STATE OF CALIFORNIA—AGRICULTURE AND SERVICES AGENCY
DEPARTMENT OF INDUSTRIAL RELATIONS

EDMUND G. BROWN JR., Governor

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

PLAINTIFF'S EXHIBIT
UC-5355

SUMMARY
PUBLIC HEARING
November 8, 1978
Sacramento

CALL TO ORDER

Acting Chairman Gerald P. O'Hara called the Public Hearing of the Occupational Safety and Health Standards Board to order at 10:03 a.m., in the Auditorium of the State Resources Building at 1416 Ninth Street, Sacramento, California, on November 8, 1978.

INTRODUCTIONS

Board Members Present

Mr. Gerald P. O'Hara, Acting Chairman
Mrs. Margaret R. O'Grady
Mr. Hubert "Jerry" Martin
Mr. Raymond Rodriguez
Dr. Patrick J. Clancy

Board Members Absent

Mr. Albert W. Turner, Chairman

Board's Staff

Mr. R. T. Rinaldi, Executive Officer
Mr. John L. Bobis, Principal Safety Engineer
Dr. Clint Vanneman, Senior Industrial Hygiene Engineer
Mr. Mark B. Ashcraft, Staff Services Analyst

Special Consultant to the Standards Board

Dr. Fred Ottoboni, Coordinating Engineer
Employee Education Program

Others Present

James E. Boyette, O.P.D.C. and R.I.A.
H. D. Martinez, O.P. and C.M.I.A.
Art DiGregorio, Plasterers' Union, Local No. 2
Norman Pugh, World Asphalt Company
Clay Johnston, California Lathing and Plastering Contractors Association
Edward D. Weyand, Associated Roofing Contractors of Northern California
Victor Stefan, W. R. Grace Company
Tom Feit, W. R. Grace Company
H. L. Olson, Johns-Manville
P. J. Gartty, Johns-Manville

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Others Present (continued)

Jim Guenther, U. S. Department of Labor, Federal OSHA
John L. Myers, Union Carbide Corporation
Paul H. Beemer, W. W. Henry Company
James M. Hay, Flintkote Company
H. B. Rhodes, Union Carbide Corporation
Michael Dell Ort, Calaveras Asbestos Ltd.
L. Saarg, Chevron Research Company
R. T. Ferm, Chevron Research Company
George Borg, Riverside Cement Company
Charles Bush, Riverside Cement Company
G. G. Sapp, Chevron U.S.A.
Virginia Loo, Department of Industrial Relations
Phyllis Fedderson, Southern California Edison Company
Lloyd Holliday, General Telephone Company of California
C. Fred Strahm, Cal/OSHA Reporter
Ralph Askin, California Department of Education
Paul Rokyers, Cement Masons' Local No. 594
Clarence Thomosson, Cement Masons' Local No. 814
John T. Baniston, Associated Roofing Contractors of the Bay Area Counties
Jack Brantley, Communications Workers of America
Nathaniel Holmes, Plaster and Cement Masons
Mike Braun, California Chamber of Commerce
Glenn Totten, BNA-Occupational Safety and Health Reporter
Emmons McClung, Construction Industry, Legislative Council
Joseph Valdez, O.P. and C.M.I.A., Local No. 631
Michael L. Kiado, California Department of Health Services

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CHAIRMAN'S OPENING REMARKS

As Mr. Turner, Board Chairman, was not present at the Public Hearing, Mr. Gerald P. O'Hara presided over the Public Hearing as Acting Board Chairman.

Mr. Gerald P. O'Hara
Acting Chairman

Mr. O'Hara briefly summarized the purpose of the Public Hearing indicating that affected parties would be given the opportunity to address the Board on the six items outlined in the Board's Notice of Public Hearing.

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CHAIRMAN'S OPENING REMARKS (continued)

Mr. Gerald P. O'Hara
Acting Chairman

Mr. O'Hara introduced Dr. Fred Ottoboni indicating that Dr. Ottoboni was on loan to the Board as a special consultant.

