MEMO TO FILE

RE: HARTER v. JOHNS-MANVILLE

SUBJ: Visit to Lompoc Plant, November 16, 1979 respecting Kazan's request for production of documents and things dated October 4, 1979

Kazan's request involves in part all invoices or other documents regarding sales and/or shipments by "defendant" of (a) raw asbestos, and, (b) asbestos containing products or materials, for use at Lompoc from 1923 to present date. Jerry Scolari and Mary Ross informed me it will be virtually impossible to comply with (b) above, i.e., asbestos containing products or materials as so many products, e.g., clothing, insulation, brakes, etc. used at the plant contain asbestos. Both informed me that they are not aware of any intra-company agreement that all products with asbestos needed at Lompoc must be bought from a J-M entity. Scolari stated that sales price would be the most important factor and that products would be purchased locally if shipment charges would make them more expensive when bought from a J-M entity.

Neither Scolari nor Ross is the Custodian of Records at Lompoc. It is their understanding that intra-company transfer records are kept seven years for tax purposes. Employee payroll records are also kept seven years. Employment records and medical records of employees are retained indefinitely. Shipping records of materials entering the plant (e.g., bills of lading) are kept a relatively short period, I believe three or four years. However, the amounts of raw materials received at the plant would also be reflected in the accounts payable records. When I arrived at the plant I was advised that these records from 1970 to present had been sent to Denver in compliance with Kazan's request. These records, normally retained seven years for tax purposes, had been retained for a longer

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period because of a past audit.

Mrs. T. C. Hartley has acted as Lompoc's Purchasing Agent for raw materials since the mid-1960's. Her name appears on sales agreements; request to suppliers to fulfill Lompoc's annual requirements; and other correspondence with suppliers, e.g., advising them that a given shipment arrived in good condition or that a given sample did not meet J-M's specifications. Hartley's predecessor in charge of purchasing for Lompoc was F. E. "Red" Henderson who is now deceased. Hartley was assisted with purchasing, which is under the E&R [Erection and Repair] Department, by Beverly Monasterio. A purchasing department always existed at the plant until 1976 when it was moved to San Mateo. Monasterio has remained at Lompoc while Hartley has worked out of the San Mateo office since 1976. She is still employed by J-M and may be reached at (415) 349-9500.

SUPPLIERS OF RAW ASBESTOS TO LOMPOC PLANT:

In preparing a response to Kazan's request I have attempted to determine all sources of raw asbestos used at Lompoc. My source has been primarily Arthur Wilson, former head of the Celite Specialties (formerly brick plant) and Silicate Plant, who has been contacted by Mary Ross at my request.

It presently appears that raw asbestos was shipped to Lompoc between 1951 and 1977. The only Johns-Manville entities that supplied raw asbestos to Lompoc appear to be Asbestos Quebec, Canada, aka Canadian Johns-Manville Company, Ltd. (asbestos fiber division) and the J-M mine at Colinga, Calif. A current Lompoc employee, Ken Cowdrey, was formerly employed by Canadian J-M. It appears that the earliest source of raw asbestos to Lompoc was from Canadian J-M's Munro Mine located at Mathieson, Ontario. (Cowdrey advises that it is also possible asbestos came from Canadian J-M's Jeffrey Mine located at Asbestos, Quebec.) The grades of [illegible] from the [illegible]

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Mine appear to have been designated "4 Y" and "4 X". I believe this was the raw asbestos shipped in burlap bags, although I am not sure. The Munro Mine was exhausted in 1962 or 63. Respecting Colinga, it is my understanding that this mine was closed in late 1974. When Colinga first supplied raw asbestos to Lompoc has still not been determined, however, I have been advised that this information may be known by Jim Goodwin, a former Colinga plant manager now employed at Lompoc.

The first outside source to supply raw asbestos to Lompoc appears to be Cassiar Asbestos Corp., Ltd. No one with whom I have spoken is able to contradict the affidavit of John D. Christian dated Sept. 20, 1979 in which he states that Cassiar's first delivery of raw asbestos to Lompoc was Jan. 9, 1958. J-M purchase records confirm Mr. Christian's declaration that the last shipments from Cassiar to Lompoc were in 1976. Cassiar shipped fibers graded "AK", "AX" and "AY". With minor exception, Lompoc exclusively purchased grade AY from at least 1968. This fiber was used in the regular production of Fibre Flow products Nos. 750, 752 and 754. Cassiar fiber was packaged for at least some period of time in clear cellophane through which it was possible to see blocks of fiber. Attached is a copy of J-M's requisition for Cassiar fiber from 1968 to 1976. These records show that from 1968 to 1971, Lompoc's annual requirements of Cassiar fiber was 500 tons. From 1971 to 1976, the annual requirement was 600 tons. Also attached is a J-M internal correspondence dated Dec. 1, 1975 which shows a detailed allocation of Cassiar fiber tonnage to all J-M facilities. This shows that in 1975, Cassiar supplied 20,110 tons of various grades of asbestos fibers to J-M facilities. Only 600 tons made its way to Lompoc. Interestingly, Lompoc was the only facility at which grade "AY" was used, at least in 1975.

