~~ TWO CATEGORIES DISCUSSED.

IN ORDER THAT YOU MAY BETTER UNDERSTAND THE LAW TODAY AS IT PERTAINS TO THE ASBESTOSIS PROBLEMS OF REALISTIC CONCERN TO YOUR COMPANIES, YOU SHOULD KNOW SOMETHING ABOUT ITS DEVELOPMENT.

THIRD PARTY CLAIMS, NO MATTER IN WHICH OF THE EARLIER DESCRIBED CATEGORIES THE PLAINTIFF BELONGS, ARE FOUNDED IN WHAT IS CALLED THE "COMMON LAW". THE "COMMON LAW" IS SOMETHING OF AN AMORPHOUS

CONCEPT. ESSENTIALLY, AT ANY GIVEN TIME, IT REPRESENTS THE CUMULATION AND EVOLUTION OF JUDGE MADE LAW IN ENGLAND AND THE UNITED STATES UP TO THAT TIME. THIS IS IN CONTRAST TO STATUTORY LAW. STATUTORY LAW IS MADE UP OF THE ENACTMENTS OF LEGISLATURES AND OTHER NON-JUDICIAL GOVERNMENT BODIES. THE COMMON LAW IS BASED UPON JUDICIAL PRECEDENTS. IN THE UNITED STATES IT WAS ADOPTED FROM, AND HAS GROWN AND DEVELOPED FROM, THE ENGLISH COMMON LAW. THE SETTLERS BROUGHT IT OVER WITH THEM.

HOWEVER, BEAR IN MIND THE FUNDAMENTAL CONCEPT THAT THE COMMON LAW IS A CONSTANTLY CHANGING COMPOSITE OF CONCEPTS AND RULES BECAUSE IT IS THE RESULT OF EVER EMERGING JUDICIAL DECISIONS. AS NEW CASES ARE BROUGHT AND DETERMINED NEW LAW IS MADE AND SOMETIMES OLD LAW IS CHANGED. ON OCCASION, PRIOR DECISIONS ARE DIRECTLY OVERRULED ALTHOUGH GENERALLY THE CHANGE IS A MORE GRADUAL AND SUBTLE ONE.

TODAY THE COMMON LAW RECOGNIZES TWO PRINCIPAL CONCEPTS WHICH ARE OF FUNDAMENTAL HISTORICAL IMPORTANCE IN TERMS OF THE PROBLEM HERE UNDER CONSIDERATION. THESE ARE:

1. THE CONCEPT OF WARRANTIES (BOTH EXPRESS AND IMPLIED); AND
2. THE CONCEPT OF NEGLIGENCE.

A THIRD CONCEPT, THAT OF STRICT LIABILITY OF A MANUFACTURER, IS EMERGING.

LET US CONSIDER THE FIRST TWO. THE CONCEPT OF WARRANTIES IS AN ASPECT OF THE LAW OF CONTRACT. THE CONCEPT OF NEGLIGENCE IS AN ASPECT OF THAT BRANCH OF THE LAW KNOWN AS "TORT". UNTIL 1916 BOTH

OF THESE APPROACHES, WARRANTIES AND NEGLIGENCE, WERE GENERALLY LIMITED BY WHAT WAS KNOWN AS THE REQUIREMENT OF PRIVITY, WHICH REQUIREMENT ENCOMPASSED BOTH HORIZONTAL AND VERTICAL RELATIONSHIPS.

THE VERTICAL CONCEPT WAS THAT A PURCHASER COULD ONLY SUE THE PARTY WITH RESPECT TO WHICH THE PURCHASER STOOD IN RELATIONSHIP OF IMMEDIATE PRIVITY. IN OTHER WORDS, THE PURCHASER COULD ONLY SUE THE PARTY FROM WHOM HE DIRECTLY BOUGHT. THE HORIZONTAL CONCEPT WAS THAT ONLY THE PURCHASER AND NOT OTHERS, SUCH AS MEMBERS OF THE PURCHASER'S FAMILY, OTHER CONTEMPLATED USERS OR UNFORESEEN BYSTANDERS, COULD SUE.