Mr. O'Hara briefly explained the reasons for the Board's existence and the procedures for the development and adoption of standards. The Board's legislative mandate is to adopt occupational safety and health standards which are enforceable, reasonable, understandabl and contribute directly to California employees.

Mr. O'Hara stated that the Standards Board represents specific interests by law--two members represent management, two represent labor, one member each represents occupational safety, occupational medicine, and the public, respectively.

Mr. O'Hara commented that the Board would consider testimony on the six items outlined on the Board's Notice of Public Hearing so that they could determine if any exemptions to the July 1, 1979 ban of spraying of asbestos-containing products specified in the Health and Safety Code Section 25910, are warranted--and if so--under what conditions.

There were 19 letters of comment received prior to the November 8, 1978 Public Hearing.

A. Are there methods and processes for the use of Portland cement plaster which contains less than one-half of 1 percent asbestos that should be exempt from Section 25910(a)(2)?

Mr. George Borg
Riverside Cement Company

Mr. Borg requested the Board to consider an exemption allowing the use of Riverside Portland cement plaster containing less than one-half of 1 percent asbestos.

Mr. Gerald P. O'Hara
Acting Chairman

Mr. O'Hara requested Mr. Borg to expand on his request for an exemption.

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A. Are there methods and processes for the use of Portland cement plaster which contains less than one-half of 1 percent asbestos that should be exempt from Section 25910(a)(2)? (continued)	
Mr. George Borg Riverside Cement Company	Mr. Borg stated that gun plastic, more commonly referred to as stucco, is sprayed on by pumping machines which move the stucco through hoses for spraying onto the exterior sides of structures to form the two coatings of material. He stated that Riverside Cement Company has been using this material since 1958 and is used extensively in Southern California in the construction building trade.
Mr. Clay Johnston California Lathing and Plastering Contractors Association	Mr. Johnston stated that the California Lathing and Plastering Contractors Association would like to see an exemption made allowing the continued use of Portland cement plaster. He commented that machine application of Portland cement plaster is the most economical and popular method of applying the stucco. Besides reducing building costs, it also provides a large number of jobs for skilled workers. He indicated that the building industry would be adversely affected if denied the use of the small amount of asbestos currently in stucco. He also stated that, to his knowledge, there is no equivalent material, or any material that comes close to the effectiveness of asbestos in the machine application of Portland cement plaster.
Mr. Art DiGregorio Plasterers' Union Local No. 2	Mr. DiGregorio requested the Board to consider maintaining the current requirements regulating the use of asbestos. He stated he knew of no other way the Portland cement plaster could be moved in a productive way through the machines. He indicated substantial stoppages in production would occur without the necessary amount of asbestos. He also commented that the alternate hand-applied method would substantially increase housing costs. In his opinion, the only persons exposed to the asbestos are the hod carriers and plaster tenders, but indicated these persons are protected by respirators.

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A. Are there methods and processes for the use of Portland cement plaster which contains less than one-half of 1 percent asbestos that should be exempt from Section 25910(a)(2)? (continued)

Mr. Art DiGregorio
Plasterers' Union Local No. 2

After further discussion, Mr. DiGregorio stated that, in his opinion, using a hand-applied method would increase housing costs by 300 percent.

Mr. Joseph P. Eagan
Plasterers' Union-Oakland

Mr. Eagan disagreed with Mr. DiGregorio's comments stating that when the asbestos is applied, it sets for two or three hours, then hardens. The mechanic then goes back and warps the surface of the cement and in doing so, separates the asbestos, thereby releasing the asbestos into the air. He stated that any asbestos whatsoever contained in cement is a detriment to the people using it and felt that asbestos was not needed.

In response to Mrs. O'Grady's inquiry, Mr. Eagan stated there were other materials available on the market that could be used in lieu of asbestos and were just as effective. He commented that if the operator keeps his equipment in workable order, asbestos would not be necessary.

