FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MAR 27 1970
JAMES R. COONEY, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

CLARENCE BOREL	/	
vs	/	CIVIL ACTION NO. 6449
FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL	/	

ANSWERS OF THE DEFENDANT, JOHNS-MANVILLE PRODUCTS CORPORATION, TO INTERROGATORIES PROPOUNDED BY PLAINTIFF

TO: CLARENCE BOREL, PLAINTIFF, AND MR. WARD STEPHENSON, STEPHENSON, THOMPSON & MORRIS, STEPHENSON BUILDING, ORANGE, TEXAS, HIS ATTORNEYS OF RECORD:

In accordance with the provisions of Rule 33, Federal Rules of Civil Procedure, Johns-Manville Products Corporation, hereby answers the Interrogatories of Plaintiff served on Defendant's counsel on or about March 21, 1970.

Based on information obtained from Defendant's employees, with the advice of its counsel, Defendant has attempted to furnish the information requested in the Interrogatories, but it reserves the right to amend or supplement its answers, if it finds that inadvertent omissions or errors have been made, or if additional or more accurate information becomes available. Such answers to each Interrogatory bears the same number as the request:

INTERROGATORY NO. 1

Defendant objects to Interrogatory No. 1 for the following reasons:

a) Said Interrogatory covers too long a period of time, i.e., thirty (30) years, and it would constitute an unnecessary burden on Defendant to require it to answer this Interrogatory.

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b) Said Interrogatory is too broad in its scope and would impose upon this Defendant an undue burden and great expense in searching for the material and information requested in said Interrogatory.

c) The information requested by said Interrogatory is not presently available and to assimilate same from the year 1940 would require an undue amount of time on the part of this Defendant, and its employees, and would cause them to go to great expense in searching for such information

d) Plaintiff is seeking by said Interrogatory to force this Defendant to accumulate information upon which the Plaintiff can prepare his own case, and therefore, places the burden upon this Defendant of establishing the Plaintiff's case, if any he has.

e) Said Interrogatory amounts to no more than a fishing expedition on the part of the Plaintiff.

Subject to the foregoing objections, the insulation products manufactured by the Industrial Insulations Division of Defendant during the period 1959 to 1967 are listed on Exhibit "A" attached hereto and made a part hereof by reference. The printed block capitalized name given for each product is Defendant's trade name for such product. where there is a generally recognized name for a product in the sense of a generic term, that designation is included in parenthesis. Many of the products were manufactured by Defendant long before 1959. The precise dates of which are not immediately known to Defendant, for example, "85% MAGNESIA", "SUPEREX", "ASBESTOCEL", pipe and block covering asbestos paper and many of Defendant's weatherproofing jackets

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have been manufactured by it since the early 1900's. "THERMOBESTOS" has been manufactured by Defendant since 1955. Most of Defendant's mineral wool products have been manufactured by it since 1929. Defendant has made inquiry of its librarian at its research center, to determine what products were manufactured prior to 1959, but has been unsuccessful in obtaining information in that regard.

INTERROGATORY NO. 2

Defendant objects to this Interrogatory on the grounds that it does not recognize that its products are "dangerous." Further, Defendant says that each of the products manufactured by it were suitable and reasonably fit for the purpose for which the products were intended.

On or about December 15, 1964, Defendant began (and has since continued) to place a precautionary label on the following products: THEREMOBESTOS: #500 INSULATING CEMENT: #450 INSULATING CEMENT: #301 CEMENT: #302 ASBESTOS CEMENT: #0352 ASBESTOS CEMENT: #304 ASBESTOS CEMENT: # 400 ASBESTOS CEMENT: #319 REF. CEMENT: #678 SEMI-REF. CEMENT: 85% MAGNESIA CEMENT: SUPEREX CEMENT: MAGNESIA & SUPEREX P/I: MAGNESIA & SUPEREX BLOCK: and #352 CEMENT. Said precautionary label read and reads as follows:

CAUTION

THIS PRODUCT CONTAINS ASBESTOS FIBER.

INHALATION OF ASBESTOS IN EXCESSIVE QUANTITIES OVER LONG PERIODS OF TIME MAY BE HARMFUL

IF DUST IS CREATED WHEN THIS PRODUCT IS HANDLED, AVOID BREATHING THE DUST.

IF ADEQUATE VENTILATION CONTROL IS NOT POSSIBLE, WEAR RESPIRATORS APPROVED BY THE U. S. BUREAU OF MINES FOR PNEUMOCONIOSIS PRODUCING DUSTS.

In addition, Defendant has participated in a program designed to communicate to the employers of workers who work with insulation products that contain asbestos that inhalation of asbestos fibers in excessive quantities over long periods of time in the course of continuous employment under certain conditions may be harmful to some persons; and has communicated means for minimizing the inhalation of asbestos fibers by their workers to such employers.

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INTERROGATORY NO. 3

Defendant understands the word "use" in the context of this Interrogatory to mean the handling and/or applying and/or installing of its industrial insulation products which contain asbestos by an "asbestos worker" such as Plaintiff alleges he was.

Defendant is currently participating in and supporting an insulation Industry Hygiene Research Program being conducted by Mt. Sinai Environmental Sciences Laboratory, Mt. Sinai Hospital New York, New York. This is a combined industrial hygiene and preventative engineering research program designed to develop improved methods to minimize exposure of insulation workers to dust, etc., encountered on their jobs. This program was instituted on May 14, 1968.

Additionally, an epidemiological study of the biological effects of asbestos dust among the Port of Genoa and LaSpezia Arsenal insulation workers, among others, is being conducted by the Clinica del Lavoro, Milano, Italy, under the sponsorship of the Institute of Occupational and Environmental Health, which Institute in turn is funded by the Quebec Asbestos Mining Association. An affiliate corporation of Defendant is the principal contributor to the funding of the Quebec Asbestos Mining Association. This study was initiated early in 1968, and is scheduled to be completed within three to four years from its inception.

INTERROGATORY NO. 4

The studies are being conducted by the Mt. Sinai Environmental Sciences Laboratory and the Clinica del Lavoro, Milano, Italy, respectively. To Defendant's knowledge no written reports based upon such studies have yet been issued by the Laboratory or the Clinica del Lavoro respectively.

