

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

James W. Manisto and Patricia  
E. Manisto, husband and wife,

Plaintiffs,

vs.

American Brake Block  
Corporation et al.,

Defendants,

and

FILE: C5-88-1008

Armstrong World Industries  
(Delaware), Inc.,  
Flintkote Company,  
GAF Corporation  
Keene Corporation,  
National Gypsum Company,  
Owens-Illinois, Inc.,  
Southern Textile Corporation,  
T&N PLC,  
Union Carbide Corporation and  
United States Gypsum Company,

Defendants and  
Third-Party Plaintiffs,

vs.

Conwed Corporation (a Delaware  
Corporation),

Third-Party Defendant.

DEPOSITION  
FILE COPY

Deposition of JOHN L. MYERS, taken pursuant to  
Notice of Taking Deposition, and taken before Kirby A.  
Kennedy, a Notary Public in and for the County of Hennepin,  
State of Minnesota, on the 6th day of January 1989, at  
Suite 1150, 8400 Normandale Lake Boulevard, Minneapolis,  
Minnesota, commencing at approximately 9:00 o'clock a.m.

deposited. v.c.

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APPEARANCES:

MICHAEL S. POLK, ESQUIRE, of the Law Firm of HERTOGS, FLUEGEL, SIEBEN, POLK, JONES & LAVERDIERE, 999 Westview Drive, Hastings, Minnesota 55033, appeared for and on behalf of Plaintiff.

ROBERT D. BROWNSON, ESQUIRE, and E. CURTIS ROEDER, ESQUIRE, of the Law Firm of STICH, ANGELL, KREIDLER & MUTH, Suite 120, The Crossings, 250 Second Avenue South, Minneapolis, Minnesota 55401, appeared for and on behalf of Defendant Conwed Corporation

JOHN P. BORGER, ESQUIRE, of the Law Firm of FAEGRE & BENSON, 2200 Norwest Center, 90 South Seventh Street, Minneapolis, Minnesota 55402-39001, appeared for and on behalf of Defendants Armstrong World Industries (Delaware), Inc., Flintkote Company, GAF Corporation, Keene Corporation, National Gypsum Company, Owens-Illinois, Inc., Southern Textile Corporation, Turner & Newall PLC, Union Carbide Corporation and United States Gypsum Company.

SANDRA J. GROVE, ESQUIRE, of the Law Firm of MILLER & NEARY, Suite 606, Park National Bank Building, 5353 Wayzata Boulevard, Minneapolis, Minnesota 55416, appeared for and on behalf of Defendant A. W. Chesterton Company.

JAMES R. GRAY, ESQUIRE, of the Law Firm of GILMORE, DeLAMBERT, AAFEDT & FORD, 440 Pillsbury Center, Minneapolis, Minnesota 55402, appeared for and on behalf of Defendant John Crane - Houdaille, Inc.

ROBERT E. DIEHL, ESQUIRE, of the Law Firm of MEAGHER, GEER, MARKHAM, ANDERSON, ADAMSON, FLASKAMP & BRENNAN, 4200 Multifoods Tower, 33 South South Sixth Street, Minneapolis, Minnesota 55402, appeared for and on behalf of Defendant A.H. Bennett Company.

JON PARRINGTON, ESQUIRE, of the Law Firm of PUSTORINO, PEDERSON, TILTON & PARRINGTON, 200 Cornelia Building, 4005 West 65th Street, Minneapolis, Minnesota 55435, appeared for and on behalf of Defendant MacArthur Company.

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DAVID DIERENFIELD, ESQUIRE, of the Law Firm of CASTOR, KLUKAS, SCHERER & LOGREN, 247 Third Avenue South, Minneapolis, Minnesota 55415, appeared for and on behalf of Defendant Anchor Packing Company.

LISA R. MICALLEF, ESQUIRE, of the Law Firm of GILSDORF and JACOBBERGER, 1150 One Capital Centre Plaza, 186 North Wabasha, Saint Paul, Minnesota 55102, appeared for and on behalf of Defendant W. R. Grace & Company.

ROBERT F. HEDRICK, ESQUIRE, of the Law Firm of JOHNSON, KILLEN, THIBODEAU & SEILER, Suite 611, Norwest Center, 230 West Superior Street, Duluth, Minnesota 55802, appeared for and on behalf of Defendant American Brake Block Corporation.

RICHARD J. LEIGHTON, ESQUIRE, of the Law Firm of HANFT, FRIDE, O'BRIEN, HARRIES, SWELBAR & BURNS, 1000 First Bank Place, Duluth, Minnesota 55802, appeared for and on behalf of Defendant Jamar Company.

DALE O. THORNSJO, ESQUIRE, of the Law Firm of CHADWICK, JOHNSON & CONDON, Financial Plaza, 7235 Ohms Lane, Minneapolis, Minnesota 55435, appeared for and on behalf of Defendant Carey-Canada, Inc., The Celotex Corporation.

WAYNE HERGOTT, ESQUIRE, of the Law Firm of MOSS & BARNETT, 1200 Pillsbury Center, Minneapolis, Minnesota 55402, appeared for and on behalf of Defendant Flintkote Company.

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1 (At this time MYERS Deposition Exhibits 1  
2 through 26 were marked for identification by  
3 the Court Reporter.)  
4

5 JOHN L. MYERS,  
6 the Witness in the above-entitled  
7 matter after having been first duly  
8 sworn deposes and says as follows:  
9

10 CROSS-EXAMINATION

11 BY MR. BROWNSON:

12 Q. Mr. Myers, my name is Bob Brownson. We  
13 haven't been introduced, but I represent Conwed Corporation,  
14 which is a third-party defendant and also a plaintiff in  
15 intervention, if you understand those terms, in a lawsuit  
16 by James Manisto against Union Carbide and other defendants.

17 I am here today to ask you some questions  
18 primarily concerning the sale of Union Carbide Calidria  
19 asbestos to Conwed Corporation and also some ancillary  
20 matters to that. Okay?

21 A. All right.

22 Q. You understand you have been sworn and you are  
23 under oath, is that right?

24 A. Yes.

25 Q. And I assume that you have been told or have

1       been at other depositions so that you know what the  
2       procedure is here today. We will ask questions and you  
3       give answers. If the questions are not understandable,  
4       tell me before you answer so that our record shows answers  
5       in response to questions that you understood. All right?

6           A.     Okay.

7           Q.     Secondly, if you don't understand a question  
8       or it's not clear in any way, tell me immediately. Finally,  
9       speak up and don't mumble or shake your head because the  
10      Court Reporter can't take down those sorts of answers.  
11      Okay?

12          A.     Okay.

13          Q.     Have you ever had your deposition taken before  
14      in asbestos-related personal injury litigation?

15          A.     Yes, I have.

16          Q.     And on how many occasions?

17          A.     On five or six occasions.

18          Q.     Before we get into that, let me back up a  
19      little bit and very briefly ask you what your current  
20      employment is?

21          A.     You mean --

22          Q.     Well, are you working?

23          A.     Yes.

24          Q.     Who do you work for?

25          A.     KCAD, Incorporated.

1 Q. Where is KCAC, Incorporated, located?

2 A. In King City, California.

3 Q. And does that have any affiliation to Union  
4 Carbide Company?

5 A. No.

6 Q. Does it have anything to do with the Calidria  
7 mine in King City?

8 A. Yes.

9 Q. What is that?

10 A. We mine, mill and market Calidria asbestos  
11 fibres.

12 Q. And would that be the same Calidria asbestos  
13 mine that Union Carbide operated until June of 1985?

14 A. Yes.

15 Q. And at that point was it sold to KCAC? Is  
16 that how that worked?

17 A. Yes.

18 Q. Now, when did you begin with Union Carbide?

19 A. In 1951.

20 Q. And how old were you at that time?

21 A. Twenty-two.

22 Q. Were you just out of college?

23 A. Yes.

24 Q. What education did you have before you began  
25 with Union Carbide?

1 A. A Bachelor's Degree in Chemical Engineering.

2 Q. Where did you obtain that?

3 A. Purdue University.

4 Q. And then your first employment out of Purdue  
5 was at Union Carbide?

6 A. Yes.

7 Q. And maybe if I can shorten this up, when did  
8 you start -- I don't know what you would call it, I suppose  
9 at Calidria for Union Carbide?

10 A. I started with the asbestos operation in 1966.

11 Q. From '51 to '66, what did you do, in a nut  
12 shell, at Union Carbide?

13 A. I was with the AEC operations of Union Carbide  
14 in Oakridge, Tennessee, in Paducah, Kentucky.

15 Q. Is AEC, Atomic Energy Commission?

16 A. Yes.

17 Q. What was the other one? That one was at  
18 Oakridge.

19 A. Paducah, Kentucky.

20 Q. Did Union Carbide operate atomic energy plants  
21 at those two sites?

22 A. They operated plants for the Atomic Energy  
23 Commission, yes.

24 Q. So these were actually government plants but  
25 Union Carbide was operating them under some contract?

1 A. Yes.

2 Q. During that period of time did you have  
3 anything to do with Union Carbide's asbestos operations?

4 A. No.

5 Q. How was it that you came to be transferred to  
6 the -- is it the asbestos division?

7 A. We have always just called it the asbestos  
8 group. It was not a division. Part of other divisions.

9 Q. How was it that you came to be transferred to  
10 the asbestos group?

11 A. I was given the opportunity to transfer from  
12 the operation in Paducah to the asbestos group in Niagara  
13 Falls, New York.

14 Q. And that was in '66?

15 A. In 1966, yes.

16 Q. Let's start in 1966. Coincidentally, that's the  
17 same time that the sales to Conwed started or at least that  
18 we have records. I think it may have been before that but  
19 let's take the year 1966. At that time what did the Union  
20 Carbide asbestos group consist of? Were there different  
21 divisions or different offices?

22 MR. BORGER: Before you get into that, I  
23 will object to the preamble as testimony by Counsel.

24 MR. POLK: I will also object to the  
25 form of the question.

1 BY MR. BROWNSON:

2 Q. Let me rephrase the question to satisfy these  
3 objecting lawyers. In 1966 what did the Union Carbide  
4 asbestos group consist of?

5 A. The mining and milling operation in King City,  
6 California; a research and development group in Niagara  
7 Falls, New York; and the management of the business was in  
8 Union Carbide's corporate headquarters in New York City.

9 Q. Now, other than the Calidria mine at King City,  
10 California, did Union Carbide mine any other asbestos at  
11 that time?

12 A. Not to my knowledge.

13 Q. Has it since that time?

14 A. Not to my knowledge.

15 Q. When did the Calidria mine start operation as  
16 far as you know?

17 A. In 1963.

18 Q. And was that under the ownership of Union  
19 Carbide at that time?

20 A. Yes.

21 Q. What sort of mine is that? Is it a mine shaft  
22 or is it an open pit or what does it look like?

23 A. It's an open pit.

24 Q. Now, when you went to Niagara Falls in 1966,  
25 what were your duties?

1           A.     I was called a research engineer, and I was  
2 responsible for testing the Calidria asbestos in different  
3 applications and also in operating a pilot plant for  
4 production of a treated asbestos product.

5           Q.     And what was this treated asbestos product?

6           A.     It was called RG 244. It was developed for  
7 use in polyester resins.

8           Q.     Was the Niagara Falls facility the place where  
9 the different types of Calidria were tested and designed  
10 and that sort of thing?

11          A.     Designed would be an improper word. It was  
12 applications testing.

13          Q.     Applications, okay. I know there were many  
14 different types of Calidria which you designated by the  
15 different numbers, RG 244 is an example, over the years. I  
16 am just wondering who made these designations and decided  
17 their applications and that sort of thing?

18          A.     Is there a question there?

19          Q.     Yes. The question is, is that the sort of  
20 thing you were working on when you began in '66?

21          A.     I was working specifically on the drilling  
22 application for Calidria asbestos. It was not called  
23 Calidria asbestos, Union Carbide asbestos.

24          Q.     At some point did they start calling it  
25 Calidria?

1           A.     The trade name is Calidria, and I am not sure  
2 of the date when it was trademarked.

3           Q.     How long were you at Niagara Falls?

4           A.     Until 1967.

5           Q.     And where did you go in '67?

6           A.     To the plant operation in King City.

7           Q.     And what was your title at that point?

8           A.     Technical superintendent.

9           Q.     How long did you remain as technical  
10 superintendent?

11          A.     Until 1970.

12          Q.     And then what did you become?

13          A.     Then I transferred back to Niagara Falls, New  
14 York, as the marketing manager for asbestos products.

15          Q.     And how long did you hold that position?

16          A.     Until 1981.

17          Q.     And then became what?

18          A.     Then I was transferred back to King City,  
19 California, as product and production manager.

20          Q.     And did you then hold that job until Union  
21 Carbide sold the King City operation in '85?

22          A.     Yes.

23          Q.     Now, in connection with the deposition here  
24 today, did you bring with you any documents?

25          A.     No.

1 MR. BORGER: For the record, Counsel, I  
2 think that what Bruce Jones has indicated to me is that all  
3 the documents which this witness would have had in this  
4 file have been produced to you in connection with your  
5 document request previously.

6 MR. BROWNSON: Just so the record is  
7 clear, we did have a document production with the  
8 deposition notice, and that material has all been produced.

9 MR. BORGER: Bruce was handling that,  
10 but it's my understanding from what he has told me that  
11 everything covered by that document request was previously  
12 provided.

13 BY MR. BROWNSON:

14 Q. Now, let me take you back to ask you about  
15 sales of Union Carbide asbestos to the Conwed Corporation,  
16 which at the time those sales began was known as the Wood  
17 Conversion Company in Minnesota. First of all, when did  
18 you first know anything about sales of asbestos from Union  
19 Carbide to Conwed or Wood Conversion? What was your first  
20 involvement with that?

21 A. I don't remember specifically, but I would  
22 imagine that when I became marketing manager I would have  
23 been aware of such sales.

24 Q. And that would have been in 1970?

25 A. Yes.

1 Q. Do you have any recollection, as you sit here  
2 today, of you doing anything with respect to those sales to  
3 Conwed or Wood Conversion Company before you became  
4 marketing manager?

5 A. No.

6 Q. Well, in your technical capacity in Niagara  
7 Falls and at King City, were you ever asked to or did you  
8 ever do any work with respect to the use of asbestos in  
9 paper or wood products?

10 A. Not that I remember, not specifically.

11 Q. It sounds like you were working more with  
12 plastic products, is that right?

13 A. In the initial -- in my little over one year  
14 at Niagara Falls, it was the drilling mode application and  
15 the development of this new product.

16 Q. Did you ever at any time in your career at  
17 Union Carbide do any technical work with respect to the  
18 application of asbestos in paper or wood products?

19 A. Not that I recall.

20 Q. Was there anyone at Union Carbide who was in  
21 charge of that particular application for asbestos or would  
22 have done that work?

23 A. Yes, there were people in the asbestos group  
24 who were working on the paper application. I don't  
25 remember anything specific about Conwed.

1 Q. Would that have been done at Niagara Falls?

2 A. Yes.

3 Q. Was all the technical research work at Niagara  
4 Falls as opposed to California?

5 A. There was none in California.

6 Q. Let's take the years '63 through '74. Would  
7 that research and technical work all have been done at  
8 Niagara Falls?

9 A. To the best of my knowledge. There may have  
10 been some at another laboratory in New York, Sterling  
11 Forest, but I was not involved. And I don't remember if  
12 that was any products application or simply work on the  
13 asbestos deposit.

14 Q. Was there an actual designation within the  
15 research and development group, for want of a better term,  
16 of a group of people who would work on wood products or  
17 paper products applications?

18 A. No, I remember there was just certain people  
19 assigned who were expert.

20 Q. Do you know who those were?

21 A. Gordon Dickson, Robert Woolery, Blair Ingalls.

22 Q. Any others you can recall?

23 A. I don't recall any other names offhand.

24 Q. Do you know what Mr. Woolery is doing at the  
25 present time?

1 A. No, I don't.

2 Q. Is he still with Union Carbide as far as you  
3 know?

4 A. No, he isn't, as far as I know.

5 Q. What years or what period of time was he  
6 working in the paper products or wood products applications  
7 area?

8 A. Well, all I am familiar with would be in 1966.

9 Q. And that's because?

10 A. While I was there he was working there.

11 Q. Is that true with all three of these  
12 individuals?

13 A. Yes.

14 Q. They were working in that area when you were  
15 at Niagara Falls in 1966?

16 A. To the best of my recollection they were, yes.

17 Q. Now, following that time, would you in your  
18 various capacities either in King City or as marketing  
19 manager get information or bulletins or literature or that  
20 sort of thing from the technical people in Niagara Falls  
21 with respect to paper products or wood products  
22 applications?

23 A. Well, I am sure there must have been internal  
24 reports in the papers distributed. I don't recall anything  
25 specifically.

1 Q. Do you know the authors of any of those other  
2 than these three individuals, anyone else?

3 A. It seems like there was someone else who had  
4 authored a paper with Mr. Woolery, but I can't recall --  
5 another name was Mr. Reichard. As I recall, he was head of  
6 the R&D group.

7 Q. The entire R&D or just for paper products?

8 A. Well, I think of the asbestos R&D group.

9 Q. How about a Mr. A. W. Naumann? Does that name  
10 ring a bell?

11 A. I remember the name. I don't recall that I  
12 ever met him. It was probably prior to '66.

13 Q. Do you recall him as being at Union Carbide,  
14 but other than that you don't know anything about him?

15 A. That's correct.

16 Q. We have a report from him which I will show  
17 you in a minute, but it shows at some period of time he was  
18 at the mining and metals division at Tuxedo, New York?

19 A. When I mentioned Sterling Forest, I am not  
20 sure if they were the same, but that would have been a  
21 similar location.

22 Q. That's not Niagara Falls though. That's some  
23 other place?

24 A. Yes.

25 Q. Now, the so-called asbestos group, was that

1 all within this mining and metals division or was that  
2 among various divisions or how did that work?

3 A. When I began in 1966, I believe it was the  
4 nuclear division. No, let me see. That's probably  
5 incorrect. I think the nuclear division -- the mine was in  
6 the nuclear division at the early point, perhaps '62. The  
7 asbestos research group was in the mining and metals  
8 division in Niagara Falls.

9 Q. And was any part of the asbestos group in the  
10 chemicals and plastics division?

11 A. Yes, at some point the entire asbestos  
12 operation was in the chemicals and plastics division. I am  
13 not sure what years.

14 Q. Well, let's start the actual Calidria mine at  
15 King City. When that opened in '63, what division was it  
16 in, do you know?

17 A. As I said I think it was the nuclear division.

18 Q. And how long was that?

19 A. I don't know.

20 Q. What was the next division that it was in?

21 A. The next one that I am aware of was when I  
22 transferred in 1966. It was in the mining and metals  
23 division.

24 Q. And did the mine stay in the mining and metals  
25 division or did it move into some other division?

1           A.     No, the entire asbestos operation moved into  
2 the chemicals and plastics division.

3           Q.     Do you know when that was?

4           A.     No, I don't. I would say late '60s, but I am  
5 not sure of the date.

6           Q.     At the time you became sales manager in '70,  
7 was it within the chemicals and plastics division?

8           A.     No. I believe it was back in the metals  
9 division at that point.

10          Q.     So it had gone from chemicals and plastics  
11 back into mining and metals?

12          A.     Yes.

13          Q.     Now, what I would like to do next, Mr. Myers,  
14 is read to you some names of people who at one time worked  
15 at Union Carbide and just ask you if you recognize the name,  
16 and if you do I will ask you some more questions. Okay?

17          A.     Okay.

18          Q.     The first name I have is Leland S. Kendall, do  
19 you know Mr. Kendall?

20          A.     No.

21          Q.     Have you ever heard of that name?

22          A.     I don't recall that one.

23          Q.     He was in the chemicals and plastics division  
24 and he was an account manager. Does that help at all?

25          A.     No, I don't recall knowing him.

1 Q. He also was located in Minneapolis, Minnesota.  
2 That doesn't help you?

3 A. No.

4 Q. The next name --

5 MR. BORGER: For the record, I will  
6 object to the testimony by Counsel to the various  
7 characterizations you are making unless you want to show  
8 the witness a particular document.

9 MR. BROWNSON: Maybe I will do that.  
10 For the record, these are Union Carbide personnel business  
11 cards produced at the deposition of Warren Palmer.  
12 BY MR. BROWNSON:

13 Q. Maybe it will be easier if I just show you the  
14 sheet of business cards which have been marked as Myers  
15 Deposition Exhibit 1. Just so you know, Mr. Myers, these  
16 are business cards that a gentleman named Warren Palmer who  
17 used to work at Conwed kept in his personal file in no  
18 particular order or anything else that we are aware of. I  
19 would first ask you about Mr. Leland Kendall?

20 A. What is the specific question?

21 Q. If you just heard the name. If you have heard  
22 the name, I will ask you some more questions about them.  
23 The second name on there is John C. Manko. Have you ever  
24 heard of him?

25 A. I think I remember that name, yes.

1 Q. He is listed as a technical representative in  
2 the chemicals and plastics division. Do you know what, if  
3 anything, Mr. Manko had to do with sales of Calidria  
4 asbestos to Conwed?

5 A. No, I don't. If I know, I don't recall.

6 Q. How about Richard W. Stobaeus?

7 A. That was Stobaeus. I remember that name. I  
8 have met him, yes.

9 Q. He is also a technical representative. Do you  
10 know what, if anything, he had to do with Conwed?

11 A. No, I have no -- I don't know if he had  
12 anything to do with Conwed or not. He was a sales  
13 representative for the asbestos products, but I don't know  
14 whether he -- I have no knowledge that he called on Conwed.

15 Q. He is listed on his business card as a  
16 technical representative. What would a technical  
17 representative do? Is that a sales area or kind of a  
18 technical support?

19 A. As I recall, they were salesmen with technical  
20 background.

21 Q. Was some particular technical background  
22 required to get that position?

23 A. Not that I recall.

24 Q. Do you know if he was working in sales at the  
25 time you became sales manager in 1970?

1           A.     No. He was the -- he was in the -- well, I  
2 started to say he was in chemicals and plastics. This does  
3 say mining and metals. When I became marketing manager, he  
4 was not one of our sales people that I recall.

5           Q.     The next individual we have got is Mr. Norris.  
6 Do you know Mr. Norris?

7           A.     Yes.

8           Q.     I believe it's Tom, is that right?

9           A.     Yes, I do know Tom Norris.

10          Q.     Are you aware of the fact that he had anything  
11 to do with sales of Calidria asbestos to Conwed Corporation?

12          A.     I don't remember specifically; but he was  
13 located in Chicago and he was our midwest sales  
14 representative. And with Conwed being in the midwest, I  
15 can assume -- only assume that he did have Conwed as an  
16 account.

17          Q.     Was he working for you in 1970 when you became  
18 sales manager?

19          A.     Well, the date on this card is August of '70.

20          Q.     I see that, although I can tell you we are not  
21 really sure where those dates came from.

22          A.     I do recall that he was transferred from  
23 another division into the asbestos marketing group. I  
24 cannot say whether it was 1970 or not.

25          Q.     But he was in Chicago, as you recall it?

1 A. Yes.

2 Q. Was he the head of that sales office there?

3 A. He was the sales office.

4 Q. It was just him?

5 A. I guess he worked out of the Union Carbide  
6 office and also out of his home. We were a very small  
7 group.

8 Q. And he would have the midwest territory which  
9 would include Cloquet, Minnesota?

10 A. As I recall, yes.

11 Q. And did he just sell asbestos or would he be  
12 involved with other union Carbide products?

13 A. No, he was only selling asbestos when he was  
14 working for me.

15 Q. The next name I wanted to ask you about is Mr.  
16 W. W. McLean?

17 A. I remember the name.

18 Q. I should tell you that we don't know that all  
19 these people had anything to do with asbestos.

20 A. I don't recall that he was involved with  
21 asbestos.

22 Q. You have no recollection of that?

23 A. No.

24 Q. Whether it's asbestos or if he had anything to  
25 do with calling on Conwed?

1 A. No, I don't know.

2 Q. The next name we have got is Clifford Schwahn.  
3 Do you remember anything about him?

4 A. I do remember the name, I think, but I don't  
5 know what he sold.

6 Q. He is listed as a district sales manager in  
7 Chicago. Do you recall if he had anything to do with the  
8 sales of asbestos?

9 A. Not that I recall.

10 Q. The next card, of course, is yours. I wanted  
11 to ask you about that. Did you ever visit the Conwed plant  
12 at Cloquet?

13 A. I probably did, yes. I don't recall when or  
14 on what occasion.

15 Q. Do you have any recollection of that visit as  
16 you sit here today?

17 A. No, I don't.

18 Q. Do you know if it was just one visit or could  
19 it have been more than one?

20 A. I don't recall.

21 Q. Do you know if the visit or visits would have  
22 been while you were a sales manager after 1970?

23 A. That would have been my only occasion to have  
24 visited, would be in that capacity.

25 Q. So would it be safe to say that whenever that

1 visit occurred, it was after 1970?

2 A. If he did visit it would have been after 1970.

3 Q. Do you have a specific recollection, as you  
4 sit here, as to whether you actually did visit that plant?

5 A. No, I don't. No, I don't.

6 Q. Did you ever make sales calls in Minnesota,  
7 whether to Conwed or anyone else?

8 A. I probably did. I don't recall any specific  
9 calls.

10 Q. When you were a sales manager starting in 1970,  
11 were you on the road a lot traveling or did you pretty much  
12 stay at King City?

13 A. Well, I was not in King City. I was in  
14 Niagara Falls.

15 Q. Okay.

16 A. And I can't recall what percent average of  
17 time I traveled.

18 Q. We have some duplication here, but we will  
19 move down to the name of J. E. Crowell. Do you remember  
20 anything about Mr. Crowell?

21 A. No, I don't remember that name.

22 Q. It just doesn't ring a bell at all?

23 A. No.

24 Q. How about Thomas J. Hall?

25 A. Yes, I remember that name. He was in the New

1 York office, and I think he was involved in the very early  
2 days of the asbestos business.

3 Q. Was he still around in 1970?

4 A. Not that I recall. At some point I think he  
5 was in England.

6 Q. When he worked with the asbestos group or the  
7 asbestos business, do you know where he was located?

8 A. I think always in New York, to the best of my  
9 knowledge. I don't know whether he was ever in Niagara  
10 Falls. After I arrived there, I don't recall that he was  
11 in Niagara Falls.

