THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2019-000164
Circuit Court Case No. 2015-CP-46-3456

RECORD ON APPEAL
(VOLUME II)

RECEIVED
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SC Court of Appeals

Timothy W. Howe, Individually and as Personal Representative of the Estate of Wayne Erwin Howe, Deceased, and Jeannette Howe ..... Respondents,

v.

Air & Liquid Systems Corp., Individually and as Successor-in-Interest to Buffalo Pumps, Inc; Airco, Inc.; Airgas USA, LLC, f/ka National Welding Supply, Inc.; Albany International Corp.; Asten-Johnson, Inc.; Aurora Pump Company; A.W. Chesterton Company; Beloit Corporation; Black Clawson Converting Machinery, LLC, Individually and as a Subsidiary of Davis-Standard LLC; CBS Corporation, a Delaware Corporation f/k/a Viacom, Inc., Successor by Merger to CBS Corporation, a Pennsylvania Corporation, f/k/a Westinghouse Electric Corporation; CGR Productions, Inc., f/k/a Carolina Gasket and Rubber Company; CNA Holdings, Inc., f/k/a Hoechst Celanese Corporation; Celanese Corporation f/k/a Hoechst Celanese Corporation (Sued Individually and as Successor-in-Interest to Fiber Industries, Inc.); Cleaver Brooks, Inc.; Covil Corporation; Crane Co.; Crown Cork & Seal Company, Inc.; Daniel International Corporation; Davis-Standard Corporation, LLC; Dezurik, Inc. d/b/a Dezurik-Apco Williamette Eagle, Inc.; Fisher-Klosterman, Inc., as Successor-in-Interest to Buell Engineering Co.; Flowserve Corporation, Individually and as Successor-in-Interest to Durco Pumps; Fluor Enterprises, Inc., f/k/a Fluor Daniel, Inc.; Fluor Daniel Services Corporation; Foster Wheeler Energy Corporation; General Electric Company; The Gorman-Rupp Company; Goulds Pumps, Incorporated; Ingersoll-Rand Company; Linde, LLC f/k/a The Boc Group, Inc., f/k/a Airco, Inc.; Marsulex Environmental Technologies Corporation,

Individually and as Successor-in-Interest to Buell Engineering Co.; Marsulex Environmental Technologies, LLC, as Successor-in-Interest to Buell Engineering Co.; Metropolitan Life Insurance Company, a Wholly-Owned Subsidiary of Metlife Inc.; Peerless Pump Company; Presnell Insulation, Inc.; Riley Power, Inc., Individually and as Successor-in-Interest to Babock Borsig Power, Inc., and Riley Stoker Corporation, Individually and as Successor-in-Interest to D.B. Riley; SCAPA Waycross, Inc.; Sepco Corporation; SPX Cooling Technologies, Inc., f/k/a Marley Cooling Technologies, Inc., f/k/a The Marley Cooling Tower Co.; Sterling Fluid Systems (USA) LLC; Trane U.S., Inc., f/k/a American Standard, Inc., f/k/a American Radiator & Standard Manufacturing Company; Union Carbide Corporation; Uniroyal, Inc., f/k/a United States Rubber Company, Inc.; United Conveyor Corporation; Velan Valve Corp.; Viking Pump, Inc.; Warren Pumps LLC; Yuba Heat Transfer Corporation; and Zurn Industries ... Defendants,

of whom

Cleaver-Brooks, Inc. is the ..... Appellant.

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THE COURT: Oh, okay. That's plenty different from what y'all told me at side bar. No, I'm not going to do that to them, we're going to take an early lunch. It is 11:15 for all practical purposes, let's try to begin at a quarter to one. You may go to your jury room.

(The jury left the courtroom and a break was taken.)

MS. O'NEIL: Your Honor, what I'd like to do is call Mr. Tornetta first for the testimony of the proffer, let plaintiffs ask whatever questions they want for their part of that, and then we'll just admit for ID purposes on the record the exhibits.

THE COURT: Very good. Let me for the record state that a ruling was made by me last Friday with respect to issues surrounding the late disclosure at midnight the previous evening or very early Friday morning of additional documents, index cards and one file with regard to the Cleaver-Brooks package boiler or boilers that may be at issue in this case. There had been previous documentary information offered that had two different numbers on it; one was 18343 and one was 18344, I'm just speaking from memory but I think I'm right about that, and a good deal of examination has been had the previous Thursday afternoon about what various documents showed about 18343 versus 18344, and there was a big issue raised as to whether there two different boilers and -- whether there were two different boiler at Bowaters that were Cleaver-Brooks

boilers and that remains an issue. Then that late evening or early morning further material was supplied by counsel for Cleaver-Brooks to counsel for plaintiff, and this was -- my ruling had nothing to do with any fault on defense counsel's part, defense counsel was not given them until around that time by the witness Tornetta who was on the stand who was the corporate representative, they were for the first time supplied with some of this material from their witness, and they, of course, passed it on to plaintiff's counsel when they received it. The next morning the attempt was made by defense counsel to offer into evidence these additional documents, two are something called index cards which were maintained at the time, and one was an index card 843, 18343, which showed a boiler -- a package boiler shipped to Bowater, and another was an index card 18344 showing a package boiler shipped to some place in Illinois, and in addition material from the file of the 18344 boiler. I ruled that Mr. Tornetta had had numerous opportunities to discover that material, including direct questions by counsel for plaintiff about the existence of index cards, which he said were in existence but they didn't need them because they are duplicative which they already had. Mr. Tornetta said that at the time when he had in his kin of documents in the 18343 filed, which had two different numbers. I ruled that those documents couldn't -- additional supplementary documents could not be introduced into evidence,

and that rule conveyed in the examination of Mr. Tornetta both in plaintiff's case and in the opening of the defense case has proceeded. We now have a break which allows Ms. O'Neil for the defense to complete a proffer she wanted to make with respect to these documents, so I now recognize Ms. O'Neil for that purpose.

MS. O'NEIL: Thank you, Justice Toal. Just one point of clarification, I think you just said that we got the records from Mr. Tornetta, he was actually on an airplane coming here to testify as the last witness for plaintiff so I got them from Cleaver-Brooks, I didn't get them from Mr. Tornetta.

THE COURT: Very good. But you received them at a very late hour and as soon as you received them you transmitted them to the plaintiff, and the plaintiff, of course, had never seen them before and made the objection that the disclosure was way too late and was prejudicial and I ruled with plaintiff on that issue.

MS. O'NEIL: Yes, you did, Your Honor. And just one other clarification. My understanding of the South Carolina Rules with respect to proffers is that I put in the evidence that I think is relevant to the issue but I did not reargue the ruling on the objection; is that correct?

THE COURT: That is correct, there's no necessity for that. You made a very complete argument and your record is protected in that regard but you wish to supplement that with

this material and you certainly are permitted to do so.

MS. O'NEIL: Thank you, Justice Toal. We would call John Tornetta to the stand for the proffer.

THE witness, JOHN TORNETTA, remained under oath and

Testified as follows:

THE COURT: Mr. Tornetta, you have previously taken the witness oath to give truthful testimony and sworn to do that, is that still your oath?

THE WITNESS: Yes, it is.

THE COURT: Very good, you may proceed.

MS. O'NEIL: Thank you.

DIRECT EXAMINATION

BY MS. O'NEIL:

Q Mr. Tornetta, I'm going to hand you what we've marked as Defendant's for ID 11, 12 and 13.

MS. O'NEIL: Which for the record, 11 is the Bowater Catawba index card for unit number 18343, and 12 is the National Protein formerly American Milling and Refinery index card for 18344, and 13 is the commercial record for 18344.

Q You have seen these documents, correct?

A Yes, I have.

Q With respect to the index card for the Bowater Catawba Mill, tell me what's that exhibit number?

A Exhibit 11.

Q Based upon your knowledge or respect to how

Cleaver-Brooks kept their historical records in 1957, what would you expect to find with respect to either that index card or in the index file if Cleaver-Brooks had shipped a boiler to Bowater with unit number 18344?

A It would have been listed on this card next to 18343.

Q And then if you could look at the next exhibit for me, please, which is Exhibit Number 13 -- 12, I believe.

A Twelve.

Q Twelve. Exhibit 12 is an index card, and what does it say at the top with respect to the company?

A National Protein Corp.

Q And it has unit number 18344, correct?

A Correct.

Q And it says at the bottom, or it's sort of in the middle of the page something about American Milling?

A Correct.

Q Could you read that into the record?

A Formerly American Milling and Refining.

Q Can you explain what that entry on the card means?

A It's an indication that the boiler was moved from one location to another, or in some cases -- in this particular case I believe it was moved when we got the records, but in some cases it shows a change in the name.

Q If you could look at the last exhibit I gave you, which is number --

A Thirteen.
Q Thirteen. And if you could look at the back, I'm actually looking at the manufacturer's data report which is at the very back of the file.
A Okay.
Q There's the boiler number there?
A Correct.
Q And you previously gave some testimony on the record in front of the jury about what that means. Could you read into the record the boiler number for the one to which Cleaver-Brooks assigned unit number 18344?
A It calls out boiler number 10028.
Q And if the unit with pressure vessel number or number boiler number 12 -- I'm sorry, I can't read it.
A 10028.
Q Thank you -- were sold to Bowater, where would you expect to have found that?
A There would have been an additional data record in the records for the Bowater file, or Bowater commercial records.
Q That was marked as P55?
A I believe so, yes.
Q And then if you could flip to the front.
A Okay.
Q There is a letter dated October 4, 1977, it says Cleaver-Brooks division inter-organization correspondence,

do you see that?
A Yes, I do.
Q And it says, "Please change our unit book customer file" -- and I can't read this, I'm sorry.
A I think it says territorial listing. Want me to continue?
Q Yes.
A From America Milling and Refining Company, Monmoth, Illinois (Orin County) to read National Protein Corp, Champagne, Illinois (Champagne county.)
Q Thank you for reading that, without my glasses I can't read anything. And to you what does that indicate?
A That tells me the boiler was physically moved from one location that we sold it to initially is the way it appeared looking through the rest of the records, to a second location.
Q And does it show that as late as 1977 that boiler was in Illinois?
A Yes. That's the way I would take this letter.
Q And then if you look at the -- it will be the first two pages of the exhibit, but as I recall you saying in front of the ladies and gentlemen of the jury, you actually read a commercial record from the back up because it went in the file so that -- is on the bottom?
A Typically, yes, unless there was an addition to

microfiche. After it was initially microfiched it was usually chronological from the back to the front, not always but generally that's the way I find it.

Q And there is a message dated 1/4/78 which talks about unit number 18344, do you see that?

A Yes.

Q And it is asking to send three copies of a wire readout to Champagne, Illinois?

A Correct.

Q And it is your understanding that that is a request being made from National Protein in Champagne, Illinois for documents related to unit 18344?

A Yes. Either with National Protein or it looks like it's Reliable Plumbing and Heating, so maybe on behalf of National Protein it may have been somebody working on the boilers wanted some wire diagrams in 1978.

Q And then there's another one that I don't -- I can't see that there's a date on it.

A I don't see a date either.

Q Does that indicate a second request made for something related to 18344 to be sent to Illinois?

A Yeah. I think it's in response to the first -- the one we just read asking for it, it is Sid Snow sending the wiring diagrams to Mr. Walters it looks like.

Q And based upon these documents we've looked at, is

there any doubt in your mind that according to Cleaver-Brooks records unit number 01844 (sic) was in Illinois at least as late as 1978?

A 18344, yes.

MS. O'NEIL: Those are all of my questions.

MS. DEAN: Your Honor, can I ask a couple of questions?

THE COURT: Yes, of course, Ms. Dean.

MS. DEAN: Thank you.

CROSS EXAMINATION

BY MS. DEAN:

Q You did not produce to attorneys to provide to us in this case Exhibits 11, 12 or 13 at any moment prior to your deposition in this case, whether it be the first one or the second one, the second being done on March 6th, correct?

A Correct.

Q You were not asked to pull Exhibits 12 and 13 by anyone at Cleaver-Brooks until Thursday, and that is Thursday, March 15th when we were in our fourth day of trial, correct?

A I believe so, yes.

Q Ms. O'Neil represented that those documents were provided to her by someone else at Cleaver-Brooks while you were in flight, does that sound right to you?

A Yes.

Q About when was Cleaver-Brooks' counsel provided for the first time Exhibit 12 and 13?

MS. O'NEIL: Objection, that would call for attorney/client privileged information.

THE COURT: All right.

MS. O'NEIL: We would only know --

THE COURT: I don't know that it's pertinent, I don't want to get into attorney/client information, but let me think a minute.

Q I'll represent to you Ms. O'Neil after Ms. McVey made a request on the 14th for any new information before you took the stand the next morning, first obtained Exhibits, 11, 12 and 13 at 11:38 p.m. Do you know how many hours had passed before you were aware those records were pulled and that we were provided them on the 14th?

MS. O'NEIL: Again, attorney/client information.

THE COURT: I'm going to allow this line of questioning, it's a timing situation on a failure to produce earlier and a statement by Mr. Tornetta that they needed these records so I'm going to allow the questions.

MS. O'NEIL: But I would like -- I have a concern about broaching the privilege, Your Honor, so I would state on the record that I received these documents approximately whenever we got out of court and I looked at them during my preparation of Mr. Tornetta, so that was before 11:30 at night.

THE COURT: But after 5:30 at night.

MS. O'NEIL: Oh, yeah. I didn't get anything until after

we got out of court and I went back to the hotel and ate dinner then sat down to prep --

THE COURT: That's the sequence I thought was at play here. It wasn't a question that you had these documents in your hands before -- at some earlier time when you either by phone or in person prepared Mr. Tornetta, you got them after we left court that day and you ate dinner and Tornetta got here and at some point you these documents and then --

MS. O'NEIL: And I did meet with him with those documents before I sent them to plaintiff's counsel, I'll state that on the record. But I am concerned about broaching the privilege not in South Carolina but somewhere else.

THE COURT: I don't want to get into discussions with other lawyers in Cleaver-Brooks internal operation so I understand and that's why I am being cautious about this, but I think we have got a full picture out here, Ms. Dean, have we not.

MS. DEAN: All I really wanted to confirm is they got them soon after, so I think with that representation --

THE COURT: Very good. I think we've got on the record what Ms. Dean is after.

Q The only other questions I have, is you have indicated under oath not only in the depositions taken in this case but repeatedly for years that a unit number is like a serial number which is a specific ID for a particular boiler, fair?

A Yes. As we pointed out, there's a couple of other serial numbers that may be on data reports and things like that, but the unit number is how we would have filed things.
Q You never disclosed or discussed in your deposition or in discovery that you reviewed that you believed the second unit number in the commercial records produced to us in this case was a typo, correct?
A The 18344 reference in the 18343 file?
Q Yes, sir.
A No. I don't think we discussed that unit number in those depositions at all.
Q The first time you indicated that a second unit number was, in fact, not a second boiler but a typo was in court when I asked you standing in this spot and you were sitting on the stand in the spot you're currently in right now.
A Yes, I believe so.
Q You then on examination by Ms. O'Neil discussed the various reasons why you believed that typo appeared four times, and that your understanding of the records made it clear to you it was a typo. An example of that was that a field report should have been for each one, and the fact that there was only a field report for 44 and not for 43 is an example of how your knowledge of those documents led you to conclude that there was, in fact, not two boilers despite there being two boilers; is that fair?

A I believe so, yes.
Q None of those things were identified in written discovery or in depositions to the parties before you stated them in this courtroom in front of the jury, correct?
A Correct. Other than us producing the records that showed the two different ones and not discussing it at all in depositions, correct.
Q So even though I think you were in the courtroom when the Court indicated that Exhibits 12 and 13 could not come before the jury, it is not just the cards and the commercial records associated with the 404 unit boiler number that's new, it is all of your testimony that the understanding of the commercial records relating to Bowater are wrong, they are not two unit numbers as they state but there is a typo as to one of those unit numbers, fair?
A Correct. I didn't discuss the typographical error at all in the depositions.
MS. DEAN: Thank you, that's all I wanted to ask him.
THE COURT: Very good.
MS. O'NEIL: Brief redirect, very brief.

REDIRECT EXAMINATION

BY MS. O'NEIL:
Q Mr. Tornetta, when you reviewed the commercial records to prepare to verify interrogatories or to give a deposition, what was your focus?

A My focus is when we shipped it initially, the unit number to pull the microfiche, and then the invoice to find out when we shipped the boiler and what type it was.

Q Do you go through to try and look to see if there's anything different about unit numbers or anything else?

A No.

MS. O'NEIL: Those are all of my questions.

THE COURT: Very good. That completes the proffer?

MS. O'NEIL: No, I've got documents, it completes the testimony.

THE COURT: That completes the testimony of Mr. Tornetta. Shall he come down or do you want to proffer these documents through him?

MS. O'NEIL: No, he can come down.

THE COURT: You may come down, thank you, Mr. Tornetta. You may proceed with marking the documents.

MS. O'NEIL: I will State to the Court that each one is marked specifically as ID. Defendant's 20 for identification purposes is a March 13, 2018 email at 9:51 p.m. from Ms. McVey to Ms. Pugh and myself attaching a revised life care charge from their expert, Sarah Lustig, "This will change Dr. Wood's economic loss numbers and I will get that to you in the morning."

(Break in proceedings.)

MS. O'NEIL: 21 for identification is an email March 9th,

2018 at 5:50 p.m. from Mr. Tom Kennaday who has, I believe, already gotten on the record here as counsel for Bowater sending to Ms. Dean, myself and some other lawyers some documents, "Pursuant to questions I was asked after the deposition of my client, Resolute FPUS, one taken in the Smith and Sizemore cases, one taken in Howe, I followed up with Mr. Art Welker," and then there are some documents.

THE COURT: This is 22?

MS. O'NEIL: Yeah, but I didn't mean to mark Defendant's 22 so I am going to withdraw Defendant's 22 for identification, it's got nothing to do with this issue. Defendant's 23 for identification purposes is a March 12, 2018 email from Mr. Kennaday again to Ms. Dean and myself attaching additional documents that Art Welker had found. Defendant's 24 for identification purposes is another email from Mr. Kennaday March 12th at 8:07 p.m that just simply is again to Ms. Dean and myself, it says, "Art found more documents, call me with your questions." Defendant's 25 is an email sent at 9:43 a.m. from Ms. McVey to Mr. Pugh asking whether, "If there were any documents that show what was or was not at the Bowater location, please confirm that we already have them and that they've been Bates numbered. Exhibit 26 for identification purposes is an email from me to Ms. McVey and Ms. Dean at 11:35 p.m. on March 15th stating, "Although we believe we are not obligated to produce this given that it is evidence that came

directly in response to the arguments made in court today regarding unit number 018344, Ashley will forward you a link to the document shortly, they're too big to email." Exhibit 27 for identification is the March 15, 2018 email from Ms. Couch to plaintiff's counsel with the link. Exhibit 28 is a March 15, 11:57 a.m email that I presented to plaintiff's counsel regarding that production because I had failed to include Mr. Pugh on the first one and included some other person where I was correcting that and asking plaintiff's counsel to please confirm they received the link. Defense 29 for identification is an email report from our software at 12:07 a.m. which shows that Ms. McVey downloaded the documents. Defendant's Exhibit 30 for identification purposes is an email on Monday, March 19th, sent at 2:32 a.m., so this morning with new objections and counter-designations to Cleaver-Brooks designations for their own witness, Wayne Howe.

THE COURT: What do these have to do with anything?

MS. O'NEIL: I think this is relevant to the appellate issue, Your Honor.

THE COURT: The appellate issue with regard to these other things -- oh, tit for tat, they sent them late, therefore I sent them late, or you sent them late, therefore they sent them late.

MS. O'NEIL: That's why I asked --

THE COURT: I consider that very irrelevant to anything

even on proffer, I think that's a little over the top. I don't think y'all ought to do each other that way.

MS. O'NEIL: Exhibit 34 for identification purposes is a second 2:33 a.m. email from this morning regarding additional designations for Gilbert Small from the plaintiff.

THE COURT: And again, I consider these -- I'm about at the end of my patience about this -- I consider this kind of stuff irrelevant. This other was something that had been asked for, y'all -- everybody has had the Howe and Small depositions for a very long time, it's just a question what you're asking to use and that's been a moving target in this trial for both sides about what ends up being designated and what not, it was certainly done very late at night or early in the morning, but early morning again is not your fault but very definitely your client's, was a completely new revelation for the first time, and that's why I see these late night and early morning exchanges between you counsel on something otherwise that is not pertinent at all over documents that have been well known for some time is not pertinent to the other rulings.

MS. O'NEIL: I understand that, Your Honor. Exhibit 31 is a complete copy of the first deposition of John Tornetta including the exhibits.

THE COURT: No, it will be Exhibit 32, 31 was Gilbert Smalls.

MS. O'NEIL: Oh, you're right. No, I got those backwards.

Exhibit 34 is Gilbert Small, Your Honor, I had to go out of order.

THE COURT: Okay. And then Exhibit 31 is Tornetta?

MS. O'NEIL: Exhibit 31 is Tornetta, correct. And it is a complete copy of this first deposition which was taken on -- the first one is his first deposition, Your Honor, I can't --

THE COURT: What's the date of it?

MS. O'NEIL: I believe it is February 6th, Your Honor, but I can't see it. I would just not specifically for the record the commercial record is attached as Exhibit 4.

THE COURT: The commercial record of 18343.

MS. O'NEIL: Yes, thank you, Your Honor, I understand what Ms. Dean was asking. And Exhibit 32 is the March 6, 2018 deposition taken of John Tornetta in this case. And Exhibit 33 for identification purposes is the deposition of Art Welker taken on February 20th, 2018 in this case. I skipped one at the beginning, Exhibit 19 is a complete copy of the asbestos trial docket amended general scheduling order for this case including the attachments thereto. And that is the Defendant's proffer.

THE COURT: Very good.

MS. O'NEIL: And we will get for plaintiff's counsel those two exhibits, I put the sticker for 22 on the wrong thing and I just need to fix that.

THE COURT: Very good, all of that is done. Ms. Dean?

THE COURT: Very good, all of that will be done. And now closing arguments.

MS. DEAN: Okay to proceed?

THE COURT: You may proceed, Ms. Dean.