In response to Mr. O'Hara's inquiry, Mr. Eagan stated he disagreed with Mr. DiGregorio's contention that housing costs would increase 300 percent without the use of asbestos.

Mr. Jerry Martin
Board Member

Mr. Martin inquired if the material referred to by Mr. Eagan contained less than one-half of 1 percent of asbestos.

Mr. Joseph P. Eagan
Plasterers' Union-Oakland

Mr. Eagan stated that to his knowledge, the material used had less than one-half of 1 percent of asbestos.

Mr. John Moylan
Plasterers' Local Union No. 66

Mr. Moylan stated that, to his knowledge, asbestos was not used at all in any of their stucco operations.

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A. Are there methods and processes for the use of Portland cement plaster which contains less than one-half of 1 percent asbestos that should be exempt from Section 25910(a)(2)? (continued)

Mr. John Moylan
Plasterers' Local Union No. 66

In response to Mr. O'Hara's inquiry, Mr. Moylan stated that there were materials other than asbestos currently in use that are machine-applied.

Mr. Gerald P. O'Hara
Acting Chairman

At this time, Mr. O'Hara requested Dr. Fred Ottoboni and Dr. Clint Vanneman to comment on the testimony received on Item "A" or provide any further information relevant to Item "A".

Dr. Fred Ottoboni
Special Consultant to the Board

Dr. Ottoboni commented that the studies which were submitted to the Board indicated asbestos fiber concentrations in the air during plastering operations, were generally below the two-fiber limit prescribed by Title 8. He also stated the requirement of two-fibers per cubic centimeter is subject to change and may be reduced in future years.

Dr. Patrick J. Clancy
Board Member

Dr. Clancy referenced a letter from the Vanderbilt Company indicating the difficulties they had in separating out the asbestos fibers from other fibers during sampling. Dr. Clancy requested Dr. Ottoboni to comment on the sampling analysis methods that are currently used.

Dr. Fred Ottoboni
Special Consultant to the Board

Dr. Ottoboni stated he had received and reviewed the report submitted by the Vanderbilt Company and agreed with their comments. He commented that the ability to analyze a bulk sample is very difficult when the asbestos level is less than five percent; and at two percent or below, it would be almost invisible, using standard sampling methods. He stated that air sampling methods and routine monitoring are far more sensitive and would pick up the asbestos at a half percent or lower; however, a bulk sample sent to a laboratory is likely to be invisible.

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A. Are there methods and processes for the use of Portland cement plaster which contains less than one-half of 1 percent asbestos that should be exempt from Section 25910(a)(2)?

Dr. Fred Ottoboni Special Consultant to the Board	Dr. Ottoboni requested Ms. Virginia Loo, Department of Industrial Relations, to comment further on the sampling methods used.
Ms. Virginia Loo Department of Industrial Relations	Ms. Loo stated that the practice of the Health Department's laboratory for the State of California is one that identifies the presence of asbestos in the bulk sample, but does not count fibers because of the difficulty involved when other particles are present.
Dr. Patrick J. Clancy Board Member	Dr. Clancy inquired if when using the standard OSHA, NIOSH sampling method for counting fibers, is it possible to distinguish between asbestos fibers and other fibers or are more refined studies needed to identify the asbestos fibers.
Ms. Virginia Loo Department of Industrial Relations	Ms. Loo stated that refined techniques would have to be used. She stated the sampling methods currently in use can distinguish if fibers are present, but cannot necessarily identify what the fibers are.
Mr. Charles Ray Western Plastering, Inc.	Mr. Ray stated that methods and processes used for the spray application of Portland cement plaster is within the minimum OSHA standards for asbestos and would like to continue using this method of application.
Dr. Patrick J. Clancy Board Member	In view of the testimony received, Dr. Clancy inquired why some companies were using asbestos as an additive and others were not.
Mr. Clay Johnston California Lathing and Plastering Contractors Association	Mr. Johnston stated that it was not economically feasible to manufacture Portland cement plaster without asbestos nor is there a demand for non-asbestos stucco in Southern California.