12 Q. So it's your recollection that as of 1966 he  
13 was gone or at least not in Niagara Falls?

14 A. I don't know that he was ever in Niagara Falls.

15 Q. Do you know what his capacity was with the  
16 asbestos group? Was it sales?

17 A. No, I don't recall.

18 Q. He is listed as assistant sales manager, for  
19 whatever that is worth. Does that help you recall at all?

20 A. I don't know what he was assistant sales  
21 manager for. You will notice that is in the nuclear  
22 division. As I say, that was --

23 Q. The next name I wanted to ask you about is Mr.  
24 Bert Barton. Do you know Mr. Barton?

25 A. I remember the name, yes.

1 Q. Do you know what he may have had to do with  
2 sales of asbestos for Union Carbide?

3 A. I think he was involved with asbestos sales to  
4 the paper industry when we were in the chemicals and  
5 plastics division.

6 Q. Where was he located?

7 A. As far as the card says, Chicago. I wouldn't  
8 remember other than what the card says.

9 Q. Now, do you think or do you know if you would  
10 have been in Chicago at the same time as Mr. Norris? In  
11 other words, was that a two-man office or would he have  
12 been a successor or predecessor?

13 A. No. Mr. Norris was employed by the asbestos  
14 group directly after I became marketing manager in 1970.  
15 Mr. Barton would have been prior to that.

16 Q. But you don't know when?

17 A. No, I don't know the dates.

18 Q. Do you know if Union Carbide still has its  
19 sales office in Chicago?

20 A. No, I don't.

21 Q. Now, when you began as marketing manager in  
22 1970 for the asbestos group, do you recall how much  
23 asbestos Union Carbide was shipping to Conwed on a monthly  
24 or annual basis at that time?

25 A. No, I don't.

1 Q. Do you recall how Conwed ranked as a customer?  
2 In other words, was it a big account or a small account or  
3 middle-sized, or how would you describe it at that time?

4 A. 1970?

5 Q. Yes.

6 A. I don't recall any specific dates when they  
7 were using Calidria asbestos, but I would guess they would  
8 be a medium to large user compared to others.

9 Q. Do you know in 1970 of any users which were  
10 larger than Conwed of Calidria asbestos?

11 A. No, I wouldn't remember without reviewing  
12 sales data.

13 Q. Is there any sales data available which would  
14 indicate at that date the relative size of these accounts?

15 A. I don't know whether there is anymore or not,  
16 any files that would have that.

17 Q. What sorts of files were kept at that time  
18 which would show relative size of the accounts?

19 A. We kept records of sales to individual  
20 customers.

21 Q. And were those kept at Niagara Falls?

22 A. Yes, in 1970. From 1970.

23 Q. Before 1970, do you know where they kept the  
24 sales records?

25 A. Not specifically, but I would assume they

1 would have been kept in the New York office.

2 Q. When you were moved to Niagara Falls in 1970  
3 as sales manager, did the office start there with you, so  
4 to speak, or move with you?

5 A. Well, I was marketing manager and I set up a  
6 marketing office in Niagara Falls to market Calidria  
7 asbestos or asbestos.

8 Q. Before that, had the marketing office been at  
9 the headquarters office in New York City?

10 A. Yes.

11 Q. After you set up the marketing office in  
12 Niagara Falls in 1970, did it stay there until 1985?

13 A. No. After I moved in 1981, at some point  
14 between '81 and '85 the office was moved to Pittsburg.

15 Q. Do you have any idea when that was?

16 A. That would be '82 or '83, something like that.

17 Q. After 1974, in any event?

18 A. Yes.

19 Q. Would it be fair to say that from 1970 to '74,  
20 the marketing office was in Niagara Falls? Is that right?

21 A. What were the dates?

22 Q. '70 to '74?

23 A. Yes.

24 Q. And from '63 to '70, would it have been in New  
25 York City?

1           A.     To the best of my knowledge, sales were  
2 handled out of the New York office until 1970.

3           Q.     Do you know who your predecessor was as  
4 marketing manager for asbestos?

5           A.     Yes, Walter Young.

6           Q.     Is he still around?

7           A.     I think. As far as I know, he is still alive.  
8 I don't know where he is.

9           Q.     Is he working or retired, as far as you know?

10          A.     I don't know.

11          Q.     Now, at any time right up to the present, have  
12 you made a survey or review of the Union Carbide records to  
13 determine when the sales of Calidria asbestos to Wood  
14 Conversion or Conwed started?

15          A.     No, I have not.

16          Q.     Do you have any knowledge, as you sit here  
17 today, as to when those sales started?

18          A.     No.

19          Q.     Do you know if anyone has reviewed the Union  
20 Carbide records to determine when the sales started?

21          A.     No, I don't. Other than Mr. Borger said there  
22 had been production of documents including invoices.

23          Q.     Did you have anything to do with that?

24          A.     No, I did not.

25          Q.     Do you have any knowledge, as you sit here

1 today, as to the quantity or volume of Calidria asbestos  
2 that was sold to Wood Conversion or Conwed?

3 A. No, I don't.

4 Q. Do you have any knowledge, as you sit here  
5 today, as to when those sales ceased?

6 A. No, I don't.

7 Q. Do you have any knowledge as to why the sales  
8 ceased?

9 A. I think they eliminated asbestos from the  
10 ceiling tile application.

11 Q. When you say "they", do you mean Conwed?

12 A. Conwed, yes.

13 Q. Do you know when that occurred?

14 A. No, I don't.

15 Q. Do you know why that occurred?

16 A. No. I assume again it was probably because of  
17 either the health question or development of an improved  
18 formula or a combination of both.

19 Q. When you began as marketing manager in 1970 at  
20 Niagara Falls, from that point forward right up through '85  
21 do you remember any particular individuals at Conwed who  
22 you talked to or met with or dealt with?

23 A. No, I don't.

24 Q. Do you remember a gentleman by the name of Mr.  
25 Walsh?

1 A. For Conwed?

2 Q. For Conwed.

3 A. No.

4 Q. For the rest of my questions here, let's just  
5 talk about Conwed. You are aware that it was formerly  
6 known as the Wood Conversion Company?

7 A. Yes.

8 Q. It changed its name in '67. Instead of saying  
9 Wood Conversion or Conwed, we will just talk about Conwed.  
10 When we do that, you will understand it's all the same  
11 company?

12 A. Yes, I understand.

13 Q. So to get back to my question, you don't  
14 recall Mr. Walsh?

15 A. No, I don't.

16 Q. How about a man named Loren Palmer? Do you  
17 recall him at all?

18 A. No.

19 Q. How about a man named Joe King?

20 A. No.

21 Q. Fred Bergstrum?

22 A. That name rings a bell, yes.

23 Q. Can you recall what it is that you remember  
24 about Mr. Bergstrum?

25 A. No. I would be guessing. I think -- if I had

1 to guess, I think he had some connection with the R&D group  
2 or technical group at Conwed.

3 Q. Do you know if you ever met Mr. Bergstrum?

4 A. Probably I have, but I don't recall any  
5 meeting, any specifics.

6 Q. Do you know where that meeting or meetings  
7 would have taken place?

8 A. I would assume at the Conwed office.

9 Q. Do you have any recollection of anyone from  
10 Conwed ever coming to Niagara Falls or King City?

11 A. I don't remember any such visits, no.

12 Q. Did your asbestos group have any sort of  
13 get-togethers or meetings or conferences or seminars or  
14 that sort of thing for your customers when you would  
15 actually physically have your people meet with them?

16 A. You mean such as call reports or do you mean  
17 visits?

18 Q. Well --

19 A. Sales calls you mean? I hope they were making  
20 sales calls.

21 Q. I assume that your people were out making  
22 sales calls to customers?

23 A. Yes.

24 Q. In addition to that, were there special events  
25 so to speak where, for example, Union Carbide would put on

1 a seminar and that sort of thing where customers would  
2 gather and your people would gather?

3 A. I don't recall anything like that.

4 Q. Do you know if individual sales office  
5 managers, like Mr. Norris, would do things like that while  
6 you were in charge after 1970?

7 A. Well, he would have a customer seminar?

8 Q. Right.

9 A. I don't recall that he did, no. He may have.

10 Q. Would there ever be instances, and I am  
11 talking about the time period of roughly 1970 to '74, give  
12 or take a few years, but that time period, would there ever  
13 be instances where Union Carbide would have technical  
14 meetings where your technical people would either have  
15 customers come in or would go out to customers to give  
16 technical presentations which were not directly a sales  
17 presentation but about technical issues?

18 MR. BORGER: Object to the question to  
19 the extent that it calls for going beyond the direct  
20 knowledge of the witness.

21 A. Well, to the best of my knowledge, I don't  
22 recall any seminar just as I don't recall -- I think this  
23 is very similar to the prior question where numbers of  
24 customers were brought in for a general technical  
25 presentation. I don't recall that.

1 Q. Were there any instances where particular or  
2 individual customers would be given a technical  
3 presentation of some sort?

4 A. Well, that would be part of a sales visits,  
5 although the customer would obviously be more technically  
6 familiar with his application than the salesman would.

7 Q. Did Union Carbide have your asbestos group --  
8 did it have certain technical people who would support the  
9 salesman and go with the salesman and be available on-call,  
10 that sort of thing?

11 A. Yes. As I recall in that time period of '70  
12 to '74, the marketing group was divided into a technical  
13 group and a sales group, and the people located in Niagara  
14 Falls would be more technically-oriented and they would  
15 make calls with the salesmen, particular salesmen.

16 Q. Were they assigned a particular territory, the  
17 technical people?

18 A. I think in that time period it was a split  
19 between sales and technical. At some later point we had a  
20 geographical separation of all the people that worked for  
21 me.

22 Q. Let me see if I can understand this. Let's  
23 have all these questions pertaining to '70 to '74 time  
24 period. During that time period you had the Chicago office  
25 which covered the midwest for sales. Now, would all the

1 sales activity be handled out of that Chicago office?

2 A. Yes, as I recall, although at one point floor  
3 tile customers were -- may not have been part of the  
4 midwest salesmen's territory.

5 Q. From '70 to '74 as far as sales personnel, who  
6 would have called on Conwed Corporation? Would those sales  
7 people all have been from Chicago, I guess, is what I am  
8 really getting at here?

9 A. Well, to the best that I remember, although  
10 when I first was marketing manager we did -- as we  
11 established, I was in the mining and metals division. We  
12 did utilize chemicals and plastics sales people on some  
13 kind of a reimbursement basis. But I think that anyone who  
14 would have called on Conwed probably would have been in  
15 Chicago other than this Lee Kendall, who you said was in  
16 Minneapolis.

17 Q. Do you recall anything about an office in  
18 Minneapolis?

19 A. No.

20 Q. And as far as technical people who would have  
21 had anything to do with Conwed from '70 to '74, would they  
22 have all been from Niagara Falls?

23 A. Yes, to the best of my recollection.

24 Q. And would these be certain technical people  
25 who were involved with wood products or paper products?

1 A. Yes.

2 Q. Could we deduce from that that it would be one  
3 of those people that we talked about earlier, Mr. Woolery  
4 or a couple of the others, Dickson and Ingalls?

5 A. Yes, and then we also did have people who  
6 developed expertise in air monitoring.

7 Q. Well, I will get to the air monitoring in a  
8 little while but as far as --

9 A. That's a technical subject.

10 Q. Other than air monitoring, do you believe that  
11 any technical people who called on Conwed from '70 to '74  
12 would have been one of those individuals that we just  
13 talked about?

14 A. Yes, to the best of my knowledge.

15 Q. Now, if someone at Conwed during that time  
16 period had a technical question about the use of Calidria  
17 asbestos in a Conwed product, were they told that they  
18 could call Niagara Falls directly and ask a question or  
19 would they go through Mr. Norris or how would they do that?

20 A. I would say yes. They would either go through  
21 Mr. Norris or, if they had established a relationship with  
22 someone in Niagara Falls, they could have contacted them  
23 directly.

24 Q. Do you know if any record of such contacts  
25 would be kept?

1 A. I am not aware of any such records.

2 Q. Would the technical people in Niagara Falls  
3 have a log or a diary or records they would keep of  
4 contacts from customers?

5 A. Well, most laboratory people do keep record  
6 books, yes.

7 Q. Do you know if those have been preserved?

8 A. No, I don't.

9 Q. Would you be able to hazard a guess on that?

10 MR. BORGER: Don't guess.

11 A. No, I just don't know what happened after I  
12 left there.

13 Q. Have you ever seen such a thing?

14 A. Not that I recall.

15 Q. Did you ever see any of the purchase orders or  
16 invoices or other documentation with respect to the sales  
17 to Conwed?

18 A. Not that I recall.

19 Q. Those, as far as you know, would all go  
20 between Chicago and Cloquet?

21 A. And/or the King City plant.

22 Q. And/or King City?

23 A. Yes.

24 Q. What I would like to do is show you what's  
25 been marked as Exhibit 2, which is three documents. The

1 top one is a Wood Conversion Company purchase order, and  
2 I'll ask you if you have seen those type of purchase orders  
3 or if you are familiar with them?

4 A. I am not familiar with the purchase order, no.

5 Q. The second page is what appears to be a  
6 shipping bill of lading or shipping invoice from the  
7 railroad company. Are you familiar with those sorts of  
8 documents?

9 A. Yes, I have seen bills of lading before.

10 Q. And does this appear to be one showing  
11 shipment of asbestos from King City to Cloquet?

12 A. Yes.

13 Q. Is that the typical kind of form that you have  
14 seen before or is that different?

15 A. It's typical. I have seen -- I think the  
16 design has changed but that would be a typical form.

17 Q. Look at the third page. That's entitled "Shipping  
18 Memorandum" on Union Carbide letterhead. Can you tell me  
19 what that is?

20 A. No, I don't know what this would be used for.  
21 I could guess that it would be used for notifying or to  
22 advise plant people of a shipment that's to be loaded.

23 Q. It appears to be just some Union Carbide  
24 internal shipping document. Does that seem right?

25 A. Yes.

1 Q. Okay.

2 A. It looks like it tells what lot numbers to  
3 load.

4 Q. Do you know what specific brands or type, I  
5 won't say model number, but were they designated by number,  
6 the Calidria asbestos that was shipped to Conwed over the  
7 years?

8 A. Yes.

9 Q. Which types do you recall?

10 A. As far as I remember, they always used what we  
11 call the high purity pellets, HPP. That's on this.

12 Q. Exhibit 2, the shipping memorandum, shows a  
13 shipment of high purity pellets?

14 A. It shows HPP, asbestos HPP.

15 Q. So when we see the designation HPP, that means  
16 high purity pellets?

17 A. Yes, that's on Conwed order also.

18 Q. What sort of containers were those shipped in?

19 A. In paper bags.

20 Q. How big were the bags?

21 A. Physically or weight or what?

22 Q. Yes.

23 A. Physically probably a little over one cubic  
24 foot in volume and 50 pounds in net weight.

25 Q. When you say a cubic foot in volume, what

1 physical dimensions is that as far as height and width and  
2 length?

3 A. Probably 24 inches long and 15 inches wide and  
4 four or five inches deep. I am only guessing at that.

5 Q. Is it a bag that would stand upright? In  
6 other words, was its biggest dimension its height?

7 A. Its height was the tallest dimension, height  
8 if it was in that position. If it's laying down, the  
9 height would be five inches.

10 Q. Or stacked on a pallet. Let's say you bought  
11 a 50 pound bag of dog food for your dog. Is it that  
12 general type of bag?

13 A. It would be smaller than that, but that  
14 general shape.

15 Q. And were these stitched shut or stapled shut  
16 or how were they closed?

17 A. No, it was kind of a self-sealing. It was  
18 called a valve-type bag. There was no stitches or sealing.  
19 The valve closed after it was filled.

20 Q. Was it a single wall or double wall paper  
21 construction?

22 A. It was multi-wall, I think, up to three plies.

23 Q. Was it this brown kraft type paper?

24 A. Yes, unbleached kraft.

25 Q. Unbleached kraft paper?

1 A. Yes.

2 Q. Did it carry certain logos on it or certain  
3 colors or that sort of thing or was it just a plain brown  
4 bag?

5 A. It carried a logo, the name of the product,  
6 the manufacturer, and net weight.

7 Q. What color was it?

8 A. I said unbleached kraft. That was wrong. At  
9 one time and probably during this time period that you are  
10 speaking of, the bag was white. It was bleached kraft.  
11 The outer ply was white.

12 Q. What color would the ink and the logo be?

13 A. As I recall, it was blue. Also I think I  
14 recall that the paper was -- it is called a beater bag.  
15 The bag could be thrown into the mixing system. As long as  
16 it was an aqueous system so you wouldn't have to open the  
17 bag, it would dissolve in the pulp, paper pulp.

18 Q. Do you know when Union Carbide started using  
19 this beater bag?

20 A. No, I don't recall any dates.

21 Q. Do you know if they had always used the beater  
22 bag for the high purity pellets beginning back in 1963?

23 A. No, I don't think high purity pellets were  
24 made in '63. Again, I don't recall because I was not out  
25 there or not in the operation. I don't recall when high

1     purity pellets were started, and I don't recall when a  
2     beater bag was started.

3             Q.     Other than beater bags, do you know what other  
4     containers, types of containers, the asbestos was shipped  
5     in from '63 up through '74?

6             A.     It was always paper bags, although we did  
7     start using plastic bags at some point in the '70's. I  
8     don't recall what year.

9             Q.     Were these loaded on pallets?

10            A.     The bags were loaded on pallets, yes.

11            Q.     And then the pallets were loaded in box cars  
12     and those were shipped out. Is that the way it worked?

13            A.     Normally, yes. It could be into trucks. But  
14     cross-country it was normally railroad box cars.

15            Q.     Now, did these bags of Calidria asbestos at  
16     any time contain any health warnings or warnings of any  
17     type on them about any hazards associated with asbestos?

18            A.     Yes, they did.

19            Q.     Do you know when that began?

20            A.     In 1968 we initiated or a warning was  
21     initiated.

22            Q.     And did that warning change over the years?

23            A.     Yes. In 1972 the wording was changed to  
24     conform to standards published by the Occupational Safety  
25     Health Administration.

1 Q. And this was imprinted on each bag?

2 A. Yes.

3 Q. In addition to the warning imprinted on the  
4 bag, were there other written warnings that were sent to  
5 customers in any fashion?

6 A. There was written information sent to  
7 customers. I don't know whether you would call it a  
8 warning. Customers were supplied with information  
9 available at different points in time.

10 Q. Do you know how it was that Union Carbide  
11 determined that a warning should be put on the bags in 1968?

12 A. No, I don't.

13 Q. Do you know why it was determined to put the  
14 warning on in '68?

15 A. No.

16 Q. Do you know who wrote the warning?

17 A. No.

18 Q. How about these other written materials you  
19 have just mentioned? Do you know when those first began to  
20 carry some warning to customers about any health hazards  
21 associated with asbestos?

22 A. I have seen one as early as 1968, I think it  
23 was dated. In 1970 we began a fairly general program of  
24 mailing out information to customers.

25 Q. And what form would that information take?

1 Would it be like a technical bulletin or periodic magazine  
2 or what?

3 A. I don't recall. I think there was a general  
4 statement issued by the Union Carbide Medical Department,  
5 and I don't recall what other literature or pieces. I am  
6 sure it would mostly be published information, perhaps  
7 magazine articles.

8 Q. And were these materials sent to the regional  
9 sales offices?

10 A. Well, the practice, again, I am not sure when  
11 it was initiated, was to send these directly to customers,  
12 these letters, although the salesmen would be made aware of  
13 the same type of information.

14 Q. And who would send them directly to customers,  
15 the Niagara Falls office?

16 A. Yes.

17 Q. How were the salesmen made aware of this  
18 information?

19 A. By written or during meetings.

20 Q. Were they shown the same material that went to  
21 the customers or were they given --

22 A. Yes, they would have been given the assignment  
23 through them.

24 Q. Do you know how it was determined that a  
25 particular mailing should go out to a customer on a health

1 or safety issue?

2 A. Well, when I was marketing manager when I  
3 started in 1970, we would just -- I don't recall anything  
4 specific, but I am sure we would check with the other  
5 technical people in our group and perhaps the Medical  
6 Department and perhaps the Legal Department to determine  
7 what would be appropriate to send.

8 Q. Now, was this something that you initiated or  
9 would you get, for example, periodic bulletins from the  
10 Medical Department saying here is a new medical development,  
11 tell our customers about it?

12 A. I don't recall that we received anything like  
13 that from the Medical Department. I would say that it was  
14 initiated within the marketing department and perhaps also  
15 by the business management people in New York City or in  
16 conjunction with them.

17 Q. Well, let's take a medical issue, for example,  
18 concerning some health hazard or perceived health hazard  
19 with asbestos. If the medical department didn't send that  
20 to you, how would the marketing people find out about that?

21 A. I didn't say they didn't send it. I said they  
22 didn't necessarily send us a letter and say you should send  
23 this to customers. I am sure they sent us information and  
24 we read our own in various periodicals or whatever might be  
25 published.

1 Q. Would the Medical Department on their own  
2 initiative ever send you bulletins or articles or that sort  
3 of thing, or would it be upon inquiry from you?

4 A. Again, I don't recall, but I am sure they  
5 would have sent it independently.

6 Q. And on those occasions when the medical  
7 department sent you written material concerning any  
8 perceived health hazards with asbestos, who would decide  
9 whether that should be sent onto the customers?

10 A. I don't think there was an individual who  
11 would decide. It would be myself and people working for me  
12 and as I say in conjunction with the Medical Department and  
13 probably the legal department and our business management  
14 people in New York City.

15 Q. During the time that you were marketing  
16 manager, did you ever send to customers medical information  
17 received from the Union Carbide Medical Department about  
18 hazards of asbestos?

19 A. Yes, I am sure we did, yes.

20 Q. Do you recall any specific instances of that?

21 A. As I say, they did prepare some type of  
22 summary for the mailings we made on whatever they deemed  
23 was the appropriate status of health information at the  
24 time.

25 Q. Do you remember if any such summaries were

1 mailed to customers before 1974?

2 A. As I said earlier, we initiated this I know in  
3 1970..

4 Q. Do you know --

5 A. And it became pretty much an annual mailing.

6 Q. Do you know if any such medical information  
7 was sent to customers before 1970?

8 A. I don't know specifically. Again, as I said  
9 earlier, I have seen a piece of product literature that had  
10 a statement about asbestos and dated 1968, but I don't know  
11 whether that had general distribution or not.

12 Q. From the time period 1970 through 1974, did  
13 you have any information that Calidria high purity pellets  
14 could create any health hazard if handled?

15 A. You mean did we test high Calidria asbestos in  
16 animals or something?

17 Q. No. I am asking if you had heard at any time  
18 or if anyone had told you that you were aware that there  
19 could be some danger in using Calidria pellets?

20 MR. BORGER: As distinct from other  
21 asbestos?

22 MR. BROWNSON: Right.

23 BY MR. BROWNSON:

24 Q. I am just talking about Calidria pellets.

25 A. Calidria pellets are chrysotile asbestos, and

1 the information concerned chrysotile pellets being a health  
2 hazard.

3 Q. Do you remember that back in '70 to '74?

4 A. No, I don't recall when I became aware of that,  
5 but it should have been during that time period, yes.

6 Q. Was any information given to customers during  
7 that time period as to how they should handle Calidria  
8 pellets to reduce the health hazard?

9 A. Of course being pellets, that's a big factor  
10 in having less dust generated anyway because it's not loose  
11 fibre like the conventional Canadian asbestos or other  
12 sources of asbestos where Calidria is the only source of  
13 asbestos in a pellet form. Of course, the key to any  
14 avoidance of disease with a dusty material is not to make  
15 it airborne.

16 Q. Okay.

17 A. So these kind of warnings, if you want to call  
18 it that, were given to customers to avoid creating dust,  
19 and that is what the -- that's what the label said, the  
20 warning label on the bag included those words.

21 Q. Now, are you aware of how the Conwed ceiling  
22 tile manufacturing process worked at Cloquet from '70  
23 to '74?

24 A. I don't know what you mean by how it worked.

25 Q. Well, are you familiar with --

1           A.     I think it was Fourdrinier process, and that's  
2 all I know and I can't even pronounce that.

3           Q.     Did you know at that time if that process  
4 would have occasion to grind up the Calidria pellets so as  
5 to create dust?

6           A.     Well, in order to use the pellets they would  
7 have to be ground up. This, as far as I know, was done in  
8 a wet system, and there should not be any dust if you are  
9 grinding in a wet system.

10          Q.     How about when the --

11          A.     Especially if they were using the beater bag  
12 properly without opening them, putting them directly into  
13 the system.

14          Q.     Were you aware of the fact that the Conwed  
15 ceiling tile system would send the wet slurry through a  
16 dryer, and it would come out in a dry board form?

17          A.     Only that, you know, when you buy ceiling tile  
18 it's dry. So I assume it has been through a drying process.  
19 By that time the fibres should be bound up with the binders  
20 that are in the formulation.

21          Q.     Do you know which binders those were?

22          A.     The only thing I remember is starch being  
23 bound up.

24          Q.     Do you know if dry ceiling tile was cut,  
25 sanded or drilled if it would cause the release of asbestos

1 fibres into the air from the Calidria asbestos in the tile  
2 board?

3 A. I assume that there would be fibres released.  
4 It wouldn't have to be Calidria asbestos, it would be any  
5 kind of fibres that was in there, cellulosic or whatever  
6 kind of fibres they would be using. Whether you can  
7 distinguish those from the background levels of fibres in  
8 the air, I don't know.

9 Q. Well, whether you could distinguish them or  
10 not you were aware at the time that they would be released  
11 if those types of operations were performed on a dry board?

12 A. I don't recall considering that at that time.

13 Q. At the time Union Carbide began to issue these  
14 medical warnings, if I can call them that?

15 A. I don't think I would call them that.

16 Q. What would you call them?

17 A. The status of information on asbestos and  
18 health.

19 Q. At the time Union Carbide began to issue the  
20 status of information on health warnings?

21 A. Again, I wouldn't use the word warnings.

22 Q. Pronouncements?

23 A. Advisories, communications.

24 Q. At the time these things were issued, was  
25 there any program in place to review the customers'

1 operations as to see how the asbestos was being used?

