

HARRIS

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF ALAMEDA

3 ---000---

4 LOIS HARRIS, et al.,
5 Plaintiffs,

COPY

6 vs.

No. 791615-3

7 PLANT INSULATION COMPANY,
8 et al.,

9 Defendants.
10 _____/

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12
13 DEPOSITION OF JOHN L. MYERS

14
15
16
17 Taken before DENISE M. LOMBARDO

18 CSR No. 5419

19 July 23, 1999

20
21 DEPOSITION
22 FILE COPY



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Certified Shorthand Reporters

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depost. v.

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DEPOSITION OF JOHN L. MYERS

BE IT REMEMBERED, that pursuant to Notice, and on the 23rd day of July 1999, commencing at the hour of 10:05 a.m., in the conference room of the Monterey Plaza Hotel, 400 Cannery Row, Monterey, California, before me, DENISE M. LOMBARDO, a Certified Shorthand Reporter, personally appeared JOHN L. MYERS, produced as a witness in said action, and being by me first duly sworn, was thereupon examined as a witness in said cause.

---o0o---

TERRY GROSS, Kazan, McClain, Edises, Somon & Abrams, 171 - 12th Street, Suite 300, Oakland, California 94607, appeared on behalf of the Plaintiffs.

HELENE E. SWANSON, Haight, Brown & Bonesteel, 100 Bush Street, 27th Floor, San Francisco, California 94104-3902, appeared for those defendant members of the Center for Claims Resolution who have been named, served, and remain in this action.

1 MATTHEW A. FISCHER, Sedgwick, Detert, Moran &
2 Arnold, One Embarcadero, Suite 1600, San Francisco,
3 California 94111, appeared on behalf of the Defendant
4 Soco-Lynch Corporation.

5
6 BRIAN F. DRAZICH, Acker, Kowalick & Whipple,
7 World Trade Center, 350 South Figueroa Street, Suite
8 900, Los Angeles, California 90071, appeared on behalf
9 of the Defendant Harcros Chemicals.

1 JOHN L. MYERS

2 sworn as a witness,

3 testified as follows:

4 EXAMINATION BY MS. GROSS

5 MS. GROSS: Q. Good morning, Mr. Myers.

6 A. Good morning.

7 Q. My name is Terry Gross, and I represent
8 Lois Harris and the Harris family in these
9 proceedings.

10 There's some preliminary business that we need
11 to take care of, but could you state your full name
12 and spell it for the court reporter.

13 A. Yes. John L. Myers, M-Y-E-R-S.

14 Q. Have you had an opportunity to look at the
15 deposition notice?

16 A. Yes. Yes, I have.

17 MS. GROSS: Actually, at this time I'll say that
18 I have entered into -- or I'd like to enter into the
19 record as Exhibit No. 1 the deposition notice and as
20 Exhibit No. 2, Bates stamped documents 001 through
21 0036.

22 (Documents marked Plaintiffs'
23 Exhibit Nos. 1 and 2 for
24 Identification.)

25 MS. GROSS: Q. Is it your understanding that

1 you're being produced this morning as both the person
2 most knowledgeable and custodian of records as to the
3 categories listed in the deposition notice?

4 A. I don't know that I'm custodian of
5 records, no.

6 Q. So it's your understanding that you're
7 being produced as person most knowledgeable?

8 A. Yes.

9 Q. Your counsel did hand me some documents
10 prior to beginning these proceedings. Have you seen
11 these documents?

12 A. Yes.

13 Maybe I don't understand the definition of
14 "custodian of records," but I did get these records
15 out of files at the King City plant.

16 Q. Do you have the deposition notice in front
17 of you?

18 A. Yes.

19 Q. Are you being produced, then, as the
20 person most knowledgeable as to all the categories in
21 the deposition notice, or are there some that you're
22 not aware of?

23 MS. SWANSON: You're talking about the person
24 most knowledgeable for the categories?

25 MS. GROSS: Right.

1 MS. SWANSON: I'd just like to state an
2 objection on the record to category No. 8 to the
3 extent it calls for irrelevant information not related
4 to asbestos-containing products that the decedent
5 worked with at Western Chemical. It says "business
6 dealings." That's overbroad, that's vague, ambiguous,
7 and it calls for irrelevant information.

8 Then also as to No. 9, it's objectionable to the
9 extent that it calls for information which would not
10 be information anyone at Union Carbide would know
11 about. It seems to seek information that Western
12 would know about.

13 And then as to No. 13, that category is
14 objectionable because it's irrelevant. Plaintiff
15 started his employment in 1963, and I don't know how
16 that category has anything relevant to the decedent
17 Jesse Harris' work at Western between '63 and '66.

18 No. 13 is overbroad as to time and vague and
19 ambiguous.

20 MS. GROSS: Q. Just for the record, sir, you
21 are being produced as the person most knowledgeable as
22 to all categories in the deposition notice?

23 A. Yes.

24 Q. But you're not being produced as the
25 custodian of records?

1 A. No. The only records I have are the
2 invoices. I have no other records. So I don't know
3 that we even have an official custodian of records.

4 Q. Well, I'll have to reserve plaintiffs'
5 right to continue the deposition, if necessary, to
6 have the custodian of records on the rest of the
7 categories of information you produced.

8 MR. FISCHER: Excuse me. I'm sorry. The
9 deposition notice just appears to be for the person
10 most knowledgeable.

11 MS. GROSS: No. It's both for the custodian of
12 records and person most knowledgeable.

13 MR. FISCHER: The notice of continuance?

14 MS. SWANSON: Yeah, it appears to call for only
15 the deposition of the person most knowledgeable.

16 MS. GROSS: I believe the original notice, the
17 original notice for May 26th, is a two-part notice for
18 the deposition of the custodian of records and the
19 person most knowledgeable.

20 Let's proceed with that reservation. I think
21 I'll continue.

22 Some more preliminary business.

23 Q. Have you been deposed before, sir?

24 A. Yes.

25 Q. Can you tell me how many times,

1 approximately?

2 A. About ten.

3 Q. Have they been -- have these depositions
4 been in asbestos-related proceedings?

5 A. Yes.

6 Q. Have you been produced for Union Carbide?

7 A. Yes.

8 Q. Can you tell me the most recent deposition
9 that you've given?

10 A. I think 1995.

11 Q. Where was that, sir?

12 A. In Monterey.

13 Q. Do you recall the name of the action?

14 A. No, I don't.

15 Q. Do you recall the court in which the
16 action was filed?

17 A. No.

18 Q. As for the other nine depositions, do you
19 have any recall as to where the depositions occurred?

20 A. In various locations: in Texas, in
21 Minnesota, North Carolina or South Carolina -- I don't
22 remember which -- perhaps L.A. I'm not sure. I can't
23 recall any other locations.

24 Q. Do you remember the names of any of the
25 actions?

1 A. No.

2 Q. It sounds like you have plenty of
3 experience in depositions, so I'm just going to
4 quickly go through the instructions here this morning.

5 First of all, you were just sworn by the court
6 reporter, and you are probably aware that that means
7 that you're under oath to tell the truth and that even
8 though we're in these relatively informal settings,
9 your testimony will be considered as if it were given
10 in a court of law.

11 Do you understand that?

12 A. Yes.

13 Q. Also, it's very important that you let me
14 finish my questions, that one person is speaking at a
15 time so that the court reporter here can take an
16 accurate reading of what is going on.

17 Do you understand that?

18 A. Yes.

19 Q. It's also very important that if you don't
20 understand a question, that you stop me and ask me,
21 please, to explain it to you, because it's important
22 that you are answering the questions that I'm asking
23 in order to have an accurate record.

24 Do you understand that?

25 A. Yes.

1 Q. Are you taking any drugs or medication
2 this morning that would interfere with your testimony
3 here?

4 A. No.

5 Q. Do you see any other reason not to proceed
6 this morning?

7 A. No.

8 Q. Are you represented by counsel here?

9 A. Yes.

10 Q. Have you spoken to counsel prior to the
11 deposition this morning?

12 A. Yes.

13 Q. Was anyone else present when you were
14 speaking with counsel about the deposition this
15 morning?

16 A. No.

17 Q. Have you reviewed any documents prior to
18 coming here this morning?

19 A. Yes.

20 Q. Were they the documents -- can you
21 describe those documents for me?

22 A. Yes, the notice of deposition and Union
23 Carbide's production of -- Response to Request for
24 Production of Documents, the documents that I brought
25 and the document that you gave me. This one

1 (indicating), I don't know what you call it.

2 Q. Exhibit 2?

3 A. Yeah.

4 MS. SWANSON: What she handed you.

5 MR. FISCHER: Just for clarification, Exhibit 2,
6 is that Union Carbide's Response to Plaintiffs'
7 Request for Production of Documents?

8 MS. GROSS: It is.

9 MS. SWANSON: It's just minus the actual written
10 response that went on top of it. She's just using the
11 documents only.

12 MR. FISCHER: Great. Thanks.

13 MS. GROSS: Q. Mr. Myers, are you currently
14 employed by Union Carbide?

15 A. No.

16 Q. You're retired from Union Carbide?

17 A. Yes.

18 Q. I'm going to ask counsel for Union Carbide
19 if she will stipulate that Union Carbide will be bound
20 by Mr. Myers' testimony today as if he were a current
21 employee.

22 MS. SWANSON: I don't have any problem with
23 that. He's represented by my firm.

24 MS. GROSS: Thank you.

25 Q. Some more general background questions,

1 Mr. Myers. Your date of birth?
2 A. 8-8-28.
3 Q. How old are you, sir?
4 A. 70.
5 Q. Where do you currently reside?
6 A. In King City, California.
7 Q. Can you give me an address there?
8 A. 102 River Drive.
9 Q. Your education, sir, beginning with high
10 school. Where did you attend high school?
11 A. In Columbus, Indiana.
12 Q. And the name of the high school?
13 A. Columbus High School.
14 Q. Did you serve in the military, sir?
15 A. No.
16 Q. And your education after high school?
17 A. I received a Bachelor's of Science degree
18 in chemical engineering from Purdue University.
19 Q. What year was that?
20 A. 1951.
21 Q. Any further training or degrees?
22 A. No formal, no.
23 Q. Any informal training or degrees?
24 A. Just the normal training offered by
25 corporations in how to speak. Nothing formal after

1 college, after my graduation.

2 Q. So there would be work-related training
3 programs?

4 A. Yes.

5 Q. Then after you graduated from Purdue in
6 1951, who was your first employer?

7 A. Union Carbide Corporation.

8 Q. Can you tell me a little bit about your
9 job when you first started there.

10 MS. SWANSON: Objection. Calls for a narrative.

11 THE WITNESS: Do you have a specific --

12 MS. GROSS: Q. What was your job title when you
13 first started there?

14 A. Some kind of trainee. I forget the --

15 Q. Was it in a specific division of Union
16 Carbide?

17 A. The nuclear division.

18 Q. What were your job responsibilities in the
19 nuclear division?

20 A. For the entire time?

21 Q. I'd like to just go through it, to the
22 best of your recollection, piece by piece from the
23 beginning.

24 A. From 1951 to -- I can't remember the exact
25 date -- early 1950s, I was at Oak Ridge, Tennessee; I

1 was an engineer. And then I transferred -- I think it
2 was 1952 -- to Paducah, Kentucky, in the same
3 division.

4 Q. What kind of work was being done at the
5 nuclear division when you started there in 1951?

6 A. It was a gaseous division operation to
7 enrich uranium.

8 Q. What was your role in that process?

9 A. I don't recall specifically, but I was an
10 engineer assigned to make sure the equipment ran
11 properly and processes were operated efficiently.

12 Q. You were involved in that work at both the
13 Oak Ridge plant and the Kentucky plant?

14 A. Yes.

15 Q. What happened after 1952?

16 A. I was in Paducah until 1966. I was
17 transferred to the asbestos group in Niagara Falls,
18 New York.

19 Q. What was your role in the asbestos group?

20 A. I was in research and development.

21 Q. Can you describe for me what kind of work
22 that involved?

23 A. Primarily evaluating the use of asbestos
24 in different applications.

25 Q. What kind of applications were part of

1 your review at that time?

2 A. As I remember, most of my work was with
3 drilling fluids used in well drilling.

4 Q. Now, were these applications products that
5 Union Carbide was producing itself?

6 A. No.

7 Q. Can you tell me a little bit about what
8 was behind the research and application if they were
9 not for products that Union Carbide was producing or
10 manufacturing itself?

11 A. It was to develop sales opportunities for
12 Union Carbide's asbestos.

13 Q. Where was Union Carbide's asbestos coming
14 from during that time period?

15 MS. SWANSON: Objection. Overbroad. Vague and
16 ambiguous.

17 THE WITNESS: The mine is in San Benito County,
18 California, and the mill is in -- it's just south of
19 King City.

20 MS. GROSS: Q. Did Union Carbide have any other
21 mines that it was getting its asbestos from besides
22 the King City mine?

23 A. No.

*Other Divisions got asbestos from
Canadian mines*

24 MS. SWANSON: During this time period?

25 MS. GROSS: During the time period of your

1 employment.

2 THE WITNESS: No. Well, in the U.S., that was
3 all. There was a mine in the --

4 MS. SWANSON: I think you've answered the
5 question.

6 MS. GROSS: Q. Was there a mine outside of the
7 United States where Union Carbide was obtaining
8 asbestos?

9 A. Yes.

10 Q. Do you know where that was located?

11 A. I can't remember the name of the country.
12 And I was never involved with that part of the
13 asbestos business.

14 Q. So you never visited any of the mines
15 outside of the United States?

16 A. Right.

17 Q. Do you know who would know or recall the
18 name of mines outside the United States?

19 A. No.

20 MS. SWANSON: Objection. Overbroad as to time.
21 Calls for irrelevant information.

22 THE WITNESS: No, I don't.

23 MS. GROSS: Q. During your work with the
24 research and development of the asbestos unit, who was
25 your supervisor at the time?

1 A. A Mr. Woolery, W-O-O-L-E-R-Y.

2 Q. Do you know his address?

3 A. He's deceased.

4 Q. Do you, by any chance, remember any of
5 your co-workers at the time in research and
6 development?

7 A. Yes.

8 Q. Could you briefly give me their names and
9 if you know if they're alive.

10 A. Gordon Dixon; he's deceased. R.E. Byrne,
11 B-Y-R-N-E. I don't know. H.B. Rhodes, R-H-O-D-E-S.

12 Q. Do you know if Mr. Rhodes is still alive?

13 A. To my knowledge, yes, he is.

14 Q. Have you been in contact with him?

15 A. In what time frame?

16 Q. In the last decade since your employment
17 with Union Carbide.

18 A. Yes.

19 Q. Do you know where he resides currently?

20 A. In Colorado.

21 Blair Ingalls, I-N-G-A-L-L-S. That's all I
22 remember.

23 Q. Is Mr. Ingalls still alive?

24 A. To my knowledge, yes.

25 Q. Do you know where he lives?

1 A. In Niagara Falls, New York, or in that
2 area.

3 Q. So we're still in 1966. We're in Niagara
4 Falls still; is that correct, sir?

5 A. Yes.

6 Q. After 1966, what was your job? What did
7 your job duties entail?

8 A. In 1967 I was transferred to the King City
9 plant as technical superintendent.

10 Q. What did your job duties involve at that
11 time?

12 A. I was responsible for the lab and for
13 beginning production of a new asbestos product and
14 attempting to market that product.