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A. Are there methods and processes for the use of Portland cement plaster which contains less than one-half of 1 percent asbestos that should be exempt from Section 25910(a)(2)? (continued)

Mr. Charles Bush
Riverside Cement Company

Mr. Bush stated that Riverside Cement Company manufactures a special type of cement for hand plastering, as distinguished from the cement used during spray-gun operations. He commented that the hand plastering cement does not contain any asbestos.

In response to Mr. O'Hara's inquiry, Mr. Bush stated that Riverside Cement Company was not selling any non-asbestos cement for plastering in California.

Mr. John Moylan
Plasterers' Local Union No. 66

Mr. Moylan stated that Calaveras Cement Company manufactures plastic and common cement and are mixed half-and-half using no asbestos additives.

B. Are there economically feasible methods and processes of spraying Portland cement plaster which does not contain asbestos and is such a product, method or process commercially available? (Section 25910(b)(2))

Mr. Clay Johnston
California Lathing and Plastering Contractors Association

Mr. Johnston stated that their Research and Development Committee has been researching the problem of finding additives other than asbestos to use with Portland cement plaster for at least ten years.

Mrs. Margaret R. O'Grady
Board Member

Mrs. O'Grady inquired if a substitute is necessary since testimony received indicated that a substitute is not absolutely necessary.

Mr. Clay Johnston
California Lathing and Plastering Contractors Association

Mr. Johnston stated that in order to pump the material by volume, an additive is necessary. He indicated that the material could be pumped at a slower rate without an additive, however, this method would be defeating the purpose of machine-applied operations.

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B. Are there economically feasible methods and processes of spraying Portland cement plaster which does not contain asbestos and is such a product, method or process commercially available? (Section 25910(b)(2)] (continued)

Mr. Jerry Martin
Board Member

After further discussion, Mr. Martin inquired as to what type of additive could be used to pump concrete which allows the material to flow more readily, but that was non-asbestiform.

Mr. John Moylan
Plasterers' Local Union No. 66

Mr. Moylan stated that the material Mr. Martin referred to was pozzolan.

Mr. Tauno Laine
Laine Research and
Development Company

Mr. Laine stated he was an independent formulator and research chemist for stucco, plaster and gravel industries. He stated that he had 25 years of experience and that his formulations have been used by leading companies. He commented that in finishing his research in gravel products, he felt that there are means available to change stuccos and plasters to be asbestos-free. He stated that another development had been tested lately by Hill Brothers Chemical Company utilizing artificial fibers in combination with non-metallic minerals. He stated that this combination was so promising that he felt that they would be able to complete their research by the July 1, 1979 ban and converge this material to the plasters' industry.

Mr. Dean Hill
Hill Brothers Chemical Company

Mr. Hill stated that they have a synthetic fiber which they have been supplying to the cement industry for stucco, plaster and various other uses. He stated that they are currently producing and selling about 4,000 tons a year.

In response to Mr. O'Hara's inquiry, Mr. Hill stated that they produce this product at about $250.00 a ton and would cost a little more than asbestos cement plaster.

Dr. Fred Ottoboni
Special Consultant
to the Board

Dr. Ottoboni inquired if this synthetic fiber was toxic.