IN 1916 THE COURT OF APPEALS OF THE STATE OF NEW YORK ELIMINATED THE PRIVITY CONCEPT INSOFAR AS THE LAW OF NEW YORK WAS CONCERNED WITH RESPECT TO THE VERTICAL RELATIONSHIP IN THE LANDMARK CASE OF MACPHERSON vs. BUICK. THE COURT THERE RULED THAT A PURCHASER OF AN AUTOMOBILE COULD SUE THE MANUFACTURER THEREOF IN TORT FOR NEGLIGENCE IN ITS MANUFACTURE EVEN THOUGH THE PURCHASER WAS NOT IN PRIVITY WITH THE MANUFACTURER BECAUSE HE BOUGHT THE AUTOMOBILE FROM A DEALER. THIS WAS ONLY THE BEGINNING. SUBSEQUENT DECISIONS THROUGHOUT THE UNITED STATES HAVE GENERALLY ELIMINATED THE HORIZONTAL PRIVITY REQUIREMENTS SO THAT ANYONE, EVEN A BYSTANDER, NOT A CONTEMPLATED USER OF THE PRODUCT, CAN NOW SUE THE MANUFACTURER FOR INJURIES SUSTAINED AS A RESULT OF THE MANUFACTURER'S NEGLIGENCE IN THE PRODUCTION OF THE PRODUCT.

IT IS IMPORTANT TO NOTE THAT THE CONCEPT OF PRODUCTION HERE INCLUDES THE PACKAGING AND THE FAILURE TO WARN OF HAZARDS WHICH

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WERE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN TO THE MANUFACTURER.

THE LAW THROUGHOUT THE UNITED STATES TODAY IS ON THE VERGE, OR MAY BE ON THE VERGE, OF GOING EVEN FURTHER. IT IS APPROACHING THE IDEA OF IMPOSING STRICT MANUFACTURER'S LIABILITY WITHOUT REGARD TO NEGLIGENCE FOR THE BENEFIT OF ALL PARTIES WHO COULD REASONABLY BE CONTEMPLATED BY THE MANUFACTURER AS POTENTIAL END USERS OF ITS PRODUCTS. THERE IS EVEN SOME ADVOCATION OF EXTENDING THIS APPROACH TO COVER UNFORESEEN VICTIMS - PERSONS NOT CONTEMPLATED BY THE MANUFACTURER. THIS IDEA OF STRICT LIABILITY IS THE THIRD CONCEPT THAT I MENTIONED EARLIER.

LET ME EXPLAIN BRIEFLY HOW THE CONTRACT THEORY OF LIABILITY WORKS. EVERY STATE IN THE UNITED STATES OTHER THAN LOUISIANA HAS ADOPTED THE UNIFORM COMMERCIAL CODE. AS ITS TITLE INDICATES, THIS STATUTORY ENACTMENT GOVERNS COMMERCIAL TRANSACTIONS. AMONG OTHER THINGS, IT PROVIDES THAT WHENEVER A "MERCHANT", WHICH WOULD INCLUDE MANUFACTURERS SUCH AS YOURSELVES, SELLS ITS PRODUCTS THE LAW WILL IMPLY THAT SUCH A MERCHANT HAS MADE CERTAIN WARRANTIES. THIS IS SO IN THE ABSENCE OF ^{CAPAR} EXPRESS ~~CON~~ NEGATION.

ONE SUCH WARRANTY THAT THE LAW READS INTO THE AGREEMENT OF SALE IS THE WARRANTY OF MERCHANTABILITY. MERCHANTABILITY IN THIS CONTEXT MEANS ~~AMONG OTHER THINGS~~ NON-DEFECTIVENESS OF THE PRODUCT. IN OTHER WORDS, THE LAW SAYS THAT WHEN YOU SELL YOUR PRODUCTS YOU ARE DEEMED AS A MATTER OF CONTRACT LAW TO WARRANT THAT THEY ARE NOT DEFECTIVE. NON-DEFECTIVE MEANS SAFE AND UNHARMFUL; AMONG OTHER THINGS.