15 Q. You got to the mine in 1967. Can you
16 describe the facilities there when you got there?

17 A. The mine?

18 Q. Yes.

19 A. The mine is a mountain of asbestos. There
20 are no facilities at the mine other than restroom
21 facilities and outhouses.

22 Q. So the asbestos was trucked from the mine
23 to where for processing?

24 MS. SWANSON: What time period are we talking
25 about?

1 MS. GROSS: When he first got there in 1967.

2 MS. SWANSON: I don't think that's in this
3 category, any of these, for the person most
4 knowledgeable. None of these categories pertain to
5 that. It's outside the scope of the deposition
6 notice.

7 MS. GROSS: I understand. I'm trying to get a
8 sense of Mr. Myers' background and his ability to
9 discuss the documents that Union Carbide has produced.
10 So I'm trying to get a sense of his knowledge of the
11 operations of the facility there.

12 Are you going to instruct him not to answer?

13 MS. SWANSON: Well, I will if we get too far
14 afield. Sure, I will. I mean, I think you need to
15 get, maybe, background information about his job
16 responsibilities, but to solicit extraneous
17 information and use this as a fishing expedition I
18 won't allow.

19 MS. GROSS: Well, I'm not --

20 MS. SWANSON: We're confined to what's set forth
21 in this deposition notice, and if you go too far
22 afield, I will instruct him not to answer.

23 MS. GROSS: Okay.

24 Q. I'm just trying to get a sense of what the
25 operations were at the mine when you were there and

1 your role in it.

2 So you were not involved with the actual
3 obtaining the ore from the mine.

4 What kind of mine was it?

5 A. It's a -- it's called a massive deposit of
6 asbestos or of mineral. The ore is underneath
7 overburden of about 20 feet, and after that is
8 removed, the ore is removed from the ground and passed
9 through screens -- those are -- that would be an
10 operation up there -- and into trucks for
11 transportation to the mill.

12 Q. And you were located at the mill?

13 A. Yes.

14 Q. Can you recall any of your co-workers at
15 the mill?

16 A. John Riddle, Roy Crow.

17 Q. I'm sorry. I didn't catch the last --

18 A. Crow, C-R-O-W.

19 Q. Do you know if Mr. Riddle is still alive?

20 A. To my knowledge, he is.

21 Q. Do you know where he's located?

22 A. No, I don't.

23 Q. Do you know if Mr. Crow is still alive?

24 A. I believe he's deceased.

25 Q. I interrupted you, sir. Are there any

- 1 other co-workers that you recall?
- 2 A. Trinidad Cruz, Daryl Garcia.
- 3 Q. Is Mr. Cruz still alive?
- 4 A. Yes.
- 5 Q. Do you know where he's located?
- 6 A. In King City.
- 7 Q. Is Mr. Garcia still living?
- 8 A. Yes.
- 9 Q. Where is he located?
- 10 A. In King City.
- 11 Q. Anyone else, sir?
- 12 A. Do you want deceased people, too?
- 13 Q. Actually, no.
- 14 A. Okay.
- 15 Q. If you can recall the names of any
- 16 individuals you worked with during that time period
- 17 who are still alive.
- 18 A. Ray Grogan.
- 19 Q. Do you know where he's located?
- 20 A. In King City.
- 21 Danny Daniels.
- 22 Q. Do you know where he's located?
- 23 A. In King City. I can't recall any more
- 24 from that time frame.
- 25 Q. If I understand what you've said, you were

1 technical superintendent at the mill in San Benito; is
2 that correct?

3 A. The mill is in King City.

4 Q. In King City?

5 A. Yes.

6 Q. And that would be where your office would
7 be located?

8 A. Yes.

9 Q. And you stated that you were, in 1967, in
10 charge of the development and marketing of a new
11 asbestos product. What would that be?

12 A. It was called RG-244.

13 Q. Can you describe that product for me,
14 please.

15 MS. SWANSON: Objection. That's totally outside
16 the scope of the deposition. I'm going to instruct
17 the witness not to answer unless you can show me how
18 it fits into any of these categories.

19 MS. GROSS: Well, I'm not positive, but perhaps
20 we'll get to it when we go over the invoices. I think
21 there was a notation --

22 MS. SWANSON: I'll instruct him not to answer.

23 MS. GROSS: That's fine.

24 Q. As far as the marketing aspect of your
25 job, what did that involve in 1967?

1 MR. FISCHER: Objection. Overbroad.

2 THE WITNESS: Let me say that I was at the plant
3 from 1967 to 1970, and during that time, I was
4 involved with visiting customers to encourage them to
5 buy our asbestos material.

6 MS. GROSS: Q. Was there just one kind of
7 asbestos in the King City mine that Union Carbide was
8 working with at that time.

9 MS. SWANSON: Vague. Overbroad as to time.

10 THE WITNESS: What time frame?

11 MS. GROSS: 1967 to 1970.

12 THE WITNESS: That was -- there were probably
13 six or seven varieties, forms or varieties of forms of
14 our asbestos.

15 MS. GROSS: Q. Can you describe them for me.

16 A. Well, I can give you the descriptions or
17 the names that we called them. We had standard-grade
18 pellets. I would say this is after the time frame of
19 the plaintiff in this case. So I'm not sure how many
20 of these products were --

21 Q. I am concerned --

22 MS. SWANSON: My understanding is there were not
23 shipments of all types of asbestos to Western Chemical
24 between '63 and '66. To the extent that you're
25 eliciting lots of information about asbestos that was

1 not shipped during that time period to that person,
2 that's outside the scope of the deposition notice.

3 MS. GROSS: Well, I have a problem, then. If
4 Mr. Myers is being produced as the person most
5 knowledgeable to this deposition notice and the time
6 period is '63 to '66 and he didn't arrive at the
7 facilities until '67, I'm not sure that he's the right
8 person to be testifying. I'm not sure that he's
9 knowledgeable regarding these categories.

10 Unless I can get a sense of what was going on
11 there when he came and see if he has any awareness of
12 what was going on previously, then I don't know what
13 to do.

14 MS. SWANSON: Why don't you ask him if he has
15 any awareness of what was going on during '63 to '66,
16 if he knows.

17 MS. GROSS: Q. You've just been describing the
18 varieties of asbestos that Union Carbide was producing
19 out of the King City mine '67 to '70. Do you have any
20 knowledge of what was being produced there in 1963?

21 A. Yes. There was only one grade produced.
22 That was standard grade.

23 Q. How do you know that, sir?

24 A. From -- I would say personal knowledge of
25 historical records and conversations with other

1 personnel.

2 Q. Who would those personnel be?

3 A. The people that I've named before.

4 Q. In 1964, would you have any personal
5 knowledge regarding what the products were that Union
6 Carbide was producing out of the King City mine?

7 A. In 19 --

8 MS. SWANSON: And you're limiting it to the
9 asbestos products, correct?

10 MS. GROSS: Right.

11 THE WITNESS: In 1964, to my knowledge, they
12 would have been the same: standard grade, pellet form,
13 and open form, as we called it.

14 MS. GROSS: Q. Can you say that again, sir?

15 A. Pellet form, P-E-L-L-E-T, and standard
16 grade, open.

17 Q. Can you describe what the pellet form
18 would be?

19 A. Those were -- the asbestos was, in a wet
20 stage, forced through an extruder to form small
21 pellets about one-quarter inch in diameter and
22 one-half inch long.

23 Q. Where was that done?

24 A. At the King City mill.

25 Q. Why was that -- why would that product be

1 there?

2 MS. SWANSON: I'll also state for the record,
3 too, that when the name changes to Western Chemical
4 Company, it looks like that's 1973, invoices which are
5 outside the scope of this lawsuit.

6 MR. FISCHER: I'll join. It's overbroad.

7 MS. GROSS: You can go ahead and answer, if you
8 know the answer.

9 THE WITNESS: I don't know.

10 MS. SWANSON: It's outside the scope of the
11 deposition notice.

12 MS. GROSS: Q. Let's go back to 001. The
13 quantity says "40,000." You told me it's 40,000
14 pounds. How would that -- again, I don't know if
15 you're going to have any personal knowledge, because
16 we're looking at the year 1965, but to the best of
17 your knowledge, how would that 40,000 pounds be
18 shipped out of King City?

19 A. By truck.

20 MR. FISCHER: Lacks foundation.

21 MS. GROSS: Q. Do you know the name -- this is
22 very -- could we take a break for a second?

23 (Off the record.)

24 MS. GROSS: Back on the record. We're back on
25 the record.

1 in a pellet form. And if a customer desired an
2 open-fiber form, we would grind the pellets and
3 package them in bags.

4 Q. This was going on -- this process that
5 you're describing was going on in 1963 at the King
6 City plant?

7 A. Yes.

8 Q. And in 1964?

9 A. Yes.

10 Q. And in 1965?

11 A. Yes.

12 Q. And in 1966?

13 A. Yes.

14 Q. For the whole time that you were there.
15 And then things changed, it sounds like, in terms of
16 how the mine was processing the asbestos.

17 A. No, they didn't change. Different forms
18 of the asbestos fibers were produced, called
19 high-purity asbestos. By different processing
20 methods, we could make the product more pure. That
21 was the primary purpose of introducing different
22 products, because of their purity.

23 Q. When you use the word "products," you're
24 using --

25 A. That means fibers. We did not provide --

1 we did not ever produce any asbestos-containing
2 products. We produced only asbestos fiber products.

3 Q. With varying degrees of purity?

4 A. Yes.

5 Q. And these different forms, Union Carbide
6 started producing them in what time period?

7 A. In the --

8 MS. SWANSON: Overbroad, vague, ambiguous.

9 THE WITNESS: In the late '60s.

10 MS. GROSS: Q. So you're saying after 1965?

11 A. Yes.

12 Q. I'm going to ask you to turn to the
13 deposition notice now. Starting with -- could you
14 read category No. 1 to me.

15 A. "Defendant's record retention policy."

16 Q. Right.

17 Do you have any knowledge regarding Union
18 Carbide's record retention policy?

19 A. No, I don't remember the policy.

20 Q. During the time period that you were
21 working there?

22 A. Yes.

23 Q. Actually, I just realized I stopped at --
24 we left off between 1967 and 1970. As far as your
25 work history, I'd just like to finish up briefly.

1 In 1970, was there a change in your employment?

2 A. Yes. In 1970, I was transferred to
3 Niagara Falls, New York, as marketing manager for
4 asbestos products.

5 Q. Was that a national -- was that a position
6 that would involve you in just New York marketing or
7 was that a nationwide marketing position?

8 A. Nationwide.

9 Q. Can you briefly describe for me your job
10 duties.

11 A. Supervising sales personnel, keeping track
12 of sales records, trying to increase sales.

13 Q. How long were you in that position?

14 A. Until 1981.

15 Q. What happened in 1981?

16 A. I was transferred back to King City as
17 manager of the operation.

18 Q. And as manager, what did your job duties
19 involve at that time?

20 A. Maintaining the production at the
21 facility, at the mine and the mill.

22 Q. How long were you there in that position?

23 A. Till 1985 when the business was sold to a
24 private investor, and then I was made president of the
25 company until 1993 when I retired.

1 Q. Since that time, sir --

2 A. Since I've been retired?

3 Q. Yes -- have you been working at all?

4 A. I'm mayor of King City. I've gotten a
5 small stipend for that for the last seven years.

6 Q. You said the business was sold. You mean
7 the mine and the mill facilities?

8 A. Yes.

9 Q. Do they have a name, the mining and
10 milling facilities?

11 A. Now it's called KCAC, Incorporated. KCAC,
12 all caps, no periods.

13 Q. And prior to it being called KCAC, was it
14 just called Union Carbide Mines?

15 A. Yes.

16 Q. Now let's move to the deposition notice.
17 Do you know where defendant maintained its records
18 repository during the time period of your employment?

19 A. Well, that's -- that would have changed.
20 If you're talking about the time period of my
21 employment --

22 Q. Yes.

23 MS. SWANSON: Are we talking about after '63?
24 It's overbroad. It's overbroad regarding what records
25 and, you know -- vague and ambiguous.

1 MS. GROSS: Q. During the time period that you
2 were at the King City mines, where were sales records
3 kept or maintained?

4 MS. SWANSON: Overbroad as to "sales records."

5 THE WITNESS: To my knowledge, they were kept in
6 Union Carbide's New York office.

7 MS. GROSS: Q. Do you know who was in charge of
8 those records?

9 A. No, I don't. I'm sorry.

10 Maybe you should make the time period you're
11 talking about -- would this be '67 to '70?

12 Q. While you were involved with the asbestos
13 materials division.

14 A. From 19 --

15 MS. SWANSON: It's still vague.

16 MR. FISCHER: Objection. Overbroad.

17 THE WITNESS: From 1966 to 1970, I was in the
18 King City plant, and the sales records, to my
19 knowledge, were kept in Union Carbide's New York
20 office.

21 MS. GROSS: Q. Do you know who was in charge of
22 that office?

23 A. No.

24 Q. Do you know how they were kept? Were the
25 records kept on computers?

1 A. No, I don't think so.

2 Q. So there were just files of records kept
3 on the production that was taking place at King City?

4 MS. SWANSON: Vague. Ambiguous.

5 THE WITNESS: You were talking about sales
6 records, I think?

7 MS. GROSS: Right.

8 THE WITNESS: What was the question?

9 MS. GROSS: Can you read back the question?

10 (Record read by the Reporter.)

11 THE WITNESS: We're talking about sales records
12 in New York. That's what confused me.

13 MS. GROSS: Q. Right. Okay. I'm trying to --
14 I want to know, in terms of what was going on at the
15 King City mines during the time period that you were
16 there, were production records, sales records,
17 documents kept in King City or were they kept in New
18 York, if you recall?

19 A. Production records would be kept at the
20 plant from 1967 to '70 when I was there.

21 Q. Do you know how long -- what time period
22 they were kept for?

23 A. No. Probably less than ten years, I'd
24 say.

25 Q. But you don't have any --

1 A. There was no formal policy that I recall.

2 Q. Do you know who would know what the policy
3 was at that time?

4 A. No.

5 Q. If you wanted to know what the policy was
6 at that time, how would you find out?

7 A. I really have no idea.

8 Q. If you wanted to know where the records
9 were from the time period that you were employed
10 there, how would you go about finding out?

11 MS. SWANSON: Argumentative to the extent that
12 he's already testified that his belief is that there
13 was no formal record retention policy. So he's
14 answered the question.

15 THE WITNESS: I don't know how I would find
16 them, and I don't know that any are available.

17 MS. GROSS: Q. So you don't know if there are
18 any records still in existence?

19 A. No, I don't.

20 Q. Let's look at category Nos. 2 and 3. If
21 you could read them for the record.

22 A. "No. 2, All documents that contain
23 information regarding defendant's supply of
24 asbestos-containing products to Western at any time
25 during the years 1963 through 1966, inclusive."

1 Q. And No. 3?

2 A. "All sales records that contain
3 information regarding defendant's supply of
4 asbestos-containing products to Western at any time
5 during the years 1963 through 1966, inclusive."

6 Q. Now, are you producing any documents this
7 morning?

8 A. The only ones I have concerning sales
9 records are copies of invoices for the time period.

10 I would clarify, these are not
11 asbestos-containing products. These are asbestos
12 fiber. So I'm not sure what your question speaks to.