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B. Are there economically feasible methods and processes of spraying Portland cement plaster which does not contain asbestos and is such a product, method or process commercially available? (Section 25910(b)(2)) (continued)

Mr. Dean Hill Hill Brothers Chemical Company	Mr. Hill stated that the new fiber is used in the food and drug industry and doubted if it would have any detrimental affects.
Mr. George Borg Riverside Cement Company	Mr. Borg stated that every effort was being made to eliminate asbestos from their stucco production program. He stated that with all the products they have tested, they have yet to find a substitute for asbestos that would be economically feasible for Riverside Cement Company to manufacture.
Mr. Gerald P. O'Hara Acting Chairman	Mr. O'Hara inquired if Riverside had tested sepiolite as discussed earlier by Mr. Laine.
Mr. George Borg Riverside Cement Company	Mr. Borg stated that they had not tested sepiolite and had not been aware of the research being performed in that area. He further stated that Riverside Cement Company was endeavoring to get out of the asbestos business as soon as possible.
Mr. Harrison B. Rhodes Union Carbide Corporation	Mr. Rhodes stated that sepiolite is one of the groups of natural occurring minerals that NIOSH is currently investigating for possible hazards. Mr. Rhodes suggested that Dr. Ottoboni contact Mr. John Demint for further information in that regard.
Mr. Charles Ray Western Plastering, Inc.	Mr. Ray stated that they test different products that are made available to them and most of the time incur damage to the equipment. He stated, however, that they are still willing to try any other product that may seem reasonable.
Mr. Tauno Laine Laine Research and Development Company	After further discussion, Mr. Laine stated that there will never be an asbestos-free, Portland cement formula with identical qualities as formulas using asbestos.

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C. If exemptions for any substances containing asbestos is granted by the Board, at what level should the time-weighted average concentration limits or ceiling concentration limits be set? (Sections 25910(b)(3), (c)(3), and (d)(3))

Mr. Harrison B. Rhodes
Union Carbide Corporation

Mr. Rhodes stated that the simplest and most direct manner of regulating time-weighted average concentration or ceiling concentration limits, would be to use the same levels that are currently used for other asbestos material.

Mr. Charles Ray
Western Plastering, Inc.

Mr. Ray stated that they could continue to live with and stay well within the existing OSHA minimum standards governing time-weighted average concentration and ceiling concentration levels of asbestos.

Mr. George Borg
Riverside Cement Company

Mr. Borg stated that Riverside Cement Company is willing and able to abide by the existing standards governing the concentration levels of asbestos.

Mr. Harry Martinez
Plasterers' International Association

Mr. Martinez stated that time would be needed to develop an additive that could be used other than asbestos.

Mr. Jerry Martin
Board Member

Mr. Martin inquired what the incubation period is in asbestosis afflictions.

Dr. Fred Ottoboni
Special Consultant to the Board

Dr. Ottoboni stated that asbestos is responsible for two types of diseases. One is a lung disease which was caused by very high doses of asbestos during earlier years before regulations were enacted governing the use of asbestos. Life expectancy with asbestosis is approximately 20 years from beginning of exposure. He further stated that as the work environment was cleaned up in later years, cancer was more prevelent in the workers exposed to asbestos.

He commented that in the next couple of years there will be revisions made to the asbestos standard. He also stated that the problem was so complicated that he recommended the Board not to change the existing standard regulating the use of asbestos. He suggested the Board allow Federal OSHA and NIOSH to develop a new standard on asbestos.

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C. If exemptions for any substances containing asbestos is granted by the Board, at what level should the time-weighted average concentration limits or ceiling concentration limits be set? (Section 25910(b)(3), (c)(3), and (d)(3)) (continued)

Dr. Fred Ottoboni
Special Consultant to
the Board

In response to Mr. Martin's inquiry, Dr. Ottoboni stated that the work that is being started by Federal OSHA and NIOSH will result in a new standard being issued by the U. S. Department of Labor.

After further discussion, Dr. Ottoboni stated that a safe level of using asbestos should be sought and did not support the contention that asbestos be banned.