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YOU WILL REMEMBER THAT I MENTIONED THE CONCEPT OF PRIVITY WITH RESPECT TO THE LAW OF NEGLIGENCE AND INDICATED THAT IT HAS VIRTUALLY DISAPPEARED. A SIMILAR TREND IS EVIDENCING ITSELF WITH RESPECT TO THE CONCEPT OF PRIVITY IN THE REALM OF CONTRACT LAW. THIS IS SIGNIFICANT IN TERMS OF THE QUESTION: TO WHOM IS THE IMPLIED WARRANTY OF MERCHANTABILITY DEEMED GIVEN? DOES THE LAW IMPOSE RESPONSIBILITY FOR CONFORMING WITH THAT WARRANTY ON THE MANUFACTURER ONLY FOR THE BENEFIT OF HIS IMMEDIATE PURCHASER OR DOES THE LAW EXTEND SUCH RESPONSIBILITY TO PROTECT OTHER PERSONS, PERSONS WHO ARE NOT IN PRIVITY OF CONTRACT WITH THE MANUFACTURER, SUCH AS THE EMPLOYEES OF THE PURCHASER OR OF THAT PURCHASER'S CUSTOMER, WHO IN FACT WORK WITH AND INSTALL THE PRODUCTS[?]. IN SHORT, PERSONS WHO FALL WITHIN THE FIRST CATEGORY THAT I MENTIONED EARLIER.

IT WOULD APPEAR THAT JUST AS THE REQUIREMENT OF VERTICAL PRIVITY WAS ELIMINATED IN TORT IN MACPHERSON vs. BUICK THE REQUIREMENT OF VERTICAL PRIVITY OF CONTRACT IS SIMILARLY HEADED FOR OBLIVION. IT WAS ELIMINATED UNDER THE LAW OF PENNSYLVANIA IN A VERY RECENT CASE.

THE SUPREME COURT OF PENNSYLVANIA IN THAT CASE WAS, OF COURSE, SPEAKING ONLY FOR PENNSYLVANIA; BUT PENNSYLVANIA, LIKE NEW YORK, IS A LEADING STATE IN THE DEVELOPMENT OF COMMERCIAL LAW AND THE COURTS OF LESS INDUSTRIALIZED STATES GENERALLY FOLLOW THE LEAD OF THEIR MORE ADVANCED SISTER STATES.

THUS, THE COURTS CAN ACHIEVE THE SAME RESULT AS THEY DO UNDER THE THEORY OF STRICT LIABILITY OF THE MANUFACTURER BY COUPLING A

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BROAD VIEW OF THE IMPLIED WARRANTY OF MERCHANTABILITY WITH THE DOCTRINE THAT THE PROTECTION OF THE WARRANTY EXTENDS TO PERSONS NOT IN PRIVITY OF CONTRACT WITH THE MANUFACTURER. PLEASE UNDERSTAND THAT THE WARRANTY OF MERCHANTABILITY CAN BE BREACHED WITHOUT ANY NEGLIGENCE ON THE PART OF THE MANUFACTURER.

I WOULD NOW LIKE TO TELL YOU ABOUT A CONCRETE CASE WHICH ILLUSTRATES THE USE OF THESE CONCEPTS BY A PLAINTIFF'S ATTORNEY.

YOU WILL REMEMBER THE FOUR CATEGORIES OF POSSIBLE PLAINTIFFS THAT I MENTIONED EARLIER. THE FIRST OF THESE WAS THE CONTINUOUS "WORKING DAY TO WORKING DAY" USER OF THE PRODUCT. LET US SWITCH OUR ATTENTION FOR A MOMENT FROM ASBESTOS CEMENT PRODUCTS TO ANOTHER PRODUCT LINE WHICH CONTAINS ASBESTOS FIBER WHICH CAN BE LIBERATED AS A RESULT OF ITS USE OR APPLICATION, ~~SOME~~ INDUSTRIAL INSULATION.

TO OUR KNOWLEDGE, IN THE LAST COUPLE OF YEARS SIX DIFFERENT INDUSTRIAL INSULATION APPLICATORS HAVE BROUGHT THIRD PARTY COMMON LAW ACTIONS AGAINST THE MANUFACTURERS OF INDUSTRIAL INSULATION PRODUCTS. THE CASES ARE ALL VERY SIMILAR. I SHOULD LIKE TO DISCUSS WITH YOU A TYPICAL ONE.