INTERROGATORY NO. 5

Defendant objects to this Interrogatory on the grounds that it is improper because it is too broad, irrelevant and immaterial in that "from the years 1940 to 1967" Defendant packaged and sold

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many products containing asbestos other than industrial insulation products of the nature of those with which Plaintiff could have worked in his alleged capacity as an industrial insulation applicator. Defendant further objects that Plaintiff has not shown that said information is relevant and material to the instant case, insofar as the time period concerned is involved, i.e. "from the years 1940 to 1967". Defendant submits that it is incumbent upon Plaintiff to allege precisely what periods of time he claims to have worked with Defendant's insulation products which contain asbestos, and that the mere general allegation that he worked as an insulator "from the years 1940 to 1967" is not sufficient and would place an unreasonable burden upon Defendant to answer with respect to periods during which Plaintiff may not claim to have worked with Defendant's industrial insulation products containing asbestos.

INTERROGATORY NO. 6

Defendant objects to this Interrogatory on the same grounds set forth in response to Interrogatory No. 5, "supra."

INTERROGATORY NO. 7

Defendant objects to this Interrogatory on the grounds that the word "use" is too vague, ambiguous and broad to be meaningfully understood in the context. Defendant further objects that the term "insulating materials" is too broad, immaterial and irrelevant. Defendant further objects that insofar as the Interrogatory relates to diseases other than those alleged by Plaintiff in his Complaint it is too broad, immaterial and irrelevant. However, assuming (1) that the word "Use" in this Interrogatory has reference to the normal and customary end use; and (2) that the words "Insulating materials" mean "insulating materials that contain asbestos", Defendant answers in the negative.

INTERROGATORY NO. 8

Defendant objects to the word "using" in this Interrogatory for the same reasons set forth in Interrogatory 7., to wit; the word is too vague, ambiguous and broad to be meaningfully under-

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stood in the context. Defendant further objects to the word "exposed" on the grounds that it is too vague, ambiguous and broad in the context to be meaningful and further objects on the grounds that use of the word "exposed" is argumentative and improper. Defendant further objects on the grounds that the phrase "asbestos materials" is too broad, irrelevant and immaterial.

INTERROGATORY NO. 9

Defendant objects to the phrase "Exposed to the use" on the grounds that it is too vague, ambiguous and broad to be meaningful and on the further grounds that such phrase is argumentative and improper. Defendant further objects to the Interrogatory on the grounds that it addresses itself to "your company's products" and is therefore entirely too broad, irrelevant and immaterial. Moreover, Defendant states that if the word "use" is to be understood to have reference to normal and customary end use the entire Interrogatory is argumentative and assumes a fact that has not been proven.

INTERROGATORY NO. 10

Defendant states that it does not understand what Plaintiff means by "areas where workers are using "its" products. Once the products have been installed they are essentially immobile and not used by workers. They merely become an integral part of a functioning system. There would be no call for a dust count in such areas. If, however, Plaintiff's question has reference to the handling and/or application and/or installation of Defendant's products by insulation workers so that such products may serve their end use, then Defendant answers as follows:

Defendant does make regular inspections of areas where workers who are employed by Defendant or its affiliates are working with industrial insulation products manufactured by Defendant which contain asbestos.

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Defendant does not make dust counts at such locations because:

a) Defendant has affixed clear warning labels on the packaging of those industrial insulation products manufactured by it which contain asbestos;

b) Defendant and its affiliates conduct regular safety and proper housekeeping programs at their facilities;

c) Defendant and its affiliates require their respective employees to use respirators approved by the Bureau of Mines where any dust producing operations are conducted;

d) Defendant and its affiliates follow established and proven safe operating practices. These practices include those outlined in the National Insulation Manufacturers Association safe practices booklets which booklets are available to Plaintiff from said Association.

Defendant does not conduct inspections of areas where workers who are not employed by Defendant or an affiliate of Defendant are working with industrial insulation products manufactured by Defendant which contain asbestos because:

a) Defendant has no jurisdiction over these people or any right to inspect the premises of their respective employers who are independent contractors and independent of Defendant;

b) Clear warning labels have been placed on the packaging of industrial insulation products manufactured by Defendant which contain asbestos;

c) Defendant has participated in the educational program conducted by the National Insulation Manufacturers Association designed to teach safe and healthful operating procedures to the employers of such employees.

INTERROGATORY NO. 11

Defendant objects to this Interrogatory on the grounds that no proper predicate has been laid. Moreover, Defendant objects on the grounds that any findings made by Dr. Murray would constitute hearsay and such findings would be irrelevant and immaterial and would not lead to the discovery of admissable evidence. Defendant objects to the question posed in the second sentence of the Interrogatory on the grounds that it constitutes a non sequitor.

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INTERROGATORY NO. 12

Defendant objects to this Interrogatory on the grounds that no proper predicate has been laid, Moreover, Defendant objects on the grounds that the publications asked about would constitute hearsay, and such publications would be irrelevant and immaterial and would not lead to the discovery of admissable evidence.

INTERROGATORY NO. 13

Defendant objects to the questions posed in the first sentence of this Interrogatory on the grounds that it asks Defendant for a conclusion of law, and further on the grounds that the question would place upon Defendant the burden of employing counsel to research the law and formulate an opinion. Defendant further objects that the question is irrelevant and immaterial and not designed to lead to the discovery of admissable evidence. Defendant objects to the questions posed in the subsequent portions of this Interrogatory on the same grounds, because they are predicated upon Defendant's response to the question posed in the first sentence. Further, Defendant objects to the question posed in the second sentence on the grounds that it constitutes a non sequitor. Defendant further objects to the question posed in the third sentence on the grounds that it is argumentative.

INTERROGATORY NO. 14

No.

INTERROGATORY NO. 15

Defendant has employed industrial hygiene engineering techniques to dust samplings. The techniques have been those then prescribed by the United States Public Health Service andhave utilized at different times the midget impinger, the Greenburgh Smith impinger and Milapore filter techniques. Descriptions of these techn iques are attached as Exhibits 15-A, 15-B, 15-C and 15-D hereto, and are hrerby incorporated herein by reference.

