PLAINTIFF'S EXHIBIT
UC-3920

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Stanley Baumblatt

Testimony of Earl W. Shortridge
On Behalf of Union Carbide Corporation
Before the Monterey Bay Unified Air Pollution
Control District on Proposed Revision to
District Rule 424, Jan. 24, 1979

Introduction: Earl W. Shortridge and Credentials.

Union Carbide Corporation has been in the business of mining and milling asbestos in King City since 19 . In connection with these operations, we have consistently taken increasingly stringent measures to protect the health and safety of our workers and citizens of the surrounding communities to the extent that they might otherwise be affected by our operations. These measures have often gone beyond those required by law. Union Carbide shares the concern of Monterey Bay Air Pollution Control District members for a safe and healthy environment, and believes that emission controls are necessary to the extent that scientific evidence justifies the need for limitation and related benefits equal or outweigh the costs of such limitation. It is in light of these considerations that I wish to state Union Carbide's opposition to the Proposed Revisions to District Rule 424.

In our view, there is no reasonable basis for the proposed revisions to the National Emission Standards for Hazardous Pollutants adopted by the Monterey Bay Unified Air Pollution Control District in 197 . No scientific evidence is contained in the District's November 20, 1978 discussion of the proposed revisions which supports such changes. The present standard for asbestos emissions, established by the Federal EPA and adopted by the District, is at a level, which, pursuant to the Clean Air Act, in the judgment of the EPA

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provides an "ample margin of safety to protect the public health from such hazardous air pollutant." In adopting these very same regulations, the District obviously regarded them as adequate in the control of air pollution from stationary sources of asbestos. Now, the District appears tc think otherwise and seeks more stringent controls.

Agreed, that the standards fail to place a no visible emissions limitation on certain sources. The EPA in promulgating the present national standards, considered banning all emissions of asbestos into the atmosphere, but rejected this approach which the District, in effect, now seeks to adopt. The EPA noted that this approach would result in the prohibition of many activities which are extremely important, and available evidence relating to the health hazards of asbestos did not suggest such prohibition is necessary to protect the public health. 38 F.R. 8820 (4/6/73). A paper issued by the National Academy of Sciences in 1971 states:

> Continued use at minimal risk to the public requires that the major sources of man-made asbestos emissions to the atmosphere be defined and controlled. In the absence of such controls local fiber concentrations might at times approach those in occupational sites. Analytical methods and epidemiological data are not yet adequate for the development of an ambient air standard but emission controls are needed and appear to be feasible. "Asbestos: The Need For and Feasibility of Air Pollution Control."

The no visible emissions standard was, therefore, applied by the EPA tc "major sources" in light of occupational safety standards for asbestos promulgated in 1972, and the lack of analytical and epidemiological data.

Sources of emissions which the District now seeks to regulate were categorically considered not to be "major sources" by the EPA.

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"Outside storage" of asbestos materials was exempted from the definition of "asbestos mill," because regulations of the Bureau of Mines and Occupational Safety and Health Administration protect the health of persons who work in proximity to such areas by means of engineering controls rather than personal protective equipment, and, therefore, prevent the storage areas from becoming major sources of asbestos emissions. Similarly, drilling operations and roadways at asbestos mines were excluded as a major source because the Bureau of Mines regulations (or comparable state regulations) provide adequate health and safety protection. The EPA further noted the public is sufficiently removed from the mine work environment that its exposure should be significantly less than that of the workers in the work environment.

Union Carbide's King City facility has always maintained high standards of safety and health for its workers and, in complying with applicable mine and OSHA standards, has eliminated the need for additional regulations.

[Section on (1) King City Compliance with mining and OSHA standards; (2) Improvement of workplace conditions; (3) Scientific studies or reports do not show existing regulations are inadequate to protect the public health and safety (Background levels, etc.)]

In addition to specific objections to the proposed regulation of outside storage of asbestos and of asbestos mines, Union Carbide finds the proposed expansion of the definition of visible emissions to be unreasonably broad. Such redefinition, which includes emissions directly or indirectly resulting from anthropogenic activities, would require regulations preventing even the dropping of a pellet containing asbestos. [Earl please help make better argument.]

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Additionally, we believe that the District is categorically prohibited by the California Health and Safety Code from controlling air pollution from nonvehicular sources, and that the regulation of material deposited upon a public roadway as a result of transport is the responsibility of the State Air Resources Board.

The adoption by the District of a new and more stringent standard for a hazardous substance requires supporting evidence which demonstrates that the new standard is reasonably necessary or appropriate to protect the public health and safety. This requirement was recently confirmed by the U. S. Fifth Circuit Court of Appeals in a decision which set aside an OSHA regulation lowering the permissible limit for benzene from 10 ppm to one ppm, for failure of the Department of Labor to provide an estimate, supported by substantial evidence of the expected benefits, which made it impossible to assess the reasonableness between expected costs and benefits. American Petroleum Institute et al. v. OSHA 6 OSHC 1959 (5th Cir., 1978). Applying this rule to the instant case, it is clear that, in seeking to attain the highest degree of health and safety protection for the public, the District does not have unbridled discretion to adopt standards designed to create absolutely risk-free environments regardless of costs.

[Estimate cost of constructing devices to meet proposed standards; also, decision whether technically and economically able to continue to operate under such circumstances. (Result: unemployment and loss of important segment of national asbestos mining and mill operation).] An undue burden will be placed on Union Carbide's asbestos mining and milling facilities, if the proposed revisions to District Rule 424 are adopted.

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