MS. DEAN: I think we're ready. Good morning. I woke up excited this morning. You're going to be read 30 pages of law, you heard a week of facts and I get to now explain why those facts prove repeated violations of safety that caused a lot of harm to this family and I've been waiting to do that for two years, so I really am excited. And it's the first time since opening that I get to talk to you. It's not a conversation but it's easier than talking to a witness about why I think there is powerful evidence in the case of repeated wrongdoing. When we started I told you I want to give you a fray kind of outline of a puzzle. And I believe these were the two biggest disputes, and then we got evidence later that day and later that week including midnight information, but I'll tell you I think I was wrong, I think there's a third major dispute; the location and number of Cleaver-Brooks boilers. So I would go to the heart of the matter first, and then I want to explain once that's cleared up about why you have a repeated violation of clear law and clear standards in South Carolina for which they offered no justification. Let's talk about the boilers that were at Bowater that Cleaver-Brooks sold. Their biggest argument is that our records are incomplete, messed up and

filled with errors. There's not two boilers, we just made a lot of mistakes, and at the same time complete and reference every sale of records that happened to Bowater and they said both things within a span of minutes. Let's start with the first. Their claim that the records they have show the totality of what could have been sold to this plant in the 50's and 60's, that's at the heart of their claim. How did they try to prove it? There's no document retention policy. Companies have those to say what document they kept, which ones they didn't and why. They produced nothing that they showed to you. This is a multinational company of thousands of employees leading the industry. They had the ability to bring any one they want to speak on their behalf. They bring a gentleman who started in 1985 and has no personal knowledge of what was and was not kept in the 60's and 70's. He makes bold claims, and I tried to show you how he's done it for years with very little research that always helps his client, that always helps his employer, Cleaver-Brooks. The claim here was the units in our records are the university -- universe of the boilers. I said, "Wait a second, you mentioned on the stand that you were working on a group of South Carolina cases." You will see in the notation on those Bates labels Howe, Sizemore, Smith. This is Mr. Howe's case. But in learning about the other cases we said, "You say your records are complete but in these two places my guy worked, Duke Clifford and Duke McGuire, you got

nothing. And Duke and the state of North Carolina have records that you were there in the 50's and 60's." He just dances around that, "Well, things move." I'm not claiming their records are incomplete bringing evil motive, that's my point. Things move, your records aren't complete, admit what we all know to be true. And there was this moment of clarity that came right at the very end of the second day that he was here, so I'm just talking about on Monday where Ms. O'Neil asked him this question: "How long to your knowledge does Cleaver-Brooks keep these records that show the pressure vessel or boiler number for each pressure vessels it makes?" Clear chance to read over that. Now, in 2018 they're kept forever. Back in the day before microfilming they were all of the records for specific boilers -- all of our records for specific boilers were kept until we were told that the boiler was taken completely out of service. The notion that their records define the universe of what was at Bowater is clearly demonstrated to be false. It's more than that. Even if we just look to the documents you have we know from common sense and the facts that there's more than one boiler. This is how I know that. The timeline. The first boiler I want to talk about I referenced as unit 43, that's the one that they do not dispute was at Bowater that they sold that had a bunch of asbestos on it. Even in opening Ms. O'Neil said "We're not disputing that would get into the air, we know that's the

boiler at Bowater." We knowed it was shipped on November of 1957. I tried to reference in this presentation, this is why I've gotten little sleep, every place I can show you where you can verify things yourself. So in Exhibit 55 and Bates label six, for instance, that's -- it was operating. It took ten days to hook it up. It's an industrial boiler, they say that in their own records to get it started, they complete that on February 10th and 11th, that's on Bates 5. We then get this document at the start of trial that's been marked as Exhibit 45 from Bowater, it's the one that Art Welker says is the one and only document I could find proving Cleaver-Brooks was there. "Sorry, Ms. Dean, you're right. I messed up when I talked to you in February, I said there was no record of Cleaver-Brooks, I found the record." What that record showed is that in 1971, and this is Exhibit 45, there was a Cleaver-Brooks gas fired boiler, but where? In the administration building. We didn't know the unit number, we don't know a lot, but this is what we know, the universe from Bowater. Combine that with the sworn testimony of a person who has no dog in this fight, Art Welker, the engineer who spent hundreds of hours, not a couple of minutes like Mr. Tornetta, hundreds of hours trying to figure out what happened, and he said the administration building was constructed in 1961. And remember the plant? They have unique names from number one papering mill from the TNP for each one of the buildings. We don't know exactly in '61 but it's 1961.

He also tells us on Thursday, March 15th, that the powerhouse was built when the plant was built, and that's in 1957. A boiler operating in February of '58 is not in a building that doesn't exist. Unit 18343 is not the boiler put in the administration building, that's the first thing we know cleanly. We also know, as I showed to this to Mr. Welker, that the two places that there were boilers initially believed was in the powerhouse in '57 and again in this admin building. So where it went, where it clearly went was in the powerhouse, which completely lines up with the testimony in this case. Wayne Grant was asked, "Do you remember package boilers? Yes, a couple of them," and then there was one. The very next part, "Do you know where any of those boilers were installed or when at Bowater? I'm going to say they were installed at different times. I'm thinking the 50's, '56 or '57" -- this is key -- "I'm thinking that's the year they installed at Bowater." So he doesn't remember exactly when Bowater is created, if it is '52, '56 or '57, but he remembers those package boilers coming in at the beginning of the plant, which corresponds with their 1957 boiler and it corresponds with what Art Welker knows because he did a lot of research. The second reason we know there's two boilers, look at Exhibits 41 and 42. We took the 25 pages of records that they have left about a boiler that they had a history with for 30 to 40 years, and we divided it in to two to show cleanly there are two boilers, you can see on

each of them the highlights to the two boilers over and over again. When we talked to Mr. Tornetta a week before this trial started on March 6th, there was no doubt that there were two Cleaver-Brooks boilers. The whole dispute was were they in this office building and administrative building, or were they in the powerhouse where Wayne worked? And then there was a game change, Art Welker took the stand, he said, "I did more research. One of them is Cleaver-Brooks, they're right, one of their boilers did go to the admin building but the other is not, it's a Kewanee Boiler." And then the story changed, we got the midnight testimony. There aren't two unit numbers. Yes. Unit numbers distinctly are the social security number for a boiler. Yes. I said for years since 2001 that means two boilers, but for the first time I'm going to tell you at 11:30 at night that I believe that's something different, because now they don't have a location for their second boiler. They come up with a story that there are repeated mistakes, that it went to Illinois, they don't have a single document to evidence that story, not a one. But here was the next question I had, and I asked it twice. Okay. You say that four times four different people made a mistake. Did you check the documents to see if there was any other indicators that showed to us whether these were two identical boilers, one boiler that was confused for two distinct boilers? And he was like, "Ms. Dean, I don't know what you are talking about." I asked it a different way; model

number, size, horsepower, anything, did you actually care enough to look? And he said, "I don't know what you're talking about." Let me show you what I'm talking about. The model number on this one is 723-30. 723-30. Again. Again. Then we start seeing 700-30, an entirely different model number. And we have one document where they reference both. And then you have again Art Welker's testimony. And the Judge will read to you how you kind of weigh the validity of a witness. I think the fact that he has no dog in this fight, the fact that you got to meet him, the fact you saw his sincerity, the fact that he owns his mistakes speaks highly for what he did. And what he said when I showed him this document is, "Sir, do you know if this Cleaver-Brooks boiler referenced in Bowater's documents is a second or a third boiler? I don't know." But the idea that there are multiple boilers that were at Bowater is something everyone but Mr. Tornetta at midnight believes. You are asked to determine what is more likely true than not, I want to hesitate on that for a moment. Because on TV, at least before I was a lawyer when I just wanted to be one and argued with my mom you hear beyond a reasonable doubt. In criminal cases where you can lose your life or your liberty, we insist on that. It is at the heart of our justice system that we would rather err on the side of letting people out than putting an innocent man away. In a civil context it is a lower standard. At the heart of it is weighing credible evidence,

you want to believe it, and when you do it you want to decide what is more likely and we have the burden to prove that. But when you're especially looking at events that were 40 years ago it's not 100 percent. I would have liked to, one, understand all the facts better before we started; and two, have more certainty about what happened to this family. But when we asked what is likely just based on the records we see that there is a Cleaver-Brooks boiler in the place where Wayne Howe worked for years, and where the heart of his job was to work on boilers. But we don't just have records. You have the deposition of Johnny Reed Bogan. I've never met him. Cleaver-Brooks was at the deposition but none of you have ever met him. Weighing someone's testimony is something you're legally given a definition of, but it's something we do every day. Whether Jonathan says something -- I'm teasing him -- or my mom, or a person who hasn't been straight with me, we weigh what we're going to put to that, right? "I'm going to be on time," oh, okay. It's hard to do that when you've never looked at a person, when you don't know if they're more like Tim Howe or John Tornetta, and you don't have that, and I recognize that makes your job harder. But I want to talk about why I believe his sworn testimony is incredibly believable and by itself proves our case. First you'll be told -- and I reference charge numbers, because we had an opportunity all day yesterday to talk about what that's going to be, and this is instructions

I think Chief Justice Toal is going to give you. Direct evidence is the testimony of a witness who claims to have actual and direct knowledge of the facts such as an eye witness. It is evidence if believed immediately establishes the fact. John Tornetta has no direct evidence. He literally wasn't around during the time frame when we were discussing these things, but Johnny Bogan does, he was an eye witness, he was there. What else do we know? His testimony was sworn. He was born and raised in Greer, he put his hand on the Bible and he swore to tell the truth, for most people that means something. He also told you why he knows about this, and I want to spend a few minutes here. He indicates that in '69 or '70 he went to Bowater, it was for shutdown six weeks at a time, he probably did that four to five different times, and that was with a gentleman by the name of Mr. Sizemore. So first of all you have in the 60's and 70's time frame weeks upon weeks going in and working with the boiler with Mr. Sizemore who was a specialist in working on field erect boilers. There's more. And you heard all of this before you knew the dispute, which is part of the reason I'm re-going over it. He came back without Mr. Sizemore for years, 17 years working on boilers. This is a person over the course of four decades who went to this plant for weeks at a time to work on only one thing; boilers. That was all he did. All of the other witnesses you heard kind of had a lot of responsibility,

these were specialists on boilers. What was his job? He was also tested and kind of coming in after two years. Appreciating what we were fighting about for a long time can sometimes get lost. But what Art Welker and what Cleaver-Brooks told us all of the way until they got to trial is that Johnny Bogan and Wayne Howe were just flat wrong, there aren't package boilers in the power house, there were only giant big field erect boilers. They got it wrong. I talked to Art about it, there were only five. I kept asking Art questions because I kept talking to people, this doesn't make sense. And it came back and he admitted, "Johnny Bogan was right, Wayne Howe is right. I didn't come until 2015. But it turns out in the 60's and 70's and 80's they were using process boilers and heating boilers in the powerhouse that were package boilers. And so Johnny Bogan, again, someone who doesn't have a dog in this fight, Wayne Howe, when he had no idea we were going to have this dispute said they were there, and they were. He also says that there were four Babcock and Wilcox boilers, no dispute. The other contractual evidence I think is involved in this Exhibit 10. Cleaver-Brooks in this time frame was the world's largest manufacturer of these boilers. Everything pieces together to believe that what Mr. Bogan said, even though he didn't get to meet you, is right. The last part, and it was just a side note I think that came in when you were read testimony for hours that was from Mr. Grant. He thought there

was a Cleaver-Brooks boiler at Celanese. He spent the first ten years of his career with Wayne Howe at Celanese from '67 to about '77. The lawyer for Cleaver-Brooks said "We didn't make those type," and they were right, they didn't make four-story Cleaver-Brooks, we're not arguing that or disputing that. But he asked this question, which I love, "So with that representation in mind, that being we didn't make those types of boilers, is it possible that Cleaver-Brooks is the name of a boiler you recall from some period but not necessarily at Celanese in Rock Hill?" And you got to see Wayne Grant's response, he paused, he thought about it, "Yeah. Yes." He worked at two places, Celanese and Bowater. Everything points to Johnny Bogan being accurate. So the next thing we have to prove is not just that was in the powerhouse, but because Wayne Howe spent so much time there, that's why we were focusing on the powerhouse that he worked with that boiler. How would we have done that? In Wayne Howe's testimony he was asked whether they were all field erect boilers after talking about a bunch of really large seven to ten story boilers. He says, "No. We have packaged boilers, a couple of them, there may be one package boiler down there now. That was at the powerhouse? Yeah." The records show there was a Combustion Engineering boiler. The records powerfully point to the fact that there was also a Cleaver-Brooks boiler. And there's testimony, but again, his memory because he worked there for a long time, was

spot on. "Did you ever have an occasion to work on the package boilers? Yes." Gilbert Small. You were read his testimony for a long time, verifies the same, every boiler in that powerhouse, all of them, were worked on by Wayne Howe. I don't think anybody disputes that. The nature of the work is critical. How do you expose this -- how did he get exposed to asbestos from those boilers? Wayne tells us when he's asked, "Kind of walk me through a day when you're working with boilers. Some of us would start pulling the gaskets off the doors and replace them, some of us would go in the boiler and start cutting tubes out and replace them." Now, first sometimes your best way to fight something is to create a false fight. No one said ever that a six foot tall man who weights 226 pounds crawled in the boilers. What he says is that we opened them up, some of us would go into the boiler, which means you're sticking your head to pull out tubes where all of the asbestos is, and they would do that work. The second thing -- I didn't appreciate this because I don't do boilers -- this is absolutely talking about package boilers and not field erect boilers. How do we know that based on the evidence? We talked about this with Art Welker and I showed you in opening, this is an actual field erect boiler. I showed a little man, I cut them out and I stacked them up. These are the tubes in the field erect boiler. You don't open a door and pull out tubes with the height of 11 men, he was talking about

package boilers. It completely fits the description of hinge doors that they had and the seven foot tubes that men pull out where someone goes to the front and the rear of those two doors to do that work. This is a Cleaver-Brooks manual saying it is accomplished by opening the front and rear doors just as he explained, and we know because I read it to you methodically just in opening that you interact with gaskets, packing and a bunch of cement. He also talks about in relation to the boilers changing out valves, changing out the gaskets on them, replacing them. Exhibit 6 is from the Bowater plant sale, these are all valves with asbestos. That is a picture of one of the flanges when the gasket goes between them, this is what he did, this is what he worked on. "Did you have a responsibility for any gaskets or seals on the boiler doors or access points?" Again, this is talking about a package boiler. You heard about the hand holes -- thank you, I'm tired -- the hand holes which is one access point and then the two big doors. And his answer, "Oh yeah, pipefitters, we have done all of that." That was their job replacing the gaskets on the door. He did that job as a contractor for Beta at Bowater and he said, "That's the only place I worked. It wasn't like I was at Bowater two days a week and somewhere else." In the time frame from '77 to '86 Beta was at Bowater, and then he was one of the few people hired as a contractor to be an employee there to do the same work until he became a master mechanic. And so

this is something he did for decades. We know that doing that maintenance involved a lot of interaction with asbestos. Now, John Tornetta says, "Exhibit 12 has nothing to do with this case." He didn't give you the benefit of his rational, and I don't understand it. This talks about all of their package boilers and the specific dimensions that they admit apply here in the exact right time frame. It also matches up with the operating manual they had in terms of where all of the asbestos went. The reason I think they want to disassociate themselves is because this gives the details of the actual work that they knew would happen because they instructed on how it would. For the cement and the rope and the furnace cement you were doing mechanical actions like scraping and wire brushing and using hammers, and that's extraordinarily. That's why their lawyer admitted from the get-go "Of course we knew there was asbestos and of course we knew about it released out in the air." This is their Exhibit D18, it is an America Society of Mechanical Engineering document that talks about routine repair. I took out different sections for boilers. What they say is different for Mr. Tornetta, not that you would have done an inspection yearly or sometimes longer, but you have to do them once a year and there needs to be maintenance and there needs to be repair, and it talks about the why's that shows that Wayne's testimony about doing this work completely makes sense in terms of how frequently and regularly he did it. There are all of these

different reasons and deteriorating insulation to taking off -- checking hand holes, corrosion, seal on the drums, and it goes on for pages. You'll be told by Chief Justice Toal in charge four circumstantial evidence is indirect evidence. We call it connecting the dots, sometimes I like it when the legal words just match with life. Direct evidence. Cleaver-Brooks was there in the powerhouse. Johnny Bogan, "I worked on all of the boilers. Direct evidence, Wayne Howe, Gil Small. The asbestos was all over it. Direct evidence from documents at the time. We have to connect the dots to show how there was repeated exposure but the evidence, I believe, is clear. There are some issues that are undisputed to Mr. Howe dying from the terrible disease, that he worked with asbestos from boilers for years and that he didn't do anything wrong. And I really want to focus for a moment on the significance of that last agreement, the fact that he didn't do anything wrong. Because I think what will become clear when you hear the charge is that all of this, whether you're a multinational company or whether you're an individual, whether you're a school teacher or an accountant had basic duties. It's the idea of personal responsibility when we're in a society with each other, but the specific duties are triggered by what rules we have. And so here I believe what you will hear is that when you make and sell a product, when you choose to put something into the stream or commerce and sell it to the public all over, no matter what

product it is, you have an obligation to educate yourself of the hazards and inform. At the heart of this is you are the expert in what you choose to sell and your personal responsibility as you know what you're selling, and to make sure you don't keep other people in the dark. Then there are employers, premise owners, those are -- with OSHA in the 1970's, what they're doing extends back to the 1930's, they have the obligation to have a safe workplace, and at the heart of the OSHA regulations in particular have to do with control. You're the ones armed with knowledge that can come out with ventilators, make sure people use respirators, demand that you wet things down. You have better power to do that than anyone else. And then there are employees, workers or users, and they absolutely have an obligation as well to follow the rules. And first of all no one disputes here that this is where Wayne was in this group, right? He was the worker, the user, sometimes as a contractor, sometimes as an employee. And no one disputes that the way he worked, the way he followed the rules, the way he behaved as a foreman was reasonable upright, there's no complaint after two years of working. I reference this first because I think that's a powerful point, but second because these duties interweave with each other. You'll hear that one person doesn't get off the hook because another person messes up, that's the first thing. You can't point to your brother and say he did it too, but I think it's more complicated than

that, and that the trigger of all of this starts with the maker. They are to inform the employer who is to control the work that goes to the employee, and when they failed they've created not only a violation of legal rules but they created a real harm for everyone else. There is no dispute here about that failure. And what you've heard, and I spent probably too much time on it, was that this duty is particularly critical when there are three factors. First, when it's not obvious. You know not to touch something really hot. You really need information when you can't glean it yourself. And every one admits that with asbestos if people don't tell you it can hurt you in your life you have no idea. The second is when it's not public. Sometimes the news can let you know that toys or paint or something that it's not obvious at all is bad because they want everybody to know. But with asbestos this didn't become in the mainstream, and you heard me ask Mr. Tornetta about it several times until the late 80's or late 90's. Companies knew, trade organizations knew, but the public did not. And when you have a non-obvious harm that's not in the public and you're talking about something that's life or death, that is when this duty becomes -- it's always a duty, there's never an option to or not, but it suddenly becomes critical. There's one more thing that I really believe was going to be undisputed because everybody else in this case, everybody else in the medical community, everyone has said it's clear but Dr. Oury,

the doctor that I talked to on Sunday, and you saw the videotape of him earlier, and that is Wayne Howe's mesothelioma was caused by asbestos. It's in his medical records for each facility he was treated at, it was said by Dr. Holstein. With Dr. Oury I went through the reports with other companies, every other medical person in this case, yes, this is clearly asbestos caused mesothelioma. And we also went through the consensus report, which is called the Helsinki Criteria, that when you have a documented asbestos it signals, signals just from the tumors existence what caused it and that's mesothelioma. But there are questions about how and why that happened that relate to our DNA, and that's why we brought you the top expert, look at his CV, hundreds of publications, published more about this than anyone else about why we still get this disease, and what he says is that some of us are more susceptible than others. There's a reason a wife gets it and her husband who had a lot more direct exposure doesn't. But what he said equally as clearly, and I hope it doesn't get lost, is you don't get it no matter how susceptible you are unless something comes in and that something is asbestos and causes the DNA error. He showed you our DNA and then he showed you at the very end of his presentation when he's still setting up this, he said this was for a Nobel Loriate, is he showed these explanation marks, lightening bolts. He made a -- we don't have lighting bolts in our DNA, but that represents

asbestos. Because without asbestos he said you had to have five to 20 errors, and without -- he has a picture of it. Without the asbestos binding the DNA repeatedly 107 people don't die every year from mesothelioma. The only reason Wayne Howe lost his life was because of exposure to asbestos. And when I cleanly asked Dr. Oury, "Is there anyone in South Carolina, in this country, sir, in the whole world that agrees with you? Nope," was his answer. I think that's powerful. So at the heart of what we have to prove and why we brought you here requires us to show three things, and this is from a car wreck cause to a complicated medical malpractice case to this, you have to show fault. Did they do something wrong? Did they run the light? Cause. Was the bad thing the reason the person got hurt? You can run a light and not hit somebody. And finally damages, and then you qualify it. So the rest of my time has to go through these standards. Focusing on causation first. One of things that Justice Toal will tell you in charge 23, again, I wrote these down but they're helpful to reference, it's in a charge called there can be more than one cause. Yes, there can be more than one cause. In a case like this where everyone says this is a cumulative dose, it's exposures over time, that's really important. It's more complicated than the average case which is why you have been asked to be here more often. I was the first one to tell you others are responsible. We believe that, we have fought that, we know it to be true,

but that doesn't mean that Cleaver-Brooks gets off the hook. You have to look at everyone that created the exposure. This helped me think about it the first time. It's kind of a basic and sophomoric drawing. This is the idea that you have someone polluting the river and then there's a contribution from different people, and it takes a cumulation of all three before the bad act happens. Each part has to play their role, that's cumulative dose. And what the law says is that the fact that there's negligence of a third party and concurred with the Cleaver-Brooks negligence does not relieve a company of liability. Let's talk about that. My personality if I was asked, what is the total loss for this family? I would want to know what each person who did this would pay. I can't talk about it, they can't talk about it, you don't get to know, that would frustrate me. What you are asked to do and really help us out with is were they a part of the problem and what's the total loss, and then we have clear rules and amazing judges that sort that out later and you don't get to know. But what we do need help with is were they part of the problem and what is the total loss. When does the fault of others get you off the hook? There is a defense called an intervening cause that tells you the one time you can, and this is the one part of the case where they have the burden to prove something. And I mention that because we had evidence and witnesses to establish what we had to prove, and I think here you heard nothing. For

intervening cause, which is charge number 24, they have to show three different things, all three of these things to get off the hook. First, the idea that if somebody else has done something and you could have never expected it and it 100 percent causes the problem, even if we have proved that you were icky, you did something bad, you didn't cause the problem and so you aren't responsible. The first step we have to prove is that other persons' actions you had no control, none whatsoever, not even partial control, they didn't prove that. I asked Mr. Tornetta, "Did you have numerous ways to communicate to Bowater hazard information?" Could you have put it on the manual? Could you have put it on the vessel itself? Could you talk to them when you started it up? Could you have called them in 1969 when you sold new equipment. Yes, yes, yes and yes." They clearly did not have complete control, but they had the baseline, the first step and the duty in line to make things happen here and they completely failed. They also have to prove that other people doing something wrong in this case, and they never clearly in opening or at any point in time defined who that is, but they have to show that that action was not foreseeable. That Celanese as a fiber plant wasn't using asbestos, that Bowater, it was unforeseeable that they would have insulation, and I think that's their argument. And there's no evidence of that, there is the exact opposite. You heard from Dr. Holstein, you heard from their own corporate

representative and you heard from Art Welker, that people for hot applications which were routine in these facilities used asbestos in the 50's 60's and 70's and until the 90's. This was not only foreseeable, it was widely known and undisputed. And finally they would have to show that whoever's fault it is that they are trying to blame was 100 percent at fault, and that is something that they couldn't get any expert in the whole world to say, not Dr. Oury, not anyone else because they didn't bring anyone else. Because what everyone says is that it's all the exposures during the right period that counted, that's cumulative dose. Dr. Brody said that, Dr. Holstein said that, the Helsinki Criteria, the scientists that Dr. Oury, their guy, said were great scientists, the right picks, says that. And read Exhibit 29 if you're interested, this is not a contested issue in the world. And this was a drawing I had with Dr. Holstein to say, "If you had 20 to 25 years of exposure, can you pick out some part and say that's it? No." Ms. McVey asked the same thing of Brody who gave the cigarette of example, "Can you say it's this pack and not that? No." So the fact there are a lot of other people that exposed him from his employees to the premises owner to Foster, Wheeler, and Riley made boilers or Babcock and Wilcox, not disputed, but that doesn't give them a free pass. We ask that they pay their fair share, we can't tell you what we believe that to be. They have the contention they should pay nothing, zero, not at all,