The Milapore method for dust samplings was introduced in 1968. This method was adopted by Defendant in February, 1969. Evaluation and analysis of industrial hygiene dust samplings have been conducted in accordance with the standards promulgated by the American Conference of Governmental Industrial Hygienists published Threshold Limit Values which are also attached as Exhibit 15-E hereto, and are hereby incorporated herein by reference. The purpose was to determine whether any risks due to the inhalation of asbestos dust existed with respect to employees of Defendant or Defendant's affiliates in mining, milling and manufacturing operations. Defendants's response to its findings has been to introduce dust control techniques to reduce the dust levels below the threshold limit values deemed potentially unhealthy, and to require employees of Defendant and of Defendant's affiliates to wear respiratory protective equipment until such time as dust levels could be reduced below such threshold limit values. Defendant has also introduced dust control equipment. Further, inasmuch as the inhalation of asbestos dust is only unhealthy in excessive quantities over prolonged periods of time under certain conditions, such as working in confined areas in stagnant air, Defendant has taken steps to protect employees of Defendant and Defendant's affiliates by limiting or reducing their exposure through change of jobs, changing their working conditions, etc.

INTERROGATORY NO. 16

Defendant objects to this Interrogatory on the grounds that it is improper, irrelevant and immaterial because Plaintiff has not alleged in his complaint that he has lung cancer.

INTERROGATORY NO. 17

Defendant objects to this Interrogatory on the grounds that it is improper, irrelevant and immaterial, because Plaintiff has not alleged in his complaint that he has the disease mesothelioma.

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INTERROGATORY NO. 18

Defendant places warning notices on the packaging of its industrial products which contain asbestos. The warning states:

CAUTION

THIS PRODUCT CONTAINS ASBESTOS FIBER.

INHALATION OF ASBESTOS IN EXCESSIVE QUANTITIES OVER LONG PERIODS OF TIME MAY BE HARMFUL.

IF DUST IS CREATED WHEN THIS PRODUCT IS HANDLED, AVOID BREATHING THE DUST.

IF ADEQUATE VENTILATION CONTROL IS NOT POSSIBLE, WEAR RESPIRATORS APPROVED BY THE U. S. BUREAU OF MINES FOR PNEUMOCONIOSIS-PRODUCING DUSTS.

This warning is used on the packaging of all industrial insulation products of Defendant which contain asbestos. Its use was commenced during 1964. Defendant used such warning notices, because in 1963, it was first reported by a member of the medical profession that there might exist a risk to some persons who continuously handled and/or applied and/or installed industrial insulation products containing asbestos in that inhalation of asbestos fibers that might be generated from such handling, etc. of such products over prolonged periods of time under certain conditions might create a risk of the contracting asbestosis to some persons, if the instructions given on such warning notices were not heeded.

INTERROGATORY NO. 19

Defendant objects to this Interrogatory on the grounds that it is improper, irrelevant and immaterial, because Plaintiff has not alleged in his Complaint that he has the disease of cor pulmonale.

INTERROGATORY NO. 20

No.

INTERROGATORY NO. 21

Defendant recognizes that more asbestos is being used year by year, but as to the remainder of the Interrogatory the answer is no.

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INTERROGATORY NO. 22

Defendant does not understand the question in that it does not know what Plaintiff means by the phrase "consulted with Dr. Irving J. Selikoff of New York, New York concerning asbestosis". On many occasions representatives of Defendant have discussed pulmonary disease manifestations with Dr. Selikoff. However, Dr. Selikoff is not engaged as a consultant of Defendant other than through Defendant's relationship with the Insulation Industry Hygiene Research Program of Mt. Sinai Environmental Sciences Laboratory.

INTERROGATORY NO. 23

Defendant does contribute funds to research concerning asbestos dust and its relation to lung disease. Defendant does not contribute funds to research concerning asbestos in relation to larynx disease. Defendant objects to the question posed in the second sentence of this Interrogatory on the grounds that the question constitutes a non sequitor in that it is predicated on the question posed in the first sentence which asks a question in the present tense, but the second sentence inquires as to the past.

INTERROGATORY NO. 24

Defendant objects to the word "used" on the grounds that it is too vague, ambiguous and broad to be meaningful in the context. Insofar as the Interrogatory relates to products beyond industrial insulation products which contain asbestos Defendant objects on the grounds that the Interrogatory is too broad, irrelevant and immaterial and not designed to lead to the discovery of admissable evidence. However, once again assuming that the word "used" has reference to the normal customary end use of its industrial insulation products which contain asbestos, the answer is in the negative.

INTERROGATORY NO. 25

Defendant is aware that the hearing described was conducted, but it states that it cannot answer further, because it does not understand what Plaintiff means by the words "familiar with".

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INTERROGATORY NO. 26

Defendant objects to this Interrogatory on the grounds that it is too vague, broad, ambiguous, irrelevant and immaterial and on the further grounds that it assumes a fact that has not been proven (i.e., that there is any "problem of asbestos dust" with respect to those merely using Defendant's products) and on the additional grounds that it is argumentative in nature.

INTERROGATORY NO. 27

Non-applicable inasmuch as Defendant has objected to Interrogatory 26. Moreover, Defendant objects to this Interrogatory on the grounds that testimony of Dr. Stewart would constitute hearsay and a proper predicate has not been laid for such a question.

INTERROGATORY NO. 28

Defendant objects to this Interrogatory on the grounds that it is too vague, irrelevant and immaterial and on the further grounds that it is argumentative.

INTERROGATORY NO. 29

Defendant objects to this question insofar as it relates to "products containing asbestos" other than industrial insulation products on the grounds that as to such other products it is irrelevant, immaterial and too broad. As to industrial insulation products containing asbestos, Defendant states that all commercial insulating products look alike. Trained technicians could possibly identify by their appearance alone the different asbestos papers, cements and molded insulation made by different manufacturers. The Defendant doubts that a worker, or layman could do so. The visual variations are those of color and the degree of color variations is usually very slight. Each manufacturer has his own carton or container marking which is distinctive, but the product, once outside of the container, is not in defendant's opinion distinguishable by the worker or layman as aforesaid.