BEFORE ANYONE HERE JUMPS OUT OF HIS SEAT, LET ME SAY THAT WE FULLY RECOGNIZE THAT THE RISK TO "WORKING DAY TO WORKING DAY" USERS OF ASBESTOS CEMENT PRODUCTS MAY NOT AT ALL APPROACH THE RISK THAT WE HAVE NOW COME TO UNDERSTAND EXISTS WITH RESPECT TO INSULATION APPLICATORS. THE QUESTION IS ONE OF DEGREE. WE DO NOT YET KNOW EXACTLY WHAT THE MEDICAL AND SCIENTIFIC FACTS ARE IN THIS AREA. WE DO NOT BELIEVE THAT ANYBODY ELSE YET REALLY KNOWS. I AM

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MERELY DISCUSSING THIS CASE AS AN ILLUSTRATION BECAUSE THE LEGAL PRINCIPALS^{LE} WILL BE THE SAME.

MR. POTTER, AN INDUSTRIAL INSULATION APPLICATOR, HAS SUED TEN INDUSTRIAL INSULATION MANUFACTURERS FOR \$500,000 GENERAL AND SPECIAL DAMAGES PLUS \$500,000 EXEMPLARY DAMAGES. MR. POTTER WAS AN INSULATION WORKER FROM 1940 TO 1967. HIS COMPLAINT ALLEGES THAT:

1. DEFENDANTS KNEW OR IN THE EXERCISE OF ORDINARY OR REASONABLE CARE OUGHT TO HAVE KNOWN THAT THE PRODUCTS THAT THEY MANUFACTURED WERE DANGEROUS TO HIS HEALTH. 77
CLAIMS THAT NOTWITHSTANDING THIS, DEFENDANTS NEGLIGENTLY FAILED TO TAKE ANY REASONABLE PRECAUTIONS OR EXERCISE REASONABLE CARE TO WARN PLAINTIFF OF THE DANGER AND HARM TO WHICH HE WAS EXPOSED WHILE HANDLING THE DEFENDANTS' PRODUCTS.
2. DEFENDANTS FAILED TO WARN PLAINTIFF, AND I AM NOW QUOTING, "AS TO WHAT WOULD BE REASONABLY SAFE AND SUFFICIENT WEARING APPAREL AND PROPER PROTECTIVE EQUIPMENT AND APPLIANCES, IF IN TRUTH THERE WERE ANY, TO PROTECT HIM FROM BEING POISONED AND DISABLED."
3. DEFENDANTS FAILED TO PLACE ANY WARNINGS ON THE CONTAINERS OF THE INSULATION; AND
4. DEFENDANTS KNEW OR SHOULD HAVE KNOWN THAT PLAINTIFF WOULD NOT KNOW THE DANGEROUS CHARACTERISTICS OF THEIR PRODUCTS.

ALL OF THESE ALLEGATIONS SOUND IN NEGLIGENCE. THEN PLAINTIFF GOES ON AND CLAIMS IN CONTRACT THAT DEFENDANTS BREACHED THEIR WARRANTIES TO HIM. PLAINTIFF ALLEGES THAT:

1. DEFENDANTS KNEW OR SHOULD HAVE KNOWN THAT THEIR PRODUCTS WERE NOT SUITABLE FOR THE PURPOSE FOR WHICH THEY WERE INTENDED;
2. THAT THE DEFENDANTS SHOULD HAVE TESTED THEIR PRODUCTS;
AND
3. THAT THE PRODUCTS WERE WARRANTED, EITHER EXPRESSLY OR IMPLIEDLY, TO BE MERCHANTABLE.

PLAINTIFF THEN GOES ON TO ALLEGE YET ANOTHER THEORY OF RECOVERY, THAT OF RES IPSA LOQUITUR. FREELY TRANSLATED, RES IPSA LOQUITUR MEANS "THE THING SPEAKS FOR ITSELF". IT IS AN ASPECT OF AN ALLEGATION OF NEGLIGENCE WHEREBY THE PLAINTIFF ALLEGES HIS HARM OR DAMAGES AND THEN STATES THAT SINCE THE MANUFACTURE, SALE AND DISTRIBUTION OF THE PRODUCTS WAS EXCLUSIVELY UNDER THE CONTROL OF THE DEFENDANTS, THE PLAINTIFF NEED ONLY SHOW THAT HE HAS BEEN INJURED AS A RESULT OF HIS USE OF THE PRODUCTS AND IT IS UP TO DEFENDANTS TO EXPLAIN AWAY THEIR RESPONSIBILITY. IN SHORT, THIS CONCEPT SHIFTS THE BURDEN OF PROOF FROM PLAINTIFF TO DEFENDANTS.