2 A. I don't recall that there was any review other  
3 than, as I say, during the air monitoring would be a time  
4 when we were in a customer's plant and see his operation.  
5 It was not generally a practice for marketing people to see  
6 the plant operations. Usually sales calls would be made in  
7 offices.

8 Q. Did anyone from the medical department or  
9 anyone else at Union Carbide ever tell you that you should  
10 review the customers' manufacturing process to see if dust  
11 was being released?

12 A. Did they ever tell us to do that?

13 Q. Right.

14 A. Not that I recall. As I say, most customers  
15 we had were -- knew more about the process and asbestos  
16 than we did. In most cases our asbestos was replacing  
17 somebody else's asbestos.

18 Q. Do you know what knowledge Conwed had  
19 concerning asbestos at the time they purchased Union  
20 Carbide asbestos?

21 A. I am afraid not, no.

22 Q. Were you aware that Conwed did not mine  
23 asbestos?

24 A. No, I would not have known that.

25 Q. In determining which warnings to give to

1 customers about health issues, would that depend on what  
2 type of customer it was? In other words, did you consider  
3 some customers to be more knowledgeable or sophisticated  
4 than others?

5 A. I would say when we were introducing, for  
6 example, this treated product, the RG 244, we would  
7 probably make sure that they were aware that breathing  
8 asbestos fibres could cause health problems.

9 Q. And you don't --

10 A. But I don't think -- among our major customers  
11 we didn't say they should know more, and we didn't tell  
12 them anything. The information was issued in a general  
13 fashion.

14 Q. So everybody got the same information?

15 A. To the best of my knowledge, yes.

16 Q. Do you recall ever hearing of a disease called  
17 mesothelioma while you worked for Union Carbide?

18 A. Yes.

19 Q. Do you recall when you first heard that term  
20 used?

21 A. No, I don't.

22 Q. Do you recall ever getting any information  
23 that chrysotile asbestos could cause mesothelioma?

24 A. No, most of the information was the other way  
25 around, that mesothelioma was not thought to be caused by

1 chrysotile.

2 Q. Do you recall ever getting any information  
3 that it was caused by chrysotile?

4 A. I don't think I have ever seen anything, any  
5 kind of a report attempting to prove that mesothelioma was  
6 caused by chrysotile, if that's the question you are asking.

7 Q. Yes, it is. Did you ever see any written  
8 materials or reports or literature or articles saying that  
9 mesothelioma was not caused by chrysotile?

10 A. Again, I don't think you get any black and  
11 white reports on this kind of a medical or technical  
12 situation. Most of the reports say, you know, based on the  
13 epidemiological or animal studies mesothelioma seems to be  
14 caused by amphibole variety of asbestos, not chrysotile.

15 Q. And did you ever see any such reports or did  
16 people just tell you that?

17 A. I have seen reports, yes.

18 Q. Were those kept somewhere at Union Carbide?

19 A. I don't think there was any formal filing of --

20 Q. Would the medical department from time to time  
21 send you medical literature to that effect?

22 A. I don't recall anything specifically from them,  
23 but I assume that they would send things like that.

24 Q. Do you know who at the medical department was  
25 sending you this information?

1           A.     Some of it may have come through the  
2 industrial hygiene department. Mr. McDaniel and others  
3 would have come, I can't remember the medical director, in  
4 that time period. Carl Dernehl is the name I remember,  
5 Carl Dernehl.

6           Q.     Was there a specific medical director just for  
7 the asbestos group or was this a company-wide?

8           A.     It was a company-wide corporate medical  
9 directory. The asbestos business again was very small. We  
10 had 50 or 60 employees at the most.

11          Q.     What was the name of the medical director? Do  
12 you remember?

13          A.     Carl Dernehl.

14          Q.     He was located where?

15          A.     In New York City.

16          Q.     Do you know if he is still with the company?

17          A.     I don't think he is.

18          Q.     Do you know if he is still alive?

19          A.     No, I don't.

20          Q.     Do you know an individual by the name of John  
21 Welsh who was a medical director?

22          A.     I remember that name, yes.

23          Q.     Do you remember him as being the medical  
24 director?

25          A.     Is that J. J. Welsh?

1 Q. I just have it as John Welsh, medical director  
2 from '63 to '78.

3 A. That sounds correct, yes.

4 Q. Do you know if he ever sent you any of this  
5 information that we have just been talking about?

6 A. I assume he did, but I can't remember anything  
7 specifically.

8 Q. Do you know if he is still with the company?

9 A. No, I don't.

10 Q. Do you know anything about him?

11 A. No.

12 Q. Do you ever recall, while you were marketing  
13 manager, receiving medical literature or being told or  
14 receiving any information that studies of chrysotile miners  
15 in Canada showed that they were getting mesothelioma?

16 A. No.

17 Q. How about asbestos factory workers in Canada  
18 using chrysotile and contracting mesothelioma? Did you  
19 ever hear that?

20 A. Well, I may have heard it. I don't remember  
21 anything specifically. Again, you are saying mesothelioma,  
22 you are not saying chrysotile was the cause necessarily.

23 Q. Let me rephrase the question. Did you ever  
24 receive any information while you were marketing manager  
25 that workers using chrysotile asbestos in asbestos textile

1 plants were contracting mesothelioma?

2 A. I don't know whether it was in that time  
3 period, but I have seen information on textile workers, yes.

4 MR. BORGER: The record should reflect  
5 that Counsel appears to be reading from a document, and,  
6 Mr. Brownson, if you have a document which you contend  
7 would or should have come to Mr. Myers' attention, out of  
8 courtesy, you ought to show the witness what you are  
9 reading from.

10 MR. BROWNSON: I don't contend that this  
11 document should have come to his attention. It's a  
12 bibliography of certain medical articles which has been  
13 marked as Exhibit 6, and I will show it to Mr. Myers.

14 BY MR. BROWNSON:

15 Q. Mr. Myers, why don't you review the  
16 bibliography, which is a two-page bibliography, and tell us  
17 if you recognize any of the articles on there?

18 MR. BORGER: Counsel, would you indicate  
19 the source of the bibliography?

20 MR. BROWNSON: Pages 142 and 143 of a  
21 book entitled "Dusts and Disease", which is a symposium  
22 entitled "Proceedings of the Conference on Occupational  
23 Exposures to Fibrous and Particulate Dust and Their  
24 Extension into the Environment," published in 1979 by the  
25 Society for Occupational and Environmental Health, U.S.

1 Department of Labor.

2 MR. BORGER: You are not contending that  
3 any part of that book came out of Union Carbide's file?

4 MR. DROWNSON: No.

5 A. Now, what was the question?

6 Q. My question is, do you recognize any of the  
7 articles listed in that bibliography?

8 A. I am sure that I have seen some of them, yes.

9 Q. Can you tell us which of them that you have  
10 seen?

11 A. Not for sure. I remember Dr. Hammond and Dr.  
12 Selikoff's relation of cigarette smoking to risk of disease.

13 Q. Do you remember anything of Dr. Hammond and  
14 Dr. Selikoff talking about asbestos exposure and risk of  
15 disease?

16 A. If I didn't say it, that's the one I was  
17 talking about, relation of cigarette smoking to risk of  
18 asbestos associated disease, insulation.

19 Q. Do you remember ever seeing any other articles  
20 listed on that bibliography?

21 A. As I say, I am sure I have seen these, but I  
22 don't recall any of the others specifically. Here is one  
23 by Dr. McDonald, "The Health of Chrysotile Asbestos to Mine  
24 and Mill Workers of Quebec".

25 Q. Do you remember actually reading that article?

1           A.     I think that I read it. I mean, I have read  
2     some similarly titled. Maybe it wasn't that specific one.

3           Q.     Do you know if any information from that  
4     article was incorporated into the mailings that you sent to  
5     Union Carbide customers?

6           A.     No, I can't recall. As I said earlier, I  
7     don't recall what information we did send to customers.

8           Q.     I would next like to show you what's been  
9     marked as Exhibit 7 and ask you if you have ever seen that  
10    document?

11          A.     Yes, I have.

12          Q.     And just for the record, it's entitled what?

13          A.     "Asbestos as a Health Hazard in the United  
14    Kingdom", by I. C. Sayers.

15          Q.     Do you remember when you first saw that  
16    document?

17          A.     I think it was just a short while ago at an  
18    asbestos trial. I can't remember -- I think it was in  
19    Arkansas when I first became aware of it. It was since  
20    1985.

21          Q.     So you don't recall seeing that from 1970 to  
22    1974?

23          A.     No.

24          Q.     Or before that time?

25          A.     No.

1 Q. Do you know if any of the information  
2 contained in that article was incorporated into the  
3 mailings that Union Carbide sent to customers after 1970?

4 A. I doubt if it was. I have never seen it  
5 before.

6 Q. The next thing I want to show you, it's been  
7 marked as Deposition Exhibit 8, you will be happy to see  
8 that this is something authored by you?

9 A. I don't know whether it would make me happy or  
10 not.

11 Q. First of all, do you recognize that?

12 A. Yes, I do.

13 Q. And just for the record, what is the title of  
14 that publication?

15 A. "Chrysotile Asbestos in Plastics".

16 Q. And were you the author of that?

17 A. Yes.

18 Q. Do you remember why that was authored?

19 A. Probably as a sales -- piece of sales  
20 literature.

21 Q. And what's the date of it?

22 A. December 1973, and that was presented in May  
23 of '74.

24 Q. Do you know if any of the information  
25 contained in that publication was disseminated to customers?

1           A.     Yes, all of this was. This is what it was  
2 prepared for.

3           Q.     Do you know if any of it was disseminated to  
4 customers before December of 1973?

5           A.     No, I don't.

6           Q.     In other words, I guess what I am wondering,  
7 is this a compilation of previous material that you put  
8 together or is this some new material that was put together  
9 in '73 and then sent out?

10          A.     Well, there wasn't any new material I don't  
11 think. It was just a compilation of existing information  
12 on the use of our asbestos products in plastics. As I say,  
13 it was prepared for customers so it would have been mailed  
14 to them.

15          Q.     I guess my question wasn't clear. I am  
16 wondering if any of this information could have been mailed  
17 to customers in different mailings before that time?

18          A.     Yes, it could.

19          Q.     Do you know if this was mailed to Conwed  
20 Corporation?

21          A.     This particular --

22          Q.     Yes, Exhibit 8?

23          A.     No, I don't.

24          Q.     Now, they were --

25          A.     I doubt if it would be because they weren't in

1 plastics.

2 Q. That's what I was about to ask. They were a  
3 wood products company. Do you know if there would be any  
4 occasion that you or Mr. Norris or anyone else at Union  
5 Carbide would send this to Cenwed? Can you think of a  
6 reason why that might have been done?

7 A. Yes, because it is a -- it would be a little  
8 self-serving, but I think it's a good summary of what  
9 asbestos is, how chrysotile is different and how Calidria  
10 is different, and then a summary of the health situation  
11 and OSHA standards and Environmental Protection Agency  
12 standards. So it doesn't just address plastics in a large  
13 part. A large part of it is directed to general use.

14 Q. The next thing I want to show you is Exhibit 9.

15 A. Is all of this part of the same?

16 Q. I thought it was, but it may not be. That's  
17 the way we got it.

18 A. I don't know when I was -- this is not part of  
19 my paper.

20 Q. You are right, this is not. Let me do this.  
21 Let me ask you to look at Exhibit 8 and ask you --

22 MR. BROWNSON: Off the record.

23 (At this time a discussion was held off  
24 the record.)

25 MR. BROWNSON: Back on the record.

1 BY MR. BROWNSON:

2 Q. I have taken some off of there and ask you if  
3 what remains is your complete article or if there is some  
4 that's missing. I see it ends with "Conclusion" and then  
5 there is some attachments or appendices?

6 A. The attachments are the tables that are  
7 referenced in the body of the report.

8 Q. Does it look like we have the whole body of  
9 the report?

10 A. Yes.

11 Q. And do we have all the tables on there? I  
12 think we got through Table 4. Do you know if there are any  
13 other ones that are missing?

14 A. I don't see a reference to Table 4, but it --

15 Q. Does Table 4 appear to be part of the article?

16 A. Yes.

17 Q. Are there any tables after 4 that we are  
18 missing there that you can tell?

19 A. No, I think dust control is the last subject,  
20 and the last table is on dust results. To the best of my  
21 knowledge that's the complete report.

22 Q. I next want to show you Exhibit 9 and ask you  
23 if you have seen that publication before?

24 MR. HERGOTT: Would you identify it for  
25 us?

1 MR. BROWNSON: I am going to ask him to  
2 do that.

3 A. Yes, I have seen this before.

4 Q. For the record, what is the title of it?

5 A. "Properties of Asbestos Suitable for Use in  
6 Cellulosic Paper."

7 Q. Do you know who the author of that was?

8 A. A. W. Naumann.

9 Q. Is that a Union Carbide publication?

10 A. I don't know whether it's published by Union  
11 Carbide, but he was an employee of Union Carbide according  
12 to the title page.

13 Q. Do you know when that particular thing was  
14 published?

15 A. No, it's not dated unless I would look through  
16 each page.

17 Q. I can tell you it's not dated. I am just  
18 wondering if you know.

19 A. I know this was prior to 1970. I would guess  
20 in the mid-'60s.

21 Q. Do you know if that was disseminated to  
22 customers by Union Carbide?

23 A. Yes, it was.

24 Q. And do you know if it was disseminated to  
25 Conwed?

1 A. No, I wouldn't have any --

2 Q. Do you know if there was any subsequent  
3 addition or revision or update of that particular article  
4 which was prepared?

5 A. Not to my knowledge. Again, I think this was,  
6 as I stated earlier, the work in the paper industry was --  
7 I was not directly involved, and most of it was done prior  
8 to when I joined the asbestos group.

9 Q. And was Mr. Naumann a guy at Niagara Falls?

10 A. I don't believe he was ever there. According  
11 to this, this work was done in Tuxedo which we discussed  
12 earlier.

13 Q. The next one I want to show you is Exhibit 10,  
14 and I will ask you if you have ever seen this one before?

15 A. Yes, I have.

16 Q. And for the record, can you tell us what the  
17 name of that is?

18 A. "Effects of Chrysotile Asbestos Additions to  
19 Cellulosic Paper."

20 Q. And the author is who?

21 A. Robert G. Woolery.

22 Q. Do you know if that was something which was  
23 disseminated to customers?

24 A. Yes, this would have been used for the paper  
25 customers.

1 Q. Do you know if that would have included Conwed?

2 A. I don't know.

3 Q. Do you know whether that was disseminated to  
4 customers?

5 A. No. It would be the same time frame as  
6 Exhibit 9.

7 Q. And that's mid-'60s?

8 A. Yes, early to mid-'60s.

9 Q. What if a customer, for example, in 1970  
10 requested, and this is a hypothetical question, but what if  
11 a customer requested some information from you about the  
12 use of your chrysotile asbestos in paper. Would you have a  
13 stock of these things on hand and you would send them one?

14 A. I don't think we would have anything -- you  
15 mean today?

16 Q. No, let's say in 1970.

17 A. Yes, I am sure they would have been sent and  
18 used in 1970.

19 Q. Exhibit 11, let me ask you if you have seen  
20 that one?

21 A. No, I don't remember that.

22 Q. Is that something which would have been issued  
23 from Niagara Falls? Can you tell?

24 A. I can't tell from this, no.

25 Q. Does this appear to be in the form of a

1 typical Union Carbide asbestos group information bulletin?

2 A. Well, as I said, I have never seen it before,  
3 which surprises me. I don't remember ever seeing it.

4 Q. Well, I have got three more exhibits, which I  
5 will just show you now. They are Exhibits 12, 13 and 14.  
6 All three of those and all four, if you include 11, have  
7 this same format where it says at the top, "Asbestos  
8 Information Bulletin", and then over on the side it's got  
9 this little logo which appears to be a jumble of asbestos  
10 fibres.

11 MR. BORGER: I will object to the  
12 characterization by Counsel.

13 BY MR. BROWNSON:

14 Q. I am wondering if that is a form that you have  
15 seen of bulletins, just that heading and the form?

16 A. No, I don't recall any that looked like that.  
17 If seems like the ones that I am familiar with would have  
18 been -- would have had Calidria in them.

19 Q. Why don't you look at all four of them. Take  
20 as much time as you need. What I am going to ask you, can  
21 you tell by looking at them when they would have been  
22 issued? Why don't you just go through them and see if you  
23 can tell that.

24 A. I can't tell you anything different than I  
25 already did. I am sure they would have been issued, I

1 think, prior to '66 and probably '63, '64, '65.

2 Q. And is the reason you think they were issued  
3 prior to '66 because that's when you began in Niagara Falls  
4 and you haven't seen anything like that?

5 A. Yeah, that's the reason I am saying that,  
6 although perhaps I would not have seen them even though I  
7 started there in '66, but I don't recall a format like that  
8 or the particular articles.

9 Q. Can you tell from the format if those are  
10 releases to customers or if those are internal Union  
11 Carbide releases for use within the company?

12 MR. BORGER: I think from the witness's  
13 prior testimony he has indicated what he would say in  
14 response to that question it would have to be speculation,  
15 and I would ask the witness not to speculate.

16 BY MR. BROWNSON:

17 Q. Don't speculate, but I want to ask you if you  
18 can tell if those were something which would go to  
19 customers or if those were for internal Union Carbide use?

20 A. They would be for customers.

21 Q. The next Exhibit I have got is 15, and I will  
22 ask you if you have seen that document before. It's  
23 obviously a photocopy. It may have been some different  
24 color. I don't know.

25 A. I don't recall seeing this bulletin before. I

1     don't believe the last sheet is -- I don't know whether the  
2     last sheet is part of it or not because it uses the trade  
3     name Calidria, and the cover sheet does not use that name.

4             Q.     The last sheet is entitled "Material Safety  
5     Data", is that right?

6             A.     Yes.

7             Q.     But that is a Union Carbide material safety  
8     data sheet. Am I right on that?

9             A.     Yes.

10            Q.     And you believe that that may not have been a  
11     part of the publication, but at least it is a Union Carbide  
12     document, is that right?

13            A.     Yes. My reason for saying that is because the  
14     trade name Calidria is used on the material safety data  
15     sheet and not on the cover of the document unless it's  
16     hidden by the photocopy process, and I don't recall seeing  
17     this before.

18            Q.     Do you know if that is something which would  
19     be sent to customers?

20            A.     Yes, it's in the form that would be sent to  
21     customers.

22            Q.     Is that the kind of material that Mr. Norris  
23     would have in his regional office in Chicago or would a  
24     customer have to go to Niagara Falls or would that come  
25     from Niagara Falls?

1           A.     Mr. Norris was there in 1970, which we didn't  
2 establish for sure. This would be in the salesman's office  
3 as well as Niagara Falls.

4           Q.     So Mr. Norris would have access to this type  
5 of material is what I am asking?

6           A.     Yes.

7           Q.     The next exhibit is Number 15, and I will ask  
8 you if you have seen that one before.

9                   MR. DIEHL: Bob, is 15 an asbestos  
10 bulletin too?

11                   MR. BROWNSON: Yes.

12           A.     I don't recall seeing this, the first two  
13 sheets. The material safety data sheet is dated September  
14 1, 1972, and I have seen that before.

15           Q.     So you don't recall seeing the first two?

16           A.     I don't think these go together. No, I don't  
17 recall seeing the first two.

18                   (At this time MYERS Deposition Exhibits 17A  
19 through 17F were marked for identification by  
20 the Court Reporter.)

21 BY MR. BROWNSON:

22           Q.     Let me show you 17A and ask you if you have  
23 seen that before?

24           A.     I don't recall it.

25           Q.     Does that appear to be another Union Carbide

1 asbestos products information bulletin?

2 A. Yes.

3 Q. As best as you can tell from looking at it,  
4 it's in that pre-'66 format?

5 A. Well, I think I modified that a little bit,  
6 but I am not exactly sure because maybe I didn't see  
7 everything in '66 but I certainly don't recall this -- it  
8 would be pre-1970 because I was in King City until -- for  
9 part of that time.

10 Q. Let me show you Exhibit 17B. Have you ever  
11 seen that before?

12 A. Not that I recall.

13 Q. Can you tell from looking at that what it is?

14 A. It looks like it's another Union Carbide  
15 asbestos products information bulletin which would be sent  
16 to customers or potential customers, and I think the fact  
17 that it is Union Carbide, has its New York City address,  
18 and it references technical service from Tuxedo, New York,  
19 that it was definitely prior to '66 and prior to the  
20 asbestos group setting up in Niagara Falls.

21 Q. Now, these last few exhibits we have seen and  
22 the next ones we are going to look at talk about the use of  
23 asbestos in the paper industry. Do you recognize that the  
24 Conwed ceiling tile plant is a similar industry to the  
25 paper industry?

1           A.     Only the fact that, as I say, I know it was  
2     done on a Fourdrinier process, and I know that applies to  
3     the paper industry and to the ceiling tile manufacturer and  
4     one other. Asbestos cement production uses that process.  
5     But that's about all I know about it.

6           Q.     So it wouldn't be surprising then or  
7     unexpected that these exhibits that we have just looked at  
8     would be technical bulletins or information bulletins which  
9     would also apply to the Conwed ceiling tile process as  
10    opposed to just making paper?

11          A.     Well, they seem to be written for the paper  
12    industry.

13                   MR. BORGER: Are you talking about  
14    exhibits that the witness has not yet even seen, Mr.  
15    Brownson?

16                   MR. BROWNSON: I will withdraw the  
17    question.

18    BY MR. BROWNSON:

19          Q.     I will show you 17C and ask you if you have  
20    seen that one?

21          A.     No, I don't recall any in this format.

22          Q.     I will show you Exhibits 17D and 17E and ask  
23    you if you have seen those?

24          A.     No. Aren't these similar to the ones I have  
25    already looked at?

1 Q. Right.

2 A. Did you want to have 18 stapled to 17?

3 Q. The same question would apply to those that I  
4 asked you about earlier. As to 17D, E and F, they appear  
5 to be publications sent to customers?

6 A. Yes, and we have already gone through these.

7 Q. Well, not C, D and E. We have been through  
8 the other ones.

9 A. Is that any different, 14 and 17E.

10 Q. I don't know if they are different or not.

11 A. No, I don't recall seeing them.

12 Q. Let me show you Exhibit 18 and ask you if you  
13 know what that is?

14 A. No, I don't. Well, I can read it, if that's  
15 what you -- if that's the question.

16 Q. I don't need you to read it. I am just asking  
17 you if you recognize or have seen that before.

18 A. No.

19 Q. Can you tell me generally what it is? In  
20 other words, is it a technical bulletin from Union Carbide  
21 or do you have any idea what it is?

22 A. No.

23 Q. Can you tell from looking at it if it talks  
24 about Calidria asbestos or any application of Calidria  
25 asbestos?

1           A.     One line says, "Reduction of Solid Losses  
2     Using High Purity Asbestos." It doesn't identify the  
3     source of asbestos.

4           Q.     So you can't tell by looking at it if it's  
5     first a Union Carbide Calidria asbestos?

6           A.     No, I can't.

7           Q.     Let me show you Exhibit 19 and ask you if you  
8     have seen that?

9           A.     No, I haven't.

10          Q.     Again, can you tell by looking at it if it  
11     refers to the use or application of Union Carbide Calidria  
12     asbestos?

13          A.     Again, the only reference I see is high purity  
14     asbestos. I identify it with Union Carbide.

15          Q.     Let me now show you Exhibit 17F and ask you if  
16     you have ever seen that before?

17          A.     No, I don't recall seeing it before.

18          Q.     Look on the last page there. You will see  
19     it's signed by Thomas Hall. Is that the same Thomas Hall  
20     we mentioned earlier when I showed you that list of  
21     business cards?

22          A.     I assume that it is.

23          Q.     And I have forgotten, did you know Mr. Hall or  
24     know anything about him?

25          A.     I don't know that I have met him. I think I

1 have talked to him. When I said earlier I thought he had  
2 been in the London office --

3 Q. Does this --

4 A. -- also in the New York office.

5 Q. Does this document in any event appear to be  
6 on Union Carbide letterhead?

7 A. Yes, it does.

8 Q. It appears to be a letter from Mr. Hall at  
9 Union Carbide to Mr. Walsh dated March 26, 1965?

10 A. Yes.

11 Q. And the next thing I want to show you is  
12 Exhibit 20 and ask you if you recognize that?

13 A. Yes, I have seen this before.

14 Q. What is that?

15 A. It's an article out of the October 1971 issue  
16 of "Asbestos".

17 Q. Is that something that was sent by Union  
18 Carbide to customers?

19 A. Well, this is an excerpt from the magazine. I  
20 don't know how many customers were sent the magazine, but I  
21 am sure that most customers would have been sent a copy of  
22 the magazine or a reprint of the article.

23 Q. Now, with my copy of that I had stapled to it  
24 this, which is actually two articles. Does that seem to be  
25 the article to which Exhibit 20 or articles to which

1 Exhibit 20 refers?

2 A. No.

3 Q. Is that something different?

4 A. Yes.

5 (At this time MYERS Deposition Exhibit  
6 20A was marked for identification by the  
7 Court Reporter.)

8 BY MR. BROWNSON:

9 Q. Let's take a look at what's been marked as  
10 Exhibit 20A, and I will ask you if you recognize that?

11 A. Yes, I have seen this or something similar,  
12 maybe not this particular issue.

13 Q. Actually if I look at it carefully it seems to  
14 be two different articles, but it's by the same --

15 MR. BORGER: You should split those  
16 apart, Bob.

17 A. It's two different booklets published by the  
18 AINA.

19 Q. Let's start with 20A, published by the  
20 Asbestos Information Institute, is that correct?

21 A. No, the Asbestos Information Association of  
22 North America.

23 Q. Was Union Carbide a member of that?

24 A. Yes.

25 Q. Do you know if that particular article, 20A,

1 was sent to Union Carbide customers?

2 A. I think I could say yes. This would have been  
3 the type of thing sent to customers in our annual mail list.

4 Q. Do you know if it was sent to Conwed?

5 A. I can't swear to that.

6 Q. Do you know if that particular publication,  
7 20A, deals with the protection of workers or health hazards  
8 to workers in a manufacturing plant?