13 Q. I think if you look at the definition,
14 it's covered.

15 But I'd like to ask you, where did you find
16 these documents?

17 A. The sales invoices we have maintained in
18 King City from -- to my knowledge, from 1963 through
19 the sale of the company in 1985.

20 Q. Did you just go to the plant and obtain
21 these from somebody, or how did you actually --

22 A. I went to the plant and looked through the
23 files and pulled out these copies and made copies of
24 them.

25 Q. Who at the plant would be in charge of

1 these copies at this time?

2 A. No one. They're just kept in a shipping
3 container and cardboard boxes.

4 MS. GROSS: I guess I'd like to enter these into
5 the record.

6 Do you want to number them as Defendants'
7 Exhibit number, or how do you want to deal with this?

8 MS. SWANSON: Why don't we just do them next in
9 order. You had Exhibit 1 and 2, correct? So this
10 would be Exhibit 3.

11 MS. GROSS: Okay.

12 (Document marked Plaintiffs'
13 Exhibit No. 3 for
14 Identification.)

15 MS. GROSS: Q. How would you describe these?

16 A. Invoices.

17 Q. Produced by Mr. Myers this morning.

18 I'd like to ask counsel for Union Carbide if
19 she's willing to stipulate that these are admissible
20 into the business records exception to the hearsay
21 rule?

22 MS. SWANSON: No, I will not stipulate.

23 MS. GROSS: Q. I'm going to ask you some
24 questions about these documents that you've produced
25 this morning.

1 MS. SWANSON: Counsel, why don't you identify
2 them, because we were just talking about Exhibit 3 and
3 you're looking at something different than Exhibit 3.

4 MS. GROSS: I will. I was just about to.

5 Q. Looking at Exhibit 2, which I handed you
6 earlier, they are Bates stamped in the lower
7 right-hand corner. I'd like to start with No. 001
8 through --

9 MR. FISCHER: Do you have documents for everyone
10 else?

11 MS. GROSS: I'm sorry?

12 MR. FISCHER: Do you have any other copies?

13 MS. GROSS: We could take a break and make some.
14 Do you want to take a break?

15 (Off the record.)

16 MS. GROSS: Back on the record now.

17 Q. When we left off, you were telling me that
18 you had gone to the -- where you had gotten the
19 documents that are now Plaintiffs' Exhibit 3, that you
20 had gone to the King City office and obtained them.

21 A. Is this 3 (indicating)?

22 Q. Yes, sir.

23 A. Yes.

24 Q. Can you give me the address of the office
25 where you obtained them?

1 A. It's -- the address is a post office box
2 that has been changed recently. I don't know what it
3 is.

4 Q. Can you give me a street address of the
5 location where you went?

6 A. It's five miles south of King City on
7 Cattlemen Road. Cattlemen, one word.

8 Q. Can you give me the names of any
9 individuals who were working in the office who would
10 have knowledge regarding the records that you obtained
11 and brought here today?

12 A. Mainly, they would know where they're
13 stored.

14 Q. Who would that be, sir?

15 A. Ed Kleber, K-L-E-B-E-R.

16 Q. K-L- --

17 A. K-L-E-B-E-R. Daryl Garcia, Trinidad Cruz.
18 That's --

19 Q. As far as you know, these individuals are
20 working now for KCAC Corporation?

21 A. Right.

22 Q. Thank you.

23 Looking at Plaintiffs' Exhibit 2, 001 to 007,
24 does this document look familiar to you, sir? Have
25 you seen this before?

1 A. Not until this morning.

2 Q. I'm going to briefly see if you can help
3 me decipher some of this information that's contained
4 here. I'm now looking at 001. It's a computer
5 printout form. It has five columns with information
6 that's redacted until the last two. The first column
7 says "Invoice Number."

8 I'd ask that you look at the last two entries
9 and tell me if these are familiar digits in terms of
10 invoice numbers.

11 MS. SWANSON: Objection. Vague. Ambiguous.

12 THE WITNESS: No, not without tying them to the
13 actual invoices.

14 MS. GROSS: Q. There's a column that says "Ship
15 Name" on top. Does that ring any bells for you just
16 based on your experience of having worked at the
17 mines?

18 A. That's where the ship^{ment} would have been
19 made, the customer's name.

20 Q. And the ship date?

21 A. The date of the shipment.

22 Q. I'm looking at the last two lines and the
23 first two digits, "65." To the best of your
24 knowledge, would that represent the date, the year of
25 the shipment?

1 A. That's what it appears to be.

2 Q. The next two digits would be the day?

3 A. Yes.

4 Q. The next two digits would be the month,
5 and then the next two digits would be the day?

6 A. Yes.

7 Q. And then the ship state, would that be the
8 state shipped from or shipped to?

9 A. I would assume it's state shipped to.

10 Q. And then the quantities, would that be
11 pounds or tons?

12 A. It's pounds.

13 Q. How do you know that?

14 A. From checking with invoices.

15 MS. GROSS: I just want to state for the record
16 that Mr. Myers is apparently neither the custodian of
17 records or the person most knowledgeable regarding
18 Plaintiffs' Exhibit 3, 001 through 008, and plaintiffs
19 are going to reserve their right to continue this
20 deposition based on the production of somebody from
21 Union Carbide who is the knowledgeable person,
22 custodian of records regarding this document.

23 MS. SWANSON: And I would just state that you've
24 elicited testimony from him which interprets this
25 document, so -- so it wouldn't make much sense, but --

1 MS. GROSS: Actually, there's a lot of detail.

2 MS. SWANSON: He's just interpreted the whole
3 thing for you. I don't know what else you would be
4 looking for.

5 MS. GROSS: There's a lot of information
6 contained on this document. I mean, I'm hesitant to
7 put Mr. Myers here through the questions that I have
8 regarding this document unless I get a stipulation
9 that you're going to be bound by his testimony,
10 because he has not seen the document before. I mean,
11 I'll continue a little bit in hopes that we can just
12 quickly go through it and not have to do this again.

13 MS. SWANSON: I don't know what else you want to
14 know about this document, because it's pretty much
15 self-explanatory. He's just said the quantity, 40,000
16 pounds. When you look at other invoices -- this just
17 appears to be a computer compilation from invoices
18 which we've produced as Exhibit 3. So --

19 MS. GROSS: I disagree. I think there's a lot
20 of information that's notated on the document that
21 needs interpretation. But why don't I go ahead and
22 just see what we can do here.

23 Q. Mr. Myers, do you know where this document
24 came from or how it was generated?

25 A. I received it from counsel this morning.

1 Q. And that is the first time you've seen it?

2 A. Yes.

3 Q. So do you know --

4 A. These first seven pages.

5 Q. Right, the computer printout. Do you know
6 where it was generated?

7 A. I think counsel told me it was generated
8 in New York by Dawn Stewart, D-A-W-N S-T-E-W-A-R-T.
9 She's with Kelley, ^{Drye}~~Kren~~ & Warren.

10 MS. SWANSON: K-E-L-L-E-Y, ^{Drye}K-R-E-N & Warren.

11 MS. GROSS: Q. Do you know how Ms. Dawn Stewart
12 generated these documents from your own personal
13 knowledge?

14 A. No.

15 Q. Do you know where she got the information
16 that's contained on these documents from your own
17 personal knowledge?

18 A. No.

19 Q. Do you know what product, Union Carbide
20 product, this computer printout summarizes shipment
21 of, based on your own personal knowledge?

22 MS. SWANSON: Overbroad.

23 THE WITNESS: The product is not -- the product
24 type is not noted on this printout.

25 MS. GROSS: Q. Do you know if the column, the

1 third column, that says "Ship Date" on top, whether
2 the date memorializes an actual delivery or shipment
3 or what that information -- what that date actually
4 represents based on your own personal knowledge?

5 A. It represents the date the shipment was
6 made from King City.

7 Q. How do you know that, sir?

8 A. From invoices from which this compilation
9 was apparently made.

10 Q. Are you familiar with the company called
11 Western Chemical & Manufacturing?

12 A. Yes.

13 MS. SWANSON: Vague.

14 THE WITNESS: I know it.

15 MS. GROSS: From the time period of your
16 employment at King City.

17 Q. And how did you come to know this company
18 called Western Chemical & Manufacturing?

19 MS. SWANSON: Assumes facts.

20 MR. FISCHER: Join. Are you talking about the
21 '63 through '66 time period?

22 MS. GROSS: I am, as it's listed -- I'm
23 referring to the printout now.

24 THE WITNESS: I have to have the question again.

25 MS. SWANSON: The question is really vague and

1 not much of a question.

2 MS. GROSS: Let me keep it simple.

3 THE WITNESS: Maybe I can clarify something. I
4 think that you'll find that the invoices that are
5 attached to this and which I gave you copies of this
6 morning are exact replicas of the listings on page 1
7 through 7.

8 MS. SWANSON: And I'll note, too -- I'll
9 indicate for the record, even though there's many,
10 many pages of this computer printout, the relevant
11 time period is from '63 to '66, and it appears that
12 many of these shipments are outside the scope of the
13 time period; in other words, they relate to shipments
14 from '70 all the way through '80.

15 So to that extent, you wouldn't have a bunch of
16 invoices for '70 through '80 which doesn't have any
17 pertinence to Ms. Harris' lawsuit.

18 MS. GROSS: Right. I understand. I've already
19 gone through the entries for the relevant time periods
20 and tried to match them up with invoices that were
21 also produced, and there are numerous entries for
22 which there are no entries on the computer printout.

23 And that is my concern this morning, Mr. Myers.
24 I'll go ahead and see --

25 MR. FISCHER: Off the record for one second.

1 (Off the record.)

2 MS. GROSS: Q. I may have asked you this
3 already. Forgive me. Can you tell from these sheets,
4 001 through 008, what type of Union Carbide product
5 was being shipped?

6 MS. SWANSON: Asked and answered.

7 THE WITNESS: No, I can't.

8 MS. GROSS: Q. Are you familiar with a company
9 called Western Chemical & Manufacturing Company as it
10 is listed under the column "Shipment Name"?

11 MS. SWANSON: Vague.

12 MR. FISCHER: Vague and ambiguous.

13 THE WITNESS: Yes.

14 MS. GROSS: Q. Can you describe their
15 relationship to Union Carbide or the King City mine
16 during the time period of your employment there?

17 MR. FISCHER: It's overbroad.

18 MS. SWANSON: It's outside the scope of the
19 relevant time period to this lawsuit.

20 THE WITNESS: They were a distributor of Union
21 Carbide's asbestos fibers.

22 MS. GROSS: Q. If you look at page 002, sir,
23 about the middle of the page, it changes from Western
24 Chemical & Manufacturing Company to Western Chemical
25 Company. Do you know anything about the name change

1 there?

2 MS. SWANSON: I'll also state for the record,
3 too, that when the name changes to Western Chemical
4 Company, it looks like that's 1973, invoices which are
5 outside the scope of this lawsuit.

6 MR. FISCHER: I'll join. It's overbroad.

7 MS. GROSS: You can go ahead and answer, if you
8 know the answer.

9 THE WITNESS: I don't know.

10 MS. SWANSON: It's outside the scope of the
11 deposition notice.

12 MS. GROSS: Q. Let's go back to 001. The
13 quantity says "40,000." You told me it's 40,000
14 pounds. How would that -- again, I don't know if
15 you're going to have any personal knowledge, because
16 we're looking at the year 1965, but to the best of
17 your knowledge, how would that 40,000 pounds be
18 shipped out of King City?

19 A. By truck.

20 MR. FISCHER: Lacks foundation.

21 MS. GROSS: Q. Do you know the name -- this is
22 very -- could we take a break for a second?

23 (Off the record.)

24 MS. GROSS: Back on the record. We're back on
25 the record.

1 We've just had some off-the-record discussion
2 about the fact that Mr. Myers is not knowledgeable
3 regarding Plaintiffs' Exhibit 3, page No. 001 to 008,
4 and that from plaintiffs' review of the computer
5 printout, there are invoices missing; in other words,
6 there are entries on the computer printout for which
7 invoices were not produced.

8 MS. SWANSON: And I would say that that's an
9 unfair characterization in light of the discussion
10 held off the record. Mr. Myers had indicated there's
11 at least one duplicate entry for an invoice. So if
12 you're looking for -- there may be some duplication in
13 this computer chart.

14 MS. GROSS: I would just add that I have gone
15 through the entries for the relevant time period and
16 tried to match them up with the invoices, and there
17 are not invoices for all entries. But we'll proceed
18 with the invoices themselves.

19 Q. I'll start with Exhibit -- I want to start
20 with Plaintiffs' Exhibit 2, page 009. Now, I
21 understand that this document is very difficult to
22 read. However, Mr. Myers, I'd like to see how we can
23 do and perhaps check and see if you have produced this
24 document.

25 A. Yes. It's the last one, the last one in

1 the document.

2 Q. What would you call this document, sir?

3 A. Invoice.

4 Q. Can you tell me the date shipped?

5 A. 12-29-66.

6 Q. Now, were you working -- can you move to
7 the product and grade section. Tell me what that
8 says.

9 A. "Asbestos fiber, standard grade, 30M."

10 Q. Would that be a fiber produced at King
11 City mine to the best of your knowledge?

12 A. King City mill.

13 Q. Mill?

14 A. Yes.

15 Q. How do you know that, sir?

16 A. My personal knowledge of what the products
17 are.

18 Q. Were you working at King City mine on
19 December 29, 1966?

20 A. No.

21 Q. Would you have any occasion, during your
22 employment there, to review a document such as this?

23 A. During my entire employment?

24 Q. Well, during your employment at King City
25 mine, would you have occasion to review documents such

1 as this that were generated prior to your term there?

2 MR. FISCHER: Objection. Vague and ambiguous.
3 It's not clear as to what -- you're saying "documents
4 such as this." You're talking about specific entities
5 that have been shipped to or all invoices or --

6 MS. GROSS: I'm trying to get a sense of whether
7 Mr. Myers can either authenticate or is able to tell
8 us that these are reliable business records.

9 MS. SWANSON: Why don't you ask him if he's seen
10 a record exactly like this.

11 MS. GROSS: I think I did.

12 Q. Have you seen records like this? Would
13 you have relied on records like this --

14 A. Yes.

15 Q. -- during the term of your employment at
16 the King City mine?

17 A. Mill. Yes.

18 Q. Mill.

19 Let's just go through it piece by piece.

20 There's an invoice number in the upper
21 right-hand corner?

22 A. Yes.

23 Q. It says 12-29 NY00127.

24 A. Yes.

25 Q. Does any of that information tell you the

1 source or the product or anything about the product?

2 A. No.

3 Q. The NY, does it stand for New York?

4 A. I don't know.

5 Q. It says, "Shipped from King City." That
6 would be the mill?

7 A. Yes.

8 Q. And FOB, what would that mean?

9 A. King City. It means that the customer --
10 it becomes the customer's material at King City.

11 Q. And the prepaid -- is that PPD/ --

12 A. Prepaid or collect, ship collect.

13 Q. Would this document have been generated at
14 the King City mill itself?

15 A. Yes.

16 Q. Who would have generated it there?

17 A. A clerk in the office.

18 Q. Would this document be generated from
19 information provided to a clerk by a salesman?

20 A. No.

21 Q. Where would the clerk get the information?

22 A. From the shipping foreman.

23 Q. Do you recall the names of any shipping
24 foremen during the time period that this was produced?

25 A. No, I don't.

1 Q. Do you recall the names of any clerks who
2 would have taken this information and generated this
3 form during the time period?