D. Upon what basis, if any, should products containing "encapsulated asbestos fibers" be exempt? (Section 25910(c)(1))

Mr. Harrison B. Rhodes
Union Carbide Corporation

Mr. Rhodes provided the Board with samples and additional information supporting his previous testimony. He stated that all of the products they are requesting exemptions for, are products which have to perform a protective or structural function. Mr. Rhodes then proceeded to brief the Board on each exhibit submitted. Mr. Rhodes concluded his testimony by stating that the products with which they are concerned, perform a useful and valid service for industry and the general public. They contain wetted and encapsulated fibers which do not expose workers to levels in excess of those established by the current OSHA standard or by the Senate Bill 1591 requirements of one fiber per cubic centimeter.

Mr. Gerald P. O'Hara
Acting Chairman

Mr. O'Hara inquired what type of exposure would exist when demolition operations were being performed in contrast to spraying operations.

Mr. Harrison B. Rhodes
Union Carbide Corporation

Mr. Rhodes stated that tests had been performed in conjunction with the Department of Health and Federal OSHA and the results were contained in the exhibits submitted to the Board. He stated that he would provide the Board with more detailed comments on the Department of Health studies in the near future.

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E. Upon what basis, if any, should "cold process asphalt roof coatings" be exempt? (Section 25910(c)(1))

Mr. Paul Beemer
W. W. Henry Company

Mr. Beemer stated that the function of asbestos in asphalt roof coating operations is more extensive and significant than it is in other asbestos operations. He further commented that the primary function of asbestos is to regulate the flow properties enabling the material to be applied to a vertical surface without having it run off. He stated beyond that function, asbestos serves a unique purpose in reinforcing the asphalt coating to enhance its durability. He stated that in this function, higher quantities of asbestos is used. Mr. Beemer then submitted some samples to the Board supporting his testimony.

After further discussion, Mr. Beemer stated that the asbestos fiber is wetted, coated and bonded together in asphalt coatings and would not constitute a practical hazard.

Responding to Mr. Martin's inquiry, Mr. Beemer stated that if the material should burn, the asbestos fibers would not become airborne.

Mr. Richard Ferm
Chevron Research Company

Mr. Ferm stated that Chevron Research Company had spent a great deal of time, effort and money in testing additives and have been unable to find a substitute which would match asbestos in performance. He also stated that the lead time that is required to bring a product into commercialization is quite extensive.

F. Upon what basis, if any, should substances containing less than one-quarter of 1 percent asbestos as a result of naturally occurring impurities be exempt? (Section 25910(d)(1))

Mr. Thomas Feit
W. R. Grace Company

Mr. Feit stated that W. R. Grace Company had previously submitted to the Board their response to Item "F", regarding the basis for an exemption of substances containing less than one-quarter of 1 percent asbestos as a result of naturally occurring impurities. He also stated that W. R. Grace Company had submitted the necessary documentation substantiating the basis for which a particular Grace product, Monokote Fireproofing, should be granted a permanent exemption from the prohibition of Section 25910 of the Health and Safety Code.

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F. Upon what basis, if any, should substances containing less than one-quarter of 1 percent asbestos as a result of naturally occurring impurities be exempt? (Section 25910(d)(1)) (continued)

Dr. Fred Ottoboni
Special Consultant
to the Board

Dr. Ottoboni stated that in recent years, there has been much concern over the group of high-rise buildings that were built between 1957 and 1968. During that time, very high asbestos-containing material was often used to fireproof the steel beams. He stated that from reading the testimony received, Monokote Fireproofing is one of the substitute products which is taking the place of material that contains between 20 to 50 percent asbestos.

Dr. Ottoboni further commented that there is a problem of office workers being exposed to the asbestos-fireproofing through the air conditioning systems in these buildings; however, this problem does not exist with the new products that are now on the market.

Mr. Harrison B. Rhodes
Union Carbide Corporation

Mr. Rhodes advised the Board to act on this matter as soon as possible allowing manufacturers lead time to pull their products off production well before the July 1, 1979 ban.

ADJOURN

Mr. Gerald P. O'Hara, Acting Board Chairman, adjourned the Public Hearing of the Occupational Safety and Health Standards Board at 12:30 p.m.

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