9 A. The title of it is "Protecting the Asbestos  
10 Worker".

11 Q. Do you know if that refers to end-users of  
12 asbestos products or people in manufacturing plants?

13 A. Well, if you want me to read the opening  
14 sentence, it says, "The asbestos industry has invested  
15 millions of dollars in equipment and techniques to prevent  
16 the inhalation of asbestos dust by workers involved in the  
17 mining and milling of asbestos and in the manufacture of  
18 asbestos-containing products."

19 Q. So based on that, does that appear to be an  
20 article which would be sent out by Union Carbide to  
21 customers who used your asbestos in their manufacturing  
22 processes?

23 A. I think I said that earlier, yes.

24 (At this time MYERS Deposition Exhibit  
25 20B was marked for identification by the

1 Court Reporter.)

2 BY MR. BROWNSON:

3 Q. Let's look at 20B and I will ask you if you  
4 recognize that?

5 A. Yes, I have seen this or again something  
6 similar.

7 Q. Again, that's a publication of the Asbestos  
8 Information Association?

9 A. Yes.

10 Q. That's the same group as 20A?

11 A. Yes.

12 Q. Do you know if that was something which Union  
13 Carbide mailed to its customers?

14 A. Yes.

15 Q. Now, let me switch to a different topic, and  
16 that's the topic of air testing. It's my understanding at  
17 some point in the early 1970s Union Carbide asbestos group  
18 started a program where you would conduct tests at your  
19 facilities?

20 A. Air monitoring, in 1971.

21 Q. You began the actual monitoring in 1971?

22 A. To the best of my knowledge, yes.

23 Q. Whose idea was that?

24 A. Well, it was probably done again in  
25 association with my group, my people. Again I don't

1 remember whether the Union Carbide industrial hygiene group,  
2 I am sure they were involved with our decision, and again  
3 the medical and legal and business departments in corporate  
4 headquarters would have been involved in making the  
5 decision to go ahead with that program.

6 Q. How long did this decision making process take  
7 in deciding to implement this air monitoring program?

8 A. You mean in days or months or years?

9 Q. Well, yes.

10 A. I don't recall. You mean from when the idea  
11 was presented until we took our first sample?

12 Q. Right.

13 A. No, I don't recall.

14 Q. Why was this program started?

15 A. We felt like it would be a valuable tool to  
16 provide our customers with as to whether or not they were  
17 creating a dust inhalation problem for their employees.

18 Q. Was there a recognition at that time in 1971  
19 within Union Carbide that use of the Calidria asbestos  
20 could create a dust hazard sufficient to harm health?

21 A. I don't know whether you would call it a  
22 recognition. Again, Calidria asbestos is chrysotile  
23 asbestos, and I think it's an accepted fact that long-term  
24 excessive inhalation of chrysotile asbestos can cause lung  
25 problems.

1 Q. Is that the reason that the air testing  
2 program was developed?

3 A. No, it was developed, as I say, as a tool for  
4 the customer whether or not he had excessive airborne  
5 levels of asbestos fibres.

6 Q. And to know whether his employees were subject  
7 to any health hazard as a result of that?

8 A. Subject to inhaling asbestos fibres, it may be  
9 a health hazard in some employees.

10 Q. If there is no health hazard, why would you  
11 care if they inhaled the fibres or not?

12 A. I said there may be a health hazard.

13 Q. So really the ultimate point behind it was to  
14 let customers know if any of their employees had the risk  
15 of a health hazard from inhaling dust?

16 A. No, I don't think you can say by looking at  
17 the dust counts whether or not an employee is at a health  
18 risk. Our purpose in conducting the air monitoring was to  
19 provide the customer with the information to enable him to  
20 correct a condition that might be causing excessive  
21 airborne concentrations of asbestos fibres. You can have  
22 concentrations and nobody breathing it. So you don't  
23 really associate it with the worker. You try to get the  
24 environment and the conditions down to what then was an  
25 acceptable level.

1 Q. And the reason you wanted it at an acceptable  
2 level was so that the worker wouldn't contract an asbestos  
3 related disease. Would that be correct?

4 A. That would be, yes.

5 Q. Who did this air monitoring? In other words,  
6 was there a special air monitoring team that would go  
7 around or did each regional office have one or how did that  
8 work?

9 A. The air monitoring was conducted all out of  
10 Niagara Falls by a single person. And then I think we had  
11 two or three doing it, those who had been trained in a  
12 NIOSH training session for collecting and analyzing air  
13 samples.

14 Q. Do you know who those people were?

15 A. The first one I think that we used was Blair  
16 Ingalls and other people through the years, Glen Spencer,  
17 Ed Kleber, Fred Smith. Those were people that, as I say,  
18 had been trained to count the fibres. In some cases we --  
19 the salesmen were trained in collecting the samples, but  
20 not in analyzing the samples. In most cases, one or more  
21 of these people would be sent to a customer location with  
22 the salesman.

23 Q. Were these done at all customer locations?

24 A. It was offered to all customers,. I am not  
25 sure that all of them accepted our offer.

1 Q. Was it required of customers if they purchased  
2 your Calidria asbestos that they have this air monitoring  
3 done?

4 A. It was not required.

5 Q. Are you aware of the air monitoring which was  
6 done at the Conwed plant in Cloquet?

7 A. No, I am not.

8 Q. I want to show you Exhibit 21, which is a  
9 report dated August 28, 1972, entitled "Airborne Dust  
10 Counts for Conwed Corporation, Cloquet, Minnesota", by the  
11 Union Carbide mining and metals division, and ask you first  
12 of all have you have seen that document before?

13 A. All I can say is I am sure that I have seen it  
14 as I have seen most of these because they would have  
15 usually gone -- I would have seen them before the report  
16 was sent to the customer. But this specific one I can't  
17 swear that I have seen it.

18 Q. Why would you review it before you would send  
19 it to the customer?

20 A. To see what the fibre counts were.

21 Q. And what would you look for in reviewing the  
22 fibre counts?

23 A. I would look for the numerical values.

24 Q. Was there a certain threshold limit value or  
25 threshold that you had in mind that you would look for?

1           A.     No, this was not a -- we weren't a regulatory  
2 group or anything. I think that accepted levels at that  
3 time by the ACG industrial hygienist were about five fibres  
4 per CC.

5           Q.     Now we are talking about August 23 of 1972?

6           A.     Okay. That would be OSHA standard then.

7           Q.     Right. Do you know what the acceptable OSHA  
8 level was at that time?

9           A.     I think that was five when it was first  
10 published, and then changed to two in 1976. So obviously  
11 if we saw anything as high as five, we would make sure that  
12 the customer recognized that.

13          Q.     How about if you saw anything as high as two?

14          A.     I don't know. I don't remember whether we had  
15 any criteria.

16          Q.     And --

17          A.     This was sent to the customer so he could make  
18 his own evaluation.

19          Q.     Was any information given to the customer as  
20 to what the threshold limit values were that you were  
21 looking at and that they ought to look at?

22          A.     Well, we gave all of our customers copies of  
23 the OSHA standards; but, of course, again someone as large  
24 as Conwed, a major user, would have these things on his own  
25 without us providing -- we would have provided the OSHA

1 standards in our annual mailings.

2 Q. What would Conwed have?

3 A. OSHA standards.

4 Q. How do you know that?

5 A. I don't know that.

6 Q. Let's look at Exhibit 21. First of all, does  
7 that appear to be the report of the air monitoring done at  
8 Conwed on August 28?

9 A. Yes, it does.

10 Q. And that's -- I see, is it Mr. Kleber?

11 A. Kleber.

12 Q. Is that Ed?

13 A. Ed, yes.

14 Q. Ed Kleber, he was involved. Was he the person  
15 that you mentioned earlier that was trained to count fibres?

16 A. Yes.

17 Q. I see we have Mr. Kleber and Mr. Norris on  
18 this particular report. Can you tell from that or do you  
19 know which of those people actually did the testing?

20 A. I would say Mr. Kleber. You can't tell from  
21 that but Mr. Kleber would have done the testing, would have  
22 collected the samples.

23 Q. Where were the samples analyzed?

24 A. In Niagara Falls.

25 Q. Do you know what apparatus was used to analyze

1 the samples?

2 A. I can read this to you if you would like.  
3 It's in the report, "Apparatus, Procedure".

4 Q. Excuse me.

5 A. The report has a section on apparatus and  
6 procedure, if you would like for me to read that.

7 Q. What I am wondering is are you familiar with  
8 the analysis technique used there?

9 A. I am not an expert, no.

10 Q. Who was the person at Niagara Falls in '72 who  
11 would have actually analyzed it?

12 A. I would assume or I think that Mr. Kleber  
13 would have counted the fibres in the supervision of Mr.  
14 Ingalls.

15 Q. Do you know what the capacity of the  
16 particular instrumentation that Union Carbide had at that  
17 time in Niagara Falls was?

18 A. I don't understand the question.

19 Q. Do you know how small a fibre the apparatus  
20 that Union Carbide had at that time could detect, or to put  
21 it another way, what was its limit of magnification?

22 A. Well, it was a 400 power microscope.

23 Q. Was that a polarized light microscope, do you  
24 know?

25 A. Yes. Well, it was trace contrast illumination.

1 I don't know whether that's the same as polarized light or  
2 not.

3 Q. It was 400 power?

4 A. Yes. If you want to know about the apparatus,  
5 as I say we can read this.

6 Q. I am wondering if you have any further  
7 information other than what's contained there?

8 A. Me personally?

9 Q. Yes.

10 A. No.

11 Q. Do you know if Conwed had any electron  
12 microscopes at that time?

13 A. No, I don't.

14 Q. Do you know if they subsequently acquired any?

15 A. No, I don't.

16 Q. Do you know if they subsequently used any to  
17 analyze these air monitoring samples from customers?

18 A. Conwed?

19 Q. I meant Union Carbide.

20 A. Give me the question again.

21 Q. Do you know if Union Carbide at any time used  
22 any electron microscopes to analyze air monitoring samples  
23 from customers?

24 A. I don't think prior to say 1980 or something  
25 like that. There may have been some work with electron

1 microscopes.

2 Q. The beginning of 1930?

3 A. I don't know the date, but there wouldn't have  
4 been anything prior to that.

5 Q. Do you know why they went to the electron  
6 microscope in 1930 or thereabouts?

7 A. Who?

8 Q. Union Carbide?

9 A. I didn't know they did.

10 Q. I thought you mentioned they may have started  
11 using electron microscopes in 1980.

12 A. They may have started, but not for this type  
13 of air monitoring.

14 Q. As far as you know, they never used electron  
15 microscopes to analyze these air samples, is that right?

16 A. Not with the customers. There are no  
17 standards. This is the OSHA required procedure.

18 Q. Let's look at the third page here, and over on  
19 the right-hand side we have three columns of figures. Can  
20 you tell us what each of the three columns is?

21 A. Yes.

22 Q. Let's start with the first one.

23 A. The first one says asbestos fibre count fibres  
24 per milliliter greater than five microns. The second one  
25 is the total fibre count on fibres per milliliter greater

1 than five microns. The last column says total dust  
2 millions of particles per cubic foot.

3 Q. Do you know why it was that the five micron  
4 size was used at that time?

5 A. That's the OSHA standard.

6 Q. Did you have any information in 1972 that  
7 fibres of a size smaller than five microns could be  
8 hazardous to health?

9 A. In what time period?

10 Q. 1972.

11 A. No.

12 Q. Have you at any time acquired that information?

13 A. And what was the question?

14 Q. That fibres shorter than five microns can be  
15 hazardous to health?

16 A. No, it's really just the opposite. Most of  
17 the recent studies show that short fibre chrysotile  
18 asbestos, this is basically less than five or ten microns,  
19 is probably innocuous.

20 Q. Do you know --

21 A. I did not have that knowledge at this time.

22 Q. Now, do you know how the differentiation was  
23 made in this analysis of the Conwed air monitoring samples  
24 between total fibres and asbestos fibres?

25 A. That is the experience of the person looking

1 through the microscope to distinguish between asbestos  
2 fibres and cellulose or other.

3 Q. Do you know if that was done particularly or  
4 were there sustaining techniques used?

5 A. It would say in here if we had used the  
6 sustaining technique. I don't believe it says that. This  
7 just says the judgement of the operator.

8 Q. Is there any differentiation made among  
9 asbestos fibres as to the type of asbestos fibre?

10 A. In this?

11 Q. Yes.

12 A. No.

13 Q. So when it says asbestos fibres, would that  
14 include total asbestos fibres whether it's chrysotile or  
15 anything else, or were they just looking for chrysotile  
16 fibres?

17 A. This says that the asbestos fibre counts is  
18 any material having a ratio of three or greater, which in  
19 the judgement of the operator could possibly be asbestos.  
20 It doesn't distinguish between anthophyls and chrysotile.

21 Q. Do you know what it was that the operator used  
22 to differentiate between asbestos and non-asbestos? Was it  
23 simply the aspect ratio?

24 A. No, his judgement, experience.

25 Q. Would that include such things as shape of

1 fibre?

2 A. Yes.

3 Q. So, in other words, it would be something more  
4 than simply a mathematical calculation of the aspect ratio  
5 of the fibre?

6 A. Yes.

7 Q. The next exhibit I have got is 22, which are  
8 some handwritten notes which appear to be related to 21.  
9 Can you tell us what that is?

10 A. We had a practice of -- I assume that's what  
11 this is for. This is a memo from Ed Kreber to Paul  
12 McDaniel who was the industrial hygienist in the  
13 corporation. We had a practice of having Mr. McDaniel  
14 analyze a certain portion of our samples as kind of a  
15 quality control check. This looks like a cover letter  
16 transmitting those samples.

17 Q. Who is Mr. McDaniel?

18 A. He is the corporate industrial hygienist.

19 Q. He is at Niagara Falls?

20 A. New York.

21 Q. Would he review these results before they  
22 would be sent out to customers?

23 A. No, I don't think so, not necessarily.

24 Q. He was just involved with the actual work?

25 A. No, he was the corporate industrial hygienist.

1 Q. I guess I am wondering why would he be  
2 involved with this?

3 A. Can you read my answer back or do I give it  
4 again?

5 MR. BORGER: I believe he did answer  
6 that question. It was a quality control check.

7 BY MR. BROWNSON:

8 Q. Was it a check of the Union Carbide sampling  
9 and testing procedures or a check of the Conwed  
10 manufacturing procedure?

11 A. It had nothing to do with Conwed. It was a  
12 check of the samples that were collected.

13 Q. The next exhibit I am going to show you, I am  
14 going to skip ahead to 25 and show you this exhibit and ask  
15 you if you know what that is?

16 A. Well, first of all, it's a letter from Mr.  
17 Kreber to Ed McGillivray of Conwed Corporation, and it's  
18 appened to the letter -- is manufacturers -- wait a minute.  
19 What's appenedended to it doesn't match the letter. He  
20 says he is appending literature on air monitoring equipment  
21 and Conwed has considered setting up its own test  
22 monitoring operations.

23 Q. Attached to that is a whole bunch of  
24 handwritten notes?

25 A. What the enclosure looks like is the

1 handwritten notes taken at the time of the dust sampling  
2 and the raw data. That's the word I was trying to think of.  
3 It looks like the raw data. So I would say this doesn't go  
4 with that letter.

5 Q. But the attachments to the letter appear to be  
6 the raw data for the air monitoring at Conwed?

7 A. Yes, conducted on August 9 and 10.

8 Q. As far as that air monitoring goes, you  
9 mentioned, as you saw in Exhibit 21, you used two units of  
10 measurement. One is fibres per cubic foot and the other is  
11 fibres per milliliter. Is that right?

12 A. Yes.

13 Q. And are those units of measurement done over  
14 any particular period of time? In other words --

15 A. Well, do you mean are the samples collected  
16 over a period of time?

17 Q. Let me ask you this. Are you familiar with  
18 the term called an eight hour time weighted average?

19 A. Yes.

20 Q. Do you know if those are eight hour time  
21 weighted averages?

22 A. Again, I can read you the times for each  
23 sample. The first one is 7.7 minutes and the two  
24 environmental samples were collected for 114 minutes, those  
25 would only be two hours. What was done, at least in the

1 early days of our sampling program, was to collect  
2 environmental samples and then use those results along with  
3 the personal samples to develop what would be an eight hour  
4 time weighted average.

5 Q. And what I am wondering are the final figures  
6 which come out in the last three columns of the report,  
7 have those been converted to eight hour time weighted  
8 average?

9 A. No.

10 Q. Look at Exhibit 26, which is the letter with  
11 all those attachments. Do those calculations convert the  
12 raw data into an eight hour time weighted average?

13 A. I don't know whether there are any  
14 calculations in here. Oh, do they convert it to eight hour  
15 time weighted averages?

16 Q. Yes.

17 A. No.

18 Q. Are you aware of any figures anywhere that  
19 convert the air monitoring done at Conwed into an eight  
20 hour time weighted average?

21 A. Not in this report.

22 Q. Do you know of any anywhere else?

23 A. I haven't seen any of the other reports. If  
24 we did any other air monitoring for them, I don't know.

25 Q. You are not aware of any personally?

1 A. No.

2 Q. Let me show you 23. Have you ever seen that  
3 before?

4 A. I don't know whether I have seen this specific  
5 letter, but I am well aware that we did this, yes.

6 Q. When you say well aware you did this, doing  
7 what?

8 A. It's a letter to Conwed Corporation from Mr.  
9 Kleber requesting permission to use the air monitoring data  
10 without identifying the source of the data.

11 Q. And do you know if it was subsequently used in  
12 some fashion by Union Carbide?

13 A. No, I don't.

14 Q. Do you know if there was ever any publication  
15 put out disseminating it which incorporated the Conwed data?

16 A. No, I don't know if there were any  
17 specifically incorporating the Conwed data.

18 Q. Do you know if Conwed ever agreed to do that?

19 A. No, I don't.

20 Q. The reason I ask that is at the bottom you are  
21 asking for their agreement. Is that right?

22 A. Yes.

23 Q. Well, Exhibit 24, I believe, is the same thing  
24 which appears to have a Conwed agreement on it. Would that  
25 be your analysis of it?

1           A.     That looks like it, yes. That's a signed or a  
2     copy of the signed letter agreeing to let us use the data.

3           Q.     It's got a received stamp on the top so it  
4     looks like it was received back at Union Carbide?

5           A.     Yes, September 25, 1972.

6           Q.     Exhibit 25 is a cover letter which, I think,  
7     went with the report. Why don't you look at it and tell me.

8           A.     Yes, this is a cover letter.

9           Q.     The report being Exhibit 21?

10          A.     Cover letter from Mr. Kleber to Mr. Crewson of  
11     Conwed, September 1, 1972, which would have had as an  
12     enclosure Exhibit 21.

13          Q.     Do you know if Conwed was ever told by anyone  
14     at Union Carbide that exposure to Calidria chrysotile could  
15     cause mesothelioma?

16          A.     No, I don't.

17                   MR. BROWNSON: That's all the questions  
18     I have got. Thanks.

19                   (At this time a brief recess was taken.)

20

21

22                   CROSS-EXAMINATION

23     BY MR. POLK:

24           Q.     Mr. Myers, first of all, you mentioned earlier,  
25     I think, an Arkansas case that you testified in. When was

1 that trial?

2 A. I don't recall the date.

3 Q. What year was it in?

4 A. I don't recall the year.

5 Q. Was it in the '80s?

6 A. Yes, '80s.

7 Q. And what did the case involve generally?

8 A. It was a worker who had contracted -- it was  
9 an asbestos related lawsuit. Could I ask who you represent?

10 Q. I represent the Plaintiff, sir. My name is  
11 Michael Polk. You also indicated other testimony. Did you  
12 give any testimony in the '70s in an asbestos personal  
13 injury related case or death case?

14 A. By testimony, do you mean a deposition as well  
15 as a trial?

16 Q. That's correct.

17 A. No, I think my first deposition was in  
18 the '80s.

19 Q. So as far as you can recollect, all of your  
20 testimony in any asbestos related litigation was post 1980?

21 A. To the best of my recollection, yes.

22 Q. What other venues have you given testimony in  
23 by way of deposition or trial?

24 A. What do you mean by venues?

25 Q. What other states?

1           A.     States: South Carolina, Texas, Arkansas,  
2     Oregon. I can't recall any others.

3           Q.     Did all of those cases involve alleged  
4     injuries or death as a result of alleged exposure to  
5     Calidria asbestos?

6                     MR. BORGER: In addition to other  
7     asbestos exposures?

8     BY MR. POLK: As far as Union Carbide.

9           A.     They were all Union Carbide -- Union Carbide  
10    was a plaintiff -- the defendant in all of those.

11          Q.     Did Union Carbide ever mine, produce or sell  
12    any asbestos, that is raw asbestos, other than the Calidria  
13    asbestos?

14          A.     Not to my knowledge.

15          Q.     As far as the states that you have mentioned,  
16    how many of those were in a trial setting as opposed to a  
17    deposition?

18          A.     There has been two trials.

19          Q.     The Arkansas and --

20          A.     In Oregon, although I was not called as a  
21    witness. I was just there at the trial.

22          Q.     To your knowledge, was a transcript of your  
23    trial testimony from Arkansas made?

24          A.     I have no knowledge of that.

25          Q.     You don't have a copy of your own trial

1 testimony from that case?

2 A. No.

3 Q. Do you have copies in your possession, not  
4 here today but at home or at your work, of the deposition  
5 testimony that you have given?

6 A. Yes.

7 Q. Did you review that testimony before coming  
8 here for your deposition today?

9 A. No. Well, I did not review it recently for  
10 this deposition, no.

11 Q. Are you being compensated for your time here  
12 today?

13 A. No.

14 Q. Are your expenses being covered by someone  
15 other than yourself?

16 A. I hope so.

17 Q. And I presume that that would be Union Carbide  
18 covering your expenses. What is your understanding?

19 A. It's my understanding that they would be the  
20 ultimately responsible for the expenses.

21 Q. And you are appearing here voluntarily at the  
22 request of the lawyers for Union Carbide?

23 A. Yes.

24 Q. And does KACA --

25 A. KCAC.

1 Q. I am sorry. Does that corporation --

2 A. Yes.

3 Q. -- have any business relationship with Union  
4 Carbide or any subsidiary of Union Carbide presently?

5 A. No business relationship. Well, the  
6 relationship is that in the sales agreement, KCAC agreed to  
7 allow me a certain number of hours per year to devote to  
8 Union Carbide litigation.

9 Q. Who were the officers of KCAC when it  
10 purchased the Calidria operation?

11 A. I am the president of the corporation. Vice  
12 presidents are Carter Thatcher and Frank Brown, and the  
13 secretary is Ingrid Kronenberg.

14 Q. Were any of the three people who are officers,  
15 other than yourself or who were officers other than  
16 yourself, were they affiliated with Union Carbide?

17 A. No.

18 Q. Explain to me just in a very general way how  
19 that transaction occurred.

20 A. Union Carbide expressed an interest in  
21 divesting its asbestos and other mining operations, and a  
22 group of private investors expressed interest in acquiring  
23 the Calidria asbestos business from Union Carbide, and a  
24 sales agreement was reached.

25 Q. Were you one of those private investors?

1 A. No.

2 Q. Were you hired to run that operation by the  
3 private investors who were purchasing the operation?

4 A. I was retained. All employees were retained.

5 Q. And how many employees are presently working  
6 for KCAC, Inc.?

7 A. Forty-two.

8 Q. And since the transaction took place, has the  
9 mine in King City remained fully operational?

10 A. Yes.

11 Q. And explain for me generally what customers  
12 exist for the Calidria asbestos being mined?

13 A. Over 90 percent of our production is sold  
14 outside of the United States.

15 Q. What geographical areas are we talking about?

16 A. Outside of the United States?

17 Q. That's correct.

18 A. Japan, Taiwan, Korea, several countries in  
19 South America and Europe.

20 Q. Since the transaction took place, I believe  
21 that occurred in -- is it 1987?

22 A. The transfer was effective July 1st of 1985.

23 Q. Since July of 1985, has KCAC sold any Calidria  
24 asbestos in the U.K.?

25 A. Yes.

1 Q. And has the purchaser of that been Union  
2 Carbide or a subsidiary -- a U.K. subsidiary of Union  
3 Carbide?

4 A. No.

5 Q. Has KCAC, Inc. ever sold, since July of 1985,  
6 Calidria asbestos to Union Carbide?

7 A. Not to my knowledge.

8 Q. Is there a general use, as far as you know,  
9 where Calidria asbestos is put since July of 1985 for your  
10 customers in Japan and elsewhere?

11 MR. BORGER: For the record, Mike, I am  
12 going to object to this line of questioning as being  
13 irrelevant in terms of current operations, and I would ask  
14 that you wrap it up. I am not going to close it down, but  
15 I do think in light of the time constraints, go on to some  
16 other things.

17 THE WITNESS: You are not directing me  
18 not to answer?

19 MR. BORGER: No.

20 A. The major application for the largest quantity  
21 of our fibre is into Japan for asbestos cement products and  
22 for a resin grade product, polyester and sealants.

23 Q. Tell me about the asbestos cement. What is  
24 that used for ultimately?

25 A. The products are used for building. It's a

1 construction --

2 Q. For use on pipes?

3 A. No, no, building products or do you mean  
4 asbestos cement?

5 Q. Yes.

6 A. No. It's called extruded asbestos cement  
7 products, and they are used for constructing buildings,  
8 inner and outer walls, floors, steps.

9 Q. One more question. If you know, what is the  
10 purpose of the Calidria asbestos being incorporated into  
11 that product?

12 A. It's not just Calidria. There are other  
13 sources of asbestos used in the same products from Canada,  
14 Russia and South Africa.

15 Q. That may very well be true. What I am  
16 wondering about, can you tell me if the producers of those  
17 asbestos cement products incorporate or use Calidria?

18 A. That's why I was trying to answer it. They  
19 don't just necessarily use Calidria, they use any fibre to  
20 get a flexible strength in the product.

21 Q. So according to your understanding the  
22 Calidria asbestos that you sell to these customers is used  
23 in their product basically for purposes of strength?