and I think that's a really hard position to take in this case. So we have to show was Cleaver-Brooks part of the problem. I want to talk to you about what is a total loss, and then I want to show you that we have shown that this wasn't an isolated event, this conscious, willful, known, careless, a particular type of behavior that's worth noting. You spent a week and a half with us and it may be more, I promised the family I will do this, I want to thank you. No matter what you decide in piecing together history from 30 or 40 years ago, you have shown up on time, I see you writing notes, you're attentive. I think this is the nicest court I have ever been in. It is hard to hear sometimes what you don't want, it's hard to figure out what you want to hear but you've been listening. You've beared with us as we've shown you all the documents implied and for that alone, for having the chance to be heard, I think that's what makes this country amazing and I thank you and I wanted to take that time. So I'm going to get quickly into the actual laws on fault, we've talked about causation, but fault. There are three different ways we believe that they acted in violation of South Carolina rules, we only have to prove one. We are showing you three because it goes into the very last question you're asked. This is not isolated. Over and over and over again in every way that South Carolina regulates people they violate the rules, one is enough but this is a company that is problematic. In terms of defending their

behavior, their actions, what evidence did you hear? How many witnesses came in? Dr. Oury -- I asked a question, "Are you here to explain Cleaver-Brooks conduct? No." Tornetta, who was the person they could pick out of anyone, "Can you explain why people -- you didn't make the decisions, can you explain why they did? Is there anything you could admit you would do differently? I'm not here to talk about that." There is not a human being, not one they could pay an as expert and not one from all the people that worked here that took that stand to justify how they behaved. It is not disputed they sold boilers with lots of asbestos that exposed lots of people to it, and they don't have a word to explain their behavior. The first question that I want to go through that you will be asked deals with strict liability. You'll be asked that we, the jury, find that defendant Cleaver-Brooks, Inc. is strictly liable for selling products that were a proximate cause of Wayne Howe's injury and damages. I want to explain why I believe the answer to that must be yes. Strict liability has to do with liability without fault. It doesn't look at conduct, it looks at the product which is very different than -- it deals with whether the product was defective, and defective means unreasonably dangerous. When I think of a defect I think of something not working, right? It's a little counterintuitive to me how the law defines it, it just means it's not reasonably safe as designed. There are two defects in this case; asbestos and a

lack of warning. There are instructions for each. The design defect is charge 13, the failure to warn is charge 14. To answer yes to this question we only have to prove one defect. But again, I go through this to show over and over again no matter how this state has looked at the issue they fail. The use of asbestos is uncontested. There was a suggestion that I added exhibits that have nothing to do with the boilers in this case, I'm going to address that. But I want to be clear, first, these are the exhibits based on their own Bates number that dealt with the boilers that were sent to Bowater. 220 pounds of drums of asbestos in it. JM 106 mail order was 70 and 91, two percent asbestos. Asbestos -- packing, which we looked at, which was 40 to 100 percent asbestos. Asbestos gaskets that were in a variety of different places. Then I showed you this sheet and this in two exhibits, Exhibit 11 and Exhibit 57. They were one page documents talking about where insulation should go on the boiler, and I thought what they did here was clever. They were shown Exhibit 57 that suggested an insulation and specifications for LR boilers. "Ms. Dean showed this to the jury, does this have anything to do with the boiler at issue? No." I agree. It showed that asbestos cement was 352, it showed that that's 100 percent raw asbestos, it showed that his claim on Friday wasn't true, but that's not the boiler at issue. The boiler at issue is Exhibit 11, which he was asked about. Look at the difference, it deals with all of

their steam boilers. It is undisputed that these were steam boilers for a package, and what it shows is you must have insulation all over the boiler shell that includes 85 percent magnesium insulation block and asbestos cement. We don't know which particular kind but we know they ranged from 40 to 100 percent asbestos. They read to you eight pages about joint compound used in the 80's and 90's. I added that last exhibit to say that's not asbestos, but I also thought that last exhibit was really helpful because it says one percent products. Joint compound comes in a bag of powder being mixed and used only four times is not okay, it kills people. This is a 40 to 100 percent asbestos cement that was a powder, raw. Whether it's combined with other agents or not it's in an environment that releases easier than anything else. And they used pounds of it on the inside door frame and outside of the door. They tried to indicate insulation was only pipe covering, but Mr. Tornetta was clear about this and Dr. Holstein was clear about this and the literature is clear about it, the Navy documents that they attached as Exhibit 3. Asbestos cement is the first type of insulating material. You also have pipe covering block in that millboard that they added, they are all insulating materials where one out of every ten men that worked on them were reported on the 60's to be dying of horrible diseases, that's what insulation is. That 85 percent mag is 15 percent asbestos, and then you've also got

the cement. It's not just Exhibit 11 shows that they were selling pipe insulation, the law is that if you sell, require or specify something you are legally responsible for it. And so even if they didn't sell it but just knew it was going to be there, and this is important because things get replaced over time, right, they sold the initial ones. They contest whether they sold the replacement parts, we're going to get into that in a little bit. But even if they didn't because their documents required and specified it, they are responsible for it. And here we know that they have to anticipate the environment of their product, that's the charge, and that they sold and tied in the service of pipe -- we know that because this is Exhibit 10 talking about package boilers fire tube types, specifically progress boilers, the boilers at issue. Burner operation is controlled by steam or hot water, hot means insulation. Fuel piping for gas or oil operation is furnished, that's by Cleaver-Brooks, and is ready for connection to service sources. In that same document they boast of the advantages of their boilers because it's a single source ready for operation. They come in, they do the service connections, there was the possibility for that pipe insulation. So what is unreasonably dangerous? It has to do with a few factors. The first is that is it more dangerous than the ordinary person would assume? If you want to be expected then they may be really dangerous, but that takes the unreasonableness out. And

there is no dispute this is why everyone admits Wayne Howe did nothing wrong here, that the ordinary person working in that plant, Wayne Grant, Gil Small, Wayne Howe, Johnny Bogan, did not expect this. They expect they might burn themselves, they are working with hot things, they are working with welding blankets, but not to die of cancer. That's why I talked about those other -- the second factor is outweighing the benefit of the product versus the harms. Boilers are awesome, they do good things, I get cold easily, but that's not what you are weighing. It's a boiler with asbestos. And what you've heard is that sometimes asbestos was critical. In the Navy they needed something heat resistant and fast. Speed in a war is critical. You don't need that for a boiler. It was used for the heat and you heard that mineral wool and fiberglass were available. You heard from Dr. Holstein there was an alternative design to use metal gaskets, but you had to design it with those things. Mineral wool is thicker, you can't just substitute them out. Metal has a dirt connection and they chose to build, manufacture and design something with asbestos so that the life of that boiler you are stuck with asbestos. The last thing about unreasonable danger you are asked to consider is the highly risk of harm and the seriousness of harm. No one questions that this harm was serious, you can't. The likelihood you've heard repeatedly, this is rare, this is small, for boilers and pipe insulators it's one out of every

ten guys. And in terms of how likely it is, it is being called the most clearly demonstrated health effect in our history as a country. This number is incredible to me. Every toxin, every problem in the workforce combined, one out of the three is because of asbestos. That's why men lose their lives resulting in over 100,000 deaths for decades every year. The second defect is a lack of warning. This requires the seller to give a warning on any dangerous conditions that is likely to be encountered. This is why we talked about what was known, because you only have to warn about what was known. If it is known today but not back then, that's not fair, so I spent a lot of time talking about what was known and when the products were sold. They admit the products were sold in 1957. They admit they continued to sell replacement parts until 1969, that's in the record. They say but it wasn't asbestos, that's not the point. You're going to hear from the Judge, the point is that it is an opportunity to do the right thing, and when you're contacting them and when you are selling products to them you have an opportunity to do the right thing. Unequivocally we know they had relationships from their own documents in 1969. And then we believe we have shown that they were selling throughout the life of the boiler. They threw out there they could have got it from somebody else. What's likely? Their own manuals say to get it from them, when they have agents all over the place and where their own records show

they only use their agents. We believe that they were selling parts until these boilers were taken out in the 80's. I'm running out of time so it's going to get messy. Undisputed that they knew asbestos -- before they sold the boiler they sold the boiler, and Judge Toal is going to tell you they didn't know it was going kill them with life long mesothelioma, you just needed to know that there was a serious harm and the danger. They were told by their own suppliers, there were hundreds of articles. Their own expert in his own book talks about the disease. The Navy said by '68 it had been known for years specifically about boilers, I put all of these records from all of these groups. This is not a disputed fact. The exhibit from the ABA Product Safety Committee, this is one of the last things that came in, and I'm sorry -- why do we care about OSHA? Because men and woman are dying, their families are being deprived of their loved ones, and innocent children suffer for years afterwards. They sat in that discussion and did nothing. People in the industry, this was Babcock and Wilcox, were figuring out a way to do something different, they did nothing. And then we get to Cleaver-Brooks. They didn't warn for both reasons and we only have to prove one, we believe you should put yes. Negligence focuses on conduct, I think this is the clearest one we've got. It has to be the failure to act reasonably, the way someone in the same or similar situation would act. You don't have to have rules, even if

there's no rule that says don't text, if you do something unreasonable and hurt somebody you can be brought to a court. According to the law companies must research the potential health hazards of their products. This is the law of South Carolina, this is what will be charged. You are held to the skill of an expert, you have a duty to stay abreast. I asked Tornetta did you do one thing for one minute ever? Any evidence? Nothing. It's a black and white violation of the law. You must test, charge 14 says it. We didn't test, we didn't look at other people's tests, we didn't do a thing. You must warn. It never happened. They could not point to a single resource, a single dime, a single piece of effort to care about safety, that's why you answer yes to that question. The third group of questions is about implied breach of warranty, that has to do with a product being fit for its original purposes. At the heart of that is that have you to foresee how a product is used and educate people about harms. It dove tails into everything we've been talking about about warnings, it's just framed differently, and that's why the answer is yes. The exposures that happen here were frequent, regular and for long durations, and you've heard they were substantial. There was very little dispute about this. But the evidence is clear, mesothelioma is a big old cancer caused by very long exposures. I read this with Dr. Oury, you've seen this not just in workers but their wives and their children.

We have indicated that there's no known safe level, but Oury said there is. I'm not going to tell you what it is and I'm not going to look at any exposures in this case, so I can't tell you whether Cleaver-Brooks is there or not, and nobody else is going to come here either and say it, but there's a safe level. He is alone on this. As you decide between experts that are paid millions of dollars, I mean, crazy amounts of money, I think he looked objectively. All of these groups have evaluated this issue, along with all of the articles we attached in Exhibit 28 and said the plaintiffs are right here, these experts are telling you what is true in the medical community. The defendants rely on looking at friction literature reanalyzed by people that were paid 30 million plus dollars in 2001 afters asbestos is no longer being used, so it's for here, it's for the courtroom to say something like that. I don't think that's -- but you were also told by the judge not to leave your common sense at your door. This is banned in 55 countries. It's functionally banned in the U.S, meaning the rules mean no one use it. People's wives are getting sick, that's how low of an exposure can result in death. And you heard from Bowater's person, it was a 12 minute video, but whether it be gaskets or packing, if you use a glove box you don't let anybody touch it, you have negative air, you are dressed up in this suit, you have a fine layer of contamination because this stuff is deadly. And even the

people that made the gaskets that went in Cleaver-Brooks boilers admit in Exhibit 31 it causes disease. I asked Holstein this question, "If he had only been there four years, not 24, and it was just cement, is that enough to cause it by itself? Yes. Is it substantial if it's among a lot of stuff? Yes. The same with gaskets? Yes." You start combining all of different asbestos, there's no question here. And this has been undisputed. I want to spend the next couple probably ten minutes talking to you about damages. I booked myself to little time. This is not about passion or sympathy even though these are issues that invoke them. We are not here because you want to feel sorry for this family. This is about justice. This is about righting a wrong when you blatantly violate the rules of the state. To do that you are told by Justice Toal that there's no definitive standard I can give you to determine the amount of damages. You, the jury, are to use calm and reasonable judgment. That's hard. Use your own judgment, what is life worth? What is a husband worth? I think it's the hardest question that a person can be asked. But in a philosophical and practical sense I want to give you some guidance. First you are told there was 13 years of life lost, that a person of his age, just allcomers; fat, skinny, people that worked out, people that didn't, people that smoke, people that didn't live 13 years. You were told by Dr. Holstein it's not disputed that his health was above average. But at minimum

we are talking about 13 years of life lost. You should also consider the severity in terms of the nature of the harm, whether the harm is temporary in limitations; is this a burn, a rash, a lost finger, a lost leg? It's the most serious you can get, it's the loss of life. Is this a problem that can be really horrible like burns, but that only lasts for a small period of time, or chronic back pain, or something that is forever. And how much does it limit your day to day -- in all ways that these are measured this is the most serious harm you can come before a jury about. There are three categories of damages, this is a question for the ages. The first one is survival. This is looking at what happened to Wayne Howe. Talk about a wrong you cannot right. This isn't about making this right, it's about consequences associated with actions. And the law recognizes that the estate steps into his shoes so that you can say wait a second, what he went through must be considered. The first part is easy, medical expenses. Everyone has stipulated and agreed that his reasonable medical expenses because of this horrible disease is right here, over half a million dollars, but there are more. The pain from one of the most horrible diseases that ever exits; anxiety. I want you to think about this not for sympathy but because you will have to think about it to quantify it. Walking in after a surgery and seeing your son's face and knowing things aren't okay and they never will be. But the biggest source of harm

here isn't this horrible list, it's the loss of enjoyment of life. 13 years of life with your family gone. My suggestions for this are we know the medical bills, the pain and suffering and humility, my strong suggestion is at a bare minimum what the doctors are paid for that loss cannot be more than the person who suffered it, and so I believe at a minimum it should parallel that amount. But the main reason is the loss of 13 years of life enjoyment, and this is what I thought. We know that he did a surgery five to eight percent of people died, that Dr. Oury says is hopeless to live. He tortured himself for 12 months, from March to March to live. That tells you what his life is worth to him even in the worse conditions. And so my thought is for every year of that we get a concept from him for what that was worth. This is the total loss that I'm suggesting here and I want to add it together. That turns out to be over 7 million, for a total of 8.129 million dollars. This not what Cleaver-Brooks or Bowater or Foster Wheeler, Riley Stoker pays, it is total loss for this family directly related to what he was willing to be worth, and that's why I thought that was the right way to look at it. The second type of damages are wrongful death. This deals with the loss for the people from the date that he passed away on March 2nd the date he would have lived 13 years later. The beneficiaries are his family, his wife and his kids. The first thing is the reasonable value of services Wayne provided his wife, and here

because she was diagnosed with Alzheimer's in 2003, he was critical. Like his mother-in-law even when he has stage four cancer he completely took care of her when she was loosing her ability to grasp on to what she had learned for so long. And so we brought a life care planner and we brought an economist to say that's going to vary depending on whether she has to be put in a home or whether they can figure out a way to keep her in their home. And so while there's no dispute on this, there is a range for you to decide based on what you heard the family talk about. But again, that's not it. The real heart of it has to do with the real loss, not having a husband, not having a father. I have found that for me I can deal with really hard things when I have my inner circle, for me that's Hugo and my mom, the people that know you in and out. They know when you need a hug, they know when you need to be left alone, they know when you need a cup of coffee, they know you when you're losing your mind, literally. He was her anchor for 50 years in sickness and in health and when she needed him he was taken away. We believe her loss at a minimum should be his, the cost of medical bills. And for the children, and I think you can evaluate what they said and how much of a father he was, how much direction he gave, the adult children are a lot less, it's very different than I think losing a spouse. But more than anything, I think you could tell is they care about their mom being taken care of, that's why they're here. That amounts to

1.6 million to 2.7 depending on what care you think is most reasonable. The last is Ms. Howe's loss of consortium, that's time from when he was diagnosed to when he died because wrongful death starts at death. That deals with the hardest things in the world to identify and quantify. There's no question that there was love here and there was loss here. I leave it to you to decide what that's worth, but they loved each other too. The last thing is punitive damages by clear and convincing evidence. I have to show that they acted willfully, that they knew and they intentionally didn't do things. And we believe that there is a pattern of practice for years of not caring, that this wasn't a momentary lapse for something that didn't have to happen. I have only left myself a couple of minutes which means I have been talking a long time. I really appreciate your time.

THE COURT: Thank you, Ms. Dean. Ladies and gentlemen of the jury, we'll take the first break now, we won't be long but we'll take a break now, ten minutes or so for you to refresh yourselves.

(The jury left the courtroom.)

THE COURT: Court will be at lease for at least ten minutes.

MS. O'NEIL: Your Honor, we do need to take something up. The last -- I think the second to third last slides that Ms. Dean showed the jury referred to punitive damages and she

talked about punitive damages which is directly in violation of Your Honor's instructions that punitives were not to be raised or discussed in phase one.

THE COURT: Well, I don't regard it as out of bounds to say what she said. She did not ask them to award punitive damages, she simply used that as a predicate for saying that they are being asked to find whether by clear and convincing evidence willfulness or reckless and wantonness has been shown so I would overrule the objection. I might say to you, by the way, that I've had a chance to look at the South Carolina rules on how these arguments are presented, and simply call your attention to Rule 51 of the South Carolina Rules of Civil Procedure that very clearly says that the closings are done, written requests can be made and the Court shall instruct the jury after arguments are completed. And I mention that now because I think the instructions themselves will also supplement what I've just said by way of my ruling on this issue. All right.

MS. O'NEIL: I just -- one other question. What does the Court show Ms. Dean has left for time?

THE COURT: I show she's got about six minutes left.

MS. O'NEIL: Thank you.

(A break was taken.)

THE COURT: All right, ladies and gentlemen, all are peaceful? Any issues? All right, very good. Bring the jury

in.

(The jury returned to the courtroom.)

THE COURT: Thank you ladies and gentlemen, all are present. And we'll now hear the closing argument presented on behalf of defendant by Ms. O'Neil.

MS. O'NEIL: Good morning, ladies and gentlemen. I am going to turn the timer on on my phone because we are time limited. First I want to thank you, I want to thank you for all of your time and attention. I know you had a lot of other things going on in your lives. I know that there were times we thought we were going to get out sooner than we did. I know that we asked you to come in every morning in traffic, the weather has not always cooperated with the commute and the walk in the parking lot and I want to thank you for all of your efforts throughout this trial. You paid attention and you're now getting to the important part where you stop listening to us and you start deciding what you think. The Court is going to tell you that the plaintiffs have the burden of proof, and what that means is they have to prove every single element of their case of liability by what's called the preponderance of the evidence. The defendants don't have to disprove it, the plaintiffs have to prove it. What that means is if you have to guess what the answer is -- I will try -- if you have to guess what the answer is, if you're not sure whether something has been proven or not, that means that the plaintiffs have failed

to meet their burden of proof and Cleaver-Brooks wins. What that means is if the evidence is exactly equal, that is it doesn't go one way or the other, that means that the plaintiffs have failed to meet their burden of proof and Cleaver-Brooks wins. The first questions you have to ask yourself is whether the plaintiffs have proven by the preponderance of the evidence that Wayne Howe was exposed to asbestos from a Cleaver-Brooks boiler at Bowater. The Judge is going to give you some instructions on this. One of the things she's going to tell you is that exposure must be of such frequency, regularity and duration that it was a substantial factor in causing Mr. Howe's mesothelioma. Once is not enough. The Court is also going to instruct you that the mere fact the injury occurred does not permit you to draw the conclusion that the injury was caused by the negligence, strict liability or breach of warranty of another. So if the plaintiffs have not proven by a preponderance of the evidence that Mr. Howe was exposed to asbestos from a Cleaver-Brooks boiler then your inquiry is over. So I want to talk about that evidence, I want to talk about the evidence of exposure. The plaintiffs did not bring you any witness who said they saw Mr. Howe work with a Cleaver-Brooks boiler at Bowater. Mr. Howe didn't say that and Mr. Bogan didn't say that. All Mr. Bogan said was that there was a Cleaver-Brooks boiler up there at the powerhouse. He never said he even worked with Mr. Howe, he talked about a

fellow named Mr. Sizemore. He never said that boiler was in the powerhouse, what he said was "Up there." Nobody said to him, "Mr. Bogan, what do you mean by up there?" It could be up there from where he was sitting giving his deposition testimony. It could be up there in either of those two administration buildings, which were up there north of the powerhouse. Mr. Welker said that that mill was 1,800 acres, that is a lot of room for a Cleaver-Brooks boiler to be up there instead of in the powerhouse. But regardless of that, plaintiff brought no witnesses who saw Mr. Howe work on a Cleaver-Brooks boiler, people saw him work on plenty of other stuff but not that. I told you in opening and Mr. Tornetta told you last week and he told you again this week that Cleaver-Brooks never denied shipping a boiler to Bowater in 1957. Cleaver-Brooks never denied that when that boiler was made in the factory up in Milwaukee, Wisconsin some asbestos containing products were used. The question is whether Mr. Howe was exposed to those products. The evidence in this case is that all of the asbestos containing components in the Cleaver-Brooks boiler shipped to Bowater were inside that boiler. There's no external insulation, and the insulation that was inside was not asbestos containing. That's pretty different than the field erected boilers that Mr. Howe and the other people talked about. A Cleaver-Brooks progress boiler is four feet, six inches high. A field erected boiler, Mr. Welker

told you at Bowater -- I apologize ladies and gentlemen of the jury, apparently I didn't have that set correctly -- so that field erected boiler is what Mr. Welker told you there were at the Bowater Paper Mill and powerhouse, several of them, 125 feet high. I looked up whether -- when this courthouse was built, and what it said on the Internet was that over Justice Toal is 23 feet high. You could not fit a field erected boiler in this courtroom, but you sure could fit the Cleaver-Brooks progress boiler, a Cleaver-Brooks progress boiler is four feet, six inches high. Four feet, six inches high. A Cleaver-Brooks progress boiler is nine feet long and four feet wide. Nine feet is basically from here to here. Mr. Tornetta told you that the furnace tube on that boiler was 12 inches, 12 inches around. There is no way, no way a 6-foot tall, 226 pound person got inside the Cleaver-Brooks boiler, which is what Mr. Howe said he did inside the boiler. So what were the asbestos containing parts of this boiler with regard to insulation? You saw a list of asbestos products from plaintiff's counsel several times during this case, but what was the evidence about these things as it relates to the Cleaver-Brooks boiler? A lot of talk about 100 percent raw asbestos. Mr. Tornetta told you that this was not used in building the boiler shipped to Bowater and that he wasn't aware of it being used. What he said was he thought of it as cement, not fibers, and that makes me think of cotton. This is cotton, this is a 100 percent

cotton shirt. I wouldn't say I was wearing cotton if I was watering this shirt, I would say I was wearing a shirt. But when Mr. Tornetta said it wasn't 100 percent asbestos, what he was shown was this, a 352 cement product list that says that it was 100 percent chrysotile by weight, but what he wasn't shown was right above that exact same product but only 25 to 40 percent asbestos containing cement. So which one did Cleaver-Brooks use? Cleaver-Brooks doesn't know and the plaintiffs didn't give you any evidence about which of these two products Cleaver-Brooks used, so you don't know. And if Cleaver-Brooks doesn't know and you don't know and the plaintiffs didn't give you any evidence they haven't met their burden to prove things by the preponderance of the evidence. But in any event it doesn't matter because this wasn't used at all on the boiler shipped to Bowater. This case is about Mr. Howe and his claim about exposure to asbestos from the boiler shipped to Bowater, not some other boiler and not something somewhere else. And this is the product, the cement that was used back in 1957 when Cleaver-Brooks built that boiler in Milwaukee, Wisconsin, and it says that that product was between 7.1 and 3.85 percent chrysotile asbestos, and it was discontinued six years before Mr. Howe set foot at Bowater. Now, there's a big stack of exhibits here and you're going to take a lot of this stuff back in the jury room with you, big stack of exhibits. A lot of it doesn't have anything to do