4 A. I'm not sure she was there at this time,
5 but the one I would remember is named Linda Grogan.

6 Q. Can you tell me if Ms. Grogan is still
7 alive?

8 A. Yes.

9 Q. Can you tell me where she resides?

10 A. In the San Francisco Bay Area.

11 Q. Have you been in contact with Ms. Grogan
12 in the last several years?

13 A. Yes.

14 Q. Do you have her phone number?

15 A. Not with me, but, yes.

16 Q. You have it at home. Okay.

17 I'm going to ask you again to turn to the
18 product and grade box where it says, "Asbestos fiber,
19 standard grade."

20 You mentioned earlier that you worked for Union
21 Carbide in their asbestos products and applications --
22 I think you mentioned research and development
23 department?

24 A. Yes.

25 Q. Do you know the products that asbestos

1 fiber, standard grade, 30M would be used for?

2 A. Primarily as a filler material in various
3 products.

4 MS. SWANSON: And you're talking about by other
5 people?

6 MR. FISCHER: I'm going to object.

7 MS. SWANSON: By other companies?

8 MR. FISCHER: I'm going to object as lacking
9 foundation.

10 MS. SWANSON: The question is vague and
11 unintelligible, because it almost makes it sound like
12 they're using their own asbestos fiber in their own --
13 you know, to make their own asbestos-containing
14 products, and that's not been his testimony.

15 MR. FISCHER: I'm going to object as lacks
16 foundation. He would have no basis for knowing what
17 other -- since this document is one that's shipped out
18 to Western Chemical, he has no basis of understanding
19 what Western Chemical used it for.

20 MS. SWANSON: Yeah. I would add, he's not going
21 to know what companies are using, you know, once it
22 gets distributed out. That's up to the company.

23 MS. GROSS: That's fine. I'm asking for his
24 personal knowledge.

25 MS. SWANSON: Okay. He can go ahead. That's

1 fine.

2 THE WITNESS: I think I answered.

3 MS. GROSS: Can you repeat the answer, please?

4 (Record read by the Reporter.)

5 MS. GROSS: Q. You say "filler material in
6 various products." Can you describe the products
7 for me? This is just based on your personal
8 knowledge.

9 MR. FISCHER: Again, I'm going to object based
10 on the same -- it lacks foundation as to what other
11 companies used it for.

12 THE WITNESS: It would be used in what would be
13 called textured coatings and similar products.

14 MS. GROSS: Q. You have to be patient again
15 with me, sir. When you say "textured coatings," what
16 do you mean by that? Will you describe what a
17 "textured coating" is as you're using the term?

18 A. It would be a decorative coating applied
19 to walls or ceilings or surfaces.

20 Q. Would that be commercially or
21 residentially, to the best of your knowledge?

22 A. It could be anything.

23 MS. SWANSON: Calls for speculation.

24 MR. FISCHER: Same objection.

25 MS. GROSS: Q. Moving down to the shipper's lot

1 number, there are three sets of numbers there. Can
2 you tell me about what those -- the significance of
3 those numbers? We can start with -- let's just move
4 across the line.

5 We've got shipper's lot number, gross, T-A-R-E,
6 net, analysis percentage, pounds contained, price and
7 amount. If we could just go through one of those
8 lines.

9 "Shipper's lot number," do you have an
10 understanding as to what that term means on this
11 invoice?

12 A. All the production from the King City mill
13 is given a lot number or a production number to
14 identify when it was produced, primarily.

15 Q. So this would have been -- can you see a
16 date in here? Are you reading this so you can see a
17 date?

18 A. No, there's no date.

19 Q. And "Gross," the next column, what would
20 that number signify?

21 A. That would be 15,250 pounds.

22 Q. And the fact that there are three lines
23 with three different lot numbers -- let me see if I
24 can -- let's just continue.

25 T-A-R-E, are you familiar with that word?

1 A. Yes.

2 Q. What does that mean, sir, to you?

3 A. Tare is the weight of ^apallets or bags. In
4 other words, it's a weight that does not include any
5 product material. Just like if you buy a can of
6 coffee, you're supposedly not paying for the can that
7 it's in; only for the weight of the coffee.

8 Q. So the tare --

9 A. And that's called tare. The can would be
10 called tare weight. The weight of the can would be
11 called the tare weight.

12 Q. And here, under these circumstances, what
13 would the tare weight signify?

14 A. It would be 250 pounds of the weight of
15 the pallets and the weight of the bags that the
16 material is in.

17 Q. You mentioned bags. Where on the invoice
18 can you tell how it was packaged?

19 A. It doesn't say on this invoice.

20 Q. How would you know that it was packaged in
21 bags?

22 A. Because all products are packaged in bags.

23 MR. FISCHER: Object as speculation as to the
24 time.

25 MS. GROSS: Q. Did Union Carbide ever sell

1 fiber that wasn't packaged in bags?

2 A. Yes.

3 Q. Would you describe how it would be sold if
4 it wasn't sold in bags?

5 MR. FISCHER: Objection. Overbroad as to time.

6 MS. SWANSON: Join.

7 MS. GROSS: During this time period.

8 MS. SWANSON: '63 to '66?

9 MS. GROSS: Right.

10 THE WITNESS: There was none in that time
11 period.

12 MS. GROSS: Q. I'm sorry?

13 A. There was none shipped in anything other
14 than bags during that time period.

15 Q. How would you know that, sir -- you got to
16 the plant in 1967 -- what was going on then?

17 A. From my background --

18 MS. SWANSON: From your knowledge of the
19 company?

20 THE WITNESS: Knowledge of what goes on and what
21 took place after I got there.

22 MS. GROSS: Q. When you did get there, who was
23 in the job that you took? If you replaced somebody,
24 what was the name of that person?

25 A. I was an addition to the staff.

1 Q. When you got there, then, which staff
2 member would be knowledgeable regarding these
3 invoices?

4 MS. SWANSON: You mean in addition to the
5 witness?

6 MS. GROSS: In addition to the witness.

7 THE WITNESS: Probably the most knowledgeable
8 would have been one of two people, both of whom I
9 think are deceased: Mr. Crow or Mr. Chronkite. I
10 know he's deceased. K-H -- well, he's deceased.

11 MS. SWANSON: Well, they're both deceased,
12 correct?

13 THE WITNESS: I'm not sure about Crow.

14 MS. GROSS: Q. Do you remember any of the
15 individuals who were working under them at that time
16 who would be knowledgeable regarding packaging? Were
17 there sales clerks or shipping clerks that you recall?

18 A. No, I don't.

19 Q. At what point in the process was the fiber
20 put into bags? Was it at the mill or the mine?

21 A. The final step at the mill.

22 Q. Do you know what employee at -- what level
23 employee -- let's start there -- at the mill would
24 have been doing the packaging, or was it done by
25 machine, or both?

1 A. The packaging operator operated the
2 filling machines.

3 Q. And how many packaging operators were
4 there when you got there?

5 I should back up and ask you: How big was the
6 staff at the mill when you got there? I don't have a
7 sense of it.

8 A. I think around 40, 35 to 40 people.

9 Q. Do you remember any of the packaging
10 operators by name?

11 A. No.

12 Q. Do you know anybody who might remember who
13 was doing the packaging at that time?

14 A. Perhaps Mr. Cruz or Mr. Garcia.

15 Q. Are those the individuals that you would
16 go to if you wanted to know the names of who was doing
17 the packaging during that time period, 1963 to 1966?

18 A. I would probably start with them, although
19 I would never have any reason to want to know who
20 packaged the asbestos.

21 Q. Now, the net, I take it, is the gross
22 minus the tare.

23 A. Yes.

24 Q. The "Analysis" column is blank. Can you
25 tell me the significance of that?

1 A. No. I think this was a general form used
2 by Union Carbide Mining and Metals Division, and that
3 was not a column that was used.

4 Q. And the "Pounds Contained"?

5 A. Same answer.

6 Q. The next column says "Price." Is that the
7 per-pound price?

8 A. No. That's \$70 per net ton.

9 Q. And the amounts are --

10 A. Dollars.

11 Q. Again, was this a form, you said, that was
12 generally relied on by Union Carbide? I think you
13 stated that it was generated by a clerk. Would it be
14 close to the time of the order?

15 MS. SWANSON: Vague, overbroad, ambiguous.

16 THE WITNESS: Invoices were normally prepared
17 the same day as the shipment or the next day.

18 MS. GROSS: Q. The same day as the shipment
19 left the facility or the order was given?

20 A. The same day the shipment was made.

21 MR. FISCHER: This is from your knowledge from
22 being there in '67?

23 THE WITNESS: Yes.

24 MS. GROSS: Q. Then on to the lower left.

25 There's a box that says "Correspondence Address." Can

1 you read the entry in the box?

2 A. The typed-in entry?

3 Q. Yes.

4 A. "F.M. Patterson, 39th Floor, 270 Park
5 Avenue, New York, New York 10017."

6 Q. Do you know what F.M. Patterson stands
7 for?

8 A. That's a man's name.

9 Q. Do you recall who F.M. Patterson was?

10 A. No, I don't.

11 Q. Was he working in New York when you were
12 there '67 to '70?

13 A. I don't remember. I don't remember.

14 Q. So you never had any contact with a Mr.
15 F.M. Patterson?

16 A. Not that I recall.

17 Q. Let's move to the next box where it says
18 "Invoice No. 12-29." It looks like it's repeating
19 NY00127. It says "when mailing remittance to." And
20 then there's a San Francisco address, post office
21 address.

22 Do you know, the New York address, what part of
23 Union Carbide's operations that address was?

24 MR. FISCHER: You're back to the New York
25 address?

1 MS. GROSS: Yes.

2 THE WITNESS: It's stated here, "Union Carbide
3 Corporation, Mining and Metals Division."

4 MS. GROSS: Q. So the asbestos operation was
5 under the Mining and Metals Division?

6 A. Yes, at this time.

7 MS. SWANSON: At that time.

8 MS. GROSS: Q. At that time and during the time
9 of your employment?

10 A. No, not necessarily the whole time, no.

11 MS. SWANSON: Your question was compound,
12 because, you know, you didn't have the time frame in
13 mind.

14 MS. GROSS: This is 1966.

15 MS. SWANSON: You can ask him about the invoice.

16 MS. GROSS: Q. When you arrived in 1967, was
17 the asbestos operations under -- when you arrived at
18 the King City mine and mill in 1967, were the asbestos
19 operations under the Mining and Metals Division?

20 A. Yes.

21 Q. And then it looks like in 1966, they
22 were -- when was there a change in the operations, if
23 you remember?

24 A. I don't remember without -- no, I don't
25 remember exactly. Early '60s or mid-'60s there was

1 a -- according to the invoices, there was a change
2 from Union Carbide Nuclear Company to the Mining and
3 Metals Division.

4 Q. During your employment at King City mill,
5 who was the head of the Mining and Metals Division?

6 A. I don't recall.

7 Q. Who would have been above you in your
8 position at the mill?

9 A. John Riddle.

10 Q. To your knowledge, is Mr. Riddle still
11 alive?

12 A. That I don't know.

13 Q. Who would have been above Mr. Riddle, if
14 you know?

15 A. I don't know.

16 Q. Now the San Francisco Custom House Post
17 Office, do you know what Union Carbide operation was
18 in existence there at this time at that address?

19 A. Again, according to this document, it was
20 the Mining and Metals Division.

21 Q. So do you know anything about the
22 operation of the California -- San Francisco Mining
23 and Metals Division?

24 A. No.

25 Q. Did you have any communication with the

1 San Francisco division during your time at the King
2 City mill --

3 A. No.

4 Q. -- when Mr. Riddle was the head of Mining
5 and Metals Division?

6 A. No.

7 Q. Can you clarify that for me?

8 MS. SWANSON: I don't think you asked his job
9 title.

10 THE WITNESS: You asked who my supervisor was.

11 MS. GROSS: Right.

12 THE WITNESS: It was Mr. Riddle.

13 MS. GROSS: It was.

14 MR. FISCHER: Can you clarify the time period?
15 Could you clarify the time period?

16 MS. GROSS: During your time period at the King
17 City mill.

18 THE WITNESS: Yes. He was the plant
19 superintendent, plant manager. I'm not sure of the
20 title.

21 MS. GROSS: Q. Is he still alive?

22 A. I don't know.

23 Q. On the right-hand side of the page,
24 there's a second series of boxes. It says, "Type of
25 package: N/A."

1 San Francisco division during your time at the King
2 City mill --

3 A. No.

4 Q. -- when Mr. Riddle was the head of Mining
5 and Metals Division?

6 A. No.

7 Q. Can you clarify that for me?

8 MS. SWANSON: I don't think you asked his job
9 title.

10 THE WITNESS: You asked who my supervisor was.

11 MS. GROSS: Right.

12 THE WITNESS: It was Mr. Riddle.

13 MS. GROSS: It was.

14 MR. FISCHER: Can you clarify the time period?
15 Could you clarify the time period?

16 MS. GROSS: During your time period at the King
17 City mill.

18 THE WITNESS: Yes. He was the plant
19 superintendent, plant manager. I'm not sure of the
20 title.

21 MS. GROSS: Q. Is he still alive?

22 A. I don't know.

23 Q. On the right-hand side of the page,
24 there's a second series of boxes. It says, "Type of
25 package: N/A."

1 Do you know the significance of "N/A"?

2 A. "Not applicable."

3 Q. I know this is before the time period that
4 you worked at the mill. Do you know what that means?

5 A. No.

6 Q. And we have an invoice date of 12-29-66.
7 To the best of your knowledge, is that the date that
8 this invoice was generated?

9 A. Yes.

10 Q. There's an SP number that's partially
11 intelligible. Do you know the significance of the SP
12 category on this document, sir?

13 A. No, I don't.

14 Q. There's a BP number next to that. Do you
15 know the significance of the category "BP number" on
16 this document?

17 A. No, I don't.

18 Q. There's a -- the next box over says "ACCT.
19 MO." Do you know the significance of that category?

20 A. No, I don't.

21 Q. And then do you know the significance of
22 the "Copies" category and then there's the last
23 category?

24 A. I don't know either one of them.

25 Q. On the upper right-hand corner, there is a

1 handwritten number, 65235905. Is that number
2 significant to you for any reason?

3 A. No.

4 Q. Do you know if that number describes a
5 certain product?

6 A. No.

7 Q. Or type of asbestos fiber?

8 A. No.

9 Q. So from the best of your recollection,
10 looking at this invoice, there's a total of 45,000
11 pounds of asbestos fiber, standard grade, 30M shipped
12 to the Western Chemical Manufacturing Company --

13 A. In Los Angeles.

14 Q. -- in Los Angeles on 12-29-66?

15 A. Yes.

16 Q. When you worked at the King City mill,
17 would you have relied on this invoice as an accurate
18 description of that shipment on 12-29-66?