The sole exception to the foregoing rule is that some THERMOBESTOS block produced by Defendant during the period 1940 - 1967 had

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the initials "JM" or some Johns-Manville trade-mark imprinted thereon.

INTERROGATORY NO. 30

No.

INTERROGATORY NO. 31

Johns-Manville Products Corporation was organized as "Delaware Johns-Manville Corporation" and incorporated in the State of Delaware, January 12, 1927. Its name was changed on January 18, 1927 to "Johns-Manville Corporation of Delaware"; and in May, 1932, its name was changed to "Johns-Manville Products Corporation."

INTERROGATORY NO. 32

Approximately 42 years.

INTERROGATORY NO. 33

Defendant contends that respirators are currently on the market that will significantly and substantially reduce the inhalation of asbestos dust and fibers to a safe limit. Such respirators are available under the U. S. Bureau of Mines Schedule 21B. Tests upon which said approval are based were designed and conducted by that governmental agency and are described in the Respiratory Protective Devices Manual published by the American Industrial Hygiene Association, American Conference of Governmental Hygienists, 1963. Since such respirators are available to Plaintiff on the open Market, Defendant declines to describe them.

INTERROGATORY NO. 34

It is true that for many years Defendant has manufactured insulating materials containing asbestos. However, such products were not placed by Defendant upon "the open market to be purchased by the public." They were intended to be sold to the industrial insulation trade, and were intended to be applied, etc., by industrial insulation applicators, i.e., persons who had been specifically trained in, and specialized in, the use of such products; and not "the public". While Defendant cannot categorically state that none of its insulating materials containing asbestos have ever been purchased by the public (from third parties) and used by the public, Defendant believes that the amount of any such materials so

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purchased would be de minimus.

INTERROGATORY NO. 35

Defendant understands the phrase "such asbestos insulating materials" to mean "insulating materials containing asbestos" in accordance with Interrogatory 34. Accordingly, Defendant states that it does not recognize that such asbestos insulating materials are dangerous and harmful to human beings and to the health of man when employed in their usual and customary end uses. Therefore, Defendant has not had anything to notify the public about in this regard. Defendant states that to its knowledge no tests as to such danger have been made by anyone because to date reliable medical and scientific opinion has been and is that there is no such risk to the public. Insulating materials which contain asbestos have been produced in this country for over seventy years and no such risk to the public from end uses has been reported by any responsible scientific or medical authorities. Defendant does presently recognize that inhalation of asbestos dustby an insulation applicator such as Plaintiff in the continuous course of his employment in excessive quantities over long periods of time under certain conditions may be harmful. Such inhalation would be the result of failure to take proper precautions, such as the wearing of appropriate respirators. See Defendnat's answer to Interrogatory 2. supra. The medical-scientific world first perceived such danger to such a category of persons in 1963. Shortly thereafter Defendant concluded that such a danger might exist and accordingly Defendant began to label its industrial insulation products which contain asbestos in 1964. See Defendant's answer to Interrogatory 2., supra. Moreover, Defendant has participated in the educational program conducted by the National Insulation Manufacturers' Association to teach safe and healthful operating procedures to the employers of insulation applicators such as the Plaintiff claims to have been.

INTERROGATORY 36

Defendant has had knowledge of deaths or serious lung disease among its employees which have been attributed to the inhalation of dust or fibers in extensive concentrations over long

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periods of time, generally in excess of 20 years, under certain previously existing environmental conditions within Defendant's facilities. In the vast majority of these cases the deaths or serious lung disease were not solely attributable to the inhalation of asbestos dust or fibers, but were caused by a multiplicity of factors and in the majority of the cases known to the Defendant, the resultant lung disease was not asbestosis, but pneumoconiosis. The inhalation of dust or fibers by these employees incurred in the course of their employment in mining, milling and manufacturing processes where the fibers were still in a free state and had not yet been incorporated or embodied in a finished product. The inhalation did not result from the application of finshed products in which the asbestos fibers had been incorporated or embodied. Defendant states that virtually all of these cases were covered by the applicable Workmen's Compensation laws and Defendant states that the cases filed with the various Workmen's Compensation Boards are a matter of public record, and therefore, are available to Plaintiff. Such files would normally contain the information requested in the second sentence of this Interrogatory. Since 1927, Defendant has engaged in business in the following states: California; Colorado; Florida; Georgia; Illinois; Indiana; Louisiana; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; Missouri; Nebraska; Nevada; New Hampshire; New Jersey; New York; North Carolina; Ohio; Pennsylvania; Texas; and Washington.

INTERROGATORY NO. 37

Defendant objects to this Interrogatory on the grounds that it is improper, because it asks Defendant to describe what it did with respect to a state of affairs which may never have existed in fact.

INTERROGATORY NO. 38

(1) Defendant manufactures cements containing asbestos. They are loose materials which are mixed with water. They are applied in plastic form with a trowel and allowed to dry.

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(2) Defendant manufactures pipe insulations of which asbestos constitutes less than ten percent (10%). These insulations are preformed to fit the surface and are tied in place with wire or bonds. It is sometimes necessary to cut the pipe insulation to fit or fabricate it. This is done with either a hand saw or a table band saw. On the average job, less than ten percent (10%) of the total pipe insulation used is cut.

(3) Defendant manufactures block insulation of which asbestos constitutes less than ten percent (10%). It is sometimes necessary to hand cut or machine such block insulation. Cut or machined pieces constitute less than ten percent (10%) of the total block insulation used on the average job.

(4) Defendant does not manufacture asbestos sheeting.

(5) Defendant does not manufacture asbestos insulation used to cover extremes of heat as well as cold.

(6) Defendant does not manufacture asbestos insulation in loose form which may be blown into homes or buildings.

(7) Defendant does not manufacture asbestos in spray form.

The above products can be used and applied without the worker inhaling unhealthful quantities of asbestos dust or fibers if the proper respirators are worn by the worker. Additionally, the use of dust collection systems when cutting or machining would prevent inhalation of dust and fibers in quantities that would be unhealthy.

INTERROGATORY NO. 39

No.

INTERROGATORY NO. 40

Defendant has no such "medical information or information of its own knowledge.

INTERROGATORY NO. 41

Defendant objects to this Interrogatory on the grounds that it is irrelevant, immaterial and improper.