with the Cleaver-Brooks boiler at Bowater. Plaintiff's counsel talked to you about Plaintiff's Exhibit 11. And in fact, Mr. Tornetta did say Exhibit 11 doesn't have anything to do with the boiler at Bowater, and neither does 12, and neither does that one, and neither does that one, and neither does that one and neither does that one. The question is about the boiler at Bowater. So on the question of whether plaintiffs have met their burden of proof about that boiler let's look at some more evidence. Cleaver-Brooks shipped that boiler in 1957. If the plaintiff's theory about maintenance on that boiler is true it was maintained for 20 years before Mr. Howe set foot at Bowater. There were no asbestos containing replacement parts sold by Cleaver-Brooks, and we'll talk about that in a little bit. But that means that it was for 20 years every year the plaintiff's theory is correct, those gaskets packing cement products were taken out and replaced every year for 20 years before Mr. Howe got to Bowater, and those products didn't come from Cleaver-Brooks. What did come from Cleaver-Brooks was a toggle switch which was not asbestos containing. What did -- and so that means the plaintiffs didn't meet their burden of proof. What did come from Cleaver-Brooks was a control pump and low water cutoff which was not asbestos containing, so that doesn't help the plaintiffs meet their burden of proof to show Mr. Howe was exposed to asbestos. And what Plaintiff's 55 contains are parts descriptions for materials used in the

construction of that boiler back in 1957, and while they may have asbestos in it, none of those were replacement parts sold to Bowater. So that doesn't help the plaintiffs meet their burden of proof because all of these materials would have been taken off in the 20 years before Mr. Howe got to the plant. So let's talk about that boiler. That is the front folder from back in the day when they were paper folders, the manila folder, with the unit number 18343 and the model number P72330S. Now Mister -- he went out in 1958 to start this boiler up and he wrote down the wrong unit number, he wrote down 18344. And this field report also has another clerical error in it, he says Bowaters, not Bowater. I guess he should have been more careful. And his field report was used to create this invoice, and this invoice has the wrong unit number too because it relied on the field report, and it also has the misspelling for Bowater. And this invoice was used to create a remittence request, which carried forward the wrong unit number and the misspelling of the paper mill's name. Now, Mr. Tornetta says this 18344 boiler was never at Bowater, you're going to have to decide if you think this is a clerical error or it's evidence of two boilers at Bowater. Some things for you to consider while you do that. Mistakes happen. This is from the State, a newspaper here in South Carolina on Sunday, here is the heading, "Early free agency, a-g-e-n-c-e-y, winners include the Browns. The people at the State have editors,

copyright editors, proof readers, I'm pretty sure today they have spellcheck, and on Sunday they issued a paper that has an error. The second thing, I don't know if you noticed this but in Ms. Dean's closing too, there was a typographical error. She had a slide that says there's know, know, k-n-o-w, safe level of asbestos. I'm pretty sure that was supposed to say known, k-n-o-w-n. Mistakes happen. The second thing I want you to think about when you're deciding if that's a clerical error or evidence of multiple boilers is the plaintiff spent the day with John Tornetta and a week with various witnesses talking about the asbestos containing components of a Cleaver-Brooks boiler that I told you in my opening contained asbestos, why would they do that instead of bringing you a bunch of witnesses to testify that Mr. Howe worked on that boiler? Certainly if he worked on it every year and every month somebody would have seen him work on that. There's a lot of people over there at Bowater. There's people who worked for AME, there's people who worked for Beta, there's people who worked for other contractors like Mr. Bogan. If Mr. Howe worked on that boiler all the time why did nobody come here and tell you that? The plaintiffs didn't bring you a single witness who even knew Mr. Howe. We did. We brought you Wayne Grant and Gilbert Small. The only coworker witness that plaintiffs brought you was Johnny Bogan, Johnny Bogan, not a Bowater employee, not an AME employee, not a Beta employee. He

was a contractor for somebody else. He worked as a boilermaker at Bowater, and he identified four big field erected boilers at the powerhouse. Mr. Welker told you that those were the ones in the powerhouse, four big 125 feet tall, 50 feet wide field erected boilers. Mr. Bogan had no testimony at all about Mr. Howe, he talked about Mr. Sizemore. And what did Mr. Bogan say? He said that that fellow who he apparently worked right next to, Mr. Sizemore, he couldn't even say Mr. Sizemore worked on a Cleaver-Brooks boiler, and that's because the Cleaver-Brooks boiler was in the administrative building. Two administration buildings at Bowater. You recall this testimony, there was the new office building, which was built later, and there was the original building which was where paper machine number two got put in. The original building was built when the mill was built, which was when the Cleaver-Brooks boiler was shipped and there is no evidence that Mr. Howe ever worked in either of these administration buildings. So I would submit to you that whether or not there were one boiler or two boilers for Cleaver-Brooks at Bowater, doesn't make any difference because there is no evidence Mr. Howe worked around one. The plaintiff's case comes down to Johnny Bogan's testimony about a boiler up there at Bowater and a clerical error, and I would submit to you that they have not met their burden of proof. So I want to talk to you a little bit about the claims about failure to warn and what we call

state of the art. Plaintiffs claim that Cleaver-Brooks failed to warn Mr. Howe or his employers about the dangers of asbestos. All of the experts agree that nobody knew asbestos could cause mesothelioma until 1960. Dr. Brody agreed that at least by 1960 nobody had published a paper saying chrysotile asbestos can cause mesothelioma. And even in 1960 nobody said that because Dr. Wagner, the fellow who wrote the paper in 1960 about the discovery of mesothelioma, he was talking about amphibole asbestos, specifically crocidolite of miners, people who were digging it out of the ground. And that's important because we talked about in opening and the witnesses talked about, there's different fiber types, and the fiber type that was used in the products that Cleaver-Brooks put in that boiler in 1957 were chrysotile. So before 1960 there were studies about asbestos workers, and workers in textile mills using lots of raw asbestos and people mining raw asbestos, but there was nothing about mesothelioma and there was nothing about people working on package boilers. And that's important because this case isn't just about asbestos, it's about Mr. Howe and Mr. Howe's claim that Cleaver-Brooks should have warned him about the chrysotile asbestos components it put on a boiler in 1957 that he was out of sight of when he went to in 1977. Now, part of the instructions the Court is going to give you is that a manufacturer has no duty to notify previous purchasers of its products about later developed safety devices or to retrofit

those products if the products were non-defective under the standards existing at the time of manufacture or sale. There's no evidence that back in 1957 Cleaver-Brooks knew or should have known that those chrysotile components in that boiler would cause mesothelioma. Plaintiff's experts admit that nobody knew -- nobody knew about mesothelioma until 1960, that's three years after Cleaver-Brooks shipped that boiler. But plaintiffs claim that Cleaver-Brooks should have contacted somebody after that and said, "Hey, we sold you a boiler back in '57, maybe it's still got some asbestos containing parts on it, not that we put on it but maybe we put some other ones, be careful." But plaintiff's own experts don't agree with that. Dr. Holstein said the reason when he found out, he, the expert, about the dangers of asbestos, when he found out a company that he was hired for specifically for the reason to look at whether there was a problem with asbestos, when he found out there was he didn't tell them to go find anybody who had use their product in the past or brought their products in the past because by then the horse was already out of the barn. In 1972 OSHA came into effect, and OSHA did say that you have to have caution, they said that you need to avoid breathing dust and you need to label things, but what they said was it doesn't apply where asbestos fibers have been modified by a bonding agent, a coating or binder or other material, like a gasket. And OSHA went into effect 15 years after Cleaver-Brooks sold

that boiler to Bowater and five years before Mr. Howe got there. If OSHA required a warning Mr. Howe's employers were supposed to get it. Dr. Holstein specifically told you OSHA was enacted to create obligations for employers to create safe places. And what he also said the premises owners, when you've got contractors like Mr. Howe who worked for some place like Beta or AMA, Beta or AME have an obligation to ensure that OSHA is met, and so do the places he goes to, Bowater and Celanese. There's no evidence that any of those people warned Mr. Howe. Then you have the MSDS sheets. Dr. Holstein said that these weren't required by federal law until 1981, 24 years -- he said 1980, this one is from 1981. This is a John Crane MSDS sheet for an asbestos containing gasket, 24 years after Cleaver-Brooks shipped that boiler to Bowater. Twenty-four years of monthly maintenance, 24 years of annual change outs, 24 years of no parts containing asbestos being purchased from Cleaver-Brooks. And if nobody provided this to Cleaver-Brooks until 1981, how were they supposed to warn Bowater or Mr. Howe? Now, you're going to be asked -- you're going to be asked some questions about strict liability and breach of warranty, and you're going to be told that a product had to be merchantable back in 1957 when it was sold. It had to operate the way it was supposed to and it had to operate safely, that means it had to heat hot water and had to operate without an explosion. And you're also going to be told that to breach that warranty of

merchantability that product had to get to Mr. Howe 20 years after it was shipped in the same condition as when Cleaver-Brooks sold it, 20 years of replacing those products. Another instruction the Court is going to give you is that plaintiffs have to prove what's the called existence of a reasonable alternative design. The Court is going to tell you that if there's no evidence that Cleaver-Brooks could have designed the boiler using non-asbestos containing parts and still not have it explode, still have it work right, then the plaintiffs have failed to meet their burden of proof. Now, you did hear testimony about other types of gaskets. You heard about rubber gaskets, metal gaskets, graphite coated gaskets, teflon gaskets, but nobody came and told you, nobody with expertise in building a boiler came and told you these could be used in place of asbestos. Dr. Holstein said, Dr. Holstein, an occupational medicine doctor, said they were available. Plaintiffs didn't bring you a boilermaker, they didn't bring you a boiler manufacturer, they didn't even ask Johnny Bogan if it was possible to build a boiler in 1957 and seal it correctly without using asbestos containing components. If you look at D17, which is one of the exhibits that we marked, you'll see that there was a list of things in 1980 about using different kinds of gaskets, in 1980 a list of different things for making gaskets, and it includes asbestos and non-asbestos containing gaskets, and the reason it does that is because different parts

of a boiler need different things. Nobody came and told you, there's nothing in this stack that says you didn't have to have the asbestos because something else would have worked just as well. Other things were available but no evidence that they could have been swapped out. And also nobody even went to the American Boiler Manufacturers Association Product Safety Committee and talked about using some other material to replace asbestos. This is Defendant's Exhibit 14 and it talks about Cleaver-Brooks' participation in the ABMA product safety committee, and those meetings were centered around safety issues and OSHA, and the meetings in 1972 were specifically discussing the safety standards and the codes now covering boilers. Not a word about asbestos or replacing asbestos. In 1973 the Assistant Secretary of Labor, John Stenler, who was in charge of OSHA, came and spoke to the ABMA, and what he talked about was noise. This is the fellow in charge of OSHA. And he came specifically to the Boiler Manufacturers Association, specifically to their product safety committee specifically to talk about OSHA and he didn't talk about asbestos, and you'll see those materials are in Defendant's 14. The only discussion in there about asbestos was in a presentation called review of OSHA standards as they apply to Babcock and Wilcox Power Generation Group, Babcock and Wilcox Power Generation Group. The testimony is Babcock and Wilcox made some of those 120 feet tall and 50 feel wide field erected boilers, not package

boilers. I submit to you that plaintiffs have not met their burden of proof with respect to alternative design or failure to warn. And I want to talk to you a little bit about damages and recklessness. I've gone over some reasons why I think plaintiffs have not met their burden of proof for liability, but I do need to talk about the last couple of questions on the verdict form. The Judge is going to tell you that you only answer those questions about damages and recklessness if you answer yes to questions one, two or three, if you answer no to those three questions you're done, and that's what I believe the conclusion is from the evidence in this case, no to one, two and three. But if you disagree and you get to damages you will need to decide what to award and so I do need to talk to you about that. Mesothelioma is a terrible disease, that's no question, and mesothelioma caused Mr. Howe's death, that's no question. And there were medical costs associated with his death, that's no question, that's why we stipulated to that. The plaintiffs have argued and have told you that all of those exposures contribute together to cause mesothelioma, all of the insulation, all the building product, all of products he worked on those giant field erected boilers at Celanese and Bowater, all the work he did on that satellizer and precipitators at Celanese all combined, I would ask that you consider that when you're doing as the plaintiff said if you get to the damages in deciding what would be Cleaver-Brooks' fair share of the

damages if you award them. Now, the plaintiffs have asked for damages with respect to the ongoing care for Mrs. Howe. Mrs. Howe seems like a very nice lady, she unfortunately has Alzheimer's. Now, we didn't hear from any doctors about her disease or what's required to care for her, but I think we can all agree that a person who has Alzheimer's has some special needs. But Alzheimer's is not related to the mesothelioma, Sarah Lustig, the plaintiff's expert, told you that. Alzheimer's exists unrelated to mesothelioma or asbestos exposure. What Dr. Lustig also told you was that Mrs. Howe was going to incur those costs for her care in home or outside regardless of whether or not her husband got mesothelioma. So we would therefore suggest if you do award damages that this amount, as difficult as it is to deal with somebody who has Alzheimer's in your family, this amount should be zero because these damages or these costs were going to be incurred anyway. Now, the last question asks you to determine whether Cleaver-Brooks was willful, wanton or reckless. That actually requires a higher level of proof than the liability stuff we've been talking about. Plaintiffs have to meet even more proof and the Court is going to give you an instruction on that, it's called clear and convincing. The question about willfulness, recklessness or wantonness focuses specifically on whether Cleaver-Brooks acted this way with respect to Mr. Howe. The question is not generally did they do something bad, but did

the plaintiffs meet their burden of proof to show that Cleaver-Brooks acted in a willful, wanton or reckless manner towards Mr. Howe. Yeah, they didn't warn him. I submit to you they didn't need to, I submit to you I've gone over the evidence that I think shows that, but also remember what Dr. Holstein said. When I asked Dr. Holstein when you worked over at the Navy hospital, you, the occupational medicine expert who knew about asbestos diseases, did you ever go over and tell the people there working with asbestos, all of those Navy sailors working with that asbestos that was a problem and that was dangerous? Do you remember what he said? What he said was, "Well no, I never saw my supervisor, he worked days, I worked nights." They worked at the same place. Cleaver-Brooks is in Milwaukee, Wisconsin when they sold the boiler in 1957 to Bowater in South Carolina, Mr. Howe didn't get there for 20 years, I submit to you that that is -- the failure to warn Mr. Howe is not reckless, is not wanton, is not willful. Now, Mr. Howe did contract mesothelioma and it caused his death, and there is no question about this and everyone is deeply sorry about it, but the question is did the Cleaver-Brooks products cause it? And when Dr. Holstein was asked about gaskets what he said was, "I would need to know a little bit more." If he didn't know you don't know, and if you don't know the plaintiffs haven't met their burden of proof about exposures. But what do we know? What does the evidence show about Mr.

Howe's actual exposures? When you ask about exposure the first inquiry is did asbestos cause it. The second -- and the testimony from all of the experts in this case is that a certain percentage of mesotheliomas are not caused by asbestos. The second inquiry is if asbestos caused the mesothelioma, what type, and in a lawsuit what source? Dr. Oury, who testified by video, he said there is a definitive way to answer these questions, a definitive way. You could do that by examining a person's lung tissue, but if you have that you can look at it and you can see if it has asbestos in it and you can see what kinds. That was not available in this case. And so Dr. Oury said a man in his profession, a pathologist, he can't say -- he can't say yes, he can't say no because he doesn't have the evidence he needs as a pathologist to answer that. But the evidence in this case does show lots and lots and lots of asbestos exposure. So was this mesothelioma caused by asbestos? Yeah, probably. Can't be definitive because we don't have the lung tissue, but probably, yes. And what is the evidence about that exposure? First there's Defendants Exhibit 5, which when you go back in the jury room it's kind of hard to miss because it's a really big stack of papers, and that shows that there was over 40,000 square feet of asbestos containing materials taken out of the Bowater Paper Mill, and a lot of that was pipe insulation. Half rounds fit around the pipe with wires on them. They're dusty to the touch. They're dusty if

you drop them on the floor. They're dusty if you put them on the table. They're dusty if you throw them in a box. A lot of that 45,000 square feet was pipe covering like this. You remember, we said this is not asbestos, but Mr. Welker told you this looks very much like the asbestos pipe covering over at Bowater. The unconverted evidence is that Mr. Howe was exposed to that. We brought you Gilbert Small, and Gilbert Small said Mr. Howe was exposed to asbestos at Bowater from insulation on precipitators, from turbine blankets, from insulated bands, from dryer felts, from Johns Manville transite wall board, and from miles and miles of pipe insulation. He said that what they did was get a hammer and beat on that pipe insulation. If it's dusty when you touch it, imagine how dusty it is when you beat on it with a hammer? And Mr. Small gave some descriptions of that that were presented to you. Mr. Small, who worked directly with Mr. Howe, what was his testimony about Mr. Howe's working on a Cleaver-Brooks boiler? None. We also brought you Mr. Grant, Mr. Grant is the fellow we have the video. Mr. Grant told you he worked right with Mr. Howe when Mr. Howe was exposed to asbestos at Celanese from removal of insulation on duct and pipework, and he worked right next to Mr. Howe when he was installing insulation on pipes and standing next to people who were using joint cement. And that's not the joint cement that's in the document you were shown this morning, if you look at that P69, that's joint cement to use in your house, it says

interior ceilings and walls. This cement was the joint cement that goes with pipe covering. And Mr. Grant told you, you heard him say that they took that and they had to clean it up, they used shovels, they threw in in wheelbarrows, they threw it on flat beds and they dumped it in the dumpster, and that all of that created dust and exposed Mr. Howe to asbestos. He talked about their work on the satellizers over at Celanese. I have no earthly idea what a satellizer is, but Mr. Grant told you it takes an eight foot asbestos gasket, an eight foot asbestos gasket. He told you that Mr. Howe was exposed to asbestos from the precipitators over there at Celanese and four great big huge Riley Stoker field erected boilers, and he told you at Bowater Mr. Howe got exposed to asbestos from Johns Manville transite boards. Mr. Grant, who worked with Mr. Howe, what was his testimony about Mr. Howe working on a Cleaver-Brooks boiler? None. Now, the plaintiffs showed you some of the testimony about Mr. Howe -- or about Mr. Grant's testimony about Cleaver-Brooks and about him talking about the Cleaver-Brooks boilers over at Celanese, this is what address plaintiff showed you in their opening, "I would represent to you that Cleaver-Brooks never manufactured a boiler of that size at that time. So with that representation in mind, it's possible that Cleaver-Brooks is a name that you recall for some period but not necessarily Celanese in Rock Hill? Yes." The next question, "And so with all of that in mind you're not

specifically able to say you saw Mr. Howe work on a Cleaver-Brooks boiler at Celanese in Rock Hill, could you? Yes. Could you? No, you could not do that." Mr. Grant had a chance to say he saw Mr. Howe work on a Cleaver-Brooks boiler, he said he couldn't do that. But let's look at Mr. Howe's own testimony about his asbestos exposure, because who would know better than Mr. Howe. And yes, Mr. Howe was sick when he gave his deposition, he was. Mr. Howe remembered even though he was sick that he worked on brakes and gaskets, and clutches, he worked on drywall and joint compound, that he believes he got exposed to asbestos from welding rods, gloves, aprons and blankets. He was able to remember that he thought he was exposed to asbestos from insulation precipitators, that he thought he was exposed to asbestos because he was standing by insulators who were mixing up muds and cements and dumping asbestos in a bag, and he remembered specifically beating insulation, piped insulation off with hammers. He remembered the JM transite wallboard, and he remembered that very specifically. What was Mr. Howe's own testimony about working with the Cleaver-Brooks boiler? None. What he did remember very specifically though was when he to had cut that transite siding and he had to take it down to the river, he remembered very specifically he was told to take that down there, cut it away from everybody else, away from everybody except Mr. Howe. And Mr. Howe also very specifically remembered what it was like

removing asbestos containing insulation from duct work, and he remembered it was dusty and what he said is, "I've been in dust moving insulation, that it was so bad you couldn't see in front of you in my earlier years. You just have to hope it's dust you're breathing. I mean a lot of dust. You come out covered. You couldn't tell who you were." Dr. Holstein said to believe the workers, believe the workers. Thank you.

MS. DEAN: I just need --

THE COURT: Just one moment. Thank you, Ms. O'Neil. All right. Now, I would like to proceed with your very short reply right now, Ms. Dean.

MS. DEAN: Yes, Your Honor. To get the powerpoint on the right computer might take two minutes at most.

THE COURT: All right, jury. I will let you go to your jury room, you might as well relax while we get this setup.

(The jury left the courtroom and a break was taken.

(The jury returned to the courtroom.)

THE COURT: All right. Reply from the plaintiff by Ms. Dean?

MS. DEAN: Thank you, Your Honor. I want to touch on a few issues in six minutes. The nine foot boiler took ten days to install, shown for industrial use that was loaded with asbestos. There are valves that you can put in your hand, some of them larger, that you have to take out to a parking lot, put in a glove bag and a five level decontamination unit. No one

disputes that because this isn't ten stories high there's asbestos in some places, lots of it, it's fire tubes with no asbestos, that this is deadly and harmful and they just don't even talk about it, instead they put tape on the door. They say, "But wait a second, we sold it with a lot of asbestos but there's no proof the replacement parts came from us." Yes, there is. That's what their manuals say is expected and it is the only evidence in the record. But even if there weren't they were like, "How do you prove asbestos is there in 1977 when Wayne Howe showed up?" That's why I asked Tornetta on the stand, "Were you still selling asbestos for these when you walked in the door from 1985?" Unequivocally "Yes." They don't respond to the evidence in the case. They were designed and built to use asbestos and continued to do so for the life of that boiler. It was decades of exposure because of the decisions they made. So they come up with a new theory. You're right, if it was our boiler in the admin building that was built in '61 we have problem, so maybe it went to the -- which is at the footprint of the number two paper mill. No one said that, they didn't ask Art Welker that. And what Art Welker said is paper machine number two came in the 80's, there were some buildings that were there before him and they started in '68. She had a lot of slides with a lot of evidence. This idea that the admin building was the office building that was built in '57, that was built in '68 is showing the level of

desperation to prove that that second boiler and maybe third wasn't in the powerhouse. She asked the question about why didn't we ask Johnny Bogan? Because they were there and they didn't say "You got it wrong, Johnny." But I wasn't and this family wasn't, because it was eight years before Wayne Howe got sick, right? Put this into context. And then what he said in direct evidence that the Court says you can believe to prove everything if you believe it to be true is that that boiler, the one that was sold in '57 and can't be in the admin building is exactly where he said it was, they have no response. I also showed documents including Exhibits 10 and 11 that explicitly deal with package boilers in the 50's and 60's that shows pipe insulation and cement. They show a big X saying it doesn't apply. Why? It shows cleanly that it does. Explain yourself. There's literally no explanation. So they're only out is to talk about how bad asbestos is, the exact same types of asbestos by other people, it was an eight foot gasket and ours is three. They were hammering off pipe insulation, their manuals talk about hammering off their cement. I agree that they are not fully responsible, but you can't say with a straight face that the exact same conduct done by others is safe for them, and that's what they're asking you to do. They said ignore Janette's care. Please understand what they're telling you to do, that means that Wayne did nothing for his wife. His loss means nothing. I think that may be the most

farfetched proposition that they've put out here so far. They said nobody knew about 1975, ignoring '57 -- I'm sorry. Their own authors, books, ignoring the fact that you have to look all the way to 1969 at minimum, ignoring Exhibit 3, Exhibits 1 through 4 for the plaintiff, Exhibit 38 through 40. And here is Exhibit 40, "Industry actively opposes objective research and creating a change of information on occupational diseases because it's more afraid of the possibility of paying compensation benefits than it is that workers will die from the lack of proper information and adequate protection. Much of the same situation holds true in the asbestos industry," and then they go on to talk about asbestos. That's the year they sold this boiler. If anyone in the world would have taken the stand and said that it wasn't well known in industry in the six different trade organizations I showed you evidence of they would have bought them, but no one would uphold the position that they told you to bring today. Last thing, I'm sorry, I know I'm worked up. The fifth question asks whether there was clear and convincing evidence that their conduct was willful, was it wanton or was it reckless, and I will suggest to you it was all three. They knew it was harmful and they willfully chose not to test or research, they were reckless with the lives of others, and it simply has to be with failing to use care when you know you need to when the law requires it. Here is the best example. In 1956 they go to Pennsylvania, you hire

lawyers and accountants, you get an engineer, you're building a plant, and in that state they say asbestos is a danger, I showed it to you, it kills people. By that date they admit that they would have known about those laws, that's actual knowledge, and from that moment forward they disregard it for the lives of thousands of people for decades. Most cases deal with moments of negligence. You look away, yell at the kids, cause a car accident. You're a pharmacist and you grab the wrong medicine and someone dies. You are an ER doctor and you didn't sleep. That is not this case. This is not a week, it's not a month, it's not a year, it is decades of knowing. Their own suppliers told them, the laws of the state told them, the ABMA told them and they don't do a thing. And the actual board of directors, the people that made this decision don't even show their face. That is a company who has been willful and wanton. You've heard a lot of evidence, but please allow the lack, the glaring lack of evidence from this company who doesn't have the burden of proof but does have the right to defend themselves why did you ignore? Why did you ignore yourself? Why did you ignore the ABMA? I showed that you were explicitly talking about asbestos, that it hasn't been banned but it's severely limited. Why didn't you test? It's the law of South Carolina. Why didn't you research? You have to in this state. Why did you use asbestos when you had mineral wool and fiberglass and metal? And you hear an hour speech and the

silence speaks volumes. In the 1930's it was known that it could kill people, but what Dr. Holstein told you is that it was known it could be prevented. We are here more than anything because this didn't have to happen. Again, thank you.