24 A. Strength and ease of production. They use our  
25 pellets largely because of the reduced dust in the pellets.

1 Q. What is the reason, if you know, that Union  
2 Carbide wished to divest itself of its asbestos operation?

3 MR. BORGER: Only if you know from your  
4 personal knowledge.

5 A. The mining and metals product line did not fit  
6 with a corporate philosophy of products that they wanted to  
7 be involved with and they divested themselves of the  
8 asbestos as well as other minerals, vanadium, tungsten, et  
9 cetera.

10 Q. Did the Calidria mine exist before 1963?

11 A. The deposit or the mine?

12 Q. The mine itself. I presume the deposit was  
13 there before '63. Was there a mine there?

14 A. No.

15 Q. When was the deposit itself, if you know,  
16 discovered?

17 A. As far as I know, 1959.

18 Q. And who made that discovery?

19 A. A geologist named Bright.

20 Q. Who was in the employ of Union Carbide?

21 A. To the best of my knowledge, yes.

22 Q. Give me a real quick lesson on how that works.  
23 How did that come about? I am not at all familiar with  
24 that?

25 A. How he found the deposit?

1 Q. Yes.

2 A. What we have used in our literature is that he  
3 was searching for nickle or any other metals in which Union  
4 Carbide may be interested and found this mountain of  
5 something that he didn't know what it was and it was  
6 subsequently identified as short fibre chrysotile asbestos.

7 Q. And was this on land that was owned at the  
8 time by Union Carbide, if you know?

9 A. No.

10 Q. So he found the deposit and Union Carbide  
11 later purchased --

12 A. Purchased some of it but not where the mine is,  
13 that's BLM land. It staked a claim and then you maintain  
14 that claim as long as you spend a certain amount of money  
15 every year for costs.

16 Q. Is this mine located near King City?

17 A. It's about 60 road miles from King City.

18 Q. I presume King City has been around prior to  
19 1959?

20 A. Yes.

21 Q. Do you live in King City?

22 A. Yes.

23 Q. How big a town is it?

24 A. About 7,000.

25 Q. Did you ever see the reports going back into  
:

1 the '59 time frame when you went to King City to run the  
2 operation there?

3 A. I am not familiar with any reports from '59.

4 Q. What I am wondering about is how you gained  
5 your knowledge as to the historical background to the  
6 discovery, et cetera.

7 A. From mineralogical and geological reports that  
8 were subsequently issued by Union Carbide geologists and  
9 minerologists.

10 Q. Which were maintained at the King City  
11 facility?

12 A. No, I think they were written and maintained  
13 by people from Niagara Falls or Tuxedo or those other labs.  
14 I am sure there were copies at King City.

15 Q. Now, is there an office or an office building  
16 of some kind at the mine site?

17 A. No.

18 Q. Where did you operate out of when you were  
19 there?

20 A. At the mill.

21 Q. And what is the locality of the mill vis-a-vis  
22 the mine?

23 A. It's about 60 miles away.

24 Q. So the mill is in King City?

25 A. Near King City. Five miles south of King City.

1 Q. And how was the ore that was mined transported  
2 to the mill?

3 A. It was and is transported in bottom dump  
4 trailers, trailer trucks.

5 Q. Is the ore being mined now a greater amount or  
6 a lesser amount than what was mined in the '60s and '70s?

7 A. Obviously you don't develop a business over-  
8 night so the -- it's less than when the business was  
9 transferred to KCAC and it's lesser than some of the peak  
10 periods in the '70s.

11 Q. How many bottom dump vehicles would you have  
12 running when you were at your maximum mine operation?

13 A. We don't have any, it's all subcontracted.

14 Q. How much ore, if you know, would be, in any  
15 time period you would like to give us, when it was running  
16 as it's maximum, how much ore would be mined in a given  
17 month or year?

18 A. Mining was and is done on a campaign basis.  
19 We mine enough about every three years to last the  
20 subsequent three years. Probably in the neighborhood of a  
21 half a million tons.

22 Q. What is the purity of the ore coming out of  
23 the mine?

24 A. The ore contains over 90 percent chrysotile  
25 asbestos. Our recovery is about 60 percent.

1 Q. Now, are you aware that in the milling  
2 operation respirators were provided to all milling  
3 employees as of 1963?

4 A. It's my understanding that respirators have  
5 been available since 1963.

6 Q. Can you tell me, and I know I used the word  
7 respirators in the question, can you tell me what you mean  
8 by the use of the word respirators in your answer?

9 A. It's been various types over the years and I  
10 am not familiar with what was used in the early years, but  
11 basically in the last -- since 1966 or '67 it's been either  
12 a quarter or a half face respirator, not air supplied, it  
13 simply filters out the air that is breathed.

14 Q. Is this a paper mask?

15 A. No.

16 Q. Is it a mask with some canister or a canister  
17 on it?

18 A. That's one of the types that's been used.

19 Q. Have you ever used one at that facility or  
20 have your employees at the milling facility ever used the  
21 Dust Foe mask?

22 A. I remember that name. Dust Foe, I think, is  
23 the name of a manufacturer. It seems like we did use Dust  
24 Foe masks that had a filter on them, a Dust Foe made out of  
25 plastic which conformed to the face and air was breathed

1 through a filter.

2 Q. What does drilling mud application mean?

3 A. Asbestos has been used as a viscosifier in  
4 drilling mud used for drilling wells. It creates a  
5 viscosity.

6 Q. Explain for me what your job was as technical  
7 superintendent.

8 A. Responsible for quality control and the  
9 initial production of the new product, the chemically  
10 modified product RG 244.

11 Q. Is it correct then that while you were serving  
12 as the technical superintendent your involvement in the  
13 asbestos group did not go outside the RG 244?

14 A. When I was technical superintendent, I was  
15 responsible for quality control and for initial production  
16 of the RG 244.

17 Q. Did your duties then in the quality control  
18 area go outside the RG 244 area?

19 A. Yes.

20 Q. What other asbestos-containing or, excuse me,  
21 what other asbestos designations, if you will, were being  
22 worked upon at the time that you were serving as the  
23 technical superintendent?

24 A. I don't know what you mean by worked upon, do  
25 you mean produced.

1 Q. Produced, whatever was happening in your  
2 department, whatever term you want to use?

3 A. The mill was producing standard grade.

4 Q. Okay.

5 A. High purity. Super standard grade, a product  
6 called T 135 and resin grade products.

7 Q. Have you ever heard of a designation known as  
8 CTS-100, does that mean anything to you?

9 A. No.

10 Q. How about CMS-100?

11 A. No.

12 Q. Just run through these standard grades, et  
13 cetera, for me if you will and tell me what the difference  
14 is. I think I have got the resin grade down, I understand  
15 that. What is standard grade versus super standard grade?

16 A. Our process contains different kinds of  
17 equipment to produce a different purity of asbestos fibres.  
18 Standard grade is the lowest quality fibre that we produced,  
19 only sees certain parts of the manufacturing equipment.  
20 Super standard grade is one additional grinding, wet  
21 grinding step. High purity is the highest purity product  
22 from the regular stir cut and it sees more grinding and  
23 hydrocloning.

24 Q. And that is to further purify the ore so as to  
25 remove other materials within the ore other than the

1 asbestos?

2 A. It's primarily to remove other impurities and  
3 also to what we call liberate the fibres from fibre bundles.

4 Q. And the T-135?

5 A. That's a high purity asbestos that is mixed  
6 TiO2.

7 Q. TiO2 meaning what?

8 A. Titanium dioxide.

9 Q. The application for T-135 is what?

10 A. In the paper industry.

11 Q. The application for the high purity pellets  
12 was what?

13 A. The paper industry and acoustical ceiling.

14 Q. Was the high purity process developed  
15 specifically for the ceiling tile industry?

16 A. No.

17 Q. Was that a factor in the development of that?

18 A. Not to my knowledge.

19 Q. Did Union Carbide build the mill?

20 A. They had it built.

21 Q. Had it built?

22 A. Yes.

23 Q. How many processes, separate processes, did  
24 the ore go through to yield the high purity product?

25 A. It's all one continuous process.

1 Q. Okay.

2 A. Of seven or eight different types of equipment.

3 Q. And was high purity Calidria asbestos sold in  
4 fibre form?

5 A. Yes.

6 Q. And was it also sold in pellet form?

7 A. Yes.

8 Q. When was the first time that high purity  
9 Calidria asbestos was sold in pellet form?

10 A. The high purity?

11 Q. Yes.

12 A. It would have been the first time it was  
13 produced, but I don't know what year that it is.

14 Q. You don't know when Union Carbide began to  
15 pelletize the high purity product then?

16 A. It was always pelletized from the start. All  
17 the products from the regular plant are pelletized. If  
18 ground up fibre material is required by a customer, the  
19 pellets are ground up.

20 Q. I see. What was the reason for pelletizing  
21 the product as of 1963?

22 A. To provide a product that was more amenable to  
23 drying. The milling process is wet, it's a slurry process,  
24 and the pellets or the product slurry has to be dewatered  
25 and dried and the pellets are much more amenable to drying

1 than slabs of filter cake.

2 Q. To your knowledge did the end product and its  
3 capability of producing dust, when I say end product I mean  
4 the pellets, and the pellets capability of producing dust  
5 versus the capability of fibre producing dust, did that  
6 have any bearing on the idea of producing pellets?

7 A. Not to my knowledge.

8 Q. Did you gain that understanding as that being  
9 a beneficial or a perceived benefit of pelletizing  
10 somewhere later on?

11 A. Yes.

12 Q. And when would you have first gained that  
13 knowledge?

14 A. Well, I don't know. We have established I was  
15 not involved at all until '66 in -- another reason for  
16 having pellets was the ease of bulk handling or handling a  
17 product on conveyors and in air pneumatic systems.

18 Q. Do you think that you were aware in 1966 that  
19 the pelletizing process was perceived by Union Carbide to  
20 be a less dust producing end product than raw fibre?

21 A. I don't think I was because that wasn't in my  
22 charter of what I was doing.

23 Q. How about when you became the marketing  
24 manager in 1970, would you have been aware of that at that  
25 time?

1 A. Yes, I would think so.

2 Q. In fact, correct me if I am wrong, but isn't  
3 it true that the pelletizing process was used by the  
4 marketing people as a sales tool?

5 A. I think --

6 Q. Specifically with reference to dust producing  
7 capabilities?

8 A. Yes, there is no question that we have  
9 publicized the fact that we have asbestos fibre in the  
10 pellet form.

11 Q. And to your knowledge was that a sales tool  
12 prior to you becoming marketing manager?

13 A. -- I don't know.

14 Q. You don't know that?

15 A. No.

16 Q. Okay.

17 Q. Who was your predecessor as marketing manager?

18 A. Walter Young.

19 Q. How about before him?

20 A. I think Norman Satter.

21 Q. Did I understand your testimony to say that  
22 Sterling Forest is the same as Tuxedo, New York?

23 A. I don't really know. I know there is two  
24 separate names but I think they are the same general  
25 geographical location.

1 Q. Do you know what Sterling Forest means, is it  
2 the name of a town or a lab or what?

3 A. No, I don't.

4 Q. Have you ever been there?

5 A. No.

6 Q. Have you been to Tuxedo?

7 A. No.

8 Q. Was the alloys division part of the metals  
9 division of Union Carbide in December of 1967?

10 A. I don't know.

11 Q. Do you have any knowledge as to the quantity  
12 of Calidria asbestos sold between '63 and '66?

13 A. Well, I have knowledge but I don't know how  
14 much. I don't know how many tons.

15 Q. Would you agree with me that sales of Calidria  
16 asbestos to the Conwed Corporation, if you know, began in  
17 1964?

18 A. No, I don't know.

19 Q. Do you have any way of leading us to the  
20 correct source to find out if in fact that is true?

21 A. I think documents have been produced of  
22 invoices and I don't --

23 Q. The documents that have been produced by Union  
24 Carbide with reference to that question begin in 1970 and I  
25 believe admittedly they are not complete documents. I am

1 wondering if you have any suggestions for us as to where we  
2 could go to determine when sales began to Conwed?

3 A. I guess through Counsel, my Counsel, you can  
4 direct that question to him or me, but the invoice files  
5 should be complete.

6 Q. Going all the way back to the inception of the  
7 operation?

8 A. Yes.

9 Q. Where would those records be?

10 A. Union Carbide supposedly has copies of all  
11 invoices and the originals are in King City.

12 Q. Going back to 1963?

13 A. Supposed to be, yes.

14 Q. When you say King City, are you talking about  
15 the mill?

16 A. Yes.

17 Q. And you have an office in the mill I assume?

18 A. Yes.

19 Q. Where physically are the documents within the  
20 mill?

21 A. They are in a filing cabinet.

22 Q. And where is or where are the filing cabinet  
23 or cabinets?

24 A. They are in the mill office or the business  
25 office, I guess you would call it, of the mill.

1 Q. Have you in the past been requested by Union  
2 Carbide to review those documents for any purpose?

3 A. Yes.

4 Q. Were you asked in this case, the James Manisto  
5 case, to review your sales documents concerning sales made  
6 to Conwed?

7 A. No.

8 Q. However, you are able to testify today, based  
9 on personal knowledge, that all sales invoices to Conwed,  
10 as per your usual business practice, would be located in  
11 that filing cabinet going all the way back to '63 or  
12 whenever sales started?

13 MR. BORGER: I think that's a  
14 mischaracterization of his testimony, Counsel. What he  
15 said was if they exist they would be there. I don't think  
16 he has represented it is his own personal knowledge that in  
17 fact invoices going back to 1963 are there.

18 BY MR. POLK:

19 Q. Well, then I misunderstood your testimony, sir.

20 A. We have retained invoices in our files from  
21 1963 through the present time. I don't know specifically  
22 which ones are in there, but theoretically they should all  
23 be there but that's 25 years and you can imagine what can  
24 happen.

25 Q. And that was the general business practice of

1 the Calidria operation?

2 A. To retain invoices?

3 Q. Yes.

4 A. Yes.

5 Q. And you personally have never discarded or  
6 destroyed any of those documents?

7 A. No, I have not.

8 Q. And, to your knowledge, there is no one else  
9 that has come into the business premises of the Calidria  
10 operation, now KCAC, and removed any documents?

11 A. They were removed for copying.

12 Q. Who did that?

13 A. I say they were removed. I don't think they  
14 were removed from the premises. They were removed from the  
15 files. The invoices, I think we copied those for a  
16 representative of Gebson, Dunn and Krutcher.

17 Q. Union Carbide's lawyers in Connecticut?

18 A. No, in Los Angeles. At least that's where I  
19 had contact with them.

20 Q. When was that done?

21 A. I don't recall.

22 Q. Did that process involve the copying of all  
23 invoices that you had in your possession?

24 A. To the best of my knowledge. I wasn't  
25 specifically doing the copying but the intent was to copy

1 each invoice.

2 Q. When was that done?

3 A. I haven't remembered since you asked me that  
4 two minutes ago, I don't know.

5 Q. Well, was it done before or after the  
6 transaction took place where the private investors  
7 purchased the company?

8 A. I think it would be after, probably after 1985.

9 Q. After 1985, is that what you said?

10 A. Probably after July of 1985.

11 Q. And you can't narrow that down as being in '85  
12 or '88?

13 A. No. It wasn't '88.

14 Q. Do you have a written contract between  
15 yourself and Union Carbide concerning your role in any  
16 asbestos related litigation?

17 A. No.

18 Q. Are you compensated by Union Carbide on an  
19 annual or other basis for your participation in the  
20 litigation?

21 A. No. You mean me personally?

22 Q. You personally.

23 A. No.

24 Q. Is KCAC reimbursed or paid by Union Carbide  
25 for the time that you take away from the business in

1 participating in asbestos litigation?

2 A. Yes.

3 Q. What arrangement is that?

4 A. What do you mean, what arrangement?

5 Q. Is it a set sum or is it based on your time or  
6 how does that work?

7 A. Yes, it's based on time.

8 Q. And when the transaction took place in July  
9 of '85, was there an agreement between Union Carbide and  
10 KCAC to indemnify KCAC for any asbestos claims asserted  
11 against that corporation?

12 A. Well, KCAC purchased the assets of the  
13 Calidria asbestos business and none of the liabilities.

14 Q. I think that answers my question but maybe not.  
15 Was there any indemnification? If you were to assume that  
16 KCAC were to be sued for an asbestos related disease now is  
17 there any obligation on Union Carbide's part to defend  
18 and/or indemnify?

19 MR. BORGER: I think you are calling for  
20 a legal conclusion from this witness, Counsel, which is  
21 beyond the realm of his expertise.

22 BY MR. POLK:

23 Q. If you know.

24 A. I couldn't answer that question specifically,  
25 no.

1 Q. How about if I rephrased it?

2 A. I could try.

3 Q. Why don't you tell me what your understanding  
4 is as to whatever the extent of your knowledge is on that  
5 subject matter?

6 MR. BORGER: Just a minute. Let me talk  
7 to you outside.

8 (At this time a discussion was held off  
9 the record.)

10 MR. BORGER: The witness has answered to  
11 the best of his ability and I instruct him not to answer.

12 BY MR. POLK:

13 Q. The file retention policy at the Calidria  
14 facility, was there any particular policy in affect at any  
15 time between '63 and the present time?

16 A. You are speaking specifically of King City?

17 Q. Yes, King City.

18 A. And with what documents?

19 Q. Okay. That's a fair question. Let me ask you  
20 this, what was the reason for retaining all invoices?

21 A. I don't know. As far as I know there was no  
22 reason, it was just something the plant has done from the  
23 begining.

24 Q. And was that also done with respect to other  
25 types of documents? I will give you an example,

1 communications from Niagara Falls.

2 A. As far as I know there is no policy of  
3 retention.

4 Q. What was the practice?

5 A. Communications?

6 Q. Yes.

7 A. I would say most of them are retained.

8 Q. And most of them existed at King City?

9 A. Well, the ones that were there still exist.  
10 We haven't destroyed any.

11 Q. Were any other documents copied apparently  
12 sometime between '85 and '88 by the law firm in Los Angeles  
13 other than invoices?

14 A. Yes.

15 Q. Tell me what documents were copied at that  
16 time.

17 A. I can't tell you what. A paralegal went  
18 through every file drawer and set aside for copying  
19 whatever he thought was appropriate.

20 Q. You wouldn't happen to remember that  
21 paralegal's name, would you?

22 A. Morgan Tookey.

23 Q. And you understood that person to be from, is  
24 it the Gebson firm in Los Angeles?

25 A. Yes.

1 Q. Can you categorize the types of documents  
2 other than the invoices that may have been copied or pulled  
3 for copying?

4 A. No, I have never really reviewed his file or  
5 his list, whatever. I really couldn't categorize them, no.

6 Q. Did you receive a list from him or someone  
7 else indicating what documents were being earmarked for  
8 copying?

9 A. Now I have a list of which file drawers he  
10 copied from. I am pretty sure I don't have a list of the  
11 documents that were copied.

12 Q. This list that you just spoke of that you do  
13 have, is that a list that was generated by yourself?

14 A. No.

15 Q. Who generated that list?

16 A. Mr. Tockey.

17 Q. And let me just ask you, would it have  
18 included correspondence?

19 A. It could have included whatever he thought was  
20 appropriate.

21 Q. I understand. But you are familiar with your  
22 file cabinets, I assume?

23 A. Not necessarily because there have been a  
24 succession of plant managers there who have established  
25 files and each one established a new set of files.

1 Q. But you are familiar, I assume, with the files  
2 at least since you came back on the scene at King City in  
3 1981?

4 A. 1981, yes.

5 Q. Is that a fair statement?

6 A. Somewhat, yes.

7 Q. I understand you can't tell us exactly what  
8 was in them but, for example, is there anything in your  
9 files that deals with medical issues vis-a-vis asbestos?

10 A. I am sure there must be something in there  
11 dealing with medical issues.

12 Q. Are you familiar enough with your files to  
13 tell us, is it a medical file labeled as such or how is the  
14 medical information --

15 A. I don't recall that I have a file called  
16 medical.

17 Q. Can you tell us this, the invoices that you  
18 talked about earlier, how were they filed, by year, by  
19 customer, how?

20 A. No, they are by customer.

21 Q. So there is some file or files at King City  
22 that would show all invoices that King City has in one  
23 place for Conwed Corporation or Wood Conversion?

24 A. It should, yes.

25 Q. Would that file also contain non-invoice

1 documents relating to that customer?

2 A. No.

3 Q. We know that there were certain correspondence  
4 going between King City and Conwed. Where would those  
5 types of documents have been kept?

6 A. They would have been kept in Niagara Falls and  
7 if they were still -- and then those types of documents  
8 would have been transferred to Pittsburg with the sales or  
9 marketing management.

10 Q. So those kind of documents, correspondence,  
11 that kind of thing, would not be at King City or a copy of  
12 them would not be at King City?

13 A. Not necessarily.

14 Q. Did you have anything to do with, not  
15 physically but procedurally, have anything to do with the  
16 transferring of the group to Pittsburg in '25?

17 A. No, other than being opposed to it.

18 Q. Was that done about contemporaneously with the  
19 transaction?

20 A. No. You mean the sale?

21 Q. Yes.

22 A. No, it was done prior to that.

23 Q. Has there been any ongoing function being done  
24 at Pittsburg with reference to asbestos since the records  
25 were transferred there?

1 A. I am not sure what you mean.

2 Q. Well, I think you said that the asbestos group  
3 was transferred.

4 A. Marketing group.

5 Q. Marketing part of the asbestos group was  
6 transferred to Pittsburgh in '85?

7 A. No, no. It was somewhere after '81, probably '82  
8 or '83.

9 Q. Since '85 has there been a function for the  
10 marketing group for asbestos?

11 A. In other words, after KCAC?

12 Q. Correct.

13 A. No.

14 Q. Is there a group that is functioning presently  
15 in Pittsburgh that used to function as the asbestos  
16 marketing group?

17 A. No. Maybe a secretary or something like that,  
18 but there is no former asbestos people still in Pittsburgh.

19 Q. How big a group went to Pittsburgh?

20 A. Two people, I think, it was.

21 Q. Tell me why they were transferred to Pittsburgh?

22 A. That was the main office of the metals  
23 division, sales organization, and they wanted to integrate  
24 the asbestos sales people with the metals division sales  
25 people.

1 Q. Do you know whether they presently possess  
2 asbestos marketing documents that we have just been talking  
3 about?

4 A. No, I don't.

5 Q. The two people that you mentioned that went  
6 there that were in the asbestos marketing area, do they  
7 still work for Union Carbide?

8 A. No.

9 Q. Who were they?

10 A. Gordon Dickson and Ed Kleber.

11 Q. Once the asbestos operation was sold, were  
12 they released from Union Carbide, if you know?

13 A. Mr. Dickson passed away. Mr. Kleber  
14 transferred to another company.

15 Q. Do you know where Mr. Kleber is presently?

16 A. Yes.

17 Q. Where is he?

18 A. He is in San Francisco.

19 Q. And what company is he with?

20 A. He is with Kanell Brothers Company, Limited.

21 Q. What is that?

22 A. It's a trading company.

23 Q. Trading in?

24 A. Lots of things. The company represents our  
25 asbestos in foreign markets.

1 Q. So you have a business association with Mr.  
2 Kleber presently?

3 A. No.

4 Q. Do you have a business association with Kanell  
5 Brothers?

6 A. Yes.

7 Q. Tell me what background Mr. Kleber had at the  
8 time that he did the 1972 air testing at Conwed?

9 A. I am not sure what year he transferred into  
10 the asbestos group working for me as a customer service-  
11 type person in the marketing group and through Mr. Ingalls,  
12 who is a chemical engineer. He was the one who set up the  
13 air monitoring laboratory.

14 Q. Who did, Mr. Ingalls?

15 A. Mr. Ingalls. Mr. Kleber worked for him and  
16 went to a NIOSH school.

17 Q. Where?

18 A. I am not sure where, probably Cincinnati.

19 Q. Why do you say that?

20 A. That's the headquarters or used to be.

21 Q. You know for a fact though he went to the  
22 school?

23 A. Yes.

24 Q. Other than that, what was his background? He  
25 was a marketing man, wasn't he?

1 A. No, he was customer service, and then he went  
2 into sales after the air monitoring.

3 Q. As far as you know, he didn't have any  
4 background in the industrial hygiene field, did he?

5 A. No.

6 Q. The same with Mr. Norris, he didn't have any  
7 background in industrial hygiene, did he?

8 A. No.

9 Q. And Mr. Ingalls, are you familiar with his  
10 background?

11 A. Nothing other than he was a chemical engineer.

12 Q. Just as yourself?

13 A. Yes.

14 Q. Are you familiar with Dr. Dernehl's "Asbestos  
15 Toxicology Report"? That's the title of the publication.

16 A. I have seen it, yes.

17 Q. And when did you first see that document?

18 A. I don't recall.

19 Q. Tell me, sir, I think you said that you first  
20 saw I. C. Sayers publication, the 1967 publication, fairly  
21 recently?

22 A. Yes.

23 Q. And that was during this trial?

24 A. As I remember, it was brought up during this  
25 trial.

1 Q. In Arkansas?

2 A. Yes.

3 Q. Was that perhaps brought up during  
4 cross-examination of somebody from Union Carbide?

5 A. Of me?

6 Q. Of you.

7 A. Yes.

8 Q. Were you asked to read the report?

9 A. I was asked if I had seen it before.

10 Q. And you indicated that you had not?

11 A. Yes.

12 Q. And did you have a chance to read that report  
13 either at the time you were testifying or at least some  
14 time closely connected thereto?

15 A. No.

16 Q. So have you ever read the report?

17 A. I think I have read it subsequent to the trial.

18 Q. Subsequent to the trial were you provided a  
19 copy of that report by someone?

20 A. Yes, I must have been.

21 Q. Who provided you a copy of it?

22 A. I am not sure whether it was -- probably my  
23 Counsel who obtained it from the Plaintiff's Counsel.

24 Q. Who was that at that time?

25 A. I don't remember.

1 Q. Do you know this, was it local Arkansas  
2 defense Counsel or was it some national type Counsel for  
3 Union-Carbide?

4 A. It was local Counsel.

5 Q. Do you have any --

6 A. Wait a minute. I don't recall. There may  
7 have been a Union Carbide lawyer there.

8 Q. Did you ask them for an explanation as to why  
9 you weren't provided a copy of that report?

10 MR. BORGER: I will object to that as  
11 calling for attorney-client communications and instruct him  
12 not to answer.