IN ASKING FOR \$500,000 EXEMPLARY DAMAGES THE PLAINTIFF CLAIMS THAT THE DEFENDANTS WERE CONSCIOUSLY INDIFFERENT AND HAD UTTER DISREGARD FOR HIS WELFARE AND THEREFORE THEY SHOULD IN EFFECT BE PUNISHED BY THE AWARDING OF SUCH EXEMPLARY DAMAGES.

THIS IS THE TYPE OF COMPLAINT THAT YOU CAN EXPECT IF IT TURNS OUT THAT PEOPLE WHO NORMALLY WORK WITH ASBESTOS CEMENT PRODUCTS CAN CONTRACT ASBESTOSIS AS A RESULT OF WORKING WITH SUCH PRODUCTS.

WHAT, SPECIFICALLY, CAN YOU DO TO MINIMIZE THESE RISKS?

TO BEGIN WITH, A WARNING SHOULD BE PLACED UPON THE PACKAGING OF ALL PRODUCTS THAT ARE PRESENTLY SUSPECT. THE WARNING SHOULD STATE THAT THERE MAY BE A HEALTH HAZARD AND THAT PROPER PRECAUTIONARY PROCEDURES SUCH AS THE WEARING OF RESPIRATORS SHOULD BE FOLLOWED. THE WARNING SHOULD BE LIMITED TO THE DANGERS INHERENT IN THE DAY TO DAY HANDLING, INSTALLING AND APPLYING OF THE PRODUCTS. THEY SHOULD NEGATE ANY IMPLICATION THAT THE PRODUCTS IN THEMSELVES ONCE INSTALLED ARE DANGEROUS IN THIS REGARD.

CAREFULLY WORDED PAMPHLETS SHOULD BE PREPARED WHICH DESCRIBE THE SAFEST OPERATING AND HOUSEKEEPING PROCEDURES KNOWN. THESE PAMPHLETS SHOULD BE GIVEN TO CONTRACTORS (I.E. EMPLOYERS) AND TO THE UNIONS FOR DISTRIBUTION TO WORKERS. ADMITTEDLY THIS CAN CREATE CERTAIN PRACTICAL PROBLEMS, BUT IT IS OUR OPINION THAT THE LONG TERM PROTECTION TO BE REALIZED IS WORTH THE SHORT TERM COST.

THE ABOVE TWO SUGGESTIONS RELATE TO PEOPLE IN THE FIRST CATEGORY OF POTENTIAL PLAINTIFFS. WITH RESPECT TO THE SECONDARY POTENTIAL CATEGORY, "NEIGHBORHOOD" PLAINTIFFS, THE IMPORTANT THING IS TO DEVISE CONTROL METHODS THAT WILL STOP YOUR FACILITIES FROM EMITTING ASBESTOS DUST AND FIBERS INTO THE ATMOSPHERE, *IF IN FACT THEY DO SO.*

SIMULTANEOUSLY, ADEQUATE MONIES SHOULD BE ADVANCED FOR THE FUNDING OF APPROPRIATE RESEARCH TO DETERMINE:

(a) WHAT THE TRUE RISKS ARE; AND

(b) THE BEST MEANS OF ELIMINATING OR MINIMIZING THESE RISKS.

WE MUST ALL RECOGNIZE THAT IF WE ARE GOING TO REMAIN IN BUSINESS THERE IS NO EASY WAY OUT, LEGALLY OR OTHERWISE. A FULLY COORDINATED AND CONCERTED MAXIMUM EFFORT ON THE PART OF ALL IS NECESSARY.

I AND MY STAFF STAND READY TO AID THIS COUNCIL TO THE FULLEST EXTENT POSSIBLE.

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