THE COURT: Thank you, Ms. Dean. Ladies and gentlemen of the jury, it's now time for me to charge you on the law that applies to this case and the law that applies to the facts in this case. And it's your duty to find the facts from the evidence, and to those facts you must apply the law as I give it to you, and you must decide this case based on the evidence and the law. You should not be concerned with what the law should be, but with what it is. And you must not be influenced in this case by any personal likes or dislikes or any undue sympathy or prejudice, and that means you must decide this case solely on the evidence before you according to the law, and you will remember that you took an oath to do just that when we began this trial. So follow my instructions, you must follow all of them and not single out some and ignore others because they're all equally important. Please don't read into these instructions or anything I may have said or done during this trial any indication of what I think the facts are or what I think your verdict ought to be. Because under our system of justice you, the jury, are the sole and exclusive judges of the facts and I am not going to intrude on your constitutionally guaranteed right to determine the facts, just as I know you are

after we had further discussions." I will then bring the jury out after we bring our alternates up here, then we will read the verdict.

(The jury returned to the courtroom.)

THE COURT: You may be seated. Ms. Strait?

THE CLERK: Yes. State of South Carolina -- I'm sorry, Court of Common Please, State of South Carolina, County of York case of Timothy W. Howe, individually as personal representative in the estate of Wayne Irvin Howe, deceased, and Janette Howe versus Cleaver-Brooks, Incorporated.

THE COURT: Not picking you up very well, Lynn.

THE CLERK: I'm sorry. Case number 2015-CP-46-0346, as to the cause of action of negligence we, the jury, find the defendant, Cleaver-Brooks, Incorporated, the question was was negligent and its negligence was the proximate cause of Wayne Howe's injury and damages. We, the jury, answer no. As to strict liability, we, the jury, find that the defendant, Cleaver-Brooks, Incorporated, is strictly liable for selling products that was the proximate cause of Wayne Howe's injuries and damages. We, the jury, check no. As to implied warranty, we, the jury, find the defendant, Cleaver-Brooks, Incorporated, breached the implied warranty in selling its products and its breach was the proximate cause of Wayne Howe's injuries and damages. We, the jury, check no. Signed this day by David Ferguson, foreperson, March 21, 2018.

of the various exceptions that are made and grounds for motions for a judgment non-standing veredicto and any other motions post-trial that either side feels need to be made. I really cannot conceive any motions that would be made by defense in light of the verdict, I know that the plaintiffs will have motions. And so the first thing I say is I turn to you, Ms. McVey, for anything you would like in a preliminary way to put upon the record?

MS. MCVEY: No, ma'am. The only thing, I would formally request ten days to make our post-trial motions.

THE COURT: That's granted. Ms. Dean?

MS. DEAN: Just a point of clarity. The motion that we discussed on Friday about sanctions related to what we called the midnight documents, is that governed by ten days or can that be later?

THE COURT: You know, that's a good question and I'm not sure I know the answer about whether it would be regarded as a Rule 59 kind of thing or whether it would be regarded as kind of bound up in the JNOV situation. I think for safety sake you might want to make it again. The way I do it is this: I'm still dealing with post-trials in Stewart, you get together a filing that meets that ten day requirement and then I will allow you within 30 days -- I think -- isn't that what we did, Ms. McVey?

MS. MCVEY: Yes, ma'am.

State of South Carolina	)	In The Court of Common Pleas
	)	Sixteenth Judicial Circuit
County of York	)	2015-CP-46-3456
Timothy W. Howe, as Personal Representative of the Estate of Wayne Ervin Howe, deceased, and Jeanette Howe, surviving spouse,	)	
Plaintiffs,	)	
vs.	)	Transcript of Record
Air & Liquid Systems Corporation, et al.,	)	
Defendants.	)	

January 24, 2018
Columbia, South Carolina

B E F O R E:

The Honorable Jean Hoefer Toal, Judge

A P P E A R A N C E S:

Jessica M. Dean Esquire
Jonathan M. Holder, Esquire
Theile B. McVey, Esquire

William P. Early, Esquire
Thomas M. Kennaday, Esquire
Moffatt G. McDonald, Esquire
Yancey A. McLeod, Jr., Esquire
Robert O. Meriwether, Esquire
G. Mark Phillips, Esquire
T. David Rheney, Esquire
Andrew S. Rogers, Esquire
Kurt M. Rozelsky, Esquire
Jennifer M. Techman, Esquire
Joseph E. Thoensen, Esquire
Daniel B. White, Esquire

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

the documents. Then in number 2:

Defendants who have provided responsive documents but have not provided deposition date.

They X'd out Asten Johnson and they added SPX to that. So, that's what happened with SPX.

MR. MERIWETHER: Thank you, Your Honor.

THE COURT: Now before Ms. Dean commences, how about some of you husky, younger lawyers in here get that podium for Ms. Dean and bring it up here to the ---

MR. EARLY: I'll get it, Judge. I'm a husky, young lawyer. I'm not a young lawyer. I'm a husky lawyer.

(A PAUSE.)

THE COURT: There we go. Now we're cooking. All right, Ms. Dean. Yes, ma'am.

MS. DEAN: So again this is Jessica Dean. First just to explain kind of the structure of our motion is we had certain defendants that provided us a deposition date but have not provided us the documents. And sometimes they promise they or they provided us some, but at the end of the day, a good chunk of documents that we have asked for timely, the time that they are supposed to be produced has come and passed, and we don't have them. So, where we have a deposition but no documents are the first group.

In the second group, we have been produced documents. We believe that we have all responsive documents. I kind

of put that kind of limitation in there because some of them were produced yesterday; some of them were produced four days ago. We are basing it on representations. If there's problems down the road, I just am alerting the court we haven't been able to verify. But for what we care about today is that we asked for a deposition. It was properly noticed under the rules. They didn't give us a date.

And then the third category is where we're lacking both and for different defendants, there are wildly different reasons. Some defendants have genuinely ignored us for two months and just not provided us the dates we need until this hearing got set. The power of just having this hearing has caused a lot of work to be done in the last five days, I mean, and even some resolutions. So, I don't want to minimize that almost, I think, everyone in this room has really worked with us in the last week. But we did have for many defendants a lot of silence for a long time despite clear rules that you have thirty days and you need to do this, and despite clear communication from Mr. Holder while we unilaterally noticed these -- and in one case we accidentally did it on a Sunday -- we are willing to change the date, the location, the time. We're willing to consolidate them if that helps them in cases where there are multiple things. We just need you to get your clients

to talk to us.

And so the good news is that I think the breadth of the problems with the vast majority of these have reduced, but we're still in a position where a huge amount of information that was sought overwhelmingly back in November -- they were noticed in November. We needed to get it before Christmas in December. Still hasn't been provided.

THE COURT: Okay. Well, now in your categories, then, category one is provided the deposition dates but no documents, and that is Aurora and Yuba?

MS. DEAN: Yes.

THE COURT: All right. Well, let's stop you right there and find out from Aurora and Yuba.

MS. DEAN: Okay.

THE COURT: Mr. Meriwether.

MR. MERIWETHER: Yes, Your Honor, Robert Meriwether on behalf of Aurora and Yuba.

THE COURT: All right, what's going on?

MR. MERIWETHER: The -- Aurora, of course, is a long-standing defendant in this litigation and Ms. Dean and, and all the folks on the plaintiffs' side of the bar are thoroughly familiar ---

THE COURT: All I need to know now is why there are no documents.

MR. MERIWETHER: Well, Your Honor, Aurora has never

had the ability to search for documents by anything other than serial number. The other way we can find out -- we can either give you the keys to the warehouse, but, I mean, it's a bunch of microfilm or something like that, but I, I won't swear to that, but it's, it's all kept by serial number, by pump serial number.

THE COURT: That's not acceptable. They're going to have to find out some way to decipher that. We're not just going to make them go to a big warehouse with numbers and have to look at it, Mr. Meriwether. They're going to have to make some better response than that.

MR. MERIWETHER: Well, I understand that, Your Honor. The -- we -- this has been the fact of the matter for Aurora for a long time.

THE COURT: Well, in this court it's not going to do, and the sanctions will be severe if they don't get these documents to us.

MR. MERIWETHER: Well, we'll, we will -- I will certainly let them know that ---

THE COURT: It's not your fault; I'm not fussing with you.

MR. MERIWETHER: I understand. I understand.

THE COURT: But deliberately having a system that makes it impossible to access anything you've stored is not going to cut it with me.

MR. MERIWETHER: Well, I understand that, Your Honor, but I want to be careful about the deliberate part because this is, this is the way that this company has kept records, you know, fifty years.

THE COURT: Well, they officially have some ability to decode it if they need documents. So, they are going to have to decode it to give the documents in a lawsuit that's been legitimately filed in which they have been a party forever. They're going to have to -- they know about this problem. They've been knowing about this problem. I'm sure as thorough as you and your staff are you have advised them from the beginning that these requests were made. They're going to have to do something about this, and we can talk here for a minute about what kind of timeframe we're talking about. But that's just not going to cut it.

MR. MERIWETHER: Well, Your Honor, I think that as far as timeframe goes, I think Ms. Dean may be mistaken about the deposition. They, they said that ---

THE COURT: You mean they haven't agreed to deposition dates either?

MR. MERIWETHER: No. We've got deposition dates. I was thinking she was saying we had.

THE COURT: No. She says you're in the category, the first category. You've set deposition dates, but she's received no documents. That, that really is beyond any

kind of understanding.

MR. MERIWETHER: Well, that, that -- believe me. We will have a telephone conference this afternoon with Aurora.

THE COURT: Okay. Well, the case is scheduled for March. When is this deposition scheduled?

MR. MERIWETHER: February the 8th, I believe.

THE COURT: All right, and today is January the 24th.

(A PAUSE.)

THE COURT: You tell them that these documents are going to have to be produced by January 29th, which is next Monday, and if not, sanctions will be forthcoming. I will of course have a hearing on those, but I have to tell you that there's certainly a precedent for striking pleadings when no documents are produced and when the production request is of a long-standing and the trial date and the depositions are set. And that's not your fault at all.

MR. MERIWETHER: I understand, Your Honor.

THE COURT: But they've got to get with the program. They can't just say what you just said, and it's the only thing they've given you to say. So, it's again not your fault at all, Mr. Meriwether, and I'm not trying to be harsh, but they've got to produce some documents.

MR. MERIWETHER: I believe that we will have an interesting chat this afternoon.

THE COURT: Very good. Get me an order, Ms. Dean. Just make notes now as we go along because there are going to have to be separate orders on these issues because they will go to different parties and folks, but this would be an order directed to Aurora. All documents requested must be produced by January the 29th.

MS. DEAN: Yes, Your Honor.

THE COURT: All right.

MR. MERIWETHER: Yuba, I think, was the next one that I needed to speak to.

THE COURT: Yes.

MR. MERIWETHER: Yuba is, Yuba is in an interesting position in this lawsuit. Yuba was not a party to this lawsuit when Mr. Howe was deposed. I know his deposition never finished, and it was incomplete when he passed away untimely, but Yuba was not a defendant. The only deposition which -- of a fact witness that Yuba was in the case for was Gilbert Small, I believe, the coworker at Bowater.

Yuba did an asset transfer where they, they essentially sold their company but they kept the liabilities, and so all the documents went with them. They have -- they've got to go to somebody else to ask them to search their own documents and say please as a favor, we need you to look for the stuff. They've done that.

I told them when we got the request that if they could get the purchaser of the company to go and look for records, they needed to focus on Bowater because it's the only site that we've had a coworker in.

THE COURT: That makes sense.

MR. MERIWETHER: And so they did. They got in touch. Bless their hearts, the, the people that we sold the company to did do the work of looking through it all, and they let me know last night and I let Ms. Dean know this morning that there are no new ---

THE COURT: There are no new Bowater documents?

MR. MERIWETHER: Exactly. There's nothing -- we, we searched for Bowater, for paper mill, for Catawba, for Rock Hill, for whatever the Resolute FPUS name that they are now, we searched all those critters and we got nothing. So, we would -- right now it would be most helpful if we, we could get a dismissal because we're not at Bowater, and I feel it would be -- it's somewhat onerous to have to put up a corporate rep. We'll, we'll do it if we have to, but if we can get an affidavit that just says, you know, we've had these searches run and we're not there.

THE COURT: Okay. All right. Here's what we need to do there.

MS. DEAN: If I may just explain two things quickly?

THE COURT: Yes, ma'am.

MS. DEAN: I'm sorry to interrupt.

THE COURT: No, ma'am. That's all right.

MS. DEAN: The first is that the implications of the lack of records means very different things for very different companies. Durco testified -- Duriron, a defendant I know well -- that they have incredibly complete records and if they're not there, that means we don't believe it happened. Yuba has not made that clear at all.

One of the things our document request asked for is their document retention. Are they claiming that our witness was wrong that it was a Yuba heat exchanger because their records didn't bear it out? Or are they saying they just don't know internally? Either way, all the other elements of proof that I have to prove -- because I have testimony that those Yuba heat exchangers are there. What do they know, where is the asbestos, when did they know it, were there alternatives are still things that I have to prove in the case. I have a very triable case.

So, the first premise is when I found out this morning for the first time that, despite asking for months about these records, they don't have them -- and, I mean, Robert told -- Mr. Meriwether told me the moment he knew. My follow-up question is what does that mean? He doesn't know yet.

The second thing, and this is the one that's going to

come up a lot, and that's why I wanted to pause on it. Mr. Meriwether said we -- despite the notice asking for each location where Wayne Howe worked, which included Celanese, not just Bowater, we only looked at Bowater because that's the only place where a coworker said the name Yuba. And Yuba responded by saying okay, that makes sense.

I respectfully disagree and it's a big disagreement and want to spend a moment on it. Examples help me. In the Pete Bumgardner case, I was in this courtroom. Pete Bumgardner testified he worked in Celanese boiler drives by crawling around in them, but he had no idea who made them, none. Cleaver Brooks knew. They have records that said every single one of them was their boilers. They didn't give me any of those records, and Judge Hill at first did not push them to until I found a coworker that said those are Cleaver Brooks, and then it turned out that what they knew for fourteen months and I didn't is that every one of their boilers were their boilers.

My point is this. Often people don't remember certain things. They could work on something every day and not remember the name plate that says Foster Wheeler or Cleaver Brooks or Yuba when we know that they are working on the boilers. Where these heat exchangers are at Celanese, if they have records that say those are ours, the first step -- and, and it's literally question number one in the

standing order of discovery is is your equipment there. I don't know the answer to that. And so when I talked to Mr. Meriwether, he said, well, I only questioned them on Bowater.

I get why that's the first place to push because they know we've got them there despite what their records say. But it doesn't limit that we have both in the standing order of discovery and in the notice a reasonable request that they've had, according to the rules, was sufficient time to tell us so that if they're at Celanese and they're sitting on that, I still don't know.

THE COURT: Okay, here's what we're going to do.

MR. MERIWETHER: Your Honor, might I correct a few misstatements because I think it's very important. Number one, number one, we're not identified in here as, as Bowater. The only thing that I say ---

THE COURT: Well, what she said ---

MR. MERIWETHER: I thought she did.

THE COURT: --- is that she has other witnesses that may identify you with Bowater, but she definitely has witnesses that identify Yuba at Celanese, which is another place he worked. That's what I understood.

MR. MERIWETHER: Your Honor, I don't think she's got a witness that identifies Yuba anywhere in the case.

MS. DEAN: Let me, let me -- we have him working

around boilers, which is where the heat exchangers are. We don't at Celanese know who made it. That's kind of my point. If I can figure out who made them, I have sufficient testimony I believe ---

THE COURT: Well, let me get this straight. They said their information is that they don't have any heat exchangers at Bowater, okay? That's what they looked for, and they couldn't find any heat exchangers at Bowater.

MS. DEAN: That's my understanding.

THE COURT: Do you have any information contrary to that?

MS. DEAN: No.

THE COURT: All right. Next we go to Celanese, another place he worked. They haven't looked for that, right?

MS. DEAN: That's my understanding.

THE COURT: Are there other places besides Celanese that will be involved in this thing that you think might lead to information about a Yuba heat exchanger?

MS. DEAN: Yes. There, there is, and we've listed them out in our notice so it will be clear. Five locations at issue: American Enka, Crown Cork and Seal, two Celanese locations -- one in Narrows and one in Rock Hill -- and Bowater. So, my point is at Bowater where they say they don't have records, I want to know what that means. And in

the other four locations, given that we have testimony -- and Celanese is where we have the strongest testimony that he worked in the vicinity of the heat exchangers -- they need to tell us if those are theirs, if they know.

THE COURT: All right.

MR. MERIWETHER: Your Honor, I respectfully must correct the record. There is no indication from any witness available to be used against Yuba that he worked anywhere but Bowater.

Here's the point. They took Mr. Howe's deposition without suing Yuba. He talked about where he worked. Mr. Howe died. They then amended it and put in a coworker. He happens to be a coworker only from Bowater. The only place that Yuba is in this case is Bowater because the only witness available to be used against them, the only witness who has been -- fact witness who has been taken since Yuba was added to the case is a Bowater witness. That's why I had them search for it.

THE COURT: Well, here's what we're going to do; here's what we're going to do. First of all, you want the now controller of the records at Yuba, which is the company they sold to, we want them to be -- am I right here?

MR. MERIWETHER: No, Your Honor. Yuba's got no records left. Yuba goes ---

THE COURT: That's exactly what I said, Mr.

Meriwether.

MR. MERIWETHER: Oh, I'm sorry.

THE COURT: I said we've got a company to which Yuba sold ---

MR. MERIWETHER: Right.

THE COURT: --- that now controls the records.

MR. MERIWETHER: Correct.

THE COURT: That's who you made the inquiries of.

MR. MERIWETHER: Exactly.

THE COURT: What Ms. Dean wants to know -- and they were all targeted to Bowater. She wants to know what it means to say that there are no documents relative to Bowater. She wants some kind of more definitive statement about whether there is any information that Yuba supplied any equipment at Bowater.

MR. MERIWETHER: Right.

THE COURT: And she doesn't want to play nice games about whether they have a document to that effect or some other kind of information to that effect. She wants to know whether Yuba had any equipment at Bowater.

MR. MERIWETHER: Right.

THE COURT: So, that needs to be asked to the people to whom -- that needs to be asked to the Yuba people because they certainly would know that, whether or not they've got the documents not. And second of all, that

needs to be asked to the people who now have their records.

MR. MERIWETHER: Right, Your Honor.

THE COURT: So, that's the first thing. The second thing is she's got four other, as I recollect it, that you haven't asked about.

MR. MERIWETHER: Correct.

THE COURT: She wants you to ask them whether they have any records relative to those other four companies, and I am going to require that that be asked to them, and get an answer to her by Monday the 29th, January the 29th, and then we'll see where we go from there.

MR. MERIWETHER: All right, Your Honor. Thank you so much.

THE COURT: All right, and it doesn't obligate you. It doesn't put you on the hook for anything. We just have to see what they produce, if anything. They might not produce anything, but that I think is at least a reasonable request to make.

And, Ms. Dean ---

MR. MERIWETHER: And we -- I'll make it to them. They'll make it to their, their buyer ---

THE COURT: Exactly, but ---

MR. MERIWETHER: And we'll get it back.

THE COURT: I think you need to, also need to emphasize to your client at Yuba who are still controlling

-- the new company is not controlling this. Your client is Yuba, as I understand it.

MR. MERIWETHER: Correct. They still have the liabilities.

THE COURT: Right, and they're going to have to be asked whether there's any other information they have besides the records that now are at their purchasing company that ---

MR. MERIWETHER: They -- absolutely, Your Honor.

THE COURT: --- that indicate that they have any equipment or had any equipment at the these locations, Bowater and the other four.

MR. MERIWETHER: Absolutely.

THE COURT: And, you know ---

MR. MERIWETHER: We understand. I believe that Yuba has nothing left whatsoever about that.

THE COURT: It's not a question of what they have left. They have some people that worked and ran the Yuba corporation. They need to be asked ---

MR. MERIWETHER: Your Honor, I believe they went with the sale.

THE COURT: Well, some kind of way those people have got to be asked what they know about whether there was any equipment at these various locations.

MR. MERIWETHER: Understood.

THE COURT: Okay. Very good.

And, Ms. Dean, you'll get up some kind of order to that effect.

MS. DEAN: Yes, Your Honor.

THE COURT: I can't do anything more than that. I mean, Mr. Meriwether is as honest as they make them. He's going to ask them what we have said they need to be asked, and we'll see what they produce.

MS. DEAN: Yes, Your Honor.

THE COURT: Very good. All right, that's Yuba. All right.

MS. DEAN: The next group.

THE COURT: Item A or item 1, we know where we're going. On Aurora and on Yuba, you're going to get up orders and they got to produce the things by January the 29th, right?

MS. DEAN: Yes.

THE COURT: Now we go to the second category and the second category is they're produced documents, but there's no date for depositions.

MS. DEAN: Yes, and first one on this is Daniel where -- just at least a little context with how many moving parts that are here. We first sought these depositions in November to occur in December, then amended to January, and we're now in a position where your scheduling order

indicates these are to be completed by the 9th.

One just kind of procedural thing I'd like to take up, and it may be at an odd time, is if the parties agreed to do it after the 9th, is that agreeable to the court?

THE COURT: Oh, you know it is, yeah.

MS. DEAN: Okay.

THE COURT: If the parties agree to do it later, that's perfectly fine. But I am a little tired of Daniel and Union Carbide going back to the beginning of time and saying, you know ---

MR. McDONALD: Sure.

THE COURT: --- this is all. We can't do anything because this is -- we don't have enough time and so forth. This is an old case, and they've been knowing about it for a long time. Whether they've been parties or not, this isn't any new mystery that's just come up upon the horizon to these two defendants.

MR. McDONALD: Sure. This ---

THE COURT: I want them to get with the program and quit filing all these motions that talk about wanting to get out of the case and ---

MR. McDONALD: Okay.

THE COURT: --- have the trial delayed. I'm not going to do that.

MR. McDONALD: Well, let's put Union Carbide to the

side. That a different -- we're talking about Daniel, if you don't mind.

THE COURT: All right.