Also attached is a document entitled Agreement For the Sale of Asbestos Fiber, covering Lompoc's 1975 annual

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requirements. It is presently unknown how many such annual agreements were entered into. The agreement is between Cassiar Asbestos Corp., Ltd. and Johns-Manville Products Corp. In the first provision of this agreement, Cassiar appoints Bell Asbestos Mines Ltd. as its "sole agent" to enter into this agreement. Attorneys for Bell Asbestos have independently informed me that with respect to Lompoc, Bell acted exclusively as a sales agent for raw asbestos mined and supplied to them by Cassiar. At paragraph 13(d) under general condition of this 1975 agreement is found:

> "Claims against the Seller related directly or indirectly to the Buyers acquisition of asbestos fiber from the Seller with respect to consequential loss, damages, personal injuries, diseases, or death, however arising, are not the responsibility of the Seller or its agents. The Buyer undertakes and agrees to save harmless and indemnify the Seller from all expenses, costs and damages arising from all such claims."

Very interestingly, this agreement also provides at paragraph 14 that its provisions shall be governed by the laws of the Province of British Columbia and Canada. (I did note although I did not copy a cover letter returning an executed copy of this or similar agreement to Cassiar in which J-M stated that they "objected" to this liability provision, although they signed the contract.

It also appears that there were at least two other outside sources of raw asbestos to Lompoc. Although I have seen no substantiating documentation, I was advised by Scolari that after the Colinga Mine closed in 1974, Lompoc received 50 tons of asbestos a month from Atlas Asbestos between 1974 and 1977. Also, it appears that Metate Asbestos, located in Globe, Arizona, supplied a very small amount of asbestos for a special and lasting

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a couple of months. This was a special acid wash filtering agent identified only as special A.W.F.A.

The documentation referred to above and attached to this memorandum was contained in four thin folders of original documentation labeled either simply "asbestos" with the year following, or, "Cassiar." Scolari provided these files for my review prior to shipping them to Denver. They include some correspondence which is responsive to Kazan's request, primarily letters by Hartley to various suppliers including Cassiar trying to fill her annual requirements. It appears that in 1974 and 75 asbestos fiber in conformity with J-M specifications and needs was getting more difficult to locate. I saw no shipping document or requisition for raw asbestos other than from Cassiar. The documentation was concentrated in 1974 and 75 and the earliest reference, other than the attached requisition with Cassiar that dates back to 1968, was 1972. I saw a single correspondence with Metate and nothing concerning Atlas.

My review of these folders indicates that from at least August, 1972, one of the specifications on J-M's purchase order with Cassiar is to have each bag contain the caution label: "Contains Asbestos Fibers; Avoid Creating Dust: Breathing Asbestos Dust May Cause Serious Bodily Harm." Scolari advises that August of 1972 is approx. when OSHA first required such a warning. This is the only warning notice placed on packaging of which I am presently aware.

Scolari advised that he is unaware of any specimens or samples of packaging of raw asbestos delivered to the Lompoc plant.

Finally, my review of the limited documentation still available at Lompoc uncovered two potential smoking guns. The amount of smoke generated depends on previous testimony of J-M

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representatives respecting the phasing out of asbestos containing products at Lompoc. Both these documents, which are attached and fortunately not within the call of Kazan's production, are intra-J-M communications. The first, dated May 15, 1975 is a two-page requisition or appropriation for an additional mixer in the mortar plant. This document contains sales forecasts in tons for asbestos containing Fibra Flo through 1979. This request, calling for over 4000 tons of such products for 1979, was approved by C. A. Carlson, then plant manager. Also attached is an inter-office memo respecting asbestos fiber requirements indicating that the five-year forecast for outside purchases of asbestos fiber at Lompoc was 400 tons of Cassiar and 100 tons AZ-20 (Atlas) for each year through 1980.

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