19 MR. FISCHER: I'll object as vague and
20 ambiguous, to suggest that he relied on this at some
21 point.

22 MS. SWANSON: Overbroad. I join in counsel's
23 objections.

24 THE WITNESS: If I would have had a reason to
25 look at this, I would have depended on it.

1 MS. GROSS: Thank you, sir.

2 Q. Let's go back to -- that was 009. 0010 is
3 not a duplication.

4 A. That's the second one from the back, the
5 one I supplied.

6 MS. SWANSON: Yeah, it's the same.

7 MS. GROSS: Q. I'm now looking at Plaintiffs'
8 Exhibit 3, the second document from the back. It
9 appears to correspond to Bates stamp No. 0010. It
10 appears to be an invoice identical in form to the one
11 that we just went over.

12 Would you agree --

13 A. Yes.

14 Q. -- that your testimony regarding the
15 previous invoice would apply to this document in terms
16 of the categories and the information contained?

17 A. Yes.

18 Q. Here, if we look at the net weight column,
19 it would appear that a net total of 43,500 pounds of
20 asbestos fiber, standard grade, 30M was shipped to
21 Western Chemical Manufacturing Company in Los Angeles
22 on December 1st, 1966; is that correct, sir?

23 A. Yes. Yes.

24 Q. Again, sir, would your testimony be the
25 same as to how this document was generated?

1 A. Yes.

2 Q. And as to your reliance on this document
3 if you needed to find out the information contained
4 therein while you worked at the King City mill?

5 A. Yes.

6 Q. The next document, Plaintiffs' 0011.

7 MS. SWANSON: It's the one before. It looks
8 like they're pretty much in order.

9 MS. GROSS: Q. Looking at this document, sir,
10 would your testimony as to the contents and substance
11 and your reliance on this document apply --

12 A. Yes.

13 Q. -- as to the previous two?

14 MS. SWANSON: Overbroad.

15 THE WITNESS: Yes.

16 MS. GROSS: Q. I note on the -- in the lower
17 right portion; there's a stamped "Received November 7,
18 '66." Do you know what that would refer to?

19 A. No.

20 Q. There's some initials under the stamp. Do
21 you know whose initials those would be?

22 A. No, I don't recognize them.

23 Q. Again, in the net column, there are
24 numbers that total 44,000. Would that be the number
25 of pounds shipped to Western Chemical Manufacturing

1 A. Yes.

2 Q. And as to your reliance on this document
3 if you needed to find out the information contained
4 therein while you worked at the King City mill?

5 A. Yes.

6 Q. The next document, Plaintiffs' 0011.

7 MS. SWANSON: It's the one before. It looks
8 like they're pretty much in order.

9 MS. GROSS: Q. Looking at this document, sir,
10 would your testimony as to the contents and substance
11 and your reliance on this document apply --

12 A. Yes.

13 Q. -- as to the previous two?

14 MS. SWANSON: Overbroad.

15 THE WITNESS: Yes.

16 MS. GROSS: Q. I note on the -- in the lower
17 right portion, there's a stamped "Received November 7,
18 '66." Do you know what that would refer to?

19 A. No.

20 Q. There's some initials under the stamp. Do
21 you know whose initials those would be?

22 A. No, I don't recognize them.

23 Q. Again, in the net column, there are
24 numbers that total 44,000. Would that be the number
25 of pounds shipped to Western Chemical Manufacturing

1 Company in Los Angeles on October 28th, '66?

2 MR. FISCHER: Lacks foundation.

3 THE WITNESS: Yes.

4 MS. GROSS: To the best of your knowledge.

5 Q. Next is Plaintiffs' 12.

6 MR. FISCHER: If it's okay with you, I'll just
7 make a running objection as lacks foundation and based
8 on speculation, based on the fact that he was not at
9 the mill during the period '63 to '66.

10 MS. GROSS: You're going to object to all the
11 documents?

12 MR. FISCHER: On those grounds, I'd like to make
13 a running objection so I don't muddy your testimony.

14 MS. GROSS: That's fine.

15 Q. Plaintiffs' 0012, did you find a
16 corresponding --

17 A. The next one.

18 Q. I should have just asked you for the
19 document, sir.

20 A. They're all yellow sheets.

21 Q. Right. You were able to get clean copies.

22 Would you agree that this is the same kind of
23 invoice as the three previous invoices that you have
24 already testified to, sir?

25 A. Yes.

1 Q. Would your testimony apply as to -- the
2 same testimony apply as to this document?

3 A. Yes.

4 MS. SWANSON: Overbroad.

5 MR. FISCHER: Join.

6 MS. GROSS: Q. And, again, in the middle of the
7 document, there's a stamp that says "Received October
8 28th, 1966." Would you recognize those initials that
9 appear under the stamp?

10 A. No, I don't.

11 Q. Going back to the lot numbers, you said
12 that each quantity of fiber produced from the mine was
13 given a lot number. What would the lot number
14 quantity be?

15 A. It varied depending on the product
16 involved.

17 Q. Well, this was asbestos fiber, standard
18 grade, 30M?

19 A. I don't remember.

20 Q. And we have a net total weight of 30,000
21 pounds; would you agree?

22 A. Yes.

23 Q. Shipped to Western Chemical Manufacturing
24 Company on October 7th, 1966?

25 A. Yes.

1 Q. Next up, Plaintiffs' 0013.

2 A. This one says "Void" on it.

3 Q. Where are you looking, sir?

4 A. On page 13.

5 MS. SWANSON: Yeah, it says "Void" on it.

6 MS. GROSS: Q. So what would that mean, sir?

7 A. I don't know.

8 MS. SWANSON: The term speaks for itself.

9 MS. GROSS: Q. Now, can you read the date on
10 this?

11 A. No.

12 Q. Neither can I.

13 I'd like to ask counsel to produce a cleaner
14 copy of this at some point.

15 MS. SWANSON: We can try. If it's possible, we
16 will.

17 MS. GROSS: Q. Moving on to document No. 0014,
18 which looks like there is a corresponding document in
19 Exhibit 3, in the middle of the page, there's a
20 handwritten notation, "No Discount. 5 percent due."

21 Based on your employment at the King City mill,
22 can you tell me what that means?

23 A. Western Chemicals, I said earlier, was a
24 distributor of our standard grade, open fiber, and as
25 such, they would receive a five-percent discount from

1 the price so that they then could resell the product
2 for a profit.

3 And, apparently, whoever prepared this invoice
4 failed to include the discount. So the notation means
5 that the discount is due to them.

6 Q. During the time period that you worked at
7 King City mill, are you aware of any written agreement
8 between Union Carbide and Western Chemical as far as
9 the distribution of Union Carbide's fiber goes?

10 MR. FISCHER: Object as overbroad and beyond the
11 scope of this deposition. Irrelevant.

12 THE WITNESS: I was unable to find a copy of an
13 agreement, but I did find Western Chemical listed as a
14 distributor, and that's noted on one of the pages that
15 I gave to you, I think.

16 MS. SWANSON: I think that hasn't been marked as
17 an exhibit to the deposition, but we have produced it
18 today.

19 MS. GROSS: Can we mark that as Plaintiffs'
20 Exhibit 4, please.

21 (Document marked Plaintiffs'
22 Exhibit No. 4 for
23 Identification.)

24 MS. GROSS: Q. Mr. Myers, you're looking at
25 what's now Plaintiffs' Exhibit 4, and at the top of

1 this document it states "Calidria Asbestos
2 Distributors."

3 What does "Calidria," in quotes, "Asbestos"
4 refer to, sir?

5 A. That's the trade name of Union Carbide's
6 asbestos.

7 Q. The asbestos produced at King City or
8 elsewhere or --

9 A. At King City mill.

10 Q. Solely at King City mill?

11 A. Yes.

12 Q. In the upper right-hand corner, it says
13 "Mailing List." Do you know the date when this list
14 was generated?

15 A. It's in the lower right-hand corner. May
16 30th, 1979. Maybe it didn't get copied.

17 Q. Do you know who generated this list?

18 A. I did.

19 Q. Where did you get this information from
20 that's on the list, sir?

21 A. From files.

22 Q. Files located where?

23 A. In Niagara Falls, New York. It would be
24 from files and from contacts with sales personnel.

25 Q. Towards the bottom of page 3 up from the

1 final entry, it says, "Western Chemical &
2 Manufacturing Company." Do you know if that is the
3 same company that's listed on the invoices that we are
4 reviewing?

5 A. Yes, it is.

6 Q. And it says, "Original agreement date:
7 January 1st, 1965."

8 A. Yes.

9 Q. Do you know, from your experience in
10 working at King City, whether that was the first
11 agreement that Western Chemical had with Union Carbide
12 to distribute its asbestos products?

13 MR. FISCHER: Lacks foundation. Calls for
14 speculation.

15 THE WITNESS: The only way I know is from this
16 document.

17 MS. GROSS: Q. So you don't have any knowledge
18 prior to the time period that you were working at King
19 City, as to whether there was perhaps a previous
20 agreement?

21 MS. SWANSON: Vague and ambiguous. Overbroad.

22 THE WITNESS: No, I don't.

23 MS. GROSS: Q. You don't know one way or the
24 other?

25 A. No.

1 final entry, it says, "Western Chemical &
2 Manufacturing Company." Do you know if that is the
3 same company that's listed on the invoices that we are
4 reviewing?

5 A. Yes, it is.

6 Q. And it says, "Original agreement date:
7 January 1st, 1965."

8 A. Yes.

9 Q. Do you know, from your experience in
10 working at King City, whether that was the first
11 agreement that Western Chemical had with Union Carbide
12 to distribute its asbestos products?

13 MR. FISCHER: Lacks foundation. Calls for
14 speculation.

15 THE WITNESS: The only way I know is from this
16 document.

17 MS. GROSS: Q. So you don't have any knowledge,
18 prior to the time period that you were working at King
19 City, as to whether there was perhaps a previous
20 agreement?

21 MS. SWANSON: Vague and ambiguous. Overbroad.

22 THE WITNESS: No, I don't.

23 MS. GROSS: Q. You don't know one way or the
24 other?

25 A. No.

1 Q. There's a telephone number and then
2 there's contacts. It says "H. Parker." Who was
3 H. Parker?

4 A. He was a purchasing agent for Western
5 Chemical.

6 Q. Do you know his full name, sir?

7 A. As I remember, his first name was Hale,
8 H-A-L-E.

9 Q. Do you know if he's still alive?

10 A. No.

11 Q. Do you know where he resides?

12 A. No.

13 Q. So you haven't had any contact with him
14 since that period of employment?

15 A. No.

16 Q. Then there's a product here under the
17 "Product" column, SG-130. Can you describe that
18 product for me, please.

19 A. Yes. That's the product that's described
20 in the invoices, asbestos fiber, standard grade, 30M.
21 It later became known as SG-130.

22 Q. Here there's a discount of 10 percent.

23 A. That was at the time in 1979.

24 Q. Let's go back to these documents. We're
25 looking at invoice No. 0901 and 0101. It looks like

1 it corresponds to Exhibit 14.

2 MR. FISCHER: Excuse me. We're on 14?

3 MS. GROSS: Yes, 0014.

4 Q. Looking at the "Net Weight" column, would
5 you, from your review of this document, agree that on
6 September 1st, 1966, Union Carbide shipped 44,000
7 pounds of asbestos fiber, standard grade, 30M to
8 Western Chemical & Manufacturing in Los Angeles?

9 A. Yes.

10 Q. And would the testimony that you've
11 previously given as to the previous invoices apply
12 here as well?

13 A. Yes.

14 MR. FISCHER: Overbroad.

15 MS. SWANSON: Overbroad.

16 MS. GROSS: Q. The "FOB" category, it states
17 "Customer." Can you describe for me what that means?

18 A. No, I can't. I can speculate, if you'd
19 like, that that means the customer sent a truck in to
20 pick up the material. So if it was FOB, his truck,
21 but that's not clarified on here.

22 MR. FISCHER: Object. Based on speculation.

23 MS. SWANSON: Object.

24 Is that based on your work with Union Carbide?

25 THE WITNESS: No.

1 MS. GROSS: Q. Moving on to Plaintiffs' Exhibit
2 0015, that's not one of the documents that you
3 produced?

4 A. Yes. It's right here (indicating).

5 MS. SWANSON: Are we talking about 15? It's the
6 same as one of the ones produced.

7 THE WITNESS: It's the next one.

8 MS. GROSS: What invoice number?

9 MS. SWANSON: It looks like 81.

10 MS. GROSS: 8266. I'm sorry. 0015 corresponds
11 to the next document that Mr. Myers produced this
12 morning in 3.

13 Q. This document appears to be different than
14 the previous ones we've been looking at. Can you tell
15 me how Union Carbide would have used or prepared this
16 document?

17 -- First of all, tell me how -- what is this? How
18 would you describe this document?

19 A. That it's probably a reissue of an invoice
20 form. It would have been divisionwide.

21 Q. When you say "divisionwide," you mean --

22 A. The Mining and Metals Division.

23 Q. The Mining and Metals Division, including
24 King City mill and what other facilities during the
25 time period of your employment?

1 MS. SWANSON: Irrelevant.

2 THE WITNESS: I don't know that.

3 MR. FISCHER: Overbroad.

4 THE WITNESS: I don't know.

5 MS. GROSS: Q. The same number, 65235905,
6 appears on it. It says invoice to Western Chemical &
7 Manufacturing in Los Angeles, and there's a quantity
8 of 40,000 pounds of sales class 602.

9 What would that refer to, sir?

10 A. I don't know.

11 Q. And then there's the --

12 MS. SWANSON: It looks like it's "class,"
13 period, which would probably be classification.

14 MS. GROSS: Q. Does that help your memory,
15 "Sales Classification"?

16 A. No.

17 Q. The description is standard grade
18 asbestos, opened, 30, category price per ton, and
19 then the amount. There's a shipment date of 8-2-66.

20 From your time period working at King City mill,
21 would this form have been generated at or close to the
22 time of shipment?

23 A. According to the copy you're looking at,
24 it was generated on August 23rd, the date of invoice.

25 Q. So these invoices were generated after a

1 shipment was made?

2 A. Yes.

3 MS. SWANSON: I'll interpose an objection that
4 it's overbroad as to time.

5 MS. GROSS: Q. The date of shipment -- would
6 there be any different form used to record when the
7 shipment actually left the mill?

8 MS. SWANSON: Vague, ambiguous, overbroad.

9 MS. GROSS: At the time period that you were
10 working at the plant.

11 THE WITNESS: I don't remember.

12 MS. GROSS: Q. Would there have been a log of
13 the date of the initial request for this product made
14 at the King City mill during the time period of your
15 employment there?

16 A. I can say yes, that it would be logical
17 that that would happen, but I don't recall a form of
18 any log.

19 Q. Here it says "Via customer truck." Did
20 you ever see any Western Chemical trucks arrive to
21 pick up fiber during the time that you were employed
22 at the King City mill?

23 A. Not that I can remember.

24 MR. FISCHER: Object as overbroad.

25 MS. GROSS: Q. Did you ever have -- strike

1 that.

2 Up in the upper left-hand corner, there's a No.
3 1, which is a P.O. Box 1421, Church Street Station.
4 Do you know the significance, sir, of what was located
5 at that address?

6 A. No, I don't.

7 Q. There's a box that says "No. 2" and it
8 says "Terminal Annex." Do you know the significance
9 of that location?

10 A. The significance of both of them is where
11 a customer would remit a check to.

12 Q. So the checks were remitted to these New
13 York locations.

14 Were the orders initially -- were the orders
15 initially made to the New York location as well?

16 MS. SWANSON: Overbroad.

17 MS. GROSS: Q. During the time period that you
18 worked there, was this order --

19 A. I don't recall.

20 Q. You don't recall whether someone from
21 Western Chemical, like Mr. Parker, would have called
22 King City to order this or whether they would have
23 called New York?