INTERROGATORY NO. 42

Defendant objects to this Interrogatory on the grounds that it is irrelevant, immaterial and improper.

INTERROGATORY NO. 43

Defendant objects to this question on the grounds that it is irrelevant, immaterial and improper.

INTERROGATORY NO. 44

The President of Johns-Manville Products Corporation is Francis E. Dutcher. His business address is: 22 East 40th Street, New York, New York 10016. There is no Chairman of the Board of Directors of Johns-Manville Products Corporation.

INTERROGATORY NO. 45

To the extent that Defendant has been unable to answer any of the interrogatories propounded Defendant does not know of any person in Defendant's employ having knowledge of the matters inquired about in the interrogatories.

INTERROGATORY NO. 46

Defendant recognizes that Dr. Selikoff has done considerable research in the field of asbestosis, particularly among insulation workers, and that Dr. Selikoff is continuing to work in this field. However, Defendant states that insofar as the Interrogatory asks Defendant whether or not Dr. Selikoff is"an outstanding authority" the Interrogatory calls for an opinion or conclusion and is objected to on such grounds.

INTERROGATORIES NOS. 47 through 84

Subject to the reservation stated below, Defendant objects to each of these Interrogatories on the grounds that each of them is improper in that each of them calls for a conclusion of law. Defendant further objects to each of these Interrogatories on the grounds that each of them would require Defendant to engage lawyers to conduct legal research in order that such lawyers might render an opinion to Defendant and Defendant maintains that this constitutes an unreasonable burden on Defendant.

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Defendant further objects on the grounds that each of these Interrogatories is irrelevant and immaterial to the matters properly at issue in this litigation, except insofar as the Workmen's Compensation laws of certain of the states and/or territories involved may directly pertain to Plaintiff's right of recovery herein. Defendant maintains that such legal issues are for the Court to decide upon appropriate motions, etc., and are not the proper subject of Interrogatories of the sort propounded. Further, Defendant objects on the grounds that the best proof of such laws are the laws themselves.

INTERROGATORY NO. 85

Defendant objects to this Interrogatory on the grounds that the question posed in the first sentence, although superficially "simple" is so broad and general and such a gross over-simplification as to render it not only scientifically meaningless, but actually incapable of being meaningfully responded to.

Defendant further objects to said Interrogatory on the grounds that the Plaintiff is inquiring into medical facts which will necessarily have to be developed through expert testimony at the time of the trial, and, therefore, said Interrogatory is argumentative and improper, and this Defendant should not be called upon to answer a question such as this, calling for such a medical conclusion, which is also one of the ultimate issues to be tried in this case.

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Attorney for Defendant, Johns-Manville Products Corporation

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THE STATE OF TEXAS I

COUNTY OF JEFFERSON I

GORDON R. PATE, being duly sworn, upon oath states that he is the attorney of record for the Defendant, Johns-Manville Products Corporation, and authorized in the course of his employment to make and present the foregoing answers to Plaintiff's Interrogatories, which he does under said authority, and being cognizant of the matters therein set forth and based upon the information furnishedhhim and the investigation conducted as to the subject matter of the Interrogatories, says that the said answers are true and correct.

Gordon Pate
GORDON R. PATE

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 27th day of March, 1970.

Lynn K. Boone
NOTARY PUBLIC IN AND FOR
JEFFERSON COUNTY, TEXAS

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing answers to Interrogatories was on the 27th day of March, 1970, forwarded to all counsel of record.

Gordon Pate
GORDON R. PATE

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EXHIBIT "A" to Answers of Johns-Manville Products Corporation to Interrogatory No. 1 of Interrogatories propounded to Defendants in Clarence Borel vs. Fibreboard Paper Products Corporation, et al (where there is a generally recognized generic term, that description appears in parenthesis).

1. A.R.P. 40. (Aero Space Insulation) Asbestos-reinforced plastic.
2. ACOUSTICAL TOPLINER. (Automotive Insulation) Molded glass fiber.
3. ACOUSTI-SHELL. 3-dimensional fiber glass "lay-in" acoustical ceiling units.
4. AERTITE COATING. (Insulation Coating) An asphalt-asbestos coating for troweling over the outside of boiler walls.
5. AGGREGATE. (Insulation Refractory) Lightweight aluminum silicate aggregate.
6. AIR SET CEMENT. (Insulating Refractory) Used in back-up insulation for setting brick or shallow patching; sets hard within 24 hours.
7. ALBASEAL. Plastic, putty-like materials for sealing out (or in) air, dust, moisture, etc.
8. ANTI-SWEAT. (Pipe Insulation) A pipe covering.
9. ASBESTOBOARD. (Weather Proofing) An asbestos-cement board.
10. ASBESTOCEL. (Asbestos Pipe & Block Insulation) An inexpensive insulation available in pipe covering, sheets and blocks for temperatures up to 300° F.
11. ASBESTOCITE. (Weather Proofing) Asbestos-cement sheets.
12. ASBESTOS CEMENTS. (Insulating Cement) General purpose cements used as a finish over insulation.
13. ASBESTOS CLOTH. (Insulation Jacketing) Cloth woven from asbestos yarn.

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14. ASBESTOS EBONY. (Electrical Panel Insulation) Asbestos-cement board impregnated with asphaltic compound.

15. ASBESTOS FIRETARD. (Weather Proofing) A sheet of asphalt-saturated asbestos felt cemented to a sheet of unsaturated asbestos felt.

16. ASBESTOS FLEXBOARD. (Weather Proofing) Tough, fireproof asbestos-cement sheet.

17. ASBESTOS MILLBOARD. (Asbestos Sheathing) Made from asbestos fiber and various binders.

18. ASBESTOS PAPER. (Asbestos Paper) Paper formed from asbestos fibers and a suitable binder.

19. ASBESTOS ROLLBOARD. (Asbestos Paper) Asbestos paper 3/32" or 1/8" thick.

20. ASBESTOS ROLL FIRE-FELT. (Asbestos Paper) Made from felted and molded asbestos fiber.

21. ASBESTOS TEXTILES. Asbestos fiber twisted, woven or felted into cloth, yarn, tape, tubing, etc; usually a small percentage of organic fiber such as cotton or rayon is woven in with the asbestos.