MR. McDONALD: And Daniel has produced the documents in *Howe*. We objected to the deposition notice as being incredibly overly broad. You're familiar with the Colleton case. We felt like, you know, if we pushed it all the way we could get stricken, but Mr. Holder and I spent two hours on Saturday ---

MR. HOLDER: Saturday night.

MR. McDONALD: Saturday night, I mean, really, and we greatly -- we agreed to the basic outline of the scope of an appropriate deposition against Daniel, that Daniel would give, and that would be really *Howe*, *Sizemore*. *Smith* really is a big one for Daniel coming up, okay?

THE COURT: Is that at a 30(b)(6) deposition?

MR. McDONALD: That's right, Your Honor.

THE COURT: Let me tell you something. I am not going to get in these wrangles. 30(b)(6) ought to be done, and it ought never have any kind of ---

MR. McDONALD: Well.

THE COURT: --- contention about it.

MR. McDONALD: I just suggest to you, Judge, and we're not -- we've agreed. So, we've got an outline, but there are times when a 30(b)(6) is overly broad. I'll ---

THE COURT: Rare as hen's teeth.

MR. McDONALD: Well, you'd have to ---

THE COURT: Rare as hen's teeth.

MR. McDONALD: These are, these are very broad, and I just hope you'll have an open mind about that.

THE COURT: All right.

MR. McDONALD: But we're agreed ---

THE COURT: But you've agreed on Daniel.

MR. McDONALD: That's right.

THE COURT: True, Ms. Dean?

MR. McDONALD: Well, I'll -- let me just finish. So, they needed dates and so I offered the Tuesday or Thursday before the 9th and, in fact, probably any time that week I could get the witness available to work that. So, I've offered a date and we have produced all of our documents at Bowater. Mr. Holder came and reviewed the documents.

MS. DEAN: Your Honor, there's two, two issues, and I -- this, this isn't a Daniel-specific issue.

THE COURT: That's what I'm trying to resolve right now is Daniel, where there's been a lot of back and forth, and now we're down to either Tuesday or Thursday before the 9th or some other date that we -- can we get that resolved?

MS. DEAN: Here's why it's harder to resolve. By all of the -- by this not being isolated to Daniel, but Daniel definitely fits in the problem. What we are getting is an

influx of documents. In the last forty-eight hours, I was able to review Cleaver Brooks's documents that I didn't get for fourteen months and I believe I should have that shows that Daniels was involved with installing their boiler at Bowater. This morning I find out from Mr. Meriwether that one of the cooling towers at Bowater which our client describes working with was put in by Fluor. I don't even know of Moff knows that. I found that out as I'm walking in here.

By defendants ignoring properly noticed depositions that should have happened last year, if we get into a situation where all these deposition -- because you're hearing it the first time right now. We'll get it before the depo date. I'll get before the 8th. There's now twenty people that are going to say same thing. We are good and we are efficient, but our lawyers can't go through 10,000 documents from twenty different parties and depose people in a nine-day period.

THE COURT: Well, that's not before me right now. What is before me right now is just trying to get these deposition dates set. That, that ---

MS. DEAN: That is why.

THE COURT: You know, if you are going to have them set in any kind of a framework that allows the case to be tried in March, which Ms. McVey has very, very strongly

insisted upon -- that's that reason why it finally got set. It's an old case. That's what happens in these things. I'm as sympathetic as I can be about that. I used to deal with document dumps all the time by these folks. But you've got the documents, and you're going to make your best effort at it, but right now all I'm talking about is setting the depositions.

MS. DEAN: So, that's why we have request number 3 which is listed on page 4 of our motion, and that is even if they give us our documents after we requested them, even if they give us a depo date, because we have asked for well over thirty days -- we're talking more than double -- the notion that we should lose our trial date is rewarding them. What should happen is that we should have more time the entire month of February to get this done, which can't occur if summary adjudication happens on the 26th.

And sure, we're saying for people that know what you want -- you were very clear; Fluor Daniels, Daniel, UCC, get with the program -- and have caused this delay shouldn't be rewarded for putting plaintiff in a pinch and, therefore, they can still have directed verdicts heard, they can still have motions heard, but we shouldn't have to be pushed in this two-week timeframe. So, part of our request is not only do we confirm the date, which is very helpful so that everybody knows what's happening in the

next two weeks, but that as we confirm these dates.

If we sit down and it turns out there are four depositions on the 8th -- and I think that's a reality -- we can then look at the entire month of February on working this out with everybody because summary adjudication isn't occurring because discovery wasn't completed. And the only reason it wasn't completed is because they did not respond to a request that they should have. And I think given that those are the clear facts, that is a fair request. So ---

THE COURT: Well, let me say this. I have no hesitation about having sanctions hearings on people that don't produce documents when they're supposed to, but I'm not going to sanction them by saying they can't pursue their motion for summary judgment. I don't know why they pursue all these motions for summary judgment; that's another hen's teeth proposition. They are rarely granted, but the deck is going to have to be cleared on that if they stay in the case or don't settle the case before we try the case. So, and I'm not -- I would not be prepared to just simply say they can't pursue their motion for summary judgment. So, I'm not going to do that, Ms. Dean.

MS. DEAN: Okay.

THE COURT: Okay.

MS. DEAN: Okay, and so we made that request for everybody in this category, the third. I hear you saying

no, so ---

THE COURT: Okay. Very good.

MR. McDONALD: Could I ---

MS. DEAN: --- in that case, we will figure out a way to make the 8th work.

THE COURT: All right. Very good.

MR. McDONALD: Can I just add one more thing, Your Honor?

THE COURT: You just won, so what are you fussing about?

MR. McDONALD: I, I want Your Honor to understand something about Daniel's responses to discovery, all right, and this hold true for every case, all right? When we respond to the initial discovery, we say -- I mean, we don't -- we're out of business now, all right? Our -- whatever project records are left are in warehouses in Greenville. We will run a search and we will pull them together and you can review them. And there have been responses from Daniel to the plaintiffs a couple of years old, and the ---

THE COURT: You don't need to get into that because ---

MR. McDONALD: Well, that's right, but ---

THE COURT: --- because this was ---

MR. McDONALD: --- when they complain about the lack

of production ---

THE COURT: This was not a squabble about production.

MR. McDONALD: Well, she tried to make it one.

THE COURT: Well, and I didn't allow that.

MR. McDONALD: Sure.

THE COURT: So I don't need to go into that.

MR. McDONALD: Okay. I just wanted you to understand. Anybody that wants to come see our documents, call us.

THE COURT: Noted.

MR. McDONALD: Okay.

THE COURT: Okay, Union Carbide.

MR. McDONALD: Oh, yes, sir -- yes, ma'am, Your Honor.

THE COURT: Let her speak first.

MR. McDONALD: Okay.

THE COURT: Ms. Dean.

MS. DEAN: Union Carbide and Mr. McDonald is okay with this. This is -- this parallels three of the cases, I believe, that are before the court. It's in *Howe*, *Smith*...

MR. McDONALD: *Howe* and *Smith*.

MS. DEAN: Just *Howe* and *Smith*.

MR. McDONALD: Just *Howe* and *Smith*.

MS. DEAN: Okay, but that the arguments are the same, and so I think efficiency wise we might want to tackle them ---

THE COURT: Sure.

MS. DEAN: --- in the same manner. But we are seeking their corporate representative depositions. I know him and Mr. Holder have been trying to discuss a resolution to that. We are even willing to consolidate the two if that is something they want. But we believe that given that we have confirmed that there was the sale of millions of pounds of asbestos insulation to Bowater where our client worked -- in the case of Ms. Smith during the time that her husband was there and in the case of Mr. Howe in locations where we believe he works -- and we need to figure out how long the asbestos would have remained because there is a gap in time that -- it's the same place, same location. We just need a date and to be able to find out.

And I know Union Carbide fairly well, and I think Mr. McDonald would say the same thing in the context of supplying asbestos for joint compound. This is my first case and our firm's first case where they supplied the same raw material, asbestos, put in a paper mill. And so we've been eager to get this deposition because unlike a lot of asbestos litigation, this is something that's at least new to me, and so learning how pellet sized versus powder asbestos worked, where it was in the plant, how it worked is really important to us understanding how we're going to prove this case and how, how quick the case is.

MR. McDONALD: If I could respond, Your Honor?

THE COURT: Again, just so I understand, documents have been exchanged. This is all about ---

MR. McDONALD: A deposition.

THE COURT: --- setting a deposition ---

MR. McDONALD: That's right, Your Honor.

THE COURT: A 30(b)(6) deposition ---

MR. McDONALD: Right, Your Honor.

THE COURT: --- by Union Carbide people to answer questions like she talked about.

MR. McDONALD: That right, Your Honor, and let's just, let's just walk through it.

THE COURT: All right.

MR. McDONALD: And I know you understand. A 30(b)(6) deposition is expensive and burdensome for the, for the defendant and, of course, it's up to the court to balance the need and the relevance, et cetera, all right?

Now, here's the situation in the case. We're talking about the *Howe* case, all right? Mr. Howe, Mr. Grant, Mr. Newland, Mr. Small all deposed. No testimony about any exposure to a Union Carbide product, all right? Put that aside. Union Carbide did provide the raw asbestos fiber, not insulation, but fibers. They had a line to Bowater, all right? So that's what they're sued about. Union Carbide responded here are our sales records to Bowater. They're all between 1965 and 1967, all right? Mr. Howe did

not arrive at Bowater until 1978, all right?

Bowater -- now, Union Carbide, it's a little bit of a mystery to them what was done with the fiber at Bowater. So, in June we served discovery on the plaintiff: what information do you have about exposure to our product? Plaintiffs did not respond to that discovery. We sent new discovery in November specifically asking what information do you have about the use of calidria at Bowater. That discovery has been ignored; plaintiffs have not responded to it. Union Carbide has moved to compel. What do you have? Do you have Bowater depositions, information? What do you have?

Bowater has now produced documents. In the document production they made this week are sworn affidavits and sworn testimony in Madison County, Illinois, that the calidria was used in the process to remove some kind of byproduct, and it was used from 19 -- sometime '66, '67, but it ended in December of 1968s. Mr. Howe did not arrive at Bowater until 1978. So, why is Union Carbide having to answer any other questions about it? There's no possible link between that fiber and Mr. Howe.

It gets slightly more complicated in the *Smith* case, slightly, but only slightly. *Smith* is a claimed take-home exposure. Ms. Smith's former husband, Lewis Childers, worked at the Bowater plant in the second half of 1968, but

he worked as an insulator employed by Daniel Construction in the construction of paper machine number 3, all right? The production was over on paper machine number 1, the Bowater documents show.

Now, just so -- we talk a lot about paper machines. A paper machine is an entire plant, all right? They are giant things, cost hundreds of millions of dollars, a thousand people in the sixties to construct. Giant construction project. Their witness in the *Howe* case, Mr. Small, said it's a separate plant, a separate building. During construction they put a fence around it. That was it. So, there's no way Childers is ever involved over there in the production in unit number 1 and involved with calidria. So, that is why we oppose.

Plaintiffs have not provided -- responded to our discovery and when you put together what's in the case, there's no way to tie back to Union Carbide. It's quite burdensome for Union Carbide to have to prepare a witness to respond to this point.

THE COURT: All right, Ms. Dean.

MS. DEAN: Briefly, twofold. The discovery requests and October request, I respectfully disagree with Mr. McDonald's depiction that we didn't respond. I've seen emails from Mr. Holder's. He explicitly and directly and quickly responded that ---

THE COURT: Well, what was the response?

MS. DEAN: We don't have documents, and December is when we first obtained the Bowater documents, and we have been very clear that we think that they are relevant. I understand Mr. McDonald has them, but there are other people like Moose that are still looking to get them. But there is nothing that we have that is discoverable that hasn't been produced.

We understood Union Carbide's fibers were sold to paper mills, including Bowater, from attorneys telling us that. That's why we included them in the suit, and we have been eager from day one to say please verify whether that's so. And so when Mr. McDonald asked, hey, how do you know that ---

MR. McDONALD: Well.

MS. DEAN: --- we did respond. We don't have documents. We just have been told you were here.

MR. McDONALD: And we ---

MS. DEAN: So ---

THE COURT: Wait a minute. Wait a minute. Whoa, whoa, whoa. No. We're not ---

MR. McDONALD: Okay.

THE COURT: --- going to do it that way. Ms. Dean is going to complete, and of course I will always come back to you, Mr. McDonald.

Go ahead, Ms. Dean.

MS. DEAN: There are a lot of balls in the air. There are going to be times when I come to this court and say you know what? They asked and we didn't answer. I'm just telling you this time, that's not what happened. Everything we had, as, as forthcoming as we could be about this issue, we have.

So then the second issue he has is that we just can't connect the dots. Yes, they sold millions of pounds of raw asbestos to his work site, but we can't connect the dots. Your Honor, while the sales records suggest that the sales stopped in '68, that doesn't mean the use stopped in '68. We already have information that it went into further years.

More importantly, whether -- one of the biggest characteristics of asbestos, particularly in raw form, is that it doesn't go away. If it's in an enclosed space that's shut off and you don't have abatement efforts, it's still there, particularly in raw form. So, what I want to know in Mr. Howe's case is, is the time gap too long? And I don't think that question can be answered by a lawyer's belief. I think I get to ask questions.

Similarly in *Smith*, I think that's much cleaner. He references the Small testimony that is in a separate location, but they ignore Harley Newland's testimony. Ms.

McVey took that deposition, Mr. Newland's, and he said look, I was there and the reason we were there -- and they both worked for Daniels, being at that site at that time -- was to insulate pipes and boilers and in turbines and that they were throughout the plant. They also worked on precipitators and duct work.

And so again this is not a case where I feel comfortable telling the court I know for sure that these millions of pounds of asbestos would have been at the right place or the right time, but that's why an investigation is done. And that's all the more reason why ignoring the request and for us to ask those questions is -- isn't acceptable.

THE COURT: All right, Mr. McDonald.

MR. McDONALD: Well, Judge, quickly respond. I mean, we did provide all of our sales records, and here are the sworn statements in the -- if you would like them, in the Bowater documents that they produced in Madison County litigation explaining that the production use of the calidria ended in December of 1968 at this site.

THE COURT: All right. Very good. Let me first do a little bit of housekeeping here. I will first make a ruling with respect to the case that's captioned Howe as PR against Air Liquid and others, and that's 15-CP-46-03456. I will then make a ruling in what we've been calling the

Smith case but is actually Roxanne Falls as PR of the Estate of Charlotte Gaye *Smith* against CBS Corporation and many others, and that is 2015-CP-46-02155. In each case, we are dealing with response to a 30(b)(6) deposition by Union Carbide, represented Mr. Moff McDonald, and in each of those cases, I will sign an order which you need to prepare for me, Ms. Dean, that requires that Union Carbide respond to a 30(b)(6) deposition in both of these matters.

I do it for this reason, Mr. McDonald. I understand your sales records and sworn statements, and you produced what you're supposed to produce, and you say they don't connect the dots. I don't believe this is the moment in time to say you can't take a 30(b)(6) because you haven't contacted the dots. I believe they are entitled to go forward on the basis of the representations Ms. Dean has made and take those 30(b)(6)s. So, I will require that Union Carbide respond to 30(b)(6)s in each of those cases.

MR. McDONALD: Certainly.

THE COURT: Very good. And when I say order by Ms. Dean, I always mean share first with opposing counsel, and then if they got objections, both of you can submit and submit objections, or hopefully you can agree about at least the contours. Not whether they reserve all their rights with respect to whether they can be required to give the deposition, for example, in this case, but the wording

of it, hopefully y'all can agree upon.

MR. McDONALD: Sure. Thank you, Your Honor.

THE COURT: Very good. All right. Now, that gets ---

MS. DEAN: Can I get one clarification, Your Honor?

THE COURT: Yes, ma'am.

MS. DEAN: Can we just request that they provide us the dates of availability by Friday on or before the scheduling order deadline so that we can all have a timeframe to schedule this?

THE COURT: Can you do that, Mr. McDonald?

MR. McDONALD: I'll do my very best. I mean, my intent would be to move -- get you a deposition before the 9th, and then we would be prepared to move for summary judgment, but I just got to talk to people, you know.

THE COURT: He's going to make his best efforts.

MS. DEAN: I'll take it.

THE COURT: I think that's -- I take his -- he is a man of his word, and I take him at that. So, I think you will probably have something there. Very good.

Now, the final one we have on this particular issue, which is they've given documents but no dates, is SPX.

MS. DEAN: Yes. The circumstances of this, I've kind of flipped categories on this. We were provided the date to go forward on January 31st, and then when I talked to Mr. Meriwether yesterday, he indicated that date is no

longer available and was working on another date. He also informed me that this is one of those scenarios where I come to court and say we messed up in the following way.

When we sent out notices for the parties that we believed we had a case against back in November, SPX's notices didn't go out; everybody else's did, but for some reason that one didn't. When we sent out the first amended one, they got it but it references the document request in the notice that they didn't get. So, they've known since December what topics we want to talk about.

The 30(b)(6) rule indicates that you need to be prepared what's -- with what's reasonably available to you to talk about those topics. Our document request doesn't include anything that's not in our topic, but we failed to get them the document request. And so I, I agree with Mr. Meriwether that if they don't know what documents we're requesting, we have a glitch. And so he tells me he will work with us to get the documents if we will work with him on the date.

My position is, is I'm really concerned about getting all this done by SJ, but I've already lost that with this court, and so I think the main thing we need is a timeframe in which to get these depositions done.

THE COURT: Mr. Meriwether.

MR. MERIWETHER: Your Honor, she's correct. We didn't

get the document request. We -- when I got the amended notice to a notice that I had never gotten, I put the -- I twigged my guys and said, hey, we're going to need to start looking for documents. So, they've been looking. We've got a bunch lined up. I should be able -- they've been pouring in on emails, individual emails and I, I got to figure out how to get into whatever file transfer thing you've got to do with it.

THE COURT: Sure.

MR. MERIWETHER: I can get it to them probably this afternoon. My corporate rep from SPX is getting needles put into her eyeballs at Duke Medical Center for some reason. It sounds horrible but some sort of minor procedure that she's up in, in -- at Duke Medical for. She will let me know as soon as -- I, I hope, I would hope by tomorrow or the next day when she's got -- and we'll make sure we've done all the records searches and get that stuff to plaintiffs, and we'll just give them a date as soon as we can.

THE COURT: Well, why don't we just say this to kind of complete the loop. By Friday, you will advise Ms. Dean, unless your counsel continues to be hospitalized. You'll advise Ms. Dean about proposed dates, as well as get the documents to her.

MR. MERIWETHER: Works for me, Your Honor.

THE COURT: Very good. That's this coming Friday.

MS. DEAN: Yes.

THE COURT: Which is the 26th. Very good. I don't think we need an order on that, Ms. Dean. I think Mr. Meriwether will comply with that, I feel quite sure.

MR. MERIWETHER: Yes, Your Honor.

THE COURT: Very good. All right, now that completes the second category of matters, which is want the date, have the documents, and we now move to the third category of matters, which is you don't have any either one, and that is a whole bunch of people: Cleaver Brooks, Covil, Dezurik, Flowserve, Foster Wheeler, Ingersoll Rand, Marculex, Sterling, and Gorman Rupp.

MR. MERIWETHER: I believe I can deal with one real easy, Your Honor.

THE COURT: All right.

MR. MERIWETHER: For Dezurik, they noticed a deposition for February the 28th. We'll have a witness up in St. Paul on that date. It's all good. We got it resolved because we tendered that date, and they noticed it.

THE COURT: And it's what date?

MR. MERIWETHER: February 28th.

MS. DEAN: Your Honor.

MR. MERIWETHER: In St. Paul, Minnesota.

THE COURT: And how about documents?

MR. MERIWETHER: Records? I -- we got them. We -- this is a weird company. They literally have cans of old microfilm and a microfilm reader, but we've 200 pages related to relevant job sites from microfiche and as soon as they're copied, I'm getting them to you.

THE COURT: All right.

MR. MERIWETHER: I mean, they're -- it just -- this is, this is some antediluvian system of keeping records, but literally they go back to the thirties.

THE COURT: Well, can you get the documents to her by the end of next week?

MR. MERIWETHER: Yes.

THE COURT: All right. That would be the 5th?

MS. DEAN: The 5th is a week from Monday. Yeah, the 2nd.

THE COURT: The end of next week is the 2nd, February the 2nd.

MR. MERIWETHER: Sure, Your Honor.

THE COURT: Could you get them, get them by February 2nd, Mr. Meriwether?

MR. MERIWETHER: I feel sure that we can get them printed out.

THE COURT: Very good. So, Dezurik is one company that's depo is February the 8th. Docs are coming on

February 2nd. How about that?

MS. DEAN: The problem with that, and it's limited to this, is we agree to the 28th if there is not a motion for summary judgment going forward, but if there is not ---

THE COURT: I'm not going to do it that way, Ms. Dean. I'm not going to deprive people of their right to move for summary judgment.

MS. DEAN: I agree. I'm not, I'm not -- I disagree but I lost.

THE COURT: Yes.

MS. DEAN: And that's clear and I'm not trying to refight it.

THE COURT: Okay.

MS. DEAN: The problem is is I can't agree to the 28th if my summary judgments are due on the 26th. They need to provide me a date by the 9th like everybody else, and we might even be able to work on the week of the 16th, but I'd probably be able to get that transcript back and respond to their motion for summary judgment by the 26th.

THE COURT: How about that, Mr. Meriwether?

MR. MERIWETHER: Your Honor, I'll check with him, but I thought it was settled when they noticed it for the 28th.

MS. DEAN: We may -- at least...

THE COURT: They noticed it, but with this caveat that they didn't want you to make any motion for summary

judgment, but that's not by the boards. I'm not doing it that way. So, can you get them something before that that, therefore, allows them to have adequate time to ---

MR. MERIWETHER: I will, I will ---

THE COURT: --- respond because you're going to make a motion for summary judgement as soon as the 30(b)(6)s are over, aren't you?

MR. MERIWETHER: Your Honor, I think that particularly ---

THE COURT: Unless the world turns on its axis ---

MR. MERIWETHER: --- particularly this client ---

THE COURT: --- the other way.

MR. MERIWETHER: --- whose name did not escape the lips of any witness in the case, I would likely to move.

THE COURT: Yes. Well, then we need to set a date that's not the 28th if the motion is going to be heard the 26th, or if they're due to be served by the 26th.

MR. MERIWETHER: I will talk to my folks this afternoon and see if we can get an earlier date.

THE COURT: Okay, let's do that. All right, earlier date.

MR. McDONALD: Ms. Dean, can we go ahead and address Sterling?

THE COURT: Well, I'm just not going to ---

MR. McDONALD: Oh, oh -- okay.

THE COURT: --- jump hither, thither, and yon. I'll let Meriwether do that, probably ill advisedly, because none of these things end up being as simple as people say they are.

Cleaver Brooks is the first one.

MS. DEAN: Your Honor, this one we've gotten a large way towards resolution, but we asked whether they sold products. No one knew Cleaver boilers, but we had several people saying that he worked -- this is in terms of Bowater location. He worked on all the boilers in the powerhouse. I learned in January on of the boilers sold to Bowater was Cleaver Brooks. They've agreed now to give me all the documents.

They've also indicated that *Sizemore* and *Smith* parallel the same issue, that they've confirmed they don't have boilers in any other location but this one and that they'd like to consolidate the three. I just wanted to get that -- my understanding of that agreement on the record.

The main thing we then need are the documents and to be able to get a date for all three so that we can discuss with them what they did to confirm that they're not at the other location and learn about this asbestos-containing boiler that was at the place where my guy worked.

THE COURT: All right. Now, who represents Cleaver Brooks?

MR. THOENSEN: Your Honor, Joe Thoensen with Richardson, Plowden, and Robinson. I'm here for Cleaver Brooks.