13 MR. POLK: I just asked him if he asked.  
14 I didn't ask him what was said.

15 MR. BORGER: Communications go both ways,  
16 Michael.

17 BY MR. POLK:

18 Q. Did you read the report closely enough that  
19 you are familiar with it?

20 A. Close enough to now?

21 Q. Yes.

22 A. No.

23 Q. So you can't tell me the general gist of that  
24 report as you sit here today?

25 A. No.

1 Q. Do you have know this, did the I. C. Sayers  
2 report issued in 1967 deal with the issue of health and  
3 asbestos?

4 A. Yes, and I think we reviewed a copy earlier.  
5 Yes, I think it was about asbestos and health.

6 Q. So you know that much?

7 A. In the U.K., I remember the title.

8 Q. Can you tell me this, where was Mr. Hall in  
9 1967?

10 A. I don't know.

11 Q. You indicated earlier that you thought he was  
12 in England at least at some time?

13 A. And I may have been confusing him with Mr.  
14 Sayers. I am not sure whether Mr. Hall was in England or  
15 not.

16 Q. Well, can you tell me who was Dr. Sayers? Who  
17 was he employed by at the time the report was written?

18 A. If you have it there, I would like to look and  
19 see.

20 MR. POLK: I am handing to the witness  
21 Myers Deposition Exhibit 7.

22 A. At the top it says "Union Carbide U.K. Limited,"  
23 and at the bottom it says "Alloys Division, Special  
24 Products Department."

25 Q. Now, you were working for the alloys division,

1 a part of the metals division, in December of 1967, were  
2 you not?

3 A. Not that I know of. I answered earlier that I  
4 didn't know where the alloys division was. It appears to  
5 me that the alloys division is part of Union Carbide U.K.  
6 Limited.

7 Q. I will try to find it in here, but that's what  
8 an affidavit that you signed said, and I will try to pull  
9 it out and show it to you out of this mess.

10 A. It said that I worked for alloys division?

11 Q. Yes. At least I think it did. I could be  
12 wrong.

13 A. I don't recall ever getting a check from the  
14 alloys division.

15 Q. Let me ask you this. Are you familiar with  
16 the term alloys division?

17 A. Not as part of the Union Carbide Corporation,  
18 no, I am not.

19 Q. Is the Union Carbide's U.K. Limited part of  
20 the Union Carbide's Corporation?

21 A. Well, by being a part I suppose you mean a  
22 subsidiary and whatever, and I don't really know for a fact,  
23 no.

24 Q. Tell me, explain to me, what is the or what  
25 was the metals division of Union Carbide as of December of

1 1967?

2 A. I think at that time it was called the mining  
3 and metals division --

4 Q. Yes.

5 A. -- and had operations, coal and gas and  
6 uranium, vanadium, tungsten, and I think '67 sometime is  
7 when the business went back to the chemicals and plastics  
8 division.

9 Q. In '67 you said?

10 A. Well, I was asked that earlier, and I am not  
11 sure of the date.

12 Q. What was the reason for that, if you know?

13 A. As I recall it was because the product  
14 applications fit more into the chemicals and plastics  
15 division than they did into the metals division, especially  
16 from a marketing standpoint.

17 Q. So the alloys division, at least in your mind,  
18 doesn't -- what is an alloy?

19 A. Is that the question?

20 Q. Yes. What is an alloy?

21 A. An alloy is a mixture of two or more things.

22 Q. It doesn't make sense to you that the alloys  
23 division was a part of the metals and mining division?

24 A. It doesn't make sense.

25 Q. Why did Dr. Dernehl issue you his asbestos

1 toxicology report?

2 A. I don't know. You would have to ask him, I  
3 think.

4 Q. Well, was it issued, as far as you know, for  
5 purposes of marketing?

6 A. I don't know.

7 Q. Was it used for purposes of marketing Calidria  
8 asbestos?

9 A. It wasn't used for purposes of marketing, it  
10 was used to send to customers as Union Carbide's feeling  
11 about asbestos and health.

12 Q. And what was the time frame of that report  
13 about?

14 A. As I recall it was about 1957 or 1968.

15 Q. Are you familiar as to the communications that  
16 went between Union Carbide U.K. Limited and Union Carbide  
17 in New York?

18 A. No.

19 Q. You don't have any knowledge about that?

20 A. No.

21 Q. What is the percentage by volume of asbestos  
22 in high purity pellets?

23 A. I never have heard it or thought of it in that  
24 manner. I don't know.

25 Q. How about the percentage by weight of asbestos

1 in high purity pellets?

2 A. Probably 99 percent, 98 percent to 99 percent.

3 Q. Did you maintain any kind of literature  
4 library at the King City facility at any time that you are  
5 aware of? When I say literature library, I am talking  
6 about health literature.

7 A. That I --

8 Q. Or anyone at King City.

9 MR. BORGER: Are you talking about a  
10 library as such as opposed to isolated articles?

11 MR. POLK: Isolated articles.

12 A. I keep things stacked on the shelf in relation  
13 to asbestos and health.

14 Q. Were you aware at any time between 1951 and  
15 1963 that asbestos was harmful or could be harmful?

16 A. Not that I recall.

17 Q. Did you ever gain any knowledge of any kind  
18 from any source while you were working in the atomic field  
19 that asbestos was harmful or could be harmful?

20 A. Not that I know of, no.

21 Q. Did you have any knowledge when working in the  
22 atomic field that asbestos was used in atomic plants or  
23 nuclear plants?

24 A. No.

25 Q. When was the first time that you personally

1 became aware that asbestos was potentially hazardous?

2 A. I don't recall specifically, just knowledge  
3 gained over time.

4 Q. When would have been the first time generally  
5 that you would have understood that?

6 A. Probably the late '60s.

7 Q. And what would have come to your attention at  
8 that time to bring that to your attention?

9 A. I can't recall anything specifically.

10 Q. When did you first go to King City?

11 A. 1967, the first visit.

12 Q. No, the first time that you went to work there.

13 A. 1967.

14 Q. Month?

15 A. Summer.

16 Q. Summer of '67?

17 A. Yes.

18 Q. If you would like to review Exhibit 7 again,  
19 please feel free to do that but I am going to ask you some  
20 questions, and my first question is when you went to work  
21 at King City in the summer of '67, would you have wanted to  
22 receive a copy of what is Exhibit 7 when it was issued in  
23 December?

24 A. I don't really understand your question.  
25 Would I want to receive a copy?

1 Q. Would you have appreciated receiving a copy of  
2 Exhibit 7 when you were there?

3 MR. BORGER: Just a minute, Counsel. I  
4 would like to have an opportunity to have the witness  
5 review the exhibit.

6 MR. POLK: Sure.

7 A. No, I don't think it would have mattered  
8 whether I had a copy. I don't think it would have been any  
9 value to me.

10 Q. So it would have been no value to you as the  
11 manager of the King City facility to know in December of '67  
12 that asbestos causes mesothelioma?

13 MR. BORGER: That's not the question you  
14 asked before, Counsel.

15 BY MR. POLK:

16 Q. Let's turn to the document itself then, and I  
17 will ask you specific questions. On page --

18 A. First of all, I wasn't the plant manager  
19 in '67.

20 Q. What was your position again?

21 A. Technical superintendent.

22 Q. Technical superintendent. Okay. So as  
23 technical superintendent, looking at Page 11 of the report,  
24 in your estimation it would not have been significant for  
25 you to know that mesothelioma is the most disturbing of the

1 three diseases attributable to asbestos? I am reading from  
2 Section 4.4.1.

3 A. I don't think it would have been any value in  
4 my job or my life.

5 Q. And would it have been any value to you in  
6 December of 1967, this report generally, in bringing to you  
7 or to your attention the fact that there was potential for  
8 asbestos to cause disease?

9 A. I don't think it would have -- it may have  
10 been of interest. I don't think it would have changed  
11 anything I was doing.

12 Q. And your job as technical superintendent at  
13 King City was specifically to do what?

14 A. Well, we have been through that.

15 Q. I know.

16 A. I was responsible for quality control and for  
17 the production of the new product.

18 Q. Excuse me for interrupting, who was  
19 responsible for in-plant worker safety or mill worker  
20 safety?

21 A. At that time?

22 Q. Yes.

23 A. I think it was Bob Croncide who had safety and  
24 health responsibility.

25 Q. Turning to Page 15 of the report, Exhibit 7,

1 as the person in charge for quality control, would it have  
2 been important or significant for you to know that Dr.  
3 Sayers wrote in December of 1967 that, you can go along  
4 with me here at 6.1.1, "It therefore seems that on the  
5 basis of present evidence we are not entitled under any  
6 circumstances to state that our material is not a health  
7 hazard. What is more, if it is believed that a potential  
8 customer would use our material, quote, 'dangerously',  
9 close quote, and that he is unaware of the toxicity  
10 question, then it must surely be our duty to caution him  
11 and point out means whereby he can hold the asbestos air  
12 float concentration to a minimum." Would that have been of  
13 significance to you in December of 1967?

14 A. I don't see in what context it would be  
15 significant to me.

16 Q. Was it of significance to you in 1967?

17 A. Not that I recall.

18 Q. Was the size of the fibre significant to you  
19 in '67?

20 A. Not that I recall.

21 Q. Well, you tell me what was significant to you  
22 in '67 in your job as the technical superintendent, I mean,  
23 what was important to you?

24 A. I imagine of prime importance was making sure  
25 that the products we made met our quality control

1 specifications, that our production was adequate to meet  
2 our sales, that this new operation was getting off the  
3 ground.

4 Q. So your main purpose was making sure that the  
5 end product that you folks produced met the standards and  
6 specifications set down by Union Carbide?

7 A. As responsible for quality control, yes.

8 Q. And the characteristics of the product itself,  
9 was that of significance to you?

10 A. Not that I remember anything specific of  
11 asbestos. I know that respirators, as I say, were made  
12 available and required in certain areas. I assume I knew  
13 this too, that any foreign material that is inhaled is not  
14 good for the body, whether it be silica or asbestos.

15 Q. Would fibre aerodynamics have been significant  
16 to you in December of '67?

17 A. It would have been out of my league.

18 Q. Well, would this have been significant to you  
19 in '67, December, Page 18, "One of the obvious differences  
20 between chrysotile from the Coalinga deposit and that from  
21 other sources is its inherently small fibre dimensions.  
22 This, together with the unique wet refining method employed,  
23 has meant that there is a great abundance of very small  
24 liberated fibres available for inhalation into the lung."  
25 Was that of any significance to you or would it have been

1 for you to know that in December of '67?

2 A. I think I already answered that earlier when  
3 you asked me about fibre. No, it wouldn't have been  
4 significant.

5 Q. Was the method in which you produced the  
6 product, i.e. the wet refining method, was that significant  
7 to you as the technical superintendent?

8 A. Only as it relates to quality control.

9 Q. Does quality control or did quality control in  
10 1967 include the packaging of the product?

11 A. I was not responsible for packaging, no. That  
12 would have been manufacturing.

13 Q. I understand that you may not have been  
14 responsible. I am just asking you if that was part of the  
15 quality control.

16 A. No, not that I recall.

17 Q. So, as I understand it, in '67 when you were  
18 serving as the technical superintendent, once the pellet  
19 was produced your job was done?

20 A. Well, if we had 1,000 people out there and 15  
21 different departments, yes, I could say that. We were all  
22 part of one small group producing fibres, and I don't think  
23 my job was done until we sold all we could.

24 Q. I guess that's my point. As the quality  
25 control man, weren't you interested in the quality of the

1 product after it was delivered to the customer?

2 A. There wasn't any change. Asbestos is  
3 relatively inert.

4 Q. Wouldn't you have been interested in the  
5 quality of the product when it was delivered to the  
6 customer?

7 A. It should be the same as when it left our  
8 plant.

9 Q. When you say "it", you mean what?

10 A. Asbestos pellets.

11 Q. Asbestos pellets. And the condition of the  
12 asbestos pellets, would you have been interested in that as  
13 far as the condition of the pellet when it arrived at the  
14 customer's premises?

15 A. I wouldn't go out and examine a pellet to make  
16 sure it arrived at the customer's plant.

17 Q. Were you participating at all in determining  
18 the methods of how the material was going to be shipped?

19 A. No, I don't recall. The method of shipment  
20 had been the same. I didn't make any changes in the method  
21 of shipment.

22 Q. Nor did you make any changes in the '67 time  
23 frame for the method of bagging; is that right?

24 A. Did I?

25 Q. Yes.

1 A. No.

2 Q. Do you dispute Page 18 where Dr. Sayers  
3 indicates toward the bottom of the page that, "The author  
4 has himself witnessed a dust cloud in the vicinity of bags  
5 of both pelletized and open materials when making up  
6 customer sample bags after dark. A large number of  
7 suspended particles were visible in a torch beam."

8 MR. BORGER: Are you asking him to say  
9 what Mr. Sayers witnessed?

10 MR. POLK: That's not a very good  
11 question.

12 A. No, it wasn't.

13 Q. Let me ask you this. Did pelletized asbestos,  
14 after it was bagged and you assumed that the bag was later  
15 opened, did it produce dust?

16 A. It depends on how it was handled.

17 Q. Did you ever have an opportunity to see how  
18 your asbestos pellets and the bags that they were in after  
19 they were delivered to a particular customer?

20 A. I am sure I must have because I was present  
21 during some of the air monitoring when bags were dumped in.

22 Q. In fact, in 1972 when the air monitoring was  
23 being done, the bags were being ripped open, weren't they?

24 A. I wasn't there. I have no idea.

25 Q. You don't recollect what the report says?

1 A. No.

2 Q. May we rely on that report, the 1972 report?

3 A. For what?

4 Q. May we rely on the accuracy of the report as  
5 to where the monitoring was being done and what was being  
6 done?

7 A. You would have to ask Mr. Kleber.

8 Q. Did you rely on it?

9 A. I relied on Mr. Kleber, yes.

10 Q. So you relied upon it when you reviewed it  
11 before sending it to the customer, true?

12 A. What do you mean by relied on? Whether he was  
13 telling the truth?

14 Q. You relied upon the accuracy of his report,  
15 didn't you?

16 A. No, I don't think that. I didn't go back and  
17 check his calculations or anything like that.

18 Q. But you reviewed his reports before they were  
19 sent to the customer, right?

20 A. In most cases, yes.

21 Q. And you reviewed that for a purpose, I assume?

22 A. As I said before, the main purpose was to see  
23 what the dust counts were. I wasn't reviewing it to say,  
24 well, if it's over X point Y, we are not going to send it  
25 or I guess I reviewed it from an editorial standpoint.

1 Q. Did you ever editorialize any of the reports?

2 A. What do you mean?

3 Q. Did you ever change them or suggest a change?

4 A. You mean like in spelling or grammar probably  
5 would be all.

6 Q. Content?

7 A. No, not that I recall.

8 Q. Well, I think you earlier testified if you saw  
9 a reading that was in your opinion out of line, I think you  
10 said over five, that would cause you to take some action.  
11 Is that right?

12 A. No. I said that I would probably review them,  
13 and the allowable -- not the allowable but the suggested  
14 level by a IH at that time as I remember was five -- at the  
15 time of the Conwed it was five fibres per CC by OSHA. That  
16 was the OSHA standard. Fortunately I never saw anything  
17 over five. We still would have sent the report to the  
18 customer except we would have noted in the cover letter  
19 that here is a high reading; you should do something in  
20 this area.

21 Q. Was the --

22 A. If I saw five, I wouldn't change it to a three.

23 Q. I am certainly not suggesting that.

24 A. Maybe I am not understanding the line of  
25 questions.

1 Q. I am just asking you, when you reviewed it, if  
2 you relied upon the report that you were reviewing as being  
3 accurate?

4 A. I relied on Mr. Kleber as I would anyone else.

5 Q. As being accurate, and you also at the same  
6 time when the reports were sent to the companies would  
7 expect that the recipient of the report, your customer,  
8 would also rely on that report?

9 MR. BORGER: The question is ambiguous,  
10 Mr. Polk, in the sense of reliance. I think you are using  
11 it --

12 A. Plus I don't know how the customer would react.  
13 You would have to ask Conwed.

14 Q. Well, all I want to know is when the report  
15 was sent to the customer, in your mind was the customer  
16 entitled to rely upon the accuracy of the report?

17 MR. BORGER: In what particulars, Mr.  
18 Polk? We got into this debate when you started in asking  
19 about how the bags were opened during the air monitoring  
20 test and the description supposedly in the report that the  
21 bags were ripped open. Now, if you are asking whether the  
22 customer was entitled to rely on that description of  
23 opening the bags that they got from a Union Carbide  
24 representative, clearly that is something different than  
25 relying upon whatever the results of the air monitoring

1 tests may have been. The customer is the one that's going  
2 to be familiar with the manner in which bags were opened or  
3 not in the course of operations. If you suggest that they  
4 rely on the report by Union Carbide for the description of  
5 the operating process I think distorts any meaning of  
6 reliance that you may be trying to get from this witness.  
7 If that's what you are getting at, I think that's unfair  
8 for the witness.

9 MR. BROWNSON: I realize you are  
10 instructing your witness, John, but I have to object to  
11 that last statement as testimony by Counsel as totally  
12 improper, and we will note an objection accordingly.

13 BY MR. POLK:

14 Q. Let me try to bring it to a head here. Let's  
15 take Deposition Exhibit 21, which is the airborne dust  
16 count for the Conwed Corporation sent by Kleber and Norris  
17 to Conwed. Right?

18 A. That was the report of their visit, yes.

19 Q. And in the report they have I believe what is  
20 a sample number in the left-hand margin, right?

21 A. Yes.

22 Q. And then they have a description column, and  
23 in the description column if it's an air sample they tell  
24 you where the air sample is being taken from, true?

25 A. True.

1 Q. Now, all I am asking is can Conwed, when they  
2 receive this report, are they entitled to rely upon the  
3 accuracy of the description?

4 A. Well, there was a Conwed employee there at the  
5 time. I am sure if he disagreed with something he would  
6 have told him. They can rely on it as prepared to the best  
7 of Mr. Kleber's ability.

8 Q. Fine. And then as far as the asbestos fibre  
9 count in a report such as Exhibit 21 was in your mind  
10 Conwed entitled to rely upon the accuracy of the counting  
11 procedures utilized by Kleber and whoever else helped him?

12 A. Relied on him for what purpose?

13 Q. The accuracy of the numbers.

14 A. For what purpose, for the lawsuit or violation  
15 of OSHA.

16 Q. No, for the purpose of determining what the  
17 values themselves were.

18 A. The values were determined by the procedure  
19 established in here to the best of our ability.

20 Q. Fine, that's all I need to know. We have got  
21 that. Are you familiar with the Mellon Institute report of  
22 July 8, 1966?

23 A. Yes.

24 Q. When --

25 A. Wait a minute. Could I see a copy, please?

1 That may be something else. I don't know of the date.

2 Q. Let me keep going. I am trying my hardest  
3 here to go fast. Are you familiar with the Mellon  
4 Institute report of 1971?

5 A. Well, again, are you talking about a report --  
6 a Union Carbide asbestos report?

7 Q. Yes.

8 A. Yes.

9 Q. And you are familiar with the results of those  
10 studies?

11 A. Well, I couldn't tell you what they were  
12 without referring to the report.

13 Q. Were you provided with the Mellon Institute  
14 report from 1971 when you were in marketing?

15 A. I have received it. I am not sure when it was.

16 Q. When that was received by the marketing  
17 department, was there anything that was done by the  
18 marketing department insofar as sales are concerned in  
19 dealing with that report?

20 MR. BORGER: Objection, the question  
21 assumes facts not in evidence.

22 A. The sales people were made aware of the report  
23 and were -- well, I would say the main value of that report  
24 was that we could not say our asbestos was any different  
25 than anybody else's, and the sales people would have been

1 instructed to that end.

2 Q. And you were aware, were you not, in 1971 that  
3 asbestos caused asbestosis?

4 A. As I said earlier, I learned over a period of  
5 time.

6 Q. Specifically --

7 A. Yes, I should have known by '71.

8 Q. And that asbestos can cause lung cancer?

9 A. I can't answer specifically for that.

10 Q. And that asbestos can cause mesothelioma?

11 A. I don't know when I learned that. Again, it  
12 was over this time period.

13 Q. Do you have any knowledge at all about Dr.  
14 Selikoff? Have you ever heard that name?

15 A. Yes.

16 Q. Are you aware at all of a conference that was  
17 held in New York City in 1964?

18 A. Not that I recall, no.

19 Q. Do you recall getting any kind of reports from  
20 anybody at Union Carbide concerning that?

21 A. No, I don't recall.

22 Q. Is Dr. Dernehl still alive?

23 A. I don't know.

24 Q. Do you know what the IHF is?

25 A. Industrial Health Foundation.

1 Q. And Union Carbide was a member of that, true?

2 A. I don't know.

3 Q. You don't know?

4 A. No.

5 Q. You don't know that they were a founding  
6 member of that organization?

7 A. I think I have seen that in an interrogatory  
8 response, yes; but I don't know that of my own personal  
9 knowledge.

10 Q. And are you aware that Dr. Dernehl attended  
11 the 1959 IHF conference in Pittsburgh?

12 A. No.

13 Q. What I am wondering about and the only reason  
14 I am asking is, it's already been done by way of answer to  
15 interrogatory that you have signed, what I would like to  
16 know -- you signed them. What I am want to know is who  
17 gave you that information, if you know?

18 A. I would assume Counsel developed them.

19 Q. Have you ever seen the minutes from the IHF  
20 Pittsburgh 1959 conference?

21 A. No, not to my knowledge.

22 Q. So you don't have any idea of your own  
23 personal knowledge as to what subject matters were  
24 discussed at that conference?

25 A. No.

1 Q. Have you ever met Dr. Dernehl?

2 A. Yes.

3 Q. And did you have acquaintanceships with him,  
4 not acquaintanceships, did you have contact with him in  
5 1967?

6 A. Not that I recall. That's a long time ago. I  
7 don't remember.

8 Q. I know it's a long time ago. When do you  
9 think you first came in contact with Dr. Dernehl?

10 A. I don't remember.

11 Q. When you went to King City in the summer  
12 of '67, had you read the the asbestos toxicology report  
13 that he issued in 1966?

14 A. I don't know.

15 Q. Now, let's talk quickly about warnings. Did I  
16 understand you to say that effective in '68, bags of  
17 Calidria asbestos contained a warning?

18 A. Yes.

19 Q. Were there any exceptions to that rule?

20 A. Yes, as I recall.

21 Q. Tell me about those.

22 A. I can't remember what years but there was one  
23 company in Chicago who was exporting asbestos and --

24 Q. To the U.K.?

25 A. No, and they requested that we not put the

1 warning on the bags. In fact, they didn't want any  
2 identification on the bags as the supplier or producer.

3 Q. Who produced the bags that the Calidria  
4 asbestos was shipped in?

5 A. Several different companies, bag companies.  
6 Do you want names? Is that what you are asking?

7 Q. Yes. These are the paper bags now that we are  
8 talking about. Did they change from year to year?

9 A. Usually it was changed on low bid.

10 Q. How often would it be put out for bid?

11 A. Whenever we needed bags.

12 Q. What kind of frequency would that be, more  
13 than annually?

14 A. Of ordering bags?

15 Q. Yes.

16 A. Yes, and I don't recall any manufacturers from  
17 this time frame.

18 Q. Would the bags be plain? Would they be  
19 manufactured without printing on them?

20 A. We had a few that way, yes.

21 Q. After '68, would they be printed with whatever  
22 information generally showed up on the bag?

23 A. In '63, they would have been printed. We just  
24 maintained a supply of plain bags.

25 Q. For certain customers like Chicago?

1 A. For the one customer who was exporting.

2 Q. And was that the only customer?

3 A. That's all that I can recall.

4 Q. And you recall that from your what, one year  
5 in 1967 being there? I am wondering how you know that's  
6 the case from '63 onwards when you weren't there?

7 A. I don't know when the plain bags were shipped,  
8 which I told you. That was probably -- that was I think  
9 when I was in marketing.

10 Q. You went into marketing in 1970, right?

11 A. Right.

12 Q. Can you tell me what printing was on the bags  
13 before 1970?

14 A. The wording?

15 Q. Yes.

16 A. Exactly, no, I can't.

17 Q. Well, can you tell me, not the exact wording,  
18 can you tell me what was printed on the bags?

19 A. In 1970, did you say?

20 Q. At any time before 1970, can you tell me that  
21 or is that outside your own information?

22 A. No. It would have been the -- it would have  
23 said Union Carbide and probably King City. Maybe in the  
24 early days they used the New York address, and the product  
25 name was printed on some bags and the net weight.

1 Q. And anything else?

2 A. The name of the bag manufacturer and the year  
3 was on the back, and starting in '63 the warning label.

4 Q. When in '68 do you think?

5 A. I don't recall.

6 Q. Were you at King City in '69?

7 A. Yes.

8 Q. Were you there in '69?

9 A. Yes.

10 Q. And then you went back to Niagara Falls  
11 in '70, right?

12 A. Right.

13 Q. Now, how do you know what was printed on the  
14 back, for example in '70 and '71?

15 A. Well, I suppose by seeing pictures of them or  
16 looking at the actual bag.

17 Q. Do you have any historical documents that have  
18 pictures, by the way, of the bags?

19 A. Nothing that I can pinpoint. There may be  
20 pictures floating around somewhere that show pictures of  
21 bags.

22 Q. Were there any other customers other than the  
23 Chicago group that you talked about earlier that didn't  
24 want any warning on their bags?

25 A. Not that I recall. They didn't want it on

1 bags that they were exporting to, I think it was, Holland.

2 Q. Do you know if any bags were shipped to Conwed  
3 that had warnings on them?

4 A. I don't know from personal knowledge.

5 Q. How would we go about determining that or do  
6 you have any suggestions in that regard?

7 A. No, other than the fact that we have testified  
8 before that we started labeling in 1968, but I don't have a  
9 bag -- we do have copies -- no, I guess there is no way of  
10 knowing whether that bag was shipped in '63 or '69 unless  
11 Conwed would remember.