22. ASBESTOS TRANSITOP. (Insulation Panel) A structural sandwich panel made with an insulating core faced on both sides with fireproof Asbestos FLEXBOARD.

23. ASBESTOS WATERPROOFING FELT. (Weather Proofing) An asphalt-saturated asbestos felt weighing 32 lbs.

24. ASBESTOS YARNS. Made from Asbestos Roving which has been mechanically twisted to give it tensile strength; furnished in several grades ranging from 75% asbestos to 100% asbestos.

25. BX-SPINTEX. (Bulkhead Insulation) Made from molten inorganic materials spun off into long fibers.

26. BAND PIPE INSULATION. (Accessory) Strip of metal which holds insulation in place on the pipe.

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27. BANROC. (Hi-Temp Insulation) A mineral wool insulation furnished in the form of metal-reinforced blankets.

28. BLAKITE. (Insulating Refractory) A ready-mixed air-setting cement.

29. BLAZECRETE. (Insulating Refractory) A hydraulic-setting refractory for slap troweling or gun applications.

30. BODY SEALER. Plastic, putty-like materials for sealing out (or in) air, dust, moisture, etc.

31. BONDING MORTAR. (Insulating Refractory) A material used for filling the joints between brick used as back-up insulation; several kinds are sold for use with different types of brick and varying service conditions.

32. C-2 REFRACTORY CEMENT. (Insulating Refractory) An extremely hard cement.

33. C-31M CEMENT. (Insulating Refractory) A chrome base cement.

34. CA INSULATING FIRECRETE. (Insulating Refractory) A hydraulic-setting castable refractory for temperatures up to 3000°F.

35. CALCIUM SILICATE INSULATIONS. (Insulation Panel) A composition of asbestos fiber, diatomaceous silica and lime formed into calcium silicate sheets.

36. CANVAS. (Insulation Jacketing) Fabric wrapped around pipe insulation.

37. CEILINITE. (Asbestos Sheathing) Made from Asbestos Roll FIRE-FELT reinforced on one side with asbestos cloth.

38. CERAFELT. (Refractory Fiber) A lightweight felted refractory fiber insulation.

39. CERAFIBER. (Refractory Fiber) A loose refractory fiber insulation for service to 2000°F.

40. CERA FORM. (Refractory Fiber) Molded board and shapes of refractory fiber with multi-component, organic and inorganic binders.

41. CERA-KOTE. (Refractory Cement) A high-temperature adhesive and coating cement.

42. CERA-PAK. (Net Refractory Fiber 1963) Refractory-fiber.

43. CERA-PREG. (Refractory Impregnant 1964) Inorganic impregnant that is brushed on CERAFELT or CERA FORM to provide a hard, abrasion-resistant coating.

44. COLORED MARINE VENEER. (Insulating Panels) 3/16" thick sheets of integrally-colored Marine Veneer laminated to MARINITE panels.

45. COMMERCIAL GRADE ASBESTOS CLOTH. (Asbestos Sheathing) Cloth containing from 75% up to but not including 80% asbestos fiber.

46. DOUBLE-COATED FLEXSTONE. (Weather Proof Jacket) An asphalt-saturated asbestos felt coated with a mineral-filled asphalt.

47. DOUBLEX PAPER. (Asbestos Paper) A completely inorganic paper made from asbestos and a lime silicate binder.

48. DURAMESH. (Weather Proofing) A porous glass fiber fabric.

49. DYNA-FLEX. (Refractory Fiber 1963) Flexible refractory fiber felt material.

50. FESCO BOARD ROOF INSULATION. (Tank Top Insulation) Used for insulating under a built-up roof; furnished in 24" x 36" sheets, from 1/2" to 2" thick, and in cant strips and edge strips.

51. FIBERCHROME. (Refractory Fiber 1964) Flexible refractory fiber felt material.

52. FIBROFIL. (Insulation Fill) A mixture of diatomaceous silica and asbestos fibers.

53. FIBROUS ADHESIVE. (Insulation Adhesive) Materials such as Cold Water Paste, Lath, Staples, Jute, Fibrous Adhesive, Silicate of Soda and S-A Adhesive.

54. FIBROUS ROOF COATING. (Weather Proofing) A heavy-bodied coating made of asphalt and asbestos fiber.

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55. FIL-INSUL. (Insulation Fill) A resilient fill composed of mineral fibers.

56. FINISHING CEMENTS. (Cements) Asbestos and hydraulic-setting cements generally used over pipe insulation to provide a smooth, hard finish.

57. FIRE FELT. (Asbestos Sheathing) Insulating material made from felted and molded asbestos fiber.

58. FIREBLOK. (Insulating Refractory) A brick made principally from refractory clay.

59. FIREBRICK. (Insulating Refractory) A brick made principally from refractory clay.

60. FIRECRETE. (Insulating Refractory) A hydraulic-setting castable refractory for temperatures up to 3000°F.

61. FIREITE ASBESTOS FURNACE CEMENT. (Asbestos Cement) An Asbestos compound used for sealing joints of domestic heating equipment.

62. FIRETARD. (Weather Proofing) A specially fire-resistant gypsum wallboard.

63. FIRETARD. (Weather Proofing) A pipe covering weatherproof jacket.

64. FLAME-BAR. (Insulation Jacket 1961) A vapor-barrier jacket for MICRO-LOK, and THERMOBESTOS pipe insulations with excellent fire-resistant properties.

65. FLAME-SAFE GC PIPE INSULATION. (Giver Glass Pipe Insulation and Jacket 1965) Lightweight, fiber glass.

66. FOIL-FELT. (Weather Proofing) Made of .002" aluminum foil bonded to asphalt saturated asbestos felt.

67. GUMMED ASBESTOS TAPE. (Asbestos Tape) A 12-lb. asbestos paper tape.

68. H. T. BLOCK. (High Temperature H. T. Block Insulation) Gaskets for sealing handhold, tube cap and manhole covers of boilers, economizers and superheaters; made in KEARSARGE, SPIROTALLIC and single-jacket construction.

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69. HEAT TREATING CEMENT. (Insulating Refractory) A ready-mixed refractory cement.