Ms. Dean is correct. We have largely resolved the issue. Cleaver Brooks searched their records and they did determine that they shipped a boiler to the Bowater Papermill in Catawba, South Carolina. It is a very small boiler and our information, based on several other things that are not up for dispute today but just for some context, is that that boiler was never in the powerhouse at Bowater.

THE COURT: That's a connect-the-dot deal.

MR. THOENSEN: Exactly.

THE COURT: We're just talking about 30(b)(6).

MR. THOENSEN: Correct. That, that was part of the reason why we went back and forth a couple of different times. We produced a collection of documents, and we did have a deposition date set for earlier this month. Ms. Dean came back and said I think I need more documents than that, and I said okay. We'll go and get them but if we go and get them, the 19th is not going to work because we also have a microfilm process that is extremely tedious and time-consuming.

Our documents that she now is seeking have been collected; they have been organized, and they were sent to

me late yesterday. They will be produced to Ms. Dean and her cocounsel as soon as I get back to my office following this hearing.

And we did -- as you may imagine, there have been a flurry of emails and things get missed, and I understand that. We offered our witness for February 1st. I understand there's going to be a lot of scheduling concerns for, for a lot of people. We did offer him for February 1st; he's still available for February 1st. If that is just impossible for the plaintiffs, we'll work on something.

But in terms of document production and a deposition date for a 30(b)(6) witness, this is all in compliance with this court's scheduling order for this trial block that came in on January 11th. We are producing documents before the dates set forth in that order, and we're making the witness available before the date set forth in that, in that order as well. So, with the production of our documents to occur today, we don't believe there is a dispute.

THE COURT: Very good.

What do you say to that, Ms. Dean?

MS. DEAN: I think the issues have been resolved. I do think telling us the day before we have a flight to do their deposition that they didn't give us records that we

didn't just ask for the first time ---

THE COURT: Well, we're past that now.

MS. DEAN: But, yeah, there's a lot of frustration that it takes having a hearing ---

THE COURT: Sure.

MS. DEAN: --- here to get there, but we're there.

THE COURT: Well, we're past that.

MS. DEAN: Yeah.

THE COURT: So respectfully, Cleaver Brooks, that's okay and that's on -- you say Bowater. That means on the *Howe* case, and then you made some mention of *Sizemore* and *Falls PR for Smith*. Same issue there, or are there no -- they say nothing in the plants they worked in. Is that true or not true?

MS. DEAN: Given that they have indicated they'll get us all responsive documents today, we will notice the deposition in all three cases February 1st, and I don't think you have anything further to rule on.

THE COURT: Very good, and just for the record, then, the three cases we are discussing at this time, Ms. Harris, are the *Howe* case, *Falls PR for Smith against CBS Corporation*. That's 2015-CP-46-02155. And *Sizemore as PR of the Estate of Sizemore against Bowater Papermill*. That's 2016-25-0440. And these matters will proceed on with 30(b)(6)s and exchange documents along the lines that

the counsels have discussed, with no need for a further order at this time.

MS. DEAN: Yes, Your Honor.

THE COURT: Very good. All right, that does Cleaver Brooks. Now we go to Covil.

MS. DEAN: Covil is another scenario where I know we're talking about the *Howe* case, but we are also seeking a deposition in *Smith* and in *Sizemore*, and I should say Falls, the PR. But we had a deposition notice in November. We'd been asking for months. They gave us a date of the 31st. I was planning on going out and getting ready for the 31st. They now claim that because their main witness had to go from a part time to a full-time job in January, that they need more time.

Again, I believe that the hardship for not planning for something where you've gotten more than the thirty days that the rule requires -- sixty days -- shouldn't fall on the plaintiffs and should proceed on the 31st.

The second part of their motion has just been why do we have to do this over and over again. We are happy to do them in a, in a group if that is better for their people. And then their final thing they say is look. Our corporate representative now didn't start with the company until 1974. He's the son of the person that owned and started the company who was deposed at length. I think it's 498

State of South Carolina)) County of York)	In The Court of Common Pleas Sixteenth Judicial Circuit
In Re: South Carolina Asbestos Litigation, Plaintiffs.	

State of South Carolina)) County of York)	In The Court of Common Pleas Sixteenth Judicial Circuit 2015-CP-46-3456
Timothy W. Howe, as Personal Representative of the Estate of Wayne Ervin Howe, deceased, and Jeanette Howe, surviving spouse, Plaintiffs, vs. Air & Liquid Systems Corporation, et al., Defendants.	Transcript of Record

March 9, 2018
Columbia, South Carolina

B E F O R E:

The Honorable Jean Hoefer Toal, Judge

A P P E A R A N C E S:

Jessica M. Dean Esquire
Jonathan M. Holder, Esquire
Theile B. McVey, Esquire

Nicolas A. Charles, Esquire
S. Christopher Collier, Esquire
William P. Early, Esquire

A P P E A R A N C E S:

Andrew T. Frankel, Esquire
Jase B. Glenn, Esquire
Thomas M. Kennaday, Esquire
Christopher S. Marks, Esquire
Moffatt G. McDonald, Esquire
Yancey A. McLeod, Jr., Esquire
Robert O. Meriwether, Esquire
M. Elizabeth O'Neill, Esquire
Steven J. Pugh, Esquire
Jennifer M. Techman, Esquire
David G. Traylor, Jr., Esquire

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

together?

THE COURT: We're doing all of them together. They all involve the same thing, I'd be willing to bet.

MS. O'NEILL: Okay. Thank you.

THE COURT: Very good.

Ms. Dean.

MS. DEAN: Good morning, Your Honor. This is Jessica Dean behalf of all three plaintiffs. I want to first just acknowledge a thank you to the clerk of court, the court, and while we have spent a lot of time letting the court know about our frustrations, there has still been an extraordinary cooperation and professionalism in a really difficult time and just wanted to express that.

The frustration that we have here started with the hearing where counsel for Cleaver Brooks, Joe Thoensen, came on the 24th, represented to the court that we did not need an order because they had already searched their files. They only had one boiler at issue despite us identifying eighty sites between the three, and it was the same location, Bowater. That they would get it to us by that day, and we would have a deposition by February 1st. Based on that, I still said Your Honor, they've jammed us up. They shouldn't be able to have a motion for summary judgement. You disagreed with me, and we moved on.

Since then it is unequivocal: they missed it. They,

they do not mince words here. We have an email from Mr. Thoensen himself saying I believed that when I said it, but it's not true. We've attached that. Their own responses to our motions for sanctions acknowledge that what was stated was not true and in two fundamental ways. One, Bowater is not the only location at issue and two, they did not produce all of the documents for all the sites by the 24th. In fact, productions happen not just after that represented time but after 2/9, which was the scheduling order deadline for these representatives. They continued to be produced until just days ago.

Their corporate representative -- and this is why you have a supplement yesterday -- was first able to be available to talk about the documents this week. They offered us a date, the 21st or 22nd initially. Acknowledged in writing -- we attached that -- we wouldn't be ready for everything, so we got a Tuesday deposition which resulted in us getting a Thursday transcript, which is why we got this during the time.

And the point the court already made, why am I getting something this late, I understand we bring it to you, but it's because this is by definition trial by ambush. You've already signed an order that if you represented things to the court, Cleaver Brooks, that end up not being true, there will be sanctions.

We found out in that deposition on Tuesday, and I hope the court has a moment to look at what we wrote, but where claims made in writing by Cleaver Brooks don't bear out -- for instance, one of the things they said in their objection to our proposed order is that on the 24th, we believed Bowater was the only location. The corporate representative says no, I knew and told counsel there were locations in *Sizemore* at issue.

We -- after the summary judgment deadline ---

THE COURT: Let me stop you here. How many locations are we talking about now?

MS. DEAN: So, what we have is in *Howe* Bowater only with a confusion about where it's at that I want to talk about for maybe a minute. In *Smith* three locations where they claim they don't have records for two, but they've seen documents we produced from state boiler registries that make us have high concerns that they haven't produced what they have. And in *Sizemore* seven, one of them being Bowater.

And so we have identified in that motion, and it's kind of indented, I think, on the fifth page the specific sanctions we're seeking as to each, and, and, and I think they are reasonable and tailored to the specific harm. We also attached an order from Judge Hill in a case called *Bumgardner*, and I did that because I was actively involved

in Pete Bumgardner's case, and it resulted in emergency depositions two days before trial. This is, this is a problem not with Mr. Pugh and not with -- in fact, I think Joe, Joe is one of the most straightforward people I've ever met, but it is a repeated problem with this client, and the particular problem...

THE COURT: Go ahead.

MS. DEAN: Sorry, in *Howe* is limited. They told me for the very first time that they have a boiler sent to Bowater on January 11th. They told us it was in the power house, but they wanted to limit the documents because he was never inside of it. I then gave them evidence. No, you're wrong about that; here's the testimony where he was inside. Then it became the day before I first met you that they said we were wrong. We don't believe it was in the power house. We believe it was in the admin building.

I want the court to appreciate that for two years, the only testimony we had in this case from two different people is every boiler was in the power house and that Wayne Howe worked on every single one of them, and that's clean, right, because if I can find out the boiler manufacturer there, I now know he worked on them.

For the first time, six weeks before trial, they said nope. We did sell a boiler. It had a lot of asbestos in it, but it was somewhere else. I immediately took them up

on the hearing of looking at the documents they produced on the 24th on the 25th. It didn't bear out what they said. It doesn't show it's in the admin building. I then went to Bowater, the premises location, and asked them if that what was they knew. No. The admin building did have a package boiler, but it was sold in '86. Their boiler was sold almost thirty years earlier in 1957. I then started calling coworkers. Everyone I knew ---

THE COURT: Well, did you find out that it was in the power house?

MS. DEAN: I did.

THE COURT: Was that something that Bowater revealed or coworkers?

MS. DEAN: Coworker, including a coworker deposition we found through Mr. Graham, who's working with us in this case, that Cleaver Brooks was at that says, look, there are five really giant field erect boilers and a package boiler from Cleaver Brooks. And so we're here with them now saying you can't have a new witness. You can't introduce this testimony with stuff that I believe they should have produced to us.

THE COURT: And who's the new witness?

MS. DEAN: His last name, I think, is Bogan, but let me grab it to make sure my memory is right.

(A PAUSE.)

MS. DEAN: Yeah, it's Johnny Breen B-o-g-a-n, Bogan.

THE COURT: All right. Now, I'm still, Ms. Dean, not finding, although I do remember it's in one of your supplemental motions and maybe it comes from Jonathan, but it does list what all you're asking for. Have you got that? I don't think it's in this one.

MS. DEAN: I can show you where, if I can approach?

THE COURT: Yes, please. Y'all don't have to do all that. I'm not that formal about approaching and all that kind of business.

MS. DEAN: I am an informal soul, so I try to make myself be very formal when I get here.

So, right at the end, the specific request for each case.

THE COURT: All right.

MS. DEAN: You'll see for *Howe* it's just limited to a presumption that the boiler is in the power house and/or we're going to ask to be able to use this late-identified witnesses.

For the other two cases, it's for the locations where we now know there is boilers not to have trial by ambush by having a presumption that the components that we know are routinely in their boilers were, in fact, in those boilers. I'm summarizing. It's better written in the brief.

THE COURT: Okay. All right, I understand your

position.

MS. DEAN: Okay.

THE COURT: Counsel.

MR. PUGH: Thank you, Your Honor.

THE COURT: Now, does your notebook have your response to this, or is that in some other piece of paper?

MR. PUGH: Your Honor.

THE COURT: Or is this going to be the response that you're telling me right now?

MR. PUGH: I'm about to give you my response, Your Honor.

THE COURT: Okay, but you don't have it in writing?

MR. PUGH: I do not yet, but we can hand something up. I received their motion, I don't know, 7:00, 6:00 last night.

THE COURT: All right.

MR. PUGH: May it please the court? Your Honor, again this is Steve Pugh, Richardson, Plowden, and Robinson for defendant Cleaver Brooks. I appreciate what counsel said about my colleague. I was not at the January 24th proceeding, and I appreciate what the court said, that lawyers can only reflect their client's position, but let's talk about our client's position, specifically -- and I'll take the cases one by one.

Ms. Dean told you a moment ago that the testimony she

had was clean as to the power house and presence of five boilers at the Bowater facility. That's what we're talking about in *Howe*, the power house and boilers in the power house. Let's look at Mr. Howe. His testimony, he did not identify Cleaver Brooks.

THE COURT: Let's not get into that argument. I think what we're -- y'all are going to repeat all that in your motion for summary judgment. What I need to know real specifically is the position on this business of not giving them sufficient information about where your boilers were located until late in the game.

MR. PUGH: Every ---

THE COURT: Because we're now got, we've got other information that identifies Cleaver Brooks. I've got that in my motion for summary judgment.

MR. PUGH: That's correct.

THE COURT: So, that's ---

MR. PUGH: Your Honor.

THE COURT: This is not the time to argue that. What I want to understand from you is what your position is on the very late disclosure or really no -- she says you never really made any disclosure that this boiler was in the power house. That she had to go out and find the coworker, and she finally found somebody named Bogan that could identify the Cleaver Brooks boiler as being in there even

though she says you've got witnesses that said that was known by the corporation some time before this late date.

MR. PUGH: In short, Ms. Dean is incorrect.

THE COURT: Well, then what is the facts about -- when did you disclose the information?

MR. PUGH: We disclosed our Bowater documents in accordance with your prior order. The deposition of our 30(b)(6) designee was in accordance with your prior order.

THE COURT: But give me real specifically. Where did you ---

MR. PUGH: We sold, we sold ---

THE COURT: --- disclose, where did you disclose the location of one of your boilers in the power house at Bowater?

MR. PUGH: We provided documents to the plaintiff ---

THE COURT: Please don't, please don't tell me ---

MS. O'NEILL: Your Honor.

THE COURT: --- a big document dump that ---

MR. PUGH: No, no, no, no.

THE COURT: --- that has a whole bunch -- tell me specifically what document it was and when it was provided that said that one of your boilers was in the ---

MR. PUGH: We provided ---

THE COURT: --- power house at Bowater.

MS. O'NEILL: Your Honor, may I respond to that?

THE COURT: You know, I'm never going to get finished with the thing if I have this kind of thing where people clear their throats by arguing their whole case. I've got a real specific question here about this real specific thing, which is sanctions. So, I want to know exactly when it was disclosed.

MR. PUGH: We ---

MS. O'NEILL: We didn't. That's the answer, Your Honor.

THE COURT: You did not disclose?

MS. O'NEILL: We did not because we don't have any evidence that it was in the power house. We don't believe that it was in the power house.

THE COURT: So, you're going to dispute that ---

MS. O'NEILL: Yes, ma'am.

THE COURT: --- despite the evidence that's submitted, you just dispute that any ---

MS. O'NEILL: Yes. Yes, ma'am. Bowater -- that is correct. We dispute that the boiler was in the power house. We have the testimony from the ---

THE COURT: So, is the ---

MS. O'NEILL: --- Bowater corporate rep that doesn't identify it. Cleaver Brooks doesn't know where its boilers went.

THE COURT: Yeah, that's what I want to know. What

information did you give that discloses -- you apparently know that you sold some boilers to Bowater.

MR. PUGH: Correct.

THE COURT: What information did you give them about where they were located?

MR. PUGH: We didn't ---

MS. O'NEILL: We didn't have any. We gave them all the documents we have which says we sent a boiler -- we sold it to Bowater. We don't ---

THE COURT: Well, why wouldn't you just step up to the plate and say that then instead of ---

MR. PUGH: That's ---

THE COURT: --- all this kind of we disclosed to them?

MR. PUGH: That's what I was attempting to get to. I was trying to tell you ---

THE COURT: Well, get to that right away. Don't start it up with all this we disclosed this and we disclosed that. And that implies that ---

MR. PUGH: Right.

THE COURT: --- you had some information and you disclosed it. You didn't disclose anything period about where your boilers were, as I understand it.

MR. PUGH: We disclosed the document that said we sold a boiler to Bowater. What Bowater did with that boiler, we don't have that document to disclose. What we do have ---

THE COURT: Does your, does anybody in your company have any information about where those boilers ended up?

MR. PUGH: Other than the testimony of the Bowater plant engineer who says it was not in the power house, other coworkers who say it was not in the power house, and the South Carolina State Department of Inspection for Boilers who says it's not in the power house.

THE COURT: Well, where did they say it was?

MR. PUGH: In the administrative building at Bowater.

THE COURT: All right. I think I understand your position.

MR. PUGH: Thank you, Your Honor.

THE COURT: All right, Ms. Dean, in reply?

MS. DEAN: Yes, Your Honor. I'm aware that Ms. O'Neill got brought into the case recently, and so there -- that, I think that makes it difficult to know the history. But I have an email on 1/24 at 1:20 -- at 1:14 -- no, that's not right. It's 1/24 at 7:14 p.m. In other words, the night of our hearing, and it says in writing our boiler is in the administration building.

So the timeline of this is very clear, I got a call on 1/11, so I can't show you a piece of paper, saying it was in the power house. I got a representation from the lawyer before we walked in here it was in the admin building. I then have written communication from their national lawyer

saying the same. I then looked into the records, and what they admit now they didn't admit then, they don't bear that out.

THE COURT: Well, what do the records say?

MS. DEAN: They don't say location.

THE COURT: Well, Ms. Dean, Ms. Dean, this is a dispute between -- you don't have anything from anybody on a piece of paper that says where it's located, nor do they. You have got a witness that you found who says that it was in the power house, and they've got written material from the boiler inspection people at the state and some other and the testimony of the Bowater's corporate rep which you all are relying on for location in a lot of places where the defendants don't know where it is that says it's in the admin building. So, it's just a simple factual dispute between the two of y'all as to where this boiler is located. They're not disputing it was sold. They are saying that all their -- they don't have any records, they say, that say the location, just a sales thing, and they say it's in the admin.

I want to know one thing, and I'll ask it again of them. When was this admin boiler sold to Bowater?

MS. DEAN: So, the only record on an administration boiler that we have seen was produced later than your order.

THE COURT: Right.

MS. DEAN: Was in 1986, which means it is not the 1957 Cleaver Brooks boiler.

THE COURT: Well, what is the information you have about the 1957 boiler?

MS. DEAN: The information we have, and this is why I think it's -- I agree with the court this is a factual dispute. The reason I am here is because of the timing of when we learned the ---

THE COURT: I get the timing. What information do you have about a 1957 Cleaver Brooks boiler?

MS. DEAN: The first time we were made aware of that was in mid January of this year about two years after Mr. Howe's deposition.

THE COURT: I get that, but what is the information that you got that says there's a boiler in the power house that was sold, or there's a boiler that is in Bowater that's a Cleaver Brooks boiler that was sold in 1957?

MS. DEAN: We've got limited records in mid January with the representation it was in the power house. Then in the end of January ---

THE COURT: Ms. Dean, please be specific about this. Who gave you the records that indicated it was in the power house?

MS. DEAN: Joe called me on 1/11.

THE COURT: Who is he?

MS. DEAN: He is Cleaver Brooks's lawyer.

THE COURT: All right.

MS. DEAN: And what he said to me ---

THE COURT: Mr. Thoensen called you. Is this just a conversation between y'all, or is this a document?

MS. DEAN: It is just a conversation.

THE COURT: And he said there's a boiler from 1957 in the power house?

MS. DEAN: And we'll produce those documents today, but we would like you to agree only that these, what I call first layer records that show what's on the outside because my guy never went on the inside. Then I said here's the evidence, after I talked to Mr. Holder, of him being on the inside. You need to get me the inside records.

THE COURT: All right.

MS. DEAN: Then they pulled down their deposition, and that resulted in us having a discussion with you on the 24th.

THE COURT: Okay.

MS. DEAN: That is the first time I heard that the records reflected it was in the admin building, and that's what I have a written email for. And since then I have been to, to what would have been just a typical fact dispute if it was disclosed two months ago, six months ago

while preparing for trial in the last ---

THE COURT: I understand you've gone to heaven and earth to do that.

Okay, I'm going to go back to Mr. Pugh for a minute. Mr. Pugh.

MR. PUGH: Your Honor.

THE COURT: Do you dispute what she's saying about -- and I can't imagine she'd make up a conversation with an attorney. You know Attorney Thoensen?

MR. PUGH: He works for me.

THE COURT: All right, and did he represent to her that it was a 1957 boiler in the power house and that he'd send her the material the next day?

MR. PUGH: I would have no idea why that discussion would take place because that would be contrary to the depositions that had already been taken about the location.

THE COURT: So, are you saying she's making it up?

MR. PUGH: I'm saying I wasn't on the phone.

THE COURT: Where is Mr. Thoensen?

MR. PUGH: I'm not sure, Your Honor.

THE COURT: Is he here?

MR. PUGH: He's not.

THE COURT: Well, I want you to -- I'm going to defer ruling on this for a little bit. I want one of y'all to get in touch with him and find out it he would agree that

that's what he told her. People can make mistakes.

MR. PUGH: Sure.

THE COURT: But I'm not going to do this on the basis that he's the one she had the conversation with. Now you're here and we can't verify this.

MR. PUGH: I understand.

THE COURT: All right. So, you get that straight with me and we'll ---

MR. PUGH: I'll get straight with him about that. May I move on to the other cases that were argued initially by her?

THE COURT: You talking the ---

MR. PUGH: *Smith*.

THE COURT: --- the *Smith* and *Sizemore*? Yeah, and *Smith* they say is one and *Sizemore* -- three and in *Sizemore* they say there are seven.

MR. PUGH: Correct, Your Honor.

THE COURT: And that you didn't disclose them until way after the deadline.

MR. PUGH: In *Smith* we didn't disclose what we don't have.

THE COURT: It's not a question of we. Why did your client not disclose this?

MR. PUGH: They don't have it. There are no documents that my client has reflecting a sale of any boiler or ---

THE COURT: Is there anything in any records or any statement by a corporate rep or somebody else just besides a lawyer herself that says there are three for *Smith* and seven for *Sizemore*?

MR. PUGH: As to *Smith* are there any records? Yes, there are.

THE COURT: All right.

MR. PUGH: Let me tell you what they are.

THE COURT: All right.

MR. PUGH: There are records that Ms. Dean obtained from some online website which she has represented is a North Carolina Department of Labor registry. If you look at those documents, and I believe they've submitted them to Your Honor.

THE COURT: Yeah.

MR. PUGH: It shows boilers being placed at Duke by either a company called C&C Boiler, which is a company out of Charlotte, or Daniel Construction. Simply put to answer your question directly, Cleaver Brooks has no record of selling, shipping, sending a boiler to Daniel, Cliffside, or McGuire.

THE COURT: Now, what kind of efforts did Cleaver Brooks make to satisfy the requests about product identification for these three cases to find out whether your boilers were in there? It sounds like you waited

until the very last minute to finally disclose this one that you say is 1987 and in the admin building. That gives me some heartburn right away. If you finally found that out, you could have found it out a lot earlier, but what have you done with these three cases and when did you do it to find out from your client what the information is about boilers?

MR. PUGH: Our records historically have never shown a sale to Duke. When Ms. Dean provided the information ---

THE COURT: That's something a bunch of these people are going to say.

MR. PUGH: Right.

THE COURT: That's not dispositive.

MR. PUGH: I understand.

THE COURT: I'm asking when you were directed on January the 24th ---

MR. PUGH: Right.

THE COURT: --- to go and find out beyond simply we keep it by machine number, we don't know where it goes, when you were asked to look more closely at that, what did you do?

MR. PUGH: Well, there was a exchange between Ms. Dean and Ms. O'Neill, and Ms. Dean said here are some records I found. What about this? My client took the step, went back and looked not only at all of their records, but we

got ahold of the Duke production, which was over 24,000 pages of documents, and we looked at every single one of them. We did -- not only looking through them. We looked for Cleaver Brooks, we looked for Cleaver, we looked for Brooks. We looked for any possible machination of the term that would show that we had ever shipped, sold, or sent.