24 A. No, I don't recall.

25 Q. Moving on to Plaintiffs' --

1 MR. DRAZICH: Can we take a short break?

2 MS. SWANSON: How much more do you have?

3 MS. GROSS: Well, I'm going to go through the
4 documents. I think I'm covering a lot of information
5 in the other categories, but we have at least two
6 other categories that I want to question him about.

7 MR. DRAZICH: Do you figure another hour?

8 MS. GROSS: Probably more.

9 (Off the record.)

10 MS. GROSS: Back on the record. We're going
11 back on the record and we're going to continue
12 reviewing these invoices.

13 Q. Now, Mr. Myers, correct me if I'm wrong,
14 but I don't know that you've described yet how you
15 would have come to use these invoices when you arrived
16 at King City mill in 1967.

17 A. I didn't.

18 Q. You didn't use these invoices?

19 A. No.

20 Q. So you never saw them before today?

21 MS. SWANSON: Objection. Lacks foundation.

22 MS. GROSS: Q. Have you ever seen these
23 invoices before today?

24 A. I saw them when I copied them, yes.

25 Q. Had you ever had an occasion to make use

1 of these invoices when you arrived at King City mill
2 in 1967?

3 A. No.

4 Q. Did you ever use invoices dated during the
5 years 1967 to 1970 when you were there?

6 A. Not that I recall.

7 MR. FISCHER: Overbroad.

8 MS. GROSS: Could we take a break for a second?

9 MS. SWANSON: Sure.

10 (Off the record.)

11 MS. GROSS: Back on the record.

12 Q. I believe, Mr. Myers, I was asking you
13 when you had or if you had occasion to review these
14 documents between 1967 and 1970. Could you just
15 repeat your answer?

16 A. I did not review them during that time
17 period that I recall.

18 Q. Did you ever have an occasion to review
19 these documents during your employment at Union
20 Carbide?

21 A. Not that I recall, no.

22 Q. Do you know of anyone at Union Carbide who
23 would have made use of these invoices, other than
24 yourself, during your employment at Union Carbide?

25 MR. FISCHER: Overbroad.

1 MS. SWANSON: Overbroad. I'll join. Vague and
2 ambiguous.

3 THE WITNESS: The only use would be to complete
4 a log so that you could have a record of sales.

5 MS. GROSS: Q. What division at Union Carbide
6 would be interested in a log of sales of asbestos
7 fiber during the time period of your employment at
8 Union Carbide?

9 MS. SWANSON: Overbroad. As it concerns this
10 lawsuit, irrelevant time period. Vague and ambiguous.

11 MR. FISCHER: Join.

12 THE WITNESS: I don't know of anyone that would
13 be interested -- in any other division that would be
14 interested in the sales.

15 MS. GROSS: Q. So you're saying that the -- are
16 you saying any division or other than the King City
17 mill asbestos production?

18 MS. SWANSON: Vague.

19 THE WITNESS: I don't think anyone would have
20 any interest in this except for the people involved
21 with the asbestos production and sale.

22 MS. GROSS: Q. So when you say "people involved
23 with asbestos production and sale," do you mean people
24 who were working at the mill only?

25 A. Not necessarily, no.

1 Q. Who would be interested in the sales other
2 than people --

3 A. Whoever was responsible for sales at that
4 time.

5 Q. Who was responsible for sales?

6 A. I don't know.

7 Q. During the time period of your employment
8 with Union Carbide, did you ever have any interactions
9 with marketing people?

10 A. During my employment?

11 Q. Yes.

12 A. Or during the time period in question?

13 Q. No. Your employment, sir. Because I'm
14 trying to establish that you have a personal knowledge
15 to testify as to contents of these records. You did
16 mention that in 1966, I believe, you worked in Niagara
17 Falls in the asbestos marketing division.

18 A. Yes.

19 Q. Would you, in that capacity, have made use
20 of these kinds of invoices?

21 A. Probably not. The invoices were retained
22 at the plant. The plant would have sent us records of
23 sales. We wouldn't have to look at invoices to find
24 out -- all we were interested in was the quantity and
25 the product and the customer. It wouldn't matter to

1 us how it was shipped.

2 Q. And you're saying "us." Who else would
3 have --

4 A. The sales department, marketing
5 department.

6 Q. Who was the head of the sales department
7 and marketing department when you were employed in the
8 asbestos division for Union Carbide?

9 MR. FISCHER: Overbroad.

10 MS. SWANSON: Overbroad.

11 THE WITNESS: I think I've answered, during the
12 first period from 1966 to 1970, I have no idea. From
13 1970 to 1981, I was the marketing manager.

14 MS. GROSS: Q. So did you take --

15 A. That's how I have some knowledge of what
16 goes on, because I have been at the plant and also
17 been in the marketing department.

18 Q. When you say "some knowledge about what's
19 going on," what are you referring to?

20 A. The question was whether I know what an
21 invoice is or what the information is and --

22 MS. SWANSON: He's already testified to -- you
23 already asked him about the invoices, and he's giving
24 you answers based upon his personal knowledge. So I
25 think it's argumentative for you to argue that he has

1 no knowledge.

2 MS. GROSS: Well, I'm not arguing with you, sir.

3 MS. SWANSON: To the extent that this is a big
4 company with many employees, some of whom are no
5 longer employed by Union Carbide, some of whom have
6 died -- it's 33 years later -- we've produced the
7 person most knowledgeable that we can.

8 MS. GROSS: I understand that, Counsel. I still
9 need to create my record --

10 MS. SWANSON: And I'm creating mine.

11 MS. GROSS: -- that Mr. Myers' testimony is
12 going to be useful in terms of the admissibility of
13 these records and the substance of these records.

14 Sir, I'm not trying to be argumentative or
15 obstreperous. I'm just trying to plumb the depths of
16 your recollection.

17 THE WITNESS: Okay.

18 MS. GROSS: So no offense intended.

19 Q. So in 1970 through 1981 when you were head
20 of marketing, did you come into a division that was
21 already in existence?

22 MR. FISCHER: Overbroad.

23 THE WITNESS: No.

24 MS. GROSS: Q. Or did you create a marketing
25 division?

1 A. No. It was the Calidria Asbestos
2 Marketing Group. At that point, we were in the -- I
3 think in 1960 -- or 1970, we were in Chemicals and
4 Plastics Division at least for some time. And then
5 again at a time when I don't remember, we went back
6 into the metals division.

7 Q. So when you came in in 1970, do you recall
8 any of the individuals who were working in marketing?

9 A. Yeah. I have given those names to you.

10 Q. They're the names that you've already
11 recited?

12 A. (Witness nodding head.)

13 Q. Let's go back to -- I think we were at
14 0015. Again, from your review of this document, would
15 you say that 40,000 pounds of standard-grade asbestos,
16 opened, 30 was shipped to Western Chemical &
17 -- Manufacturing in Los Angeles on August 2nd, 1966?

18 A. Yes.

19 Q. Would the testimony that you've already
20 given regarding the information contained on the
21 previous similar documents apply here?

22 MR. FISCHER: Overbroad.

23 MS. SWANSON: Overbroad.

24 THE WITNESS: Yes.

25 MS. GROSS: Q. 0016 looks like it's the same

1 document. It is.

2 0017. From your review of this document, would
3 you testify that 40,000 pounds of standard grade -- it
4 looks like opened asbestos fiber, in parentheses, 30
5 was shipped to Western Chemical & Manufacturing in Los
6 Angeles on May 25th -- it looks to me like 1966.

7 A. Yes. There's a little bit cleaner copy in
8 the documents I had. And I would note that there is
9 one difference from the prior ones we've talked about.
10 This says -- it's called -- it's noted on here it was
11 a corrected invoice, which means that something on it
12 was corrected from its original data, probably a
13 price.

14 MS. SWANSON: It also says, "Replaces invoice
15 dated 5-31-66."

16 THE WITNESS: So that could be explained maybe
17 in some of the duplications on the printout.

18 MS. GROSS: Thank you, sir.

19 Q. Now, it says on the bottom of this
20 invoice, "Invoicing Location Copy." What does that
21 mean, sir?

22 A. That would be -- it sounds
23 self-explanatory. This copy would be one that was
24 kept at the invoicing location.

25 Q. Now, if you would be so kind as to go back

1 to 0017. At the bottom of that invoice, it says
2 "District Sales Copy." Do you know the significance
3 of that, sir?

4 A. Again, I would just --

5 Q. "District Sales Copy."

6 A. To me it would mean that this copy was
7 meant for the district sales office.

8 Q. And the district sales office, during the
9 time period you were employed at King City mill, would
10 be at what location?

11 A. I think I testified earlier that I think
12 the sales department was in the New York office during
13 this time frame.

14 Q. And then --

15 A. Again, this is a form used by Union
16 Carbide Nuclear Company for general use, not
17 necessarily just for asbestos.

18 Q. Thank you, sir.

19 What do you base that understanding on?

20 A. Because of the way it's -- the way it's
21 presented, the printed material versus the typed-in
22 material.

23 Q. Have you seen this one used for other
24 products in the company?

25 A. No.

1 Q. Moving on to 0018, which actually looks
2 like it might be a copy --

3 MS. SWANSON: It looks like a duplicate of this
4 other one.

5 MS. GROSS: Yeah, it does.

6 MS. SWANSON: It looks like it's the corrected
7 invoice.

8 MS. GROSS: Q. It looks to me like 0018 is a
9 duplicate but unreadable copy of the previous invoice.

10 THE WITNESS: I think 19 also is another
11 duplicate. I don't know.

12 MR. FISCHER: 18 and 19 seem to be the same.

13 MS. SWANSON: Yeah. One says "New York Sales
14 Copy." The other one says "Invoicing Location Copy."
15 So that's the difference.

16 MS. GROSS: 17, 18 and 19 do appear to be
17 duplicates of the same invoice.

18 Q. Moving on to Bates stamp 0020, would you
19 say from your review of this document that on --

20 A. I think this is the one that was
21 corrected.

22 MS. SWANSON: It looks like it has the same
23 shipment date, which would correspond, 5-25-66.

24 THE WITNESS: And the same customer order
25 number, 3877, all of them.

1 MS. GROSS: 0020 appears to be the original
2 invoice of the 5-23-66 shipment to Western Chemical &
3 Manufacturing.

4 THE WITNESS: Page 21 is another copy of that.

5 MS. GROSS: 0021 appears to be another copy of
6 the same invoice.

7 Q. Moving on to Plaintiffs' 0022 --

8 A. I think we've already done that one.

9 Q. We've done 4-19? I don't think we have,
10 sir. What are you referring to?

11 A. Maybe not. I can't read it well enough to
12 tell.

13 Q. Looking at Plaintiffs' Bates stamp
14 document 0022, from your review of this document,
15 would you testify that on April 6, 1966, Union Carbide
16 shipped 46,000 pounds of standard grade, opened
17 asbestos fiber to Western Chemical Manufacturing in
18 Los Angeles?

19 A. Yes.

20 Q. It looks to me like, under the category
21 "Via," California Moter Express Limited. Do you have
22 any familiarity with that?

23 A. Yes. That's a commercial carrier, CME.

24 Q. Is that a carrier that Union Carbide used
25 regularly to ship asbestos from the King City mill to

1 customers --

2 MS. SWANSON: Overbroad as to time.

3 MS. GROSS: Q. -- during the time period of
4 your employment there?

5 MS. SWANSON: Overbroad.

6 MR. FISCHER: Join.

7 THE WITNESS: Yes.

8 MS. GROSS: Q. Do you know where California
9 Meter Express Limited --

10 A. Motor Express.

11 Q. -- Motor Express was located, sir?

12 A. No.

13 Q. During the time period you worked at the
14 mill, King City mill, was there someone in charge of
15 transportation and shipping?

16 A. We just had one person in the office who
17 handled scheduling of shipments and invoicing.

18 Q. Do you recall that person's name, sir?

19 A. Previously -- the one name I recall is
20 Linda Grogan. And I could give you another name I
21 just remembered there in the very early days. It
22 would be George Vessels, like in boats and ships, as
23 he says.

24 Q. And do you know if Mr. Vessels is still
25 alive?

1 A. He's still alive, to my knowledge.

2 Q. Do you know where he resides?

3 A. In -- I can't remember the name of the
4 town. It's between San Francisco and Sacramento.

5 Q. Do you have that address and telephone
6 number at home?

7 A. I think so. I think so.

8 Q. Plaintiffs' 0023 is pretty close to being
9 unreadable, I would say.

10 MS. SWANSON: It looks like a duplicate copy of
11 No. 22, but the only difference being it's an
12 invoicing location copy instead of a district sales
13 copy.

14 MR. FISCHER: The same applies to 24.

15 MS. GROSS: I would agree that 0023 is a
16 duplicate of 0022.

17 Q. 0024:

18 A. 24 is the same. It's a repeat.

19 MR. FISCHER: It's the same thing, just a New
20 York sales copy.

21 MS. GROSS: How can you tell that, sir?

22 MR. FISCHER: Look at 22 and 24. There's no
23 difference between the two.

24 THE WITNESS: 22 and 24 are the same.

25 MS. GROSS: 23 is undecipherable.

1 MS. SWANSON: Well, to the extent that you can
2 decipher it, it looks like a copy of 22 and 24.

3 MS. GROSS: I'd ask, if possible, that counsel
4 provide a readable --

5 MS. SWANSON: I'm pretty certain that this is
6 just an invoicing location copy and says the same
7 thing as the other ones, because I can read part of
8 it.

9 MS. GROSS: Where are you reading?

10 MR. FISCHER: The number in the upper right-hand
11 corner is the same, 65235905.

12 MS. GROSS: That's on all of them, so that's not
13 very helpful.

14 MS. SWANSON: It says April 6th, 1966 and it
15 says 46,000 pounds. 4-19-66 is the date of the
16 invoice on No. 23.

17 MS. GROSS: Let's move along to 0026 which is
18 also indecipherable.

19 MS. SWANSON: I think you skipped 25. 26 looks
20 like the same thing as 25.

21 MS. GROSS: It looks like 0026 -- I can't tell
22 if that's a match or not to this one. It's
23 indecipherable.

24 MS. SWANSON: It appears to be a match.

25 MS. GROSS: I would just ask that counsel --

1 MS. SWANSON: On 26.

2 MS. GROSS: -- look at the records she's
3 produced and see if it's the same as 25.

4 MS. SWANSON: I'll check.

5 Let me note for the record that the other
6 exhibit that was produced has a cleaner copy of what
7 appears to be 26 and says "Invoicing Location Copy."
8 Shipment date: March 4.

9 THE WITNESS: Do you want this (indicating)? I
10 don't need this. Do you want that one for your --

11 MS. GROSS: Yes, please. Thank you.

12 Q. From your review of 0025, is it your
13 testimony, sir, that on March 4th, 1966 --

14 A. '65.

15 Q. Is that '65?

16 MS. SWANSON: Yes, it says '65.

17 MS. GROSS: Q. -- that Union Carbide shipped
18 40,000 pounds of standard grade, opened asbestos fiber
19 to the Western Chemical & Manufacturing Company in Los
20 Angeles?