70. HELLITE. (Insulating Refractory) A refractory mortar for laying fire brick or for wash-coating brick.

71. HULL BOARD. (Marine Insulation) A glass fiber marine insulation; furnished plain or faced with treated glass fiber cloth.

72. INSULATING BRICK. (Insulating Refractory) A brick of high insulating value generally used as back-up insulation behind insulating value generally used as back-up insulation behind linings of fire brick; J-M insulating brick is made from diatomaceous silica (CELITE).

73. INSULATING CEMENT. (Insulating Cement) Cement.

74. INSULATING FILL. (Insulation Fill) a resilient fill composed of mineral fibers.

75. INSULATING FIREBLOK. (Insulating Refractory) made of diatomaceous silica (CELITE).

76. INSULATING FIREBRICK. A brick made principally from refractory clay.

77. INSULATION ACCESSORIES. Materials such as Cold Water Paste, Lath, Staples, Jute, Fibrous Adhexive, Silicate of Soda and S-A Adhesive.

78. INSULKOTE. (Weather Proofing) Compounded of bitumens, asbestos fiber and mineral fillers.

79. L. W. AGGREGATE. (Insulating Refractory) Lightweight aluminum silicate aggregate.

80. LAPTITE. (Cement) An asphaltic cement.

81. LATH. (Accessories) Materials such as Cold Water Paste, Lath, Staples, Jute, Fibrous Adhesive, Silicate of Soda and S-A Adhesive.

82. LOOSE WOOL. (Insulation Fill) A mineral wool insulation furnished in the form of metal-reinforced blankets.

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83. MAGNESIA, 85%. (H.T. Pipe & Block Insulation & Cement) Composed of 15% asbestos fiber and approximately 85% basic carbonate of magnesia.

84. MARINE ACOUSTICAL UNIT. (Marine Insulation) A two-foot square section of perforated Marine Veneer with an attached element of sound-absorbing mineral wool.

85. MARINE VENEER. (Marine Insulation) Strong, flexible, fire-resistant sheets made of asbestos and cement.

86. MARINITE. (Insulation Panel) A composition of asbestos fiber, diatomaceous silica and lime formed into calcium silicate-sheets.

87. METAL-K. (Metal Insulation) An all-metallic pipe and blanket insulation consisting of inner reflective foils and a stainless steel outside cover sheet.

88. METAL-LOK PIPE INSULATION. (Fiber Glass Pipe Insulation 1964) MICRO-LOK fiber glass pipe insulation with factory-applied aluminum jacket.

89. METAL-ON INSULATION. (H. T. Pipe Insulation System) THERMO-BESTOS Pipe Insulation with a factory-applied jacket of aluminum.

90. MICROBESTOS PAPER. (Asbestos Paper) An asbestos reinforcing material which after saturation is used in the manufacture of reinforced plastic products.

91. MILLBOARD. (Asbestos Sheathing) Made from asbestos fiber and various binders.

92. MINE CEMENT. (Asbestos Cement) Cement made from short asbestos fibers.

93. MIN-K. (Molded Insulation) A molded fibrous insulating material.

94. MIN-KLAD. (Molded insulation) A molded combination of MIN-K and asbestos-reinforced plastic faces.

95. MIN-KLAD INTERLOK. (Molded Insulation) MIN-K and asbestos-reinforced plastic.

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96. MOLTEN METAL MARINITE. (Insulation Panel) Made of amosite Asbestos fiber, diatomaceous silica and an inorganic binder.

97. PAL-LITE. (Foundry Board) Made from asbestos fiber and inorganic binder.

98. PERFORATED MARINE VENEER. (Marine Insulation) Marine Veneer perforated for use as acoustical treatment in ship construction.

99. PIPE COVERING. Combination Pipe Insulation; FIRE-FELT: FLAME-SAFE: Magnesia 85%; METAL-ON: MICRO-LOK: METAL-LOK: Sectional Pipe Covering; Segmental Pipe Covering; SUPEREX: THERMOBESTOS: THERMO-TAPE: THERMO-WRAP: Wool Felt.

100. POLYSTYRENE INSULATION. (Foam Insulation) Expanded Polystyrene Insulation for residential and commercial building. Rigid foam board used for perimeter insulation, cavity wall insulation, with wallboard on exterior masonry walls, cold storage insulation and flotation; low in thermal conductivity and extremely light in weight.

101. RANGE BOILER JACKET. (Asbestos Sheathing) An inexpensive insulation available in pipe covering, sheets and blocks for temperatures up to 300°F.

102. REEFERITE. (Marine Insulation) Formed by sandwiching a sheet of aluminum between sheets of Marine Veneer; provides rat-proofing.

103. REFRACTORY FIBER. See CERAFELT, CERAFIBER, CERAFORM, DYNA-FLEX, FIBERCHROME, MICRO-QUARTZ, THERMOFLEX.

104. REFRACTORY PRODUCTS. See AERTITE: BLAKITE: BLAZECRETE: FIRE-CRETE: FIREITE: HEAT TREATING CEMENT: HELLITE: L. W. AGGREGATE: MORTAR: PAL-LITE: SIL-O-CEL: SUPER BLAKITE: TRANSITE Core Plate; transite Slip Jacket Stock.

105. RIS-A-SLEEV. (Insulating Riser) Made of refractory fibers.

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106. ROLL FIRE-FELT. (Asbestos Sheathing) See FIRE-FELT.

107. ROLLBOARD. (Asbestos Sheating) Asbestos paper 3/32" or 1/8" thick.

108. S-A ADHESIVE. (Insulation Adhexive) Materials such as Cold Water Paste, Lath, Staples, Jute, Fibrous Adhesive, Silicate of Soda and S-A Adhexive.

109. SEALING COMPOUNDS. (Plastic, putty-like materials for sealing out (or in) air, dust, moisture, etc.

110. SECTIONAL PIPE INSULATION. The standard form of pipe insulation; usually furnished in 3' lengths, molded in two half-sections or cut longitudinally.

111. SEGMENTAL PIPE INSULATION. A form in which 85% Magnesia, SUPEREX and THERMOBESTOS pipe insulation are furnished when large pipe sizes are involved.