12 Q. But you do have a copy of a bag that has a  
13 warning on it apparently?

14 A. Yes.

15 Q. Where is that?

16 A. I think it was in the documents. It's a Xerox  
17 copy.

18 Q. Was that produced in relation to some other  
19 litigation?

20 A. Maybe it was.

21 Q. Some other case, I mean?

22 A. Yes.

23 Q. What case was that produced in?

24 A. I think every case.

25 Q. Did you produce -- what is it, a photograph of

1 a bag?

2 A. It's a Xerox of a bag.

3 Q. And your recollection is that that includes  
4 the warning?

5 A. I think that's all it included is just a Xerox  
6 of the warning.

7 Q. No, I am talking about a bag. I know what you  
8 are talking about. I am talking about a photocopy of a bag  
9 or a picture of a bag.

10 A. I think we have produced that in the past, yes.

11 Q. I want to make sure we are clear. You say you  
12 have given us the wording of the warning?

13 A. I don't know whether we have given it to you.

14 Q. But I want to know if you have seen or  
15 produced a copy, either a photograph or a copy of a  
16 photograph of a bag that contained the warning language on  
17 it?

18 A. Yes, I think we have in the past.

19 Q. That's fine. It's my understanding that 25  
20 percent of the Calidria sales were not made directly by  
21 Union Carbide but rather by distributors of Calidria  
22 asbestos. Is that accurate?

23 A. I have no idea.

24 Q. Rather than wasting a lot of time trying to  
25 round it up, it's part of an answer to interrogatory again

1 that you signed, and I am just wondering where the source  
2 of that information comes from, if you know?

3 A. Sales records, I would assume.

4 Q. Were there distributors of Calidria asbestos?

5 A. Yes.

6 Q. Were there any midwest distributors of  
7 Calidria asbestos?

8 A. Yes.

9 Q. Who?

10 A. I can't recall. Let me see. There was one  
11 located in Chicago and, I think, with an office in  
12 Cleveland. Technical Products was one name. Technical  
13 Petroleum, I think, was the name used in Chicago. Kallus  
14 Corporation in Detroit. I can't recall others in the  
15 midwest.

16 Q. Are you familiar with a report of Mr. P. R.  
17 Cheston dated February 16, 1967?

18 A. Not that I know of.

19 Q. Are you familiar with Mr. W. C. Thurber?

20 A. Yes.

21 Q. What was his position with Union Carbide?

22 A. At what time?

23 Q. On, let's take 1974, November 11, specifically,  
24 of 1974. Well, would you agree that he was the product  
25 manager for asbestos at that time?

1           A.     I don't know whether he was at that time. He  
2 was my boss.

3           Q.     As of November 11 of 1974, you were the  
4 marketing manager, right?

5           A.     Yes.

6           Q.     He was the product manager and, therefore, was  
7 your boss?

8           A.     Right.

9           Q.     Are you familiar with a November 11, 1974,  
10 letter that he sent to John Marsh of the Asbestos  
11 Information Association?

12          A.     Not without looking at it. I don't know  
13 whether I have seen that before or not.

14          Q.     Well, do you have any recollection of  
15 participating in the drafting of that letter?

16          A.     No, I don't.

17                   MR. THORNSJO: Would you mark that as an  
18 exhibit, please?

19                   MR. POLK: I sure will.

20          A.     I don't recall whether I participated in it or  
21 not.

22          Q.     Do you have any recollection as to whether Mr.  
23 Norris or anyone else that had any interaction with the  
24 Conwed Corporation had any input into that letter?

25          A.     No, I don't know.

1 (At this time MYERS Deposition Exhibit  
2 27 was marked for identification by the  
3 Court Reporter.)

4 BY MR. POLK:

5 Q. Prior to this particular case that we are here  
6 on today, did you ever come to any personal knowledge that  
7 Conwed expressed a concern about the continued use of  
8 Calidria asbestos?

9 A. No.

10 Q. In the early to mid-'70s?

11 A. No, I don't remember anything.

12 Q. You were marketing manager up to what year?

13 A. 1981.

14 Q. So you are unaware of any concern expressed to  
15 Union Carbide that they were going to cease the purchasing  
16 of Calidria asbestos in about 1974?

17 A. Why don't you restate that.

18 Q. All right. Did you become aware at any time  
19 in 1974 that Conwed was expressing concern to Union Carbide  
20 about continued use of Calidria asbestos?

21 A. I don't know what year, but I am aware that  
22 they stopped using Calidria asbestos.

23 Q. Are you aware that that occurred in May of  
24 1974?

25 A. No, I am not aware of a year.

1 Q. The reason you are not aware of it is because  
2 you can't precisely recollect it after this many years?

3 A. That's correct.

4 Q. Were you informed of the concerns being  
5 expressed by Conwed in 1974?

6 A. I don't recall anything.

7 Q. Well, would you have expected to have been put  
8 on notice through some source of Conwed's concerns?

9 A. I would expect that I would have been aware of  
10 it, yes.

11 Q. You were the head man of marketing asbestos,  
12 true?

13 A. I was marketing manager.

14 Q. From a marketing standpoint, you were the head  
15 man?

16 A. Yes.

17 Q. And Mr. Norris worked for you, did he not?

18 A. Yes.

19 Q. And Mr. Norris communicated with you, did he  
20 not?

21 A. Yes.

22 Q. And he communicated with you on a regular  
23 basis, true?

24 A. I assume so, yes.

25 Q. And you traveled to Chicago and met with him

1 on a fairly regular basis, didn't you?

2 A. I don't know what you mean by regular, once a  
3 year or twice a year.

4 Q. I am talking at least once a year, is that  
5 fair?

6 A. I would assume so, yes.

7 Q. And you would agree, would you not, that -- I  
8 think you categorized Conwed as being a medium to large  
9 user?

10 A. As I recall.

11 Q. Wasn't it the largest purchaser in the country  
12 of Calidria asbestos from Union Carbide between 1968 and  
13 1974?

14 A. I don't recall.

15 Q. Was it one of the largest purchasers?

16 A. I can't tell you anything differently than  
17 what I told the prior Counsel. As I recall, they would be  
18 medium to large. I don't have any sales data with me to  
19 give you a more accurate answer.

20 Q. You have the sales data at your office in King  
21 City to make that determination if it was the largest  
22 purchaser of Calidria asbestos between 1968 and 1974?

23 A. I don't know.

24 Q. Did you have any meetings at any time with Mr.  
25 Norris to address specifically the concerns that had been

1       communicated to Union Carbide by Conwed in 1974?

2             A.     I don't recall.

3             Q.     Do you recall this, did you ever go to Chicago  
4       to meet with Mr. Norris to address Conwed's concerns?

5             A.     I don't remember anything specific.

6             Q.     Do you ever remember going to Cloquet, and I  
7       know Mr. Brownson asked, but do you remember going to  
8       Cloquet in 1974 to address those concerns?

9             A.     No, I don't remember going there.

10            Q.     Do you ever remember contacting your technical  
11       department for assistance in attempting to change the  
12       position of Conwed?

13            A.     No.

14            Q.     If a large, medium to large, purchaser of  
15       Calidria asbestos in 1974 told your salesperson that they  
16       were no longer going to buy the product and that the  
17       salesperson informed you, his boss, of that fact, what  
18       would have been your practice at that time to respond to  
19       that kind of event?

20            A.     If the company had made the decision there  
21       wouldn't have been any response.

22            Q.     Would it have been your standard operating  
23       practice to attempt to change the mind of the purchaser?

24            A.     Well, we may meet with them to see count data.  
25       We may try to find out what alternate product they were

1 going to use and see if they had a good safety record on it.  
2 But a large company that is buying this much asbestos,  
3 there it would be very little we could do to change  
4 somebody's mind that had the background and the knowledge  
5 of their product, like Cenwed.

6 MR. BROWNSON: Well, I am going to  
7 object to that as to lacking foundation.

8 BY MR. POLK:

9 Q. Would you have done any entertaining of any of  
10 the decision making people at a customer from falling into  
11 that category, do you think?

12 A. Entertain them to try to get them to change  
13 their mind?

14 Q. Yes.

15 A. I don't think so.

16 Q. Would Mr. Norris have perhaps done something  
17 like that?

18 A. He may have, but I don't see how entertaining  
19 someone would change their mind on using asbestos. We may  
20 have taken them out to dinner. I don't know.

21 Q. Do you know that one way or another?

22 A. No, I don't.

23 Q. Did he submit expense records to you?

24 A. No, that would have gone to his -- it would  
25 have gone to his direct boss.

1 Q. In 1974?

2 A. Yes.

3 Q. And who was that?

4 A. That would either be Robert Byrne or Harry  
5 Rhodes.

6 Q. Was there a certain level of authority as far  
7 as expenditures are concerned that Mr. Norris would have  
8 had at that time frame?

9 A. I don't think there was any policy on the  
10 amount of money anybody could spend. If they were over a  
11 certain amount, it seems to me it took a different approval  
12 of the expense report.

13 Q. By whom?

14 A. By the next person in authority. I guess at  
15 another level. You would have to go higher to the next  
16 level.

17 Q. Did you have any knowledge at any time  
18 concerning the Reserve Mining trial that was held in Duluth,  
19 Minnesota? That's referenced in this Exhibit 27.

20 A. I have heard of the Reserve Mining situation,  
21 yes.

22 Q. Was Union Carbide involved in that case?

23 A. Not to my knowledge.

24 Q. When would you have heard about that? Would  
25 it have been before the date that appears on Exhibit 27

1 perhaps?

2 A. I don't know when it took place. I probably  
3 would have known about it from the newspapers immediately.

4 Q. And you knew that trial involved asbestos like  
5 material or learned that from --

6 A. Involved what?

7 Q. Involved asbestos like material?

8 A. I suppose I would have known that, yes.

9 Q. And just tell me how or where Byrne and Rhodes  
10 fall into place here in the continuum of things?

11 A. They were on equal levels underneath me,  
12 assistant marketing managers.

13 Q. And they jointly had authority over Mr. Norris?

14 A. No. The reason I said it would be one or the  
15 other is that the marketing department was at one time  
16 divided into sales and technical, and then at a later time  
17 it was changed to geographical, and each person had sales  
18 and technical.

19 Q. You are familiar with the memorandum that H.  
20 B. Rhodes wrote to you and others dated September 29, 1975,  
21 regarding his visit to the 18th Annual Congress on  
22 Occupational Health in Brighton, England in September of  
23 1975, true?

24 A. I don't know whether I am or not.

25 Q. You don't have a recollection of getting a

1 memorandum from Mr. Rhodes in that regard?

2 A. No, I don't.

3 (At this time MYERS Deposition Exhibit  
4 28 was marked for identification by the  
5 Court Reporter.)

6 BY MR. POLK:

7 Q. Mr. Myers, did you have an opportunity during  
8 the break to review what has now been marked as Deposition  
9 Exhibit 28?

10 A. Yes, I did. I didn't read it word for word,  
11 but I did review it.

12 Q. First of all, do you have an independent  
13 recollection of receiving a copy of that document back in  
14 1975 when it was written by Mr. Rhodes?

15 A. I don't remember receiving it.

16 MR. BORGER: For the record, I would  
17 object to this exhibit on the grounds that the copy  
18 produced by Mr. Polk contains markings which are made by  
19 Mr. Polk.

20 MR. POLK: Well, I will take the slips  
21 off. There are also highlighted paragraphs that were not  
22 part of the original document. That's what I am going to  
23 ask the witness about, John.

24 BY MR. POLK:

25 Q. First of all, I understand you don't have an

1 independent recollection of it. Would you agree on the  
2 face of it you were a recipient of the document?

3 A. Yes.

4 Q. There are indeed some markings, particularly a  
5 horizontal short marking that's opposite J. L. Myers. Do  
6 you see that?

7 A. Yes.

8 Q. Do you have any knowledge who made that  
9 marking or why that marking happens to be there?

10 A. No, I don't.

11 Q. How about the markings that are opposite  
12 numbers one and two at the bottom of the page? Do you have  
13 any knowledge as to who made those markings?

14 A. No, I don't.

15 Q. Do you have any reason to dispute the  
16 authenticity of the document based on its appearance?

17 A. You mean as to whether Dr. Rhodes actually put  
18 this together and signed it?

19 Q. Yes.

20 A. No, I wouldn't have any question about that.

21 Q. Is there anything unusual about the document  
22 that strikes you as having an affect in any way on its  
23 authenticity?

24 A. No, I am not sure I understand the question,  
25 but I told you I thought it was authentic.

1 Q. Back in 1975 it would have been standard  
2 business practice in your position to have been the  
3 recipient of a document such as Exhibit 28?

4 A. It's a trip report, yes.

5 Q. What is the background or what was the  
6 background of H. B. Rhodes? You called him doctor.

7 A. Yes.

8 Q. Was he a medical doctor?

9 A. No, Ph.D. in chemical engineering.

10 Q. And is that the same Rhodes that was above Mr.  
11 Norris in the marketing scheme?

12 A. If he was at same time, yes, that's the same  
13 Rhodes.

14 Q. Same one?

15 A. Same one that was in the marketing group, not  
16 necessarily above Mr. Norris because I told you I didn't  
17 know what time frame Mr. Norris was there.

18 Q. This Dr. Rhodes, did he become part of your  
19 marketing team when the technical side of the marketing  
20 team was combined with the sales part of the marketing team?

21 A. He was part of the marketing group from the  
22 beginning.

23 Q. Notwithstanding his expertise, apparently, as  
24 a doctor in chemistry or chemical engineering?

25 A. I don't know what that has to do with --

1 Q. Probably nothing. He just sounds like he is  
2 more of a technical man than a salesman is all I am saying.  
3 Now, at the end of that report there is some reference to  
4 some abstracts. I don't know if you recall that or not.  
5 If you don't, just take a look at the document.

6 A. There is a sentence that says, "If anyone  
7 would like to look at the abstracts, please let me know."

8 Q. What do the abstracts refer to?

9 A. I am assuming it refers to all the papers to  
10 which he has made reference and abstracts of the papers.

11 Q. And did you ever request a copy of the  
12 abstracts that he is referring to in that memo?

13 A. I don't recall.

14 Q. If he did have a general business practice,  
15 that would have been at that time with reference to that  
16 type of issue?

17 A. It would have depended on the contents of the  
18 papers that were presented whether or not I wanted to read  
19 more than what he had written.

20 Q. In the context of the memorandum that he had  
21 submitted to you in 1975, would you have requested copies  
22 of those abstracts?

23 A. I may have requested some of them, abstracts  
24 of some of them.

25 Q. If you would have done that in 1975, where

1 would those abstracts have been put for yourself personally?

2 A. If they had been retained, I would assume that  
3 they would be in some file in Niagara Falls.

4 Q. What file would that have been?

5 A. I don't know whether it would be in my  
6 personal file or in a general file on asbestos and health  
7 related documents.

8 Q. The latter being a personal file that you  
9 maintained between '70 and '81?

10 A. You mean a personal file on asbestos and  
11 health?

12 Q. Yes.

13 A. I can't remember if there was any. Again, I  
14 think we went through this. I don't remember a file  
15 specifically for that.

16 Q. I think we went through that in the King City  
17 locale. But as far as the Niagara Falls locale, do you  
18 have a recollection one way or another whether or not you  
19 maintained a file on health related asbestos issues?

20 A. I think that I did, yes.

21 Q. As far as you know, has that file been  
22 preserved?

23 A. I don't know.

24 Q. Your personal file that doesn't relate to  
25 asbestos related issues, has that been preserved, if you

1 know?

2 A. I don't know.

3 Q. You do know that you don't have it?

4 A. When I say personal file, I don't mean the --  
5 I meant that I kept it in my office primarily rather than  
6 being in some other place and whether these files were  
7 transferred over to the next subsequent marketing manager,  
8 most of them were.

9 Q. Who was that?

10 A. Mr. Byrne.

11 Q. And who was the last marketing manager in the  
12 asbestos area?

13 A. Mr. Dickson.

14 Q. And Mr. Byrne, is he alive?

15 A. To the best of my knowledge.

16 Q. Do you know where he is?

17 A. Somewhere in Michigan, I think. As I said in  
18 the last deposition, I think it's Paw Paw, Michigan.

19 Q. Do you know what he does up there?

20 A. He is retired.

21 Q. Would you expect that the files that we have  
22 just been talking about would now be located in Pittsburg?

23 A. No.

24 Q. Why is that?

25 A. Maybe I should say I have no idea what's been

1 done with the files there.

2 Q. Now, I want to make sure that I understand  
3 Exhibit 28 correctly. I think it's on the last page. Is  
4 the gist of Dr. Rhodes' conclusion that the problems of  
5 asbestos causing mesothelioma are going to get worse before  
6 they get better?

7 A. I think rather than me stating that, it would  
8 be better if I read his conclusion.

9 Q. Sure.

10 A. "In summary, I get the overall impression that  
11 there is a great deal of concern that the mesothelioma and  
12 even the asbestos picture will get worse before it gets  
13 better."

14 Q. Thank you. Now, personally as the marketing  
15 manager, did you take any action of any kind in response to  
16 the concern being addressed or the concern being  
17 communicated by Dr. Rhodes in that memo?

18 A. What kind of action?

19 Q. Was there any follow-up to that concern? In  
20 other words, did you in the marketing department perhaps  
21 meet to discuss this ongoing problem?

22 A. Not necessarily. It was not a problem for us  
23 necessarily.

24 Q. That answers my question. The perception that  
25 the marketing department had at that time was that Calidria

1 was not capable of causing mesothelioma?

2 A. I don't think it would be stated that  
3 emphatically; but I think based on the medical scientific  
4 literature, it was the general feeling that chrysotile did  
5 not cause mesothelioma.

6 Q. And you were aware of that in 1975?

7 A. I would think that I would have been by then,  
8 yes. It would have been our general feeling.

9 Q. And you were aware of that in 1975 because you  
10 had gotten information from your technical department and  
11 your medical department, true?

12 A. Not necessarily those sources. They would be  
13 from published information, whatever the source. I didn't  
14 have someone independently evaluate it. Any feeling like  
15 that was based on published literature, not published by  
16 Union Carbide or the technical department. It was based on  
17 published literature.

18 Q. You came to that understanding or conclusion  
19 or feeling, if you will, in 1975 based on published  
20 literature. Anything else?

21 A. If I came to that in '75, yes. I am not sure  
22 of the timing of that. It's been reinforced through the  
23 years but I don't know when it first started.

24 Q. Well, then I have to backtrack, Mr. Myers. I  
25 am sorry, but I understood you to say that in 1975 it was

1 the marketing department's feeling that Calidria was not  
2 capable of causing mesothelioma. Am I overstating your  
3 testimony?

4 A. I think you asked me if we did anything  
5 further or had any further meetings about this concern over  
6 mesothelioma, and I said that I don't think we did anything  
7 particularly because we didn't seem to involve short fibre  
8 chrysotile asbestos. I don't think we had a concrete  
9 opinion at that time.

10 Q. Maybe you didn't have a concrete opinion but  
11 that was your impression at that time and your impression,  
12 however strong or weak it may have been, was based on  
13 published literature?

14 A. Yes.

15 Q. And the published literature, was that read  
16 personally by yourself to come to that conclusion or was it  
17 a conclusion that you came to by being provided with the  
18 information through some other department in Union Carbide?

19 A. Maybe you should restate the question.

20 Q. Sure. Did you come to that impression or that  
21 conclusion in this time frame based upon your own reading  
22 of the published literature that you relied upon?

23 A. Yes, I would say generally that would be true.

24 Q. And did you or someone under your direction go  
25 out into wherever you went to gather up that public

1 literature to lead you to the impression that you had at  
2 that time?

3 A. I don't remember going out anywhere to gather  
4 it up. Whatever comes across a person's desk as far as  
5 journals or copies of articles out of journals.

6 Q. Exactly. The journals that addressed this  
7 issue that led to that impression, were they subscribed to  
8 by the marketing department?

9 A. No, I don't think we subscribed to any.

10 Q. Did they come to Union Carbide through a  
11 department of Union Carbide?

12 A. Not that I recall.

13 Q. How did the articles themselves get to your  
14 desk?

15 A. Being routed by someone or being read in the  
16 library.

17 Q. It was routed to you through the medical  
18 department on some occasions maybe?

19 A. Possibly, yes.

20 Q. Industrial hygiene department?

21 A. Possibly.

22 Q. Marketing department?

23 A. That's what I was.

24 Q. People under you, though?

25 A. I suppose.

1 Q. Routing things to you?

2 A. I suppose.

3 Q. Any other sources that would have been a  
4 provider to you of these kind of articles that you relied  
5 on?

6 A. Probably the Asbestos Association.

7 Q. Okay.

8 A. I can't recall every source of every article.

9 Q. And you are unable, I am sure, to tell us as  
10 you sit here today specifically what articles you relied  
11 upon in forming that impression?

12 A. You mean like a bibliography?

13 Q. Yes.

14 A. Yes, you are correct. I cannot.

15 Q. Was there ever a bibliograpy drafted by  
16 anyone at Union Carbide that supported the impression that  
17 chrysotile asbestos fibre did not cause mesothelioma?

18 A. Not that I am aware of.

19 Q. Did you read the Mellon Institute reports of  
20 1966 and 1971 as standing for the proposition that  
21 chrysotile asbestos fibre did not cause mesothelioma?

22 A. To the best of my recollection, those reports  
23 did not address mesothelioma.

24 Q. What did they address?

25 A. They addressed a study on animals that showed

1 Union Carbide asbestos caused essentially the same  
2 reactions in animals as other chrysotile fibres.

3 Q. Including asbestosis?

4 A. I don't remember how the wording was; but as I  
5 say, I don't think they mentioned mesothelioma.

6 Q. Do you have any information at all or did you  
7 ever have any information at all that Calidria asbestos did  
8 not cause asbestosis or was not capable of causing  
9 asbestosis?

10 A. Did I have any at that time?

11 Q. At any time.

12 A. Yes, I think I said earlier that the recent  
13 literature tends to indicate that short fibre chrysotile is  
14 innocuous.

15 Q. You did and I apologize. What is the source  
16 of that? I assume because it's recent you may remember it.

17 A. I can't give you chapter and verse. There is  
18 one paper by Dr. Vu of the Environmental Protection Agency;  
19 Dr. Muhle of Germany. I can't remember any other  
20 specifically.

21 Q. Is that a conclusion in your mind of Dr. Vu  
22 and Dr. Muhle, that short fibre is innocuous?

23 A. Dr. Muhle essentially said that short fibre  
24 chrysotile was innocuous. Dr. Vu doesn't say it that  
25 specifically. She says that it's far less hazardous than

1 longer fibres.

2 Q. Who financed Dr. Muhle's study?

3 A. I have no idea.

4 Q. You don't know that whether --

5 A. All I say was the record a year or so after it  
6 was published.

7 Q. In what text?

8 A. It was a British journal of medicine or  
9 something like that.

10 Q. Now, I just have a couple other questions here  
11 with reference to warning. Did you have any input into the  
12 wording of the warning?

13 A. No.

14 Q. Who determined what warning words would be  
15 used?

16 A. From '68 to '72?

17 Q. Let's take that, sure.

18 A. That I don't know.

19 Q. Where was the warning printed on the package  
20 itself?

21 A. As I recall, it's on the face right under the  
22 name of the product and before the name of the manufacturer.

23 Q. The name of the manufacturer being who?

24 A. Union Carbide.

25 Q. So would it have been in the middle of the bag?

1 A. Lower middle.

2 Q. And that was, I think you said, in blue ink on  
3 white paper for a time?

4 A. On the high purity pellets that would be true,  
5 yes, as I recall.

6 Q. And was the warning the same for all fibre or  
7 pellet types?

8 A. For all Calidria products the warning was the  
9 same.

10 Q. And that warning said, "Warning, breathing  
11 dust may be harmful. Do not breathe dust." Would you  
12 agree with that?

13 A. Well, I would agree that that sounds correct  
14 as worded in the interrogatory.

15 Q. In the interrogatory answer?

16 A. Interrogatory answer.

17 Q. And that was the wording of the warning that  
18 allegedly anyway was placed on the bags in 1968, correct?

19 A. Yes.

20 Q. And what month does that process start in?

21 A. Again, I am not sure which was '68 and which  
22 was '72 because there are two warnings here. I assume or  
23 maybe I shouldn't assume that. There is one listed first,  
24 which probably was 1968, and I answered before I don't know  
25 which month.

1 Q. Can you tell by looking at the warning which  
2 warning came before the other one?

3 A. No, I can't.

4 Q. You can't?

5 A. No. I said presuming that they are listed in  
6 that order.

7 Q. As a former technical superintendent, are you  
8 able to make an educated guess as to which warning perhaps  
9 came first and then which warning was in response to the  
10 OSHA requirements?

11 A. I prefer not to make any kind of a guess,  
12 educated or uneducated.

13 Q. How about just based on your experience as the  
14 marketing manager? I mean, you were a marketing manager in  
15 1970. Do you know which warning was being used at that  
16 time?

17 A. No, I would not swear to which one was used  
18 when.

19 Q. And you don't know who came up with the  
20 warning language?

21 A. No, I don't. Not for the first one.

22 Q. How about as to the second one?

23 A. The second one -- the other warning starting  
24 in '72 was the warning prescribed by OSHA.

25 Q. Prescribed by OSHA, prescribed directly to

1 Union Carbide?

2 A. In the asbestos standard published by OSHA in  
3 1972.

4 Q. Now, did you know that breathing dust may be  
5 harmful in 1968?

6 A. I can't recall, as I told you. It probably  
7 was in the late '60s when I learned that.

8 Q. I am just using the wording of the warning.  
9 Did you know that breathing dust may be harmful?

10 A. And I said, I learned that probably in the  
11 late '60s.

12 Q. So before the late '60s, didn't you know that  
13 breathing dust may be harmful?

14 A. Any kind of dust?

15 Q. I don't know. I am just reading the warning.  
16 I am asking you?

17 A. I don't know. I don't recall something that  
18 specific.

19 Q. And it says also in that warning, "Do not  
20 breathe dust." Can you explain to me how someone is  
21 supposed to follow that warning if they are working with  
22 the Calidria product?

23 A. By avoiding any creation of dust, wetting the  
24 product as it comes out of the bag or just being very  
25 careful to have adequate ventilation or wear a respirator.

