PLAINTIFF'S EXHIBIT

UC-3874

CANCER !

SLIDE 1

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CANCER

(what the public is led to believe)

THE DEATH RATE DUE TO CANCER IS INCREASING RAPIDLY.

WE ARE IN THE MIDST OF AN EPIDEMIC OF CANCER.

80-90% OF CANCER IS CAUSED BY OUR ENVIRONMENT.

WE ARE DROWNING IN A SEA OF CARCINOGENS.

OUR MANUFACTURING PLANTS POLLUTE OUR ENVIRONMENT AND CAUSE CANCER.

SLIDE 2

UCC 013337

MEDICAL AND REGULATORY CLICHES

THERE IS NO SAFE LEVEL FOR A CARCINOGEN. (A SINGLE MOLECULE CAN CAUSE CANCER TO A RARE SUSCEPTABLE PERSON.)

USE OF CARCINOGENS SHOULD BE BANNED OR REDUCED TO THE LOWEST FEASIBLE LEVEL. (DEPENDS ON AGENCY STATUTORY AUTHORITY.)

WHERE A SUBSTITUTE FOR A CARCINOGEN IS AVAILABLE THE CARCINOGEN IS BANNED.

SLIDE 3

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PRESENT REGULATORY CLIMATE

1. TWO RECENT EVENTS HAVE MADE IT A WHOLE NEW BALL GAME -

   a. THE SUPREME COURT BENZENE DECISION

   b. THE ELECTION

2. SUPREME COURT BENZENE DECISION -

   a. Puts the burden of proof on the agency to demonstrate that an "unreasonable risk" exists before a regulation can be promulgated.

   b. Applies specifically to OSHA but has broad implications.

3. THE PRESIDENTIAL ELECTION

   a. Extensive philosophy of less rather than more regulation.

   b. Executive Order 12291

   c. Clean out of the activist political appointees from the previous administration at policy making levels.

   d. Lower level (and critically important) bureaucrats still remain.

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OSHA

BACKGROUND

1. EMERGENCY ASBESTOS STANDARD DECEMBER 1971; FINAL JUNE 1972; MODEST CHANGES.

2. PROPOSAL ON OCTOBER 9, 1975. 0.5 FIBERS/CC (GENERAL INDUSTRY ONLY, CONSTRUCTION UNCHANGED).

3. NIOSH 0.1 FIBERS/CC BASED ON ANALYTICAL LIMITATIONS.

RECENT MOVES

1. BACK BURNER SINCE 1975.

2. NEW TECHNICAL PUBLICATIONS SUGGESTING 1 FIBER/CC OR LESS.

3. NEW INTERPRETATION RE SMOKING - ASSITIONAL RISK.

4. EPA INITIATIVES FORCE THEM TO PROTECT THEIR TURF (1979).

5. BEEN UNDER ACTIVE STUDY FOR PAST TWO YEARS. (BENZENE DECISION PRESENTS MAJOR PROBLEM.)

EXPECTED FUTURE ACTIONS

1. MAJOR CHANGES IN REGULATORY APPROACH MUST BE DEVISED.

2. NEED TO INCLUDE THE CONSTRUCTION INDUSTRY. (VERY OBJECTIVE ADVISORY COMMITTEE TO CONTEND WITH, PROBABLY SPLIT OUT ALL CONSTRUCTION INDUSTRY STANDARDS.)

3. MUST PRESENT EXTENSIVE JUSTIFICATION UNDER EO-12291.

4. NO NEW ACTION FOR AT LEAST 7 MONTHS.

5. GOOD POSSIBILITY OF A LEVEL IN THE 0.5 - 1 FIBER/CC RANGE IN THE NEXT COUPLE OF YEARS FOLLOWED BY UNION COURT CHALLENGE.

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EPA

1. PRESENT REGULATIONS

   A. CLEAN AIR ACT

      1. 1973 - NO VISIBLE EMISSIONS OF ASBESTOS-CONTAINING MATERIALS.
      2. 1974 - WASTE DISPOSAL TO CONTROLLED LANDFILL.
      3. 1975 - BAN ON SPRAYING OF CERTAIN FRIABLE MATERIALS (WETTED AND ENCAPSULATED ASBESTOS NON INCLUDED).

   B. RECRA

      1. 1980 - LISTED AS A HAZARDOUS WASTE UNDER SECTION 261.33f. (COMMERCIAL ASBESTOS FIBER ONLY - 1000 KG/MONTH EXCEPTION)
      2. - SUBSEQUENTLY WITHDRAWN (TEMPORARILY) FOR STUDY IF PRESENT CLEAN AIR ACT REGULATIONS ARE ADEQUATE.