21 A. Yes.

22 Q. Moving on to 0027, this document appears
23 to be somewhat different from the previous invoices.

24 A. Yes.

25 Q. Is it a document that you would recognize?

1 A. It's an order for a sample. It records
2 the shipping of a sample.

3 Q. The "Ship to" section says "Ship to
4 Mr. John Zimmerman, Western Chemicals Manufacturing."

5 Do you know who John Zimmerman is?

6 A. No.

7 Q. Who would know who John Zimmerman is?

8 A. I would suggest someone at Western
9 Chemical.

10 Q. Nobody at Union Carbide.

11 What about in the "Customer's Reference"; it
12 says "T. Dougherty, San Francisco." Is that a
13 familiar name, sir?

14 A. Yes.

15 Q. Who is T. Dougherty?

16 A. He was one of the salesmen.

17 Q. Do you know if he's still alive, sir?

18 A. No, I don't.

19 Q. Do you know any of Mr. Dougherty's
20 co-workers by name?

21 A. No, I can't remember any of them.

22 Q. Would you have had occasion to contact the
23 sales office in San Francisco as part of your job
24 duties?

25 A. No.

1 Q. Under "Quantity," it says "Five pounds."
2 "Materials: Filler grade open fiber asbestos." Can
3 you tell me what "filler grade open fiber asbestos
4 means"?

5 A. That was a grade that was actually just
6 made from ground-up ore. There was no processing.

7 Q. And that would be --

8 A. It was never a successful grade as far as
9 sales. There were never any -- to my knowledge, there
10 were never any sales.

11 Q. And this product was made at the King City
12 mill?

13 A. Yes.

14 Q. Now, turning your attention to the upper
15 right-hand corner, there's a number 65235905. There's
16 another number, 16859905. Would you have any
17 information regarding the significance of that number?

18 A. No, I don't.

19 Q. In the upper left-hand corner, there's a
20 category that says "To" and it says "KC." Do you know
21 the significance of those initials?

22 A. King City.

23 Q. And there's a category that says
24 "Approved." It looks to me like the initials are TD.

25 A. Ted Dougherty.

1 Q. Why would he be approving the sales?

2 A. It's not a sale. He was approving the
3 shipment or the request of a sample shipment.

4 MS. SWANSON: It was a five-pound sample.

5 MS. GROSS: Q. So then would -- I'm just trying
6 to get a picture of the relationship between the mill
7 and the sales division in San Francisco. So --

8 A. I can't help you there.

9 Q. You're not familiar with the sales
10 operation in San Francisco?

11 A. At that time, no.

12 Q. At any time?

13 A. No.

14 Q. Was there anybody at King City who would
15 have been involved with the sales, more involved with
16 the sales division than yourself?

17 A. No, I don't think so.

18 Q. So these invoices, where would they come
19 first? Where were they generated; in New York or King
20 City?

21 MS. SWANSON: Vague and ambiguous as to which
22 invoices.

23 MS. GROSS: The invoices that we've been
24 reviewing today, sir.

25 MS. SWANSON: We've been reviewing different

1 ones, so --

2 THE WITNESS: You're off of the sample request?

3 MS. GROSS: Yes.

4 THE WITNESS: Then what was the question?

5 MS. GROSS: Q. As to the previous invoices
6 we've been reviewing up until now, 001 through 0026,
7 do you know where those invoices were first generated?

8 MS. SWANSON: Overbroad.

9 MS. GROSS: At Union Carbide.

10 THE WITNESS: No, I don't. I think -- it was my
11 impression that they were prepared in King City, but I
12 don't know whether that's true.

13 MS. GROSS: Q. Who would know that, sir?

14 A. Some of the names that I've given you.

15 Q. Anyone in particular?

16 A. Yeah. Linda Grogan and George Vessels.

17 Q. So is it your information that the
18 invoices were generated in King City, and then we saw
19 that there were duplicate copies maintained elsewhere?

20 A. Yes.

21 Q. And it looks like district sales copy 0020
22 was in San Francisco, and New York might be another
23 place that the copies might be maintained?

24 A. Yes.

25 Q. 0028. In your review of that invoice,

1 would you testify that on November 18th, 19 --

2 A. '65.

3 Q. -- '65, Union Carbide shipped 45,000
4 pounds of standard grade, opened asbestos fiber to
5 Western Chemical & Manufacturing Company in Los
6 Angeles?

7 A. Yes.

8 Q. Moving on to 0029, this looks like a
9 duplicate of 0028, so we'll move on to 0030. From
10 your review of this document, would your testimony be
11 that on March 26th, 1965, Union Carbide shipped 40,000
12 pounds of standard grade, opened asbestos fiber to
13 Western Chemical & Manufacturing in Los Angeles?

14 A. Yes.

15 Q. It looks to me like 0031 is a duplicate
16 copy of 0030.

17 MS. SWANSON: There's also a duplicate copy
18 in -- I believe it is Exhibit 3, which is a duplicate
19 of No. 31.

20 MS. GROSS: It looks like 0032 is the same.

21 THE WITNESS: Yes.

22 MS. GROSS: Off the record.

23 (Off the record.)

24 MS. GROSS: Q. Now, 0034.

25 A. I think that's a duplicate.

1 Q. 0034, from your review of that document,
2 would your testimony be that on March 4th, 1965, Union
3 Carbide shipped 40,000 pounds of standard grade,
4 opened asbestos fiber to Western Chemical &
5 Manufacturing in Los Angeles?

6 MS. SWANSON: Asked and answered.

7 MR. FISCHER: Join.

8 THE WITNESS: Yes.

9 MS. GROSS: 35 looks like a duplicate to me.
10 Oh, no.

11 THE WITNESS: 34 is a duplicate.

12 MS. GROSS: Q. Moving to Plaintiffs' 0035, this
13 looks like another special order of standard grade,
14 opened fiber asbestos, a quantity of 40 pounds.

15 MS. SWANSON: It says "Sample Order."

16 MS. GROSS: Q. Would it be your testimony that
17 on -- there's no shipping date. -- The date that -- this
18 sample order was entered March 2nd, 1965.

19 There's a little box up in the upper left-hand
20 corner that says "Territory: SF." Do you know what
21 that refers to?

22 A. The same as the previous, San Francisco.

23 Q. That was the sales territory in
24 San Francisco?

25 A. Yes.

1 Q. 0034, from your review of that document,
2 would your testimony be that on March 4th, 1965, Union
3 Carbide shipped 40,000 pounds of standard grade,
4 opened asbestos fiber to Western Chemical &
5 Manufacturing in Los Angeles?

6 MS. SWANSON: Asked and answered.

7 MR. FISCHER: Join.

8 THE WITNESS: Yes.

9 MS. GROSS: 35 looks like a duplicate to me.
10 Oh, no.

11 THE WITNESS: 34 is a duplicate.

12 MS. GROSS: Q. Moving to Plaintiffs' 0035, this
13 looks like another special order of standard grade,
14 opened fiber asbestos, a quantity of 40 pounds.

15 MS. SWANSON: It says "Sample Order."

16 MS. GROSS: Q. Would it be your testimony that
17 on -- there's no shipping date. The date that -- this
18 sample order was entered March 2nd, 1965.

19 There's a little box up in the upper left-hand
20 corner that says "Territory: SF." Do you know what
21 that refers to?

22 A. The same as the previous, San Francisco.

23 Q. That was the sales territory in
24 San Francisco?

25 A. Yes.

1 Q. And that sales territory in San Francisco,
2 do you know the parameters of the territory?

3 A. No.

4 Q. Shipped to Mr. Gerald Johns, Western
5 Chemical Manufacturing Company. Does the name Gerald
6 Johns have any significance to you?

7 A. No.

8 Q. Have you ever met Mr. Johns?

9 A. Not that I remember.

10 Q. If you look in the upper right-hand
11 corner, there's a No. 71953405. Is that number
12 significant to you?

13 A. No.

14 Q. And there's some special instructions
15 here. "Send one bag of" -- perhaps you could read it
16 easier than myself. Could you read that, please?

17 A. "Send one bag of new" --

18 MS. SWANSON: Is it "pure"?

19 THE WITNESS: Something -- "grind as discussed
20 with John Riddle. Confirms phone order."

21 MS. GROSS: Q. Do you know anything about any
22 kind of special grind sold to Western Chemical?

23 MR. FISCHER: Vague and ambiguous.

24 THE WITNESS: The material shipped was the same
25 that we -- this was a sample shipment. I think it was

1 prior to their first order. And it's standard grade,
2 open fiber, same as we have shipped during the two
3 years.

4 MS. GROSS: Thank you.

5 Q. 0036. I can't read that.

6 I would ask that counsel produce a readable copy
7 of 0036 if possible.

8 MS. SWANSON: It looks like there's a copy we've
9 already produced that's more legible in Exhibit 3.
10 And I think the date of shipment is November 18th,
11 1965, customer order No. 2603. Date of invoice:
12 11-19-65. It appears to be the same as No. 36 in
13 Exhibit 2.

14 MR. FISCHER: You said date of shipping,
15 November 18th?

16 MS. SWANSON: Because it says "Via customer's
17 truck" on it, too.

18 MS. GROSS: Okay. Thank you.

19 Q. I'd like to just spend a couple of minutes
20 and go back to the computer printouts that we looked
21 at awhile back, Bates stamped 001 to 007. You
22 mentioned earlier that you believe that this document
23 might be memorializing these invoices and shipments of
24 asbestos opened fiber to Western Chemical. Is that
25 still your belief, sir, from reviewing these invoices?

1 A. I would say that pages 1 -- well,
2 actually, 1 and 2 is a summary of the invoices which
3 are attached to that and to the package which I
4 brought with me.

5 Q. Can you --

6 A. I'm fairly certain, without going back
7 again, that many of these are repeated listings by
8 clerical error or whatever, and the documents that I
9 brought present a true picture of what material we did
10 ship to Western Chemical in Los Angeles.

11 Q. And that the printout is perhaps just a
12 summary of those documents?

13 A. Except the summary, I think, is in error
14 with many repeated listings.

15 MS. SWANSON: I see a number of repeated
16 listings.

17 -- THE WITNESS: The pages list, also, sales
18 through 1980, which I didn't check any records for
19 that period; only from '63 to '66.

20 MS. SWANSON: For the record, we've already gone
21 over that. This deposition is limited to the scope of
22 '63 to '66 and Jesse Harris' employment with Western
23 Chemical. So any documents subsequent to that time
24 would not be relevant in any way, shape or form to
25 this lawsuit.

1 MS. GROSS: Q. Just stepping back a little bit
2 from this printout -- it is a handy vehicle for seeing
3 in a quick glance the amount of sales and the
4 regularity of sales to Western Chemical -- the amounts
5 represented here, it looks to me like Western Chemical
6 purchased 40,000 pounds two or three times a year.
7 This is a general summary.

8 Is that a pretty typical purchase for a
9 distributor of Calidria asbestos fiber, to the best of
10 your knowledge, in the time period that you worked
11 there?

12 MS. SWANSON: Vague and ambiguous, lacks
13 foundation, calls for speculation, unintelligible.

14 MR. FISCHER: Overbroad. And I'll join with the
15 other objections.

16 MS. GROSS: Q. Do you understand the question?

17 A... I don't think there would be a typical
18 distributor. The distributors handled -- as you see,
19 we had quite a range of distributors, and they handled
20 different products for different applications. I
21 don't think you could describe one compared to the
22 other necessarily.

23 Q. Turning to the deposition notice itself,
24 No. 5, to the best of your knowledge, would there be
25 any other location within Union Carbide where there

1 would be records regarding the quantity of fiber
2 supplied to Western during the years 1963 to '66?

3 A. No.

4 Q. Is there anybody more knowledgeable than
5 yourself who would know or have information regarding
6 the quantity of asbestos-containing products supplied
7 to Western between 1963 and 1966?

8 MS. SWANSON: Compound.

9 MR. FISCHER: Join.

10 THE WITNESS: Not to my knowledge.

11 MS. GROSS: Q. As far as the type of asbestos
12 fiber supplied to Western between 1963 and 1966, is
13 there any other location where I would find documents
14 or materials that describe the type of fiber, other
15 than the materials and documents produced here?

16 MS. SWANSON: Vague as to "materials."

17 MR. FISCHER: Join.

18 THE WITNESS: Not to my knowledge.

19 MS. GROSS: Q. And is there anyone more
20 knowledgeable than yourself, sir, who would have
21 information regarding the type of fiber defendant
22 supplied to Western between 1963 and 1966?

23 A. No.

24 Q. Would there be anybody else, other than
25 yourself, who would know if there were other documents

1 elsewhere within the company regarding the supply of
2 asbestos-containing products to defendant --

3 MR. FISCHER: Overbroad as to time.

4 MS. GROSS: Q. -- during the time period of
5 your employment?

6 MS. SWANSON: Join.

7 MR. FISCHER: Beyond the scope of the
8 deposition.

9 MS. GROSS: I couldn't hear you, sir. Sorry.

10 THE WITNESS: Did you say "supplied to the
11 defendant"?

12 MS. GROSS: To Western Chemical.

13 THE WITNESS: I'm not aware of any documents
14 anywhere that would -- that are more than what we have
15 here.

16 MS. GROSS: Q. To the best of your knowledge,
17 would Union Carbide have supplied fiber to Western
18 from any other source than the King City mine?

19 A. No.

20 MR. FISCHER: Overbroad as to time.

21 MS. GROSS: Q. If we go to category 7 --
22 plaintiffs will delete that category.

23 Category 8, could you read that category, sir?

24 A. Is this on page 3?

25 Q. Yes.

1 A. "All documents that contain information" --

2 Q. No. I'm sorry. Category 8. I have it on
3 page 13 -- but that might not be accurate -- of the
4 deposition notice.

5 MS. SWANSON: Which?

6 THE WITNESS: It says "type of business
7 dealings"?

8 MS. GROSS: Yes.

9 MR. FISCHER: Which?

10 MS. SWANSON: Are you talking about No. 8?

11 MS. GROSS: Yes, I am, category No. 8.

12 MR. FISCHER: I'll object to that as irrelevant
13 and overbroad and vague and ambiguous as to the term
14 "business dealings."

15 MS. SWANSON: And I've already objected to it,
16 so my objection stands. The term "business dealings"
17 is so overbroad and encompasses if somebody goes in
18 and buys candy from somebody. It calls for a whole
19 host of irrelevant information.

20 MS. GROSS: Well, I have some questions under
21 this category. Are you instructing your client not to
22 answer?

23 MS. SWANSON: It depends on the question.

24 MS. GROSS: Let's just go ahead.

25 MS. SWANSON: If it's pertaining to the dealings

1 regarding the supply of asbestos during this time
2 period, that's one thing. If it's about matters that
3 don't concern this litigation, then I will instruct
4 him not to answer.

5 MS. GROSS: Okay. That's reasonable.

6 Q. Mr. Myers, do you know where one would
7 find any correspondence or agreements between
8 defendant and Western Chemical during the years 1963
9 and 1966?

10 MS. SWANSON: About the supply of asbestos?

11 MS. GROSS: About the supply of asbestos.

12 THE WITNESS: No, I'm not aware.

13 MS. GROSS: Q. If you wanted to locate
14 correspondence, sir, or distribution agreements, who
15 would you contact to locate those agreements?