112. SERVICE SHEET. Made from asbestos fiber and heat-resisting rubber compounds.

113. SILICATE OF SODA. (Insulation Adhesive) See Insulation Accessories.

114. SIL-O-CEL. (Insulating Refractory) Made from diatomaceous silica (CELITE).

115. SIL-O-CEL INSULATING BRICK. (Insulating Refractory) Made from diatomaceous silica.

116. SPEED-INSUL. (Insulation Panel) An insulation panel consisting of embossed, ribbed aluminum sheet factory applied to SPINTEX Mineral Wool Blanket.

117. SPIN-GLAS. (Glass Fibers) Fine-fibered, fiber glass blanket-type insulation, bonded with thermosetting resin.

118. SPINTEX. (Mineral Fibers) Made from molten inorganic materials spun off into long fibers.

119. SPONGE-FELT. (Asbestos Pipe & Block Insulation) See ASBESTOS-SPONGE Felted.

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130. SEMPEL. (Accessories) Materials such as Cold Water Paste, Lacks, Staples, Jute, Fibrous Adhesive, Silicate of Soda and C-A Adhesive.

131. SUPER BLANKET. (Insulation Refractory) Similar to BLANKITE but particularly designed for application directly to boiler tail tubes.

132. SUPER BRICK. (Insulation Refractory) Made from diatomaceous silica (CELITE).

133. SUPERSEX. (H. T. Pipe & Block Insulation - H. T. Cement) Made from asbestos fiber, diatomaceous silica and other insulating materials.

134. SUPER WIRE FELT. (Asbestos Sheets & Blocks) Made of felted asbestos fibers and a binder.

135. THERMOSILICOS. (H. T. Pipe & Block Insulation) Made from lime, diatomaceous silica and asbestos fiber.

136. THERMOFLEX. (Refractory Fiber) A lightweight refractory fiber insulation which withstands temperatures up to 2000°F; used in blanket or felted form as an insulating or acoustical material, in loose form as a filter medium, insulating packing or fill, and in wrapping-around or molded form (encased in foil or mesh) as high-temperature duct insulation and jet engine shrouds; its most common use is in aviation insulation applications.

137. THERMOMAT. (Aviation Insulation) A nonwoven long fiber asbestos felt saturated with phenolic resin.

138. THERMOMAT TAPE. (Aviation Insulation) An asbestos-phenolic molding compound designed for tape winding; used to create components and parts that withstand tremendous heat and pressure. See THERMOMAT.

139. THERMO-PADS. (Pipe Insulation) Made of an asbestos pad in a neoprene coated asbestos cloth jacket.

140. THERMO-WRAP. (Pipe Insulation) Made up of a blanket of asbestos fibers held together by asbestos yarns and enclosed in a neoprene-coated asbestos jacket.

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131. TRANSITE CORE PLATE. (Asbestos Cement Sheets) Smoothly sanded tray of asbestos and cement for holding cores during baking or drying.

132. TRANSITE SLIP JACKET STOCK. (Asbestos Cement Sheets) Asbestos-cement material.

133. VINYLCEL. (Foam Insulation 1965) Rigid polyvinyl chloride foam thermal and structural insulation.

134. WEATHERPROOFING JACKETS. Felts used for weather-proofing and fire protecting pipe insulation.

135. WET REFRACTORY CEMENTS. (Insulating Refractory) See BLAKITE: FIREITE: Heat Treating Cement; HELLITE: Super Blakite.

136. WHITE SURFACE ASBESTOS JACKET. (Weatherproofing) Made from asbestos weatherproof felt.

137. WOOL FELT. (Pipe Insulation) A pipe insulation available in single or double layer for temperatures from 40F to 212F.

138. ZELIE. (Insulating Refractory) A lightweight aggregate used in making insulating refractory concrete. Also used as insulating refractory fill.

139. ZERO. (Cold Pipe Insulation) A pipe insulation consisting of a layer of Hair Felt and a layer of Woolfelt for temperatures 32F to 100F.

140. ZEROFIL. (Insulation Fill) Made of asphalt-impregnated loose mineral wool.

141. ZERO-FOAM. (Foam Insulation) A rigid polyurethane block insulation for temperatures of minus 200 to plus 300F

142. ZERO-LITE. (Foam Insulation) Expanded Polystyrene Insulation for residential and commercial buildings. Rigid foam board used for perimeter insulation, cavity wall insulation, with wallboard on exterior masonry walls, cold storage insulation and flotation; low in thermal conductivity and extremely light in weight.

The following insulation products were previously manufactured by Defendant, Johns-Manville Products Corporation, but are no longer manufactured by this Defendant, having been discontinued at various dates after 1959;

143. ASBESTO-SPONGE FELTED. (Asbestos Pipe & Block Insulation) Made from many layers of asbestos paper in which bits of asbestos fiber are imbedded.

144. BX-MARINE BLOCK. (Marine Insulation) A rigid mineral wool thermal and acoustical insulation sold for use aboard ships.

145. BRINE and AMMONIA SEALING TAPE. (Accessories) A waterproof fabric tape.

146. FIBROCEL. (H. T. Pipe Insulation) A molded silica pipe insulation.

147. HAIR FELT. (Felt) Made from cattle hair.

148. J-FOAM. (Foam Insulation) An expanded polystyrene block insulation.

149. PERLOX. (Insulation Fill) An expanded perlite insulating fill.

150. ROCK CORK. (Cold Insulation) Made from mineral wool bonded with a waterproof binder.

151. SIGMA-X. (Insulating Board) A board product which is both a high-temperature neutron shield and a thermal insulation.

152. ZEROGLOSS. (Accessory) An accessory for ROCK CORK pipe insulation; it is an asphaltic paint.

153. ZEROSEAL. (Accessory) An accessory for ROCK CORK pipe insulation; it is a fibrated asphalt.

154. ZEROTAPE. (Tape) A waterproof fabric tape.

155. ZEROTEX. (Blanket) A felted mineral wool blanket.

156. AIRCELL INSULATION. (Paper Pipe Insulation) Fabricated in a cellular structure from asbestos paper.

157. ASBESTO-SPONGE. (Asbestos Pipe Insulation & Block) Felted insulation.

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