   C. TSCA

      1. ASBESTOS BEING USED AS A "TRIAL HORSE" TO DETERMINE THE LIMITS OF THEIR AUTHORITY.
      2. "CRADLE-TO-GRAVE APPROACH".
      3. OPTIONS UNDER CONSIDERATION
         a. OUTRIGHT BAN IN FAIRLY NEAR FUTURE (SEVERAL YEARS) ALL USES WHERE THEY DEEM SUITABLE SUBSTITUTES ARE AVAILABLE.
         b. LIMITS ON TOTAL USAGE. STEADILY DECREASED WITH TIME TO VIRTUAL BAN.
         c. BAN STARTING IN 1985 AND FULLY IN PLACE IN 1990. ONLY EXCEPTIONS ARE ESSENTIAL USES MEETING THREE CRITERIA. NO REASONABLE WAY TO GET AN EXCEPTION. BURDEN OF PROOF ON USER.
      4. ADVANCED NOTICE OF PROPOSAL RULEMAKING - OCTOBER 20, 1980
         a. REQUESTS MASSIVE AMOUNTS OF INFORMATION - GENERALLY NOT SUPPLIED.
         b. GENERAL ORDER UNDER SECTION 8(a) TO FORCE SUBMISSION OF INFORMATION. PROPOSED SEVERAL MONTHS AGO.

            MUST BE FILED BY PRODUCERS, DISTRIBUTORS AND USERS OF ASBESTOS-CONTAINING PRODUCTS.
      5. PROPOSAL TARGET HAS BEEN LATE 1981, UNDOUBTEDLY SLIP FURTHER
         a. HAVE VERY SIGNIFICANT PROBLEMS FROM THE BENZENE DECISION TO WORK AROUND.
         b. AIA/NA HAS BEEN IN CONTACT LAYING GROUND WORK FOR A NEGOTIATED SETTLEMENT.

            PROBLEM - ADMINISTRATOR AND ASSISTANT ADMINISTRATOR FOR EPA HAVE NOT BEEN CONFIRMED.
      6. OPTIMISTIC THAT IMPACT WILL BE SCALED DOWN AND LARGELY BLUNTED.

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CPSC

1. PUBLISHED ANPRM OCTOBER 20, 1980

2. GENERAL ORDER, MUCH REDUCED IN SCOPE, HAS BEEN PUBLISHED AND COLLECTION OF INFORMATION IS IN PROGRESS.

3. IMPACTS UCC MAINLY VIA CUSTOMERS WHO MANUFACTURE TEXTURED COATINGS.

4. CPSC IN MAJOR TROUBLE IN THE NEW ADMINISTRATION'S ATTITUDE ON REGULATIONS.

   a. Greatly reduce scope or shut down as ineffective.

   b. Confine actions to immediate hazards.

5. NO SIGNIFICANT IMPACT ANTICIPATED.

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SUPERFUND

1. LEGISLATION PASSED AT END OF LAST SESSION OF CONGRESS.

2. EPA TO DEVELOP IMPLEMENTING REGULATIONS.

3. CONFUSION IN INTERPRETATION

   a. UCC Transportation people say any asbestos spill of more than one pound must be reported by the transporter.

   b. AIA/NA - Not in effect until implementing regulations promulgated.

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STATE ACTIVITIES

1. SHIFT IN ACTIVIST PRESSURES FROM THE FEDERAL TO THE STATE LEVELS.

2. DIVIDE AND CONQUER - MUCH MORE DIFFICULT TO RESPOND TO PROPERLY.

3. NEW YORK

   a. Proposed legislation to ban all asbestos-containing products in the state.

   b. Hearing on April 11. AIA/NA and UCC to attend.

   c. Problem - Will active opposition attract attention to a bill which may die by itself.

4. CONNECTICUT

   a. Effective ban on Asbestos-Cement Pipe

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INDUSTRY ACTIONS -
EPA AND OTHER REGULATIONS

PAST POSITION

1. ALREADY CONVICTED. REASON WILL NOT PREVAIL.

2. ONLY POSSIBILITY TO ALLEVIATE EXCESSIVE AND UNNEEDED REGULATIONS IS THROUGH THE COURTS.

3. HIRED A HIGHLY QUALIFIED AND EXPERIENCED WASHINGTON LAW FIRM - ORGANIZATION AND PREPARATION OF RESPONSES.

4. FIGHTING THE BATTLE STEP-BY-STEP.

5. BASIC POSITION:

    A. STATUTORY AUTHORITY EXCEEDED (BENZENE DECISION).

    B. ADMINISTRATIVE PROCEDURES NOT FOLLOWED.

    C. REGULATORY OPTIONS ARE NOT THE "LEAST BURDENSOME" (E012044).

6. THE BENZENE DECISION STILL PRESENTS A VERY HIGH HURDLE.

PRESENT POSITION

1. REASON MAY PREVAIL.

2. NEED TO WORK ACTIVELY TO GET REALISTIC, WORKABLE REGULATIONS IN PLACE.

3. STILL MAINTAIN CAPABILITY TO FOLLOW EARLIER STRATEGY. (Could be fighting same battle in conjunction with the agencies vs. the activists.)

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JUDGEMENTS RE NEW ASBESTOS REGULATORY ACTION

1. OSHA
   a. 0.5 - 1 fiber/cc Standard in 1 - 2 years.

2. EPA - TSCA
   a. Substantial moderation in broad-based ban and mandatory substitutes approach.
   b. Possible increased labelling and limited bans (friable products) as a compromise.

3. EPA - RECRA
   a. Possible, at least partial inclusion under RECRA such as permits and specific waste disposal requirements. Small generator exemptions still in place.
   b. Numerical emission standard.

4. CPSC
   a. Minimal activity.

5. SUPERFUND
   a. Some spill reporting requirements with workable cut-off level.

6. STATES
   a. New battleground - Could have important local impacts.

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