THE COURT: Okay. Then she sent you something, and what was it she sent you? She sent you some stuff from the North Carolina Department of Labor that ---

MR. PUGH: Correct.

THE COURT: --- she said indicated that Cleaver Brooks machines had gone into these other locations.

MR. PUGH: And ---

THE COURT: And what did you do with that?

MR. PUGH: We looked at that, and if you look at the records themselves, they show that that was not a record of Cleaver Brooks but, in fact, of a different company.

THE COURT: I don't care whether it was your record or not. Finally you got something that seemed to indicate that your machines were in here.

MR. PUGH: Your Honor, what I'm telling you directly is this. I have no documents anywhere that show that I sent, shipped, or had a boiler there. Am I denying that somebody -- because my boilers, unlike a lot of these two-story built onsite boilers, you can put on a trailer

and pull up in the parking lot outside the courthouse. Somebody apparently put my boiler outside of those Duke facilities to make hot water during a shutdown. I don't have those records.

THE COURT: All right, you don't need to get all fussy with me.

MR. PUGH: Right.

THE COURT: All you need to do is finally, like you're doing now, explain the situation to me instead of going all around the mulberry bush about we don't have any records. You need to let me know something about exactly what went on with this.

MR. PUGH: Sure.

THE COURT: And what you're saying is you -- that maybe some machines came there, but y'all don't have any records about them, and they weren't in your mind things that were inside the plant.

MR. PUGH: Correct.

THE COURT: Okay. I got it.

MR. PUGH: Thank you.

THE COURT: Now, you're going -- apparently, though, there was a time when somebody in your office, Mr. Thoensen probably, maybe incorrectly or confusedly made the representation to Ms. Dean that it was a 1957 boiler that was in the power house. I want that verified because I am

-- I'm not of the belief that you would tell a falsehood, and I'm not of the belief she would, and I'm not of the belief Mr. Thoensen would.

MR. PUGH: Yes, Your Honor.

THE COURT: But sometimes you look at the wrong piece of paper and make a mistake. That's okay. I don't fuss with people or punish people for that, but I want to verify what the conversation was between him and Ms. Dean.

MR. PUGH: Understood.

THE COURT: Okay?

MR. PUGH: And to be clear, that is in the *Howe* case alone, not in the *Smith*.

THE COURT: Very good. Thank you.

MR. PUGH: And, Your Honor, do you want me to finish with the *Sizemore* matter or you want to ---

THE COURT: Well, I think you've covered all three of them, haven't you? I mean, isn't that what you're saying with all of them is that you don't have any information? Therefore, somebody else -- or do you now say you have some information about *Sizemore* and *Falls*? If so, I want to get through this in some reasonable period of time.

MR. PUGH: I understand.

THE COURT: So, let's quit with the wind up and come with the pitch.

MR. PUGH: Understood. *Howe* and *Smith* are the same:

we don't have documents to give them.

THE COURT: How about *Sizemore*?

MR. PUGH: *Sizemore*, there were documents. It's simple as this. You say lawyers sometimes say things that turn out not to be correct. That's exactly what I believe happened on January the 24th by Mr. Thoensen when he said based upon the information that we have today, I am advised or I am of the belief that Bowater is it. Between that hearing and when our corporate rep was produced for his deposition over a week later, that issue became further illuminated in *Sizemore*.

The seven sites that Ms. Dean talked about, those records have been produced. Our corporate rep has been redeposed, and we can go through all of those documents *in toto* if Your Honor would like, but that's the situation.

THE COURT: Okay.

MR. PUGH: And I will if -- with Your Honor's indulgence, I will step out and I get ahold of Mr. Thoensen and get him over here.

THE COURT: Very good.

MS. DEAN: Brief response?

THE COURT: Very brief, Ms. Dean. I think I've heard what I need to hear about this thing.

MS. DEAN: Only thing I would say is first the Bowater issue was -- wasn't limited to *Howe*. It affects all three

cases.

Two, the concern in *Sizemore* is clear. It's not just that they got something wrong. It wasn't corrected until well after summary judgment deadlines so that this means trial by ambush. Their mistake, because they waited so long to do it and then they waited so long to correct it, has real harm that they're just not acknowledging.

Concrete, three of those boilers we don't have and they acknowledged it on Tuesday, baseline documents about what gaskets, rope, block, asbestos components were used. We didn't find out until Tuesday and get a transcript until yesterday about what's happening at those locations.

So, I think the acknowledgment of a mistake combined with adding in how they fix that, when they fix that, and how much problems we have about fixing that, which are well evidenced in our records, is why that is clear trial by ambush.

Last thing I'll say is about *Howe*. It is very worrisome when you have a lawyer represent there are no locations at issue but one in all three cases. It turns out they're wrong about six boilers in *Sizemore*. It turns out we talked to their representative, and he said I knew that on the 24th when something different was being said to the court. To say that we can just assume that these two records that are in public record documents they don't

exist -- and it's really hard for us when we're preparing for trial the three weeks beforehand to sort out the validity of that. That shouldn't be what we're doing.

THE COURT: I gotcha.

MS. DEAN: So I'm done.

THE COURT: I gotcha.

MS. DEAN: Thank you, Your Honor.

THE COURT: All right. Okay.

MR. PUGH: Your Honor, one thing if I just very briefly?

THE COURT: Mr. Pugh, I'm not going to do this; I'm not going to do this.

MR. PUGH: I'm not ---

THE COURT: I have got all ---

MR. PUGH: --- going to respond to that. I'm simply going to say, Your Honor, I will be filing these written responses electronically, and I will hand those to the court once they're signed.

THE COURT: That's fine, you know, that comes -- it's like so much else in this thing. At the very minimum, there hasn't been a very timely response to this until we got right jammed up on trial, and that's what's causing all of this, and that is to some extent on y'all.

The *Sizemore* thing bothers me a lot where you finally found out there were, in fact, a lot of boilers. So, you

know, the projection, hey, I don't make these great, big old boilers. I make small boilers. Therefore, I'm not going to really have to get out here and do anything, that's not how we do. If they've got any information, then -- and when a corporate representative has some information and knows that something different is being told to the court, that doesn't suit me for them to a lay doggo until a couple of days later. That's trifling with the court big time.

So, that's all I'm going to say about this right now. I want you to find out what Mr. Thoensen says, and then I'll make some kind of ruling on whether I'm going to allow any of their stipulations or presumptions or whatever it is they're called.

MR. PUGH: So I'm clear in my instructions, am I to have him over here, or you want me to report ---

THE COURT: I want you to find out -- good Lord, I'm not going to -- where is Mr. Thoensen?

MR. PUGH: I'm not sure, Your Honor.

THE COURT: Probably not -- is he in Columbia?

MR. PUGH: Yes, Your Honor.

THE COURT: Well, I don't require -- I'm not going to put him under oath and have some big examination. We're not going to get into that. You as a lawyer are professional enough to find out from him what he says, and

I'm going to believe you whatever you tell me. So, find out from him.

MR. PUGH: Yes, Your Honor.

THE COURT: Okay.

(A PAUSE.)

All right, Celanese.

MS. DEAN: Your Honor, I have a copy of our supplement. Make sure I'm handing you the right thing.

THE COURT: Who's here for Celanese?

MR. EARLY: I am, Your Honor, Will Early.

THE COURT: Hey, Mr. Early.

MR. EARLY: And Chris Collier ---

MR. COLLIER: Chris Collier, Your Honor.

MR. EARLY: --- as you know.

THE COURT: Very well.

MS. O'NEILL: Do you want me to take a seat since ---

THE COURT: Ma'am?

MS. O'NEILL: Do you want me to move to the back of the courtroom, Your Honor?

THE COURT: I'm comfortable with y'all wherever you sit. If you want to perch where you are, you're fine.

MS. O'NEILL: Thank you, ma'am.

THE COURT: Y'all work that out.

Ms. Dean.

MS. DEAN: Your Honor, this relates to the *Howe* case

this thumb drive and try to find the record that would answer your question. That's, that's basically what he said, right?

MR. BRANHAM: It's exactly what he said, and the most telling thing and then I'll stop. The most telling thing was the lawyer -- not anybody here -- at the deposition for Foster Wheeler, and what he said is it's 187,000 documents. He's only had them for two weeks. How's he supposed to know? And that's exactly right.

I don't blame Mr. Tracey for not knowing. He didn't get the documents until two weeks before when he'd signed interrogatories two years ago, right? And so how do you, how do you sign interrogatories and discovery responses without doing the work to know what's out there? And that was the point we made at the deposition is that we have struggled mightily. And Mr. Brolly, who took the deposition, pulled records and asked questions, but there's no way if the corporate representative says you've got to show me something before I can tell you what it means. So, that's -- and, Judge, then I'll stop.

THE COURT: Let me ask you this.

MR. BRANHAM: Yes.

THE COURT: What they try to say is that you were asking for records with regard to eighty jobsites, or he was expected to respond with respect to eighty jobsites,

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF YORK
TIMOTHY W. HOWE,
Individually and as Personal
Representative of the Estate of
WAYNE ERVIN HOWE, deceased,
and JEANETTE HOWE,
Plaintiffs,
vs. C/A NO. 15-CP-46-03456
AIR & LIQUID SYSTEMS
CORPORATION, et al.,

Defendants.

H E A R I N G
BEFORE THE HONORABLE JEAN TOAL

DATE: October 10, 2018

TIME: 10:56 a.m.

LOCATION: Richland County Courthouse
1701 Main Street
Courtroom 3-B
Columbia, South Carolina

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P R O C E E D I N G S

THE COURT: This is a -- I'm guessing that where we stand is that the plaintiff is the moving party here. Am I right --

MS. McVEY: Yes, Your Honor.

THE COURT: -- Ms. McVey?

MS. McVEY: Yes, ma'am.

THE COURT: So you may proceed. And what -- what we've got, we have motions for sanctions that were made in this case, and certain rulings have been made about the motion for sanctions, but I held over the question of what to award by way of sanctions until the case was concluded.

I might just say to you, Ms. O'Neill, and you, Mr. Pugh, I think you all were the ones that raised the question about whether or not they could go forward with these motions because the case was over and the verdict had been rendered. Am I right?

MS. O'NEILL: Yes, we did, Your Honor.

THE COURT: Okay. All right. I'm not precluding you arguing that, but just for the purposes of where we are right now, I will tell you that if there's any fuss to be had that it's

with me. All right? I directed that judgment not be entered in this matter because we had the pendency of awards on sanctions that had been levied during the course of the trial, and for the very reason you project, I did not want to preclude being able to hear those motions -- the motions and the request for the specific sanctions. And that is why I did that.

So the status of it is not inadvertence is what I want you to understand. You don't have to agree with what I write to tell them -- to not enter, but it's not inadvertence on the part of the clerk's office. It was a direct -- they asked me, "Judge, in light of these pending motions, should we enter the judgment?"

And I said, "No."

So if you've got heartburn with that, get your advisors to look over my shoulder. All right. That is why the case is in the process that it's in.

All right. Ms. McVey.

MS. McVEY: Good morning, Your Honor. You probably recall this case very well. It's a case that we tried against Cleaver-Brooks in March of 2018 up in York. At the time of the

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case -- this is the Howe case -- Cleaver-Brooks when we started trial was the sole remaining defendant, and that became clear on Sunday before we started the trial on March 12th. And that's important for a lot of reasons. This is a case with a lot of defendants in it, and it had a lot of defendants up until we started -- we started trial.

But just by way of background, Howe testified -- Mr. Howe testified that he worked at the Bowater plant in York. He worked for a subcontractor from 1978 to 1985 and then directly for Bowater from '85 to -- to 2007. He worked as a pipefitter, as a mechanic, and his testimony critical to this issue was that he worked with all the boilers -- on all the boilers in the powerhouse at Bowater. Other coworkers confirmed that Mr. Howe worked at -- on all the boilers in the powerhouse, and as you know, Cleaver-Brooks made boilers.

So the biggest issue in this case, both at the discovery phase and at trial, was the location and the number of the Cleaver-Brooks boilers. Were the Cleaver-Brooks boilers in the powerhouse at Bowater? Because what we didn't

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have is Mr. Howe saying, "I worked on the Cleaver-Brooks boilers." He said and Bowater said, "I worked on the boilers in the powerhouse."

So were the Cleaver-Brooks boilers in the powerhouse? And if they were, then the testimony from the coworkers and Mr. Howe would be that he worked on Cleaver-Brooks boilers.

And I need to back up because it wasn't just these late-produced documents at trial that were the issue, but you probably recall we had a lot of discovery issues in the Howe case. For the first time on January 11th of 2018 Cleaver-Brooks produced their commercial file. That's that 25 pages that we talked about. That was over two years after the case had been filed. But they did produce that in January.

Those records told us that there were two Cleaver-Brooks boilers. And how did they tell us that? This was the big issue, as you recall. They told us that -- Cleaver-Brooks told us that each boiler has a unique ID number. It's usually a five digit number. And the commercial records and those records told us -- I won't give you all the numbers, but it's essentially

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43 and 44, meaning that there were two Cleaver-Brooks boilers that were shipped to the Bowater plant. That's what the commercial records that Cleaver-Brooks produced to us told us.

All right. So then they did a 30(b)(6) depo of Cleaver-Brooks. That was scheduled originally for January 19th, a date that Cleaver-Brooks offered. They unilaterally -- unilaterally cancelled that date and moved the depo to February 2nd, a time that was closer to trial when things were more hectic. You may recall the plaintiffs objected. We filed a motion to compel, and that was to force Cleaver-Brooks to give us a corporate rep depo and to fully answer the discovery requests that had been served months earlier.

The first hearing in this case was on January 24th, 2018, and the -- the hearing really was sort of moot against Cleaver-Brooks when counsel said they would give us the documents that we wanted and that they would have a fully prepared 30(b)(6) witness on February 2nd. Okay.

Then we took the deposition of

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Mr. Tornetta, and you remember Mr. Tornetta is the Cleaver-Brooks corporate rep. He testified at trial and he was their 30(b)(6) rep as well. And what he said in his deposition on February 2nd is, he said, "Look, here is how we do this. We look at the index card first, and what those tell us is we look at the site, Bowater, and they tell us where the commercial file is, then go get the commercial file."

So that's what he told us to do. He said in his deposition that the index cards -- this is important. The index cards have all the same information on them as the 25 pages of commercial records. He said we didn't need the index card. It had the same information.

Now, Mr. Tornetta was actually unprepared for certain sites at that deposition. He was not prepared to talk about the Bowater plant, and so we all agreed to come back. And the second deposition was conducted just six days before the trial.

He never produced the index cards. He never came back after a second deposition in reviewing the commercial file at Bowater and said, "Hey, there's a typo in this. There

aren't two unique serial numbers. There are boilers going to Brooks." There's only one.

Your Honor, the second motion against Cleaver-Brooks was -- was heard on March 9th. That was just two days -- three before trial on the Friday before trial. And what Cleaver-Brooks initially had said is, "Maybe it was boilers in the powerhouse," but they wanted to limit what documents we could get. We wanted documents that showed us what was inside the boiler.

And they said, "No, no. Mr. Howe never worked inside the boiler. He only worked on the outside. You don't get those documents."

When we gave them evidence that said, "No, he worked on the inside of the boilers too," they gave us the documents, but then they changed the story and said, "Cleaver-Brooks boilers was not in the powerhouse. It wasn't there."

All right. You remember at that hearing -- that was a sanctions hearing -- we requested a presumption that the Cleaver-Brooks boiler was in the powerhouse, and during that hearing, you said -- you said that Cleaver-Brooks engaged in

the business of not giving plaintiffs sufficient information where the boilers were located until late in the game. You noted that it was a very late disclosure this boiler was not in the powerhouse.

But you didn't rule on the presumption issue, but it was clear to everyone at that point, Judge, that the plaintiffs' ability to prove the case against Cleaver-Brooks was was the boilers -- were the boilers in the powerhouse -- at least one of them in the powerhouse? Everyone knew that by the Friday before trial.

As I mentioned before, on the Sunday, March 11th, everybody also resolved their case. And, in fact, Cleaver-Brooks had an expert Dr. Oury who couldn't come live at trial, so they brought him to York, South Carolina, and we did a video deposition the Sunday before trial. And everyone understood then on the Sunday before they were -- still that the Cleaver-Brooks boilers -- where the Cleaver-Brooks boilers was the key to this case.

So we started trial on March 11. Cleaver-Brooks' position at trial was that the

boilers were not in the powerhouse but in the administration building. The Bowater corporate rep testified. You remember him, Mr. Welker -- or Welker testified that the boilers were either in -- the boilers plural, not just Cleaver-Brooks but boilers in general at the Bowater plant were either in the powerhouse or they were in the admin building. After looking for a hundred hours or so, the Bowater rep testified that he found a document showing that one Cleaver-Brooks boiler was in the administration building.

All right. Since the documents give -- given to us showed two Cleaver-Brooks boilers with one in the administration building, we were still okay because that meant one was in the powerhouse, and that's how we proceeded to trial. Two serial numbers, as you recall, meant two boilers, and Art Welker, the Bowater employee, you remember in his testimony, agreed with that.

So then we have the midnight documents that became to be nefarious. So a little before midnight on the night before the corporate -- I mean, the Cleaver-Brooks' corporate rep was

supposed to testify, Cleaver-Brooks for the first time, for the very first time, produced additional documents, the index cards. Now, Tornetta admitted on the stand the next day plaintiffs had asked for the index cards during the deposition, and Tornetta admitted that Cleaver-Brooks never provided them.

What those index cards show that were produced at midnight before the trial was that boiler 43 did go to the Bowater plant and boiler 44 went to some other facility in Illinois. And the explanation from Cleaver-Brooks was, "It was just a typo, guys. It was just a typo."

It's a pretty important typo. It's not a typo about how you spell Catawba. It's a typo about a serial number, and they were sequential, which made sense. This fundamentally, as you know, changed the course of the trial.

You will recall that Ms. Dean crossed Mr. Tornetta before we raised the issue. We never showed Mr. Tornetta the index card for the 44 boiler, but we did show him the 43 index card which showed one -- one Cleaver-Brooks boiler over there.

And then we made a motion to exclude them

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from using the 44 documents. And we had a long hearing about that, and during that hearing, as you noted, you said, "It's been known for some time that the linchpin of this case is going to be whether there was a Cleaver-Brooks boiler where Mr. Howe worked."

We all knew it. That was the key.

You found derelict on the part of Mr. Tornetta and you found that it was incredibly sloppy work for him not to have noticed this until the day before trial, and you found that it was a violation of discovery rules not to provide these documents.

Your Honor, you have sworn affidavits in front of you from the family and from us saying that we would never have tried this case if we had known there was only one boiler that went to Cleaver-Brooks -- that went to Bowater. It's critical because we had to have a Cleaver-Brooks boiler in the powerhouse for this to happen.

As you know, the jury came back with a defense verdict for Cleaver-Brooks. Your Honor, we haven't moved for a new trial in this case. We don't think that's warranted, but what we do believe is warranted are sanctions against

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Cleaver-Brooks for the showing out of the late disclosure.

The expenses the family incurred as a result of this unnecessary trial were extensive, and if it's okay with you, I'd like to go -- and I can do it two different ways. I can go ahead and go through the numbers with you now about the expenses we incurred and the attorneys' fees.

What we're asking from you is the expenses -- the actual out-of-pocket expenses the client has incurred, that the lawyers incurred to pass on to the clients as a result of trying this case and for attorneys' fees for the three lawyers who were there to try the case for the seven days of trial time.

Would you like me to go ahead and do those numbers?

THE COURT: Yes.

MS. McVEY: Okay. So let me start first with the expenses of the case. These are of course money that came directly out of the client's total settlements, whatever that was. Your Honor, we produced to you -- and I have it here if you need it -- an affidavit of Ms. Dean

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along with itemized out expenses, and I can hand that up if that's helpful.

THE COURT: Yes, it is. I've got it in this big notebook. You've got an affidavit of Dean, an affidavit of Holder, and an affidavit of McVey, I think --

MS. McVEY: Yes, ma'am. Yes, ma'am.

THE COURT: -- or an affidavit of your brother, I think was going to --

MS. McVEY: I think me -- I'll show you in a minute.

THE COURT: All right.

MS. McVEY: Exhibit 21 is the expenses affidavit Ms. Dean.

THE COURT: All right.

MS. McVEY: And attached to that affidavit listed out itemized expenses. The total of those expenses that we outlined for you are $95,435.16.

Now, Cleaver-Brooks points out one issue that I agree with with those numbers, and that is there's a cancellation fee for Dr. Brody there, and what that was is he was supposed to come later in the first week and we wanted him there early, and so we moved him.

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I don't think Cleaver-Brooks be responsible for that. So that would reduce that number by $4,600 which would bring the expenses to $90,835. And I'm happy to answer specific questions about those expenses, if you'd like.

THE COURT: So it's $4,000 reduction on Brody?

MS. McVEY: Yeah, 4600 which would reduce the total number that we're seeking for expenses to $90,835.

THE COURT: All right.

MS. McVEY: All right.

THE COURT: And 16 cents?

MS. McVEY: Yes, ma'am.

THE COURT: All right.

MS. McVEY: Sorry about that.

Your Honor, we also supported and gave you affidavits from Ms. Dean, from me, and from Mr. Holder that we believe go through all the criteria, as well as the brief in our report about why we're entitled to attorneys' fees. So the attorney's fees request from Ms. Dean would be $85,800, for me would be 77,500, and for Mr. Holder 60,400. What we provided to you in our affidavit are the hours we worked on those

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dates.

Your Honor, we have -- you know, plaintiffs' lawyers don't charge by the hour typically, so it's not something that I can give you where I charge by the hour a bunch of different times. We have given hourly fees in those affidavits, but I leave it to you to determine what's reasonable and what's unreasonable.

THE COURT: And the hourly rate was, as I recall it, 500, 450, and what was Holder?

MS. McVEY: I think -- hold on. I can tell you. So for Ms. Dean it was 550. For me it was 550, and for Mr. Holder it was 400. Let me make sure that's right.

THE COURT: Yeah.

MS. McVEY: 400 for Mr. Holder.

THE COURT: Yeah. Okay. All right. So it's -- all right. I've got it.

MS. McVEY: All right. And then we have submitted affidavits from Ms. Myers and Mr. Howe -- Tim Howe. Those -- as you recall, that was Mr. Howe, Mr. and Mrs. Howe's daughter, with Wendy and his son Tim was at the trial. You also recall that Tim's wife Julie was there

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the entire time along with Mrs. Howe, Wayne Howe's widow, who -- you know, you recall that Ms. Howe had significant Alzheimer's and it was difficult for them all to be there, but they all were there.

Ms. -- Ms. Myers submitted an affidavit saying that she lost income of $571.84, and Tim Howe missed 70 hours of work at $33 an hour for a total of $2,310.

Your Honor, so the total expenses that we would be seeking, if we added all of those numbers together, would be $319,416.84.

THE COURT: Say it one more time.

MS. McVEY: Sure. $319,416.84.

THE COURT: All right.

MS. McVEY: I'm happy to answer any questions.

THE COURT: Well, I think what it's best to do is hear now from Ms. O'Neill and Mr. Pugh and then we'll come back.

MS. McVEY: Thank you, Your Honor.

THE COURT: Ms. O'Neill.

MS. O'NEILL: Yes, Your Honor.

I'd like to start where the Court started this hearing, Your Honor. You said that at the

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trial certain rulings were made on discovery issues, and you held open in what amounts. Respectfully, Your Honor, I don't think that's correct. What you ruled on at the trial was -- and it is in our Exhibit B to the opposition at page 105. And I'm using that because I assume that's what the Court and Ms. McVey have.

If you recall, we attached unofficial transcripts to the opposition because the official transcript was not available, but in Attachment B to our opposition is the transcript from the day at issue. And at page 105 the Court issued the ruling and -- and Ms. McVey