16 A. To my knowledge, there are no records. So
17 I wouldn't have any idea where to start.

18 Q. If you wanted to find out whether there
19 were ever any records kept, who would you discuss that
20 with?

21 A. I really don't know anymore. It's been so
22 long, 30-some years, that I wouldn't know who to
23 contact.

24 Q. That's fine.

25 Did you ever visit Western Chemical

1 Manufacturing in Los Angeles?

2 MS. SWANSON: Overbroad as to time.

3 MR. FISCHER: Join.

4 MS. GROSS: During 1963 to 1966 or, actually,
5 any time during your employment at King City.

6 THE WITNESS: I'm sure not between '63 and '66,
7 but I'm pretty sure that I did visit Mr. Parker in '67
8 to '70 time frame.

9 MS. GROSS: Q. Can you describe what you saw
10 during your visit at Western Chemical & Manufacturing
11 in terms of the operations of the facility?

12 MR. FISCHER: I'm going to object as beyond the
13 scope of this deposition. It's overbroad as to the
14 time period.

15 MS. SWANSON: I'll join.

16 MR. FISCHER: Beyond that, there's no relevant
17 information based on that.

18 MS. GROSS: You can go ahead and answer, sir.

19 THE WITNESS: As I remember, it was an office.
20 Mr. Parker was the purchasing agent. At this stage, I
21 don't remember that they did any manufacturing there.
22 My only recollection is that they were a distributor
23 who stored our asbestos and then resold it to other
24 people.

25 MS. GROSS: Q. But you don't have any

1 information really one way or the other?

2 A. No.

3 MS. SWANSON: Argumentative.

4 MR. FISCHER: Misstates testimony.

5 MS. SWANSON: Join.

6 MS. GROSS: Q. Did you meet with anybody else
7 at Western Chemical other than Hale Parker?

8 A. Not that I remember.

9 Q. Did anyone else from King City visit
10 Western Chemical & Manufacturing during the time
11 period of your employment at King City?

12 MR. FISCHER: Overbroad.

13 MS. SWANSON: Join.

14 THE WITNESS: Not to my knowledge.

15 MS. GROSS: Q. But you don't know one way or
16 the other?

17 A. No. No.

18 Q. Did anyone from Western Chemical &
19 Manufacturing come to visit with you while you were
20 working at King City?

21 A. Not that I remember.

22 MR. FISCHER: Overbroad.

23 MS. GROSS: Q. Do you know if anyone from
24 Western Chemical & Manufacturing came to visit any of
25 the other people working at King City during the time

1 period of your employment there?

2 MS. SWANSON: Calls for speculation.

3 MR. FISCHER: Join. Overbroad.

4 THE WITNESS: Not that I'm aware of.

5 MS. GROSS: Q. Does the name Fred Cluff sound
6 familiar to you?

7 A. Fred --

8 Q. -- Cluff, C-L-U-F-F.

9 A. No.

10 Q. Now, you've testified a bit as to how
11 products were shipped between -- how the products from
12 King City were shipped to Western Chemical in Los
13 Angeles, and you mentioned trucks and I believe -- I
14 don't know, actually. I should ask you again.

15 Did any shipments go by train --

16 MR. FISCHER: Vague and ambiguous as to time.

17 Overbroad

18 MS. GROSS: Q. -- from King City to Western
19 Chemical during the time period you were employed
20 there?

21 MS. SWANSON: Join in counsel's objections.

22 THE WITNESS: Not to my knowledge.

23 MS. GROSS: Q. So you don't know one way or the
24 other whether trains --

25 A. No, I don't.

1 MS. SWANSON: Argumentative.

2 MS. GROSS: Q. Did you have a regular train --
3 I know some mines have train tracks adjacent. Did the
4 mill or the mine have a train track adjacent to the
5 facility --

6 MS. SWANSON: Overbroad as to time.

7 MS. GROSS: Q. -- during the period of time
8 that you worked there?

9 A. There was a ^dsizing at the mill, a Southern ✓
10 Pacific ^hsizing at the mill. ✓

11 Q. A Southern Pacific ^hsiding. What do you ✓
12 mean by that?

13 A. It's really what you asked. Yes.

14 Q. Can you tell me -- you've mentioned that,
15 to the best of your knowledge, Western Chemical was in
16 the business of asbestos fiber distribution. Do you
17 know anything else about Western Chemical &
18 Manufacturing's business during the time period that
19 you worked at King City mill?

20 A. No.

21 MS. SWANSON: Calls for speculation.

22 THE WITNESS: No.

23 MR. FISCHER: Join. Overbroad. Irrelevant.

24 MS. GROSS: I may have asked this previously.
25 and I apologize if I did.

1 Q. Do you have any information regarding what
2 Western Chemical & Manufacturing did with the products
3 that were being supplied to them by Union Carbide
4 during the time period you were employed at King City?

5 MR. FISCHER: Objection. Calls for speculation,
6 overbroad, lacks foundation.

7 THE WITNESS: I have no idea.

8 MS. SWANSON: One more objection: Calls for
9 information outside the scope of the time period
10 relevant to this litigation.

11 MR. FISCHER: Join.

12 MS. GROSS: Q. Do you know anybody who might
13 know --

14 MR. FISCHER: Same objections.

15 MS. GROSS: Q. -- what Western Chemical &
16 Manufacturing's business was who was working with you
17 during the time period you were at King City?

18 MS. SWANSON: It's vague and ambiguous.
19 Somebody at Union Carbide or --

20 MS. GROSS: Somebody that you were working with
21 who might have that information.

22 MR. FISCHER: Same objections.

23 THE WITNESS: No.

24 MS. GROSS: Q. Do you know anyone at Union
25 Carbide who would be familiar with Western Chemical &

1 Manufacturing's business during the time period you
2 were employed in the Calidria Asbestos business?

3 MS. SWANSON: Lack of foundation.

4 MR. FISCHER: Same objections.

5 THE WITNESS: No.

6 MS. GROSS: Q. Going to categories 10, 11 and
7 12, my understanding is that you're not going to be
8 producing any documents regarding those categories
9 this morning; is that correct?

10 MS. SWANSON: As I've stated, Counsel, off the
11 record, we've done a search for documents responsive
12 to 10, 11 and 12, which has shown that there are no
13 documents responsive to either of those three
14 categories, 10, 11 and 12.

15 THE WITNESS: And I did the same in King City.

16 MS. GROSS: Q. Pardon?

17 A. I did the same search at King City for
18 documents.

19 Q. Are you familiar with the name Pat
20 Manufacturing Company?

21 A. No.

22 Q. You've never heard of it?

23 A. (Witness shaking head.)

24 Q. Are you familiar with the name Western
25 Specialty & Coatings?

1 A. No.

2 Q. Are you familiar with the name Western
3 Chemical Coatings?

4 A. No.

5 Q. Now, these names came from a document that
6 was produced along with the defendants' responses to
7 the production request.

8 Can I see your copy of Exhibit 2?

9 MS. SWANSON: I think I know where you're going
10 with this. Can we go off the record for a second.

11 (Off the record.)

12 MS. GROSS: Back on the record.

13 Counsel, in an off-the-record discussion
14 conferring about the existence or not of documents
15 responsive to categories 10, 11 and 12, agreed to meet
16 and confer regarding those categories.

17 MS. SWANSON: Yeah. As I've stated, 10, 11 and
18 12, we've done a search for responsive documents, and
19 there are none based upon the way that these
20 categories are phrased, the time period involved, 1963
21 through 1966.

22 MS. GROSS: Q. Then category No. 13 in the
23 deposition notice is the ownership of defendant's
24 Calidria business prior to 1963.

25 Do you have any information regarding when the

1 A. No.

2 Q. Are you familiar with the name Western
3 Chemical Coatings?

4 A. No.

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6 was produced along with the defendants' responses to
7 the production request.

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10 with this. Can we go off the record for a second.

11 (Off the record.)

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16 and confer regarding those categories.

17 MS. SWANSON: Yeah. As I've stated, 10, 11 and
18 12, we've done a search for responsive documents, and
19 there are none based upon the way that these
20 categories are phrased, the time period involved, 1963
21 through 1966.

22 MS. GROSS: Q. Then category No. 13 in the
23 deposition notice is the ownership of defendant's
24 Calidria business prior to 1963.

25 Do you have any information regarding when the

1 King City Calidria Asbestos business first began?

2 MS. SWANSON: I would just, for the record,
3 reiterate my original objections at the beginning of
4 this deposition regarding category No. 13 to the
5 extent that it's calling for a time period which isn't
6 even involved in this litigation, and it's calling for
7 speculation, and it's calling for information that
8 Union Carbide may or may not have.

9 But you can go ahead and answer.

10 THE WITNESS: No. Carbide was the original
11 operator of the mine and the mill starting in 1963.
12 There were no prior owners.

13 MS. GROSS: Okay.

14 I'd like to take a short break and just make
15 sure I've covered everything. It looks like we're
16 close to the end. And I do appreciate your patience.

17 ~~(Off-the-record.)~~

18 MS. GROSS: Back on the record.

19 I do have a couple more questions. I appreciate
20 your patience this morning, Mr. Myers. If I have
21 asked these questions before, I'm sure your counsel
22 will let me know.

23 THE WITNESS: I'll try to give you the same
24 answer again.

25 MS. GROSS: Q. The invoices that we were

1 reviewing this morning in some detail, is it your
2 testimony that these invoices were made during the
3 regular course of Union Carbide's asbestos business
4 during the time period that you worked there?

5 MS. SWANSON: Overbroad.

6 MR. FISCHER: Lacks foundation, calls for
7 speculation, overbroad.

8 THE WITNESS: They weren't prepared during the
9 time I worked there, but they would be typical of
10 invoices that we prepared for every shipment.

11 MS. GROSS: Q. And we talked about the fact
12 that the invoices were made within a certain amount of
13 time after the shipment date, but both of those dates
14 are on the invoice.

15 MS. SWANSON: Overbroad.

16 MR. FISCHER: Join.

17 MS. GROSS: Q. Am I making sense?

18 A. Yes, both dates are on them.

19 Q. And you testified this morning -- I think
20 you already told me this -- about the invoices based
21 on your personal knowledge as an employee of Union
22 Carbide's Calidria Asbestos business over
23 approximately 13 years, or, actually, maybe 20 years?

24 A. 19 ~~23~~ years, I think.

25 Q. And that ^{27 yrs incl. KCAC} the information contained in the

1 invoices was generated at the King City mill, to the
2 best of your knowledge?

3 MS. SWANSON: Overbroad.

4 MR. FISCHER: Misstates testimony.

5 MS. GROSS: If I've incorrectly --

6 THE WITNESS: The information on the invoices
7 would have been generated from information provided by
8 the mill personnel.

9 MS. GROSS: Q. I don't know that you ever told
10 me the name or the fiber type that came out of the
11 mill during the time period that you worked there and
12 prior to the time period --

13 MS. SWANSON: I think it would be irrelevant,
14 what came out of the mill in King City after 1966. So
15 if he wants to answer, you know, what he knows about
16 what was produced during the years '63 to '66 based
17 upon, you know, all of his work with Union Carbide
18 over the years --

19 THE WITNESS: As I remember, the products,
20 during '63 to '66, were standard grade pellets or
21 standard grade open fiber.

22 MS. GROSS: Q. And was it -- what kind of
23 asbestos fiber do you recall?

24 A. It's called a very short chrysotile
25 asbestos.

1 Q. Can you tell me approximately how much in
2 tonnage was produced a year out of the mine --

3 MS. SWANSON: Objection. Overbroad.

4 MS. GROSS: Q. -- during the time period that
5 you worked there and then to the best of your
6 knowledge? An estimate would be fine.

7 MR. FISCHER: Calls for speculation, lacks
8 foundation, overbroad.

9 MS. SWANSON: It's also wholly irrelevant to
10 this litigation.

11 THE WITNESS: The production would vary from one
12 year to the next. It would be in the vicinity of
13 20,000 tons to 30,000 tons, 35,000.

14 MS. GROSS: Q. Did Union Carbide use any of the
15 fiber generated by this mine in products that it
16 manufactured itself?

17 MS. SWANSON: Asked and answered. And I'm going
18 to instruct him not to answer it because I don't see
19 how it pertains to this litigation.

20 MS. GROSS: Okay. I think that's it. Thanks a
21 lot.

22 MR. FISCHER: I've got a few questions.

23 EXAMINATION BY MR. FISCHER

24 MR. FISCHER: Q. I just want to clarify a few
25 things. For the relevant time period for this

1 Q. Can you tell me approximately how much in
2 tonnage was produced a year out of the mine --

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15 fiber generated by this mine in products that it
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18 to instruct him not to answer it because I don't see
19 how it pertains to this litigation.

20 MS. GROSS: Okay. I think that's it. Thanks a
21 lot.

22 MR. FISCHER: I've got a few questions.

23 EXAMINATION BY MR. FISCHER

24 MR. FISCHER: Q. I just want to clarify a few
25 things. For the relevant time period for this

1 deposition, 1963 to 1966, you were working in Kentucky
2 in the Nuclear Division; is that correct?

3 A. Yes.

4 Q. And you were not at the King City mill
5 during that period, correct?

6 A. No.

7 Q. So you would have no personal knowledge of
8 what was shipped in 1963 through 1966 in that you
9 would not have been there at that time?

10 MS. SWANSON: Argumentative.

11 THE WITNESS: I was not there.

12 MR. FISCHER: Q. And you don't have any
13 personal knowledge of where the invoices that have
14 been produced here were created?

15 MS. SWANSON: Misstates prior testimony.
16 Argumentative.

17 MS. GROSS: Asked and answered.

18 THE WITNESS: To my knowledge, they were
19 prepared at King City.

20 MR. FISCHER: Q. Do you know that for sure?

21 MS. SWANSON: Argumentative. Asked and
22 answered.

23 THE WITNESS: Confirmation of that is: The
24 copies that I prepared from records in King City all
25 say "Invoicing Location" at the bottom.

1 MR. FISCHER: Q. You haven't had these invoices
2 in your possession, though, since their creation; is
3 that correct?

4 MS. SWANSON: Objection. Vague, ambiguous,
5 lacks foundation.

6 THE WITNESS: You need to clarify the question.

7 MS. SWANSON: Assumes facts.

8 MR. FISCHER: Q. These invoices were created
9 during the time period 1963 through 1966. Since their
10 creation, you haven't kept these invoices in your
11 personal possession; have you?

12 A. No.

13 MS. SWANSON: Assumes facts.

14 MR. FISCHER: That's all I have. Thanks.

15 THE WITNESS: I'm finished.

16 (Whereupon, the deposition was
17 concluded at 2:10 p.m.)

18

19

SIGNATURE OF WITNESS

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1 STATE OF CALIFORNIA)

2)

3 COUNTY OF ALAMEDA)

4

5 I, DENISE M. LOMBARDO, do hereby certify:

6 That JOHN L. MYERS, in the foregoing deposition
7 named, was present and by me sworn as a witness in the
8 above-entitled action at the time and place therein
9 specified;

10 That said deposition was taken before me at said
11 time and place, and was taken down in shorthand by me,
12 a Certified Shorthand Reporter of the State of
13 California, and was thereafter transcribed into
14 typewriting, and that the foregoing transcript
15 constitutes a full, true and correct report of said
16 deposition and of the proceedings that took place;

17 IN WITNESS WHEREOF, I have hereunder subscribed
18 my hand this 18th day of August 1999.

19

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22

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24

25

Denise M. Lombardo
DENISE M. LOMBARDO, CSR No. 5419
State of California