1 I mean, there are several different ways to limit the  
2 amount of dust generated.

3 Q. And your own employees in your own King City  
4 plant had been using respirators for at least five years  
5 prior to this warning coming out?

6 A. They would use them in specific areas.

7 Q. Are you familiar with any correspondence going  
8 to the Asbestos International Association? By the way, do  
9 you know where that association was located?

10 A. It is located in London.

11 Q. Are you aware of getting copies of any  
12 correspondence to that association?

13 A. What time frame?

14 Q. 1975 to 1980.

15 A. No, I don't recall any.

16 Q. Do you know John Marsh?

17 A. Yes.

18 Q. You have met him?

19 A. Yes.

20 Q. Have you ever gone to Asbestos International  
21 Association meetings?

22 A. Have I?

23 Q. Yes.

24 A. Yes.

25 Q. How many do you think you have attended in the

1 past when you were working for Union Carbide?

2 A. You mean meetings per se?

3 Q. Yes.

4 A. Once, I think.

5 Q. Where was John Marsh located between '75 and  
6 '78 or '79?

7 A. I guess he was in Connecticut.

8 Q. Who was he employed by?

9 A. Raymark or Raybestos Manhattan.

10 Q. Raybestos Manhattan at the time. I think they  
11 had changed their name to Raymark at the time.

12 MR. THORNSJO: Object as a  
13 mischaracterization.

14 BY MR. POLK:

15 Q. Did you have any correspondence with Mr. Marsh  
16 directly relating to the labeling of the Calidria asbestos?

17 A. Not that I recall.

18 Q. Did you participate in any communications with  
19 Mr. Marsh relating to the labeling of asbestos being sent  
20 to Europe, specifically Germany?

21 A. You have been talking about labeling. I  
22 assumed you were talking about domestic labeling.

23 Q. I didn't limit the question to domestic  
24 labeling. I am talking about labeling in Europe.

25 A. Okay. I don't know whether I communicated

1 with Marsh unless it would have been with him as the  
2 representative through AIA in the labeling discussions I  
3 remember was whether or not to use a lower case a to the  
4 bags of fibres.

5 Q. Well, do you have any recollection of any  
6 discussions that came up? This would have been in the  
7 late '70s to give you a time frame, about a skull and cross  
8 bones being put on your bag?

9 A. There were records, as I recall, in Europe,  
10 what kind of a symbol to use for asbestos.

11 Q. And that symbol was a skull and cross bones,  
12 was it not?

13 A. That's one of the categories of dangerous  
14 substances. There are several different categories.

15 Q. And didn't Union Carbide work with John Marsh  
16 and others of the Asbestos International Association in the  
17 late '70s to get around that problem of putting a skull and  
18 cross bones on Union Carbide's bags of Calidria?

19 A. I wouldn't word it that way, no.

20 Q. How would you word it?

21 A. The industry, and I don't know whether Union  
22 Carbide was directly involved, but the industry was trying  
23 to -- got the acceptance of utilizing the lower case a to  
24 identify asbestos rather than the skull and cross bones.  
25 The skull and cross bones would have been, I would say, an

1 improper type of symbol for asbestos not being an acute  
2 toxic material. It would detract from other materials  
3 which were acutely toxic.

4 Q. So in the late 1970s it was Union Carbide's  
5 position that the Calidria asbestos was not an acutely  
6 toxic material, is that a fair statement?

7 A. I don't know whether it was Union Carbide's  
8 position. I think it's a universal position.

9 Q. Well, universal as far as the Asbestos  
10 International Association was concerned?

11 A. I don't think there is anyone that says that  
12 asbestos is acutely toxic.

13 Q. Are you familiar with Sir Neville Stack?

14 A. Yes.

15 Q. Who is he?

16 A. I am not sure what the title is exactly, but  
17 he is the executive director -- managing director of the  
18 AIA.

19 Q. Did you correspond with him at any time?

20 A. I have, yes.

21 Q. What would have been the context of your  
22 correspondence with him?

23 A. I don't recall anything in the years which you  
24 have been discussing.

25 Q. What years would you have been corresponding

1 with him?

2 A. Last year. You know, in the last two or three  
3 years it's been more.

4 Q. Is KCAC a member of the Asbestos International  
5 Association?

6 A. No.

7 Q. You would have been corresponding with him in  
8 the last year or so for what purpose?

9 A. Well, I attended a meeting over there and I  
10 think he sent back or they sent me minutes of the meeting,  
11 things like that.

12 Q. In what capacity did you attend the meeting?

13 A. Representing the Asbestos Information  
14 Association of North America.

15 Q. And that is an association funded directly by  
16 Union Carbide, true?

17 A. No.

18 Q. Do you know that one way or another?

19 A. You mean is it funded by Union Carbide?

20 Q. Yes, or in part funded by Union Carbide.

21 A. You mean today?

22 Q. Yes.

23 A. No.

24 Q. Who funds that organization?

25 A. It's members.

1 Q. Is Union Carbide a member?

2 A. No.

3 Q. What was the purpose of the meeting in  
4 Brighton?

5 A. It was a regular quarterly meeting I think. I  
6 think they have their meetings quarterly.

7 Q. Do you have some representative capacity for  
8 the Asbestos Information Association?

9 A. You mean at that meeting?

10 Q. Yes. I mean, are you an officer of the  
11 Asbestos Information Association?

12 A. Yes.

13 Q. What office do you hold?

14 A. Chairman.

15 Q. How long have you been in that position?

16 A. I think since '82.

17 Q. How long has that group been around, that  
18 organization?

19 A. I think it was founded in 1970 or 1971.

20 Q. What was the purpose of the organization?

21 A. I wasn't involved with its founding.

22 Q. Are you familiar in your capacity now with  
23 that organization as to do you know the purpose for the  
24 formation of the organization?

25 A. The prime purpose of the organization for the

1 years that I have been involved with it is to disseminate  
2 information on the use of asbestos, the health aspects.  
3 That's about it.

4 Q. When did you become a member?

5 A. Individuals don't become members.

6 Q. Was Union Carbide ever a member?

7 A. Yes.

8 Q. Were they a member in 1970?

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

10 Q. As far as you know did Union Carbide  
11 participate in any way in the establishment of that  
12 organization?

13 A. I don't know, but I don't think so.

14 Q. When did they --

15 A. Maybe I should just say I don't know whether  
16 they were. Maybe you can tell me why you don't think so  
17 because I think they joined later.

18 Q. When?

19 A. I think in 1972.

20 Q. And were you the person from Union Carbide as  
21 of '72 that was the contact person between Union Carbide  
22 and the Asbestos Information Association?

23 A. No.

24 Q. When did you play that role, if at all, when  
25 you were employed by Union Carbide?

1 A. I don't recall. It was the late '70s.

2 Q. Was there correspondence that went between the  
3 Asbestos Information Association and the Asbestos  
4 International Association?

5 A. I assume so, yes.

6 Q. And where was the Asbestos Information  
7 Association located?

8 A. What time? What year?

9 Q. 1970.

10 A. I think it started in New York.

11 Q. And did the location of its office change at  
12 any time after that?

13 A. Yes.

14 Q. To where?

15 A. To Washington, D.C..

16 Q. Okay.

17 A. And then to Arlington, Virginia.

18 Q. Is that where it's presently located?

19 A. Yes.

20 Q. Who from Union Carbide was the person who had  
21 the contact with the Asbestos Information Association from '72  
22 until you took over in the late '70s?

23 A. If Union Carbide became a member in '72 Mr.  
24 Thurber, as far as I remember, was the first representative  
25 and Dr. Rhodes succeeded him.

1 MR. POLK: That's all I have. Thank you.

2  
3 CROSS-EXAMINATION

4 BY MR. DIEHL:

5 Q. Mr. Myers, my name is Robert Diehl. I have a  
6 couple of questions. Are you aware of any sales of  
7 asbestos-containing products to Conwed at any time by Union  
8 Carbide other than the high purity pellets?

9 A. I am not aware of anything specifically, no.

10 Q. Do you know who Union Carbide's primary  
11 competitors were for the sale of asbestos fibre to Conwed  
12 Corporation?

13 A. No, I don't. Generally I would say it would  
14 be Canadian asbestos, but I don't know which.

15 Q. Have you ever heard of a company that used to  
16 sell asbestos in large burlap bags mined in South Africa?

17 A. I have read about those things, yes.

18 Q. Do you have any knowledge of South African  
19 asbestos being used at Conwed?

20 A. No.

21 MR. DIEHL: That's all I have. Thanks.

22  
23 CROSS-EXAMINATION

24 BY MS. GROVE:

25 Q. I have a couple of questions. I am Sandy

1       Grove. I representives A. W. Chosterton Company. Has  
2       Union Carbide ever mined asbestos other than Chrysotile?

3             A.     Not to my knowledge.

4             Q.     Has Union Carbide ever sold asbestos other  
5       than Chrysotile?

6             A.     Not to my knowledge.

7             Q.     Has Union Carbide ever made any studies on  
8       premises other than its own?

9             A.     Yes.

10            Q.     When did you first conduct those tests?

11            A.     At the milling and mining operations. They  
12       began in 1963 or 1964.

13            Q.     Where were they conducted?

14            A.     At the mining and milling operation near King  
15       City, California, that was --

16            Q.     In 1963. That was before you were working for  
17       Union Carbide, is that right?

18            A.     Yes.

19            Q.     Have you seen records of the results of those  
20       tests?

21            A.     I have seen some, yes.

22            Q.     Do you have any records or does Union Carbide  
23       have any reports of the results of those tests that exist  
24       now?

25            A.     I would think they do have. When they copied

1 the files I think they copied those kind of things.

2 Q. Do you know who was responsible for  
3 instituting those tests?

4 A. I would say that it was the Union Carbide  
5 medical department.

6 MS. GROVE: I don't have any other  
7 questions.

8  
9 CROSS-EXAMINATION

10 BY MR. THORNSJO:

11 Q. Mr. Myers, I have just a couple of questions.  
12 You had stated that the percentage of chrysotile in the ore  
13 that was mined at the King City mine was about 90 percent?

14 A. Over 90 percent.

15 Q. Can you tell us what the remaining roughly 10  
16 percent consisted of?

17 A. Mainly serpentine rock that has not changed to  
18 Chrysotile asbestos.

19 MR. BORGER: For the record, Counsel, I  
20 think his testimony was 98 to 99 percent.

21 MR. THORNSJO: I think that's the  
22 pellets.

23 MR. BORGER: Okay.

24 BY MR. THORNSJO:

25 Q. What else other than serpentine type rock?

1 A. I can't think of the names. I will say that  
2 there was a total absence of tremolite, if that is what the  
3 question was.

4 Q. Were there any other types of asbestos  
5 amphibole fibres?

6 A. The reason I am saying that is we have just  
7 been through this and there is actually no evidence of any  
8 amphibole evidence of fibres.

9 Q. So as a practical matter it is pure serpentine?

10 A. Yes.

11 Q. What is the contaminants in the final pellet  
12 product, you said 99 percent pure?

13 A. Magnetite, which is iron oxide. Moisture is  
14 retained maybe one percent, and that's about it, very pure  
15 product.

16 MR. THORNSJO: Thank you.

17

18 RECROSS-EXAMINATION

19 BY MR. BROWNSON:

20 Q. I have just a few more questions for you if I  
21 could. Do you know what Amosite asbestos is?

22 A. No.

23 Q. Never heard of that designation?

24 A. No.

25 Q. Getting back to the air monitor tests at

1 Conwed done by Mr. Kleber, are you aware if in August of  
2 1972 the OSHA standard of five fibres per CC was an eight  
3 hour time weighted average?

4 A. Yes, it was.

5 Q. Is there anything in the report which Union  
6 Carbide sent to Conwed which indicated that in fact the  
7 standard was an eight hour time weighted average?

8 A. I would have to look at the report again.

9 Q. Exhibit 21.

10 A. It says, "Enclosed for reference is a copy of  
11 the OSHA standard." So they would have to look at the  
12 standard to see what -- I mean, there it would say that it  
13 was an eight hour time weighted average.

14 Q. Is there anything other than the standard  
15 which would tell Conwed that the five fibres per CC was an  
16 eight hour time weighted average in the report submitted by  
17 Union Carbide?

18 A. This isn't an eight hour time weighted average,  
19 I don't believe. You would have to ask Mr. Kleber.

20 Q. Is there anything that would tell that the  
21 standard is an eight hour time weighted standard rather  
22 than them reading the actual OSHA standard themselves? In  
23 other words, did Union Carbide ever tell them that?

24 A. I am sure they did, but it's not written on  
25 this report.

1 Q. When you say you are sure they did, how are  
2 you sure of that?

3 A. That would just be a matter we would discuss  
4 with customers or anybody for whom we were doing the report.

5 Q. With whom would you discuss that, do you know?

6 A. The salesman, probably, or Mr. Kleber could  
7 have talked about it.

8 Q. The salesman in this case being Tom Norris?

9 A. He was there in '72, yes.

10 Q. Is there anything in the Union Carbide report  
11 or anywhere else in any of the reports that Union Carbide  
12 sent to Conwed which would tell Conwed how to convert Union  
13 Carbide's numbers into an eight hour time weighted average?

14 A. No, I don't think we would recommend doing  
15 that on this limited amount of data.

16 Q. Why wouldn't you?

17 A. I think in subsequent years perhaps or tests  
18 we determined that it was best to run at least a four hour  
19 sample to convert it to an eight hour time weighted average.

20 Q. Would you agree with me then that the data  
21 that Union Carbide provided to Conwed about the air  
22 monitoring at the Cloquet plant was insufficient for Conwed  
23 to determine if it was in compliance with the OSHA standard?

24 A. No, I think it was well sufficient because the  
25 allowable one time exposure or ceiling level, I think at

1 that time, was 10 fibres and that's what in most cases  
2 these would be representative of comparing it to a 10 fibre  
3 limit.

4 Q. But were you aware that the workers in the  
5 plant would be there more than just walking through; in  
6 other words, they were there eight hours a day, right, you  
7 were aware of that?

8 A. No, I am not aware of that.

9 Q. Well, would that be safe to assume?

10 A. No. There is a lot of cases where they would  
11 use asbestos and go over and do something else, not be  
12 adding asbestos. That's the reason for collecting  
13 environmental samples.

14 Q. Let me ask you this. Was it your  
15 understanding that the only way a person could be exposed  
16 to asbestos in the common plant was by throwing these  
17 beater bags into the hopper?

18 A. No. I don't know what else was in the Conwed  
19 plant. I have no idea where else they might have been  
20 exposed.

21 Q. I guess I am wondering how you can say that  
22 they were only exposed for a few minutes?

23 A. Well, I am going by the times here.

24 Q. Would you agree with me that for a worker who  
25 did spend eight hours a day working with Union Carbide

1 Calidria asbestos in the Conwed plant at Cloquet that for  
2 that worker the appropriate standard in 1972 to determine  
3 if he was at risk would be the OSHA eight hour time  
4 weighted standard?

5 A. Yes. They were both applicable, the ceiling  
6 level and the eight hour time weighted average and you  
7 could calculate somewhat of a time weighted average from  
8 this, I think. In other words, I think this would be a  
9 maximum level of exposure. If you converted this to eight  
10 hour time weighted average it would probably be much lower.  
11 It would certainly not be any higher than any of these  
12 numbers.

13 Q. How do you know that?

14 A. By knowing something about the method of  
15 calculations.

16 Q. How do you know that the moment for the brief  
17 period of time that those tests were taken that there was  
18 not peak exposure in progress?

19 A. Well, that is why I said it would become more  
20 routine to collect at least a four hour sample. These were  
21 on two hours.

22 Q. That's why you want a longer sample so you can  
23 see if there are peaks and valleys in the exposure?

24 A. So you can see what the actual exposure is.

25 Q. And that's why OSHA requires a time weighted

1 average?

2 A. But the sample is not collected for eight  
3 hours.

4 Q. I understand that.

5 A. A two hour sample, I would say in this case,  
6 was adequate because of the low level of fibres.

7 Q. But was it adequate to calculate an eight hour  
8 time weighted average?

9 A. I would rather you ask Mr. Kleber or someone  
10 more expert in air monitoring.

11 Q. Did you ever ask him that when you reviewed  
12 the report before issuing it to Conwed?

13 A. Not that I recall.

14 Q. Were you aware at the time you reviewed the  
15 report before issuing it to Conwed that the eight hour time  
16 weighted average was required by OSHA?

17 A. Was I aware that there was an OSHA standard  
18 and what it was?

19 Q. Right.

20 A. Yes.

21 Q. Did you say earlier that Union Carbide had  
22 nothing to do with helping or assisting Conwed in  
23 determining if the Calidria was appropriate for its product  
24 formula?

25 A. I don't remember you asking that.

1 Q. Well, let me ask you now. Did Union Carbide  
2 have anything to do with helping or assisting Conwed in  
3 determining if Calidria asbestos was appropriate for its  
4 formula?

5 A. I don't know.

6 Q. Was that done as a service to customers?

7 A. If it was requested, yes.

8 Q. Do you know if it was requested in this  
9 instance?

10 A. No, I don't.

11 MR. BROWISON: I guess that's all I have  
12 got.

13

14

RECROSS-EXAMINATION

15 BY MR. POLK:

16 Q. Do you know what a developmental agreement was  
17 in 1965?

18 A. Do I know?

19 Q. Yes.

20 A. No.

21 Q. That's Exhibit 17. To summarize, it's a  
22 letter from Tom Hall, who was then the sales manager of the  
23 asbestos group, to Mr. William Walsh of the Wood Conversion  
24 Company and he talks in terms of the developmental  
25 agreement. Do you have any knowledge where we might obtain

1 a copy of the developmental agreement that's referred to  
2 there?

3 A. No.

4 Q. It does talk about a contract though  
5 concerning purchase of Calidria asbestos, true?

6 A. I don't know.

7 Q. Do you want to take a look at it?

8 A. What was the question?

9 Q. It was a contract for the sale and purchase of  
10 Calidria asbestos, isn't that true?

11 A. Well, Union Carbide asbestos. There is no  
12 mention of Calidria.

13 Q. Calidria, the trade name, didn't come until  
14 when, '66?

15 A. I answered before I don't remember.

16 Q. I am sorry. But in any event, Union Carbide  
17 asbestos, it's a contract for the sale and purchase of a  
18 certain amount of that in a given period of time, true?

19 A. Yes.

20 Q. And that document or that letter seems to  
21 confirm an agreement that Conwed will purchase a certain  
22 number of tons of Union Carbide asbestos over a certain  
23 period of time, is that true?

24 A. That's what you just said and I answered that  
25 it did but it looks like it's 1,000 tons to be shipped in

1 car load lots according to a schedule which Wood Conversion  
2 shall establish and I don't see any time frame.

3 Q. You don't see any time frame but the  
4 commencement of the shipments is to begin when, according  
5 to that document?

6 A. April 1, 1965.

7 Q. And as far as you know have you reviewed any  
8 sales documents in connection with Conwed in preparation  
9 for your deposition here?

10 A. No.

11 Q. Can you tell us the average amount of tons of  
12 asbestos that was sold by Union Carbide to Conwed?

13 A. No.

14 Q. Okay.

15 A. Both of us maybe didn't read this clearly. It  
16 says under an initial 12 months program commencing April 1  
17 they will deliver 1,000 tons.

18 Q. So that would be 1,000 tons in 12 months?

19 A. If they ordered that much.

20 Q. Okay. Now, can you tell me, is Tom Hall the  
21 person that wrote that letter in 1965 the same as Dr. T. J.  
22 Hall?

23 A. Yes.

24 Q. So is he a doctor of, do you know what?

25 A. No.

1 Q. Do you know him?

2 A. As I said earlier, I think I have met him. I  
3 am not sure. He was before my time in the business.

4 Q. Do you know how long he was the sales manager  
5 for the asbestos group?

6 A. No, I don't.

7 Q. Do you know this, when you went out to King  
8 City in '67 was he the sales manager?

9 A. No, I don't think so. I think that was Mr.  
10 Satter.

11 Q. Do you know where Mr. Hall or what position  
12 Mr. Hall took with Union Carbide after he was no longer the  
13 sales manager?

14 A. No.

15 Q. Do you know a Mr. Mumpton?

16 A. Yes, Dr. Mumpton.

17 Q. Was he in Brighton?

18 A. No. I mean, he may have visited there.

19 Q. He wasn't stationed there?

20 A. No, he was located in Niagara Falls.

21 Q. Niagara Falls in the asbestos group?

22 A. He did work with asbestos. I am not sure  
23 whether there was a group at that time but he was either a  
24 mineralogist or geologist.

25 Q. And at the time of Dr. I. C. Sayers report,

1 December 5, 1967, you would have been in King City as the  
2 technical superintendent, we talked about that?

3 A. In December of '67, yes.

4 Q. But in December you would have been the  
5 technical superintendent and you would have physically been  
6 in King City at the mill?

7 A. Yes.

8 Q. And did you know at any time that Dr. T. J.  
9 Hall and Dr. Mumpton were in Brighton participating with  
10 Dr. Sayers in the study that's Deposition Exhibit 7, did  
11 you ever know that?

12 A. No, not until right now.

13 MR. BORGER: If in fact that's the case.

14 BY MR. POLK:

15 Q. Can you answer this, I know you don't know  
16 what Dr. Hall's position was as of December of '67, but do  
17 you know where he was based?

18 A. No.

19 Q. Do you have any reason to believe that he was  
20 not in the sales area for asbestos as of December of 1967?

21 A. Yes, because I think Norm Satter was marketing  
22 manager. Dr. Hall may have been in the New York office in  
23 export sales perhaps or international sales, but I think he  
24 was in that position at some time. I don't know the dates.

25 Q. Are you aware that those sales concerned the

1 U.K., specifically, and Germany?

2 A. No, I said I didn't know for sure that that's  
3 what he was doing.

4 Q. Now, do you know a Dr. R. R. Sayers, have you  
5 ever heard that name?

6 A. No.

7 Q. So you don't have, based on your history with  
8 Union Carbide, you don't have any knowledge or hearsay or  
9 otherwise that Dr. I. C. Sayers is the son of Dr. R. R.  
10 Sayers?

11 A. No, I don't know that.

12 Q. And you remember the interrogatory I showed  
13 you with the two warnings?

14 A. Yes.

15 Q. Did those warnings ever change at any time to  
16 up to this time?

17 A. No. Well, yes, OSHA has changed their wording  
18 as of 1986.

19 Q. Do you put a warning on the bags of Calidria  
20 that you send over to Japan?

21 A. In Japanese, yes, and English.

22 Q. What does it say?

23 A. I don't remember. In Japanese you mean? Do  
24 you want a translation of the Japanese.

25 Q. Are they two different things? The

1 translation from Japanese says something different than  
2 what the warning in English says?

3 A. Yes.

4 Q. Why don't you give me what the Japanese  
5 translation is?

6 A. I don't know that.

7 Q. You don't?

8 A. Not offhand.

9 Q. How about the English warning now, what does  
10 it say?

11 A. I would have to get an OSHA standard, I don't  
12 know.

13 Q. Let me ask you this. Does it say that  
14 asbestos can cause cancer?

15 A. I am not sure if the word cancer is mentioned  
16 in the current --

17 Q. For Calidria asbestos when was the first time  
18 that Union Carbide or anyone else selling Calidria put the  
19 word cancer on a bag?

20 A. The wording was never put on a Union Carbide  
21 bag that mentioned cancer.

22 Q. That mentioned cancer?

23 A. Right.

24 Q. It was put on subsequent then to July of '85?

25 A. Yes.

1 MR. POLK: That's all I have. Thank you.

2 MR. BORGER: Anyone else?

3 (At this time a brief recess was taken.)

4

5 DIRECT EXAMINATION

6 BY MR. BORGER:

7 Q. Mr. Myers, referring you to Exhibit 17F, which  
8 is that March 26, 1965, letter from Mr. Hall, I call your  
9 attention to Page 2. By that exhibit do you see any  
10 indication that Wood Conversion or Conwed accepted the  
11 agreement and the timetable as outlined in the March 26  
12 letter?

13 A. No, there is no signature.

14 Q. Do you know of your own personal knowledge  
15 whether shipments began on April 1, 1965?

16 A. No, I don't.

17 Q. Is it possible that shipments from Union  
18 Carbide to the Wood Conversion plant in Cloquet actually  
19 commenced sometime significantly after April 1, 1965?

20 A. Yes, I have no idea when they did begin.

21 Q. The other area I wanted to get into with you,  
22 Mr. Myers, is the term acutely toxic which Mr. Polk was  
23 asking you about. Would you tell us what you mean by the  
24 term acutely toxic?

25 A. Well, what I was saying was that asbestos is

1 not considered an acutely toxic material. An acutely toxic  
2 material would be something such as cyanide or something  
3 that causes an immediate health effect or death. It's  
4 generally agreed that asbestos disease occurs 20 to 30 to  
5 40 years after exposure and therefore it would not be  
6 considered an acute toxic material.

7 MR. BORGER: Thank you. I have no  
8 further questions. We will exercise the right to read and  
9 sign.

10 MR. BROWNSON: Just for the record, I am  
11 going to take my exhibits and return them to the Reporter  
12 prior to the deposition on Tuesday.

1  
2  
3 STATE OF MINNESOTA )  
4 ) SS.  
5 COUNTY OF HENNEPIN )

6 Be it known that I took the deposition of JOHN L.  
7 MYERS, on the 6th day of January 1989, at Minneapolis,  
8 Minnesota;

9 That I was then and there a Notary Public in and for  
10 the County of Hennepin, State of Minnesota, and that by  
11 virtue thereof, I was duly authorized to administer an  
12 oath;

13 That the witness before testifying was by me first  
14 duly sworn to testify the whole truth and nothing but the  
15 truth relative to said cause;

16 That the testimony of said witness was recorded in  
17 Stenotype by myself and transcribed into typewriting under  
18 my direction, and that the deposition is a true record of  
19 the testimony given by the witness to the best of my  
20 ability;

21 That I am not related to any of the parties hereto  
22 nor interested in the outcome of the action;

23 That the reading and signing of the deposition by  
24 the witness was executed as evidenced by the preceding  
25 page;

That Notice of Filing was waived.

WITNESS MY HAND AND SEAL this 10th day of January  
1989.

Kirby A. Kennedy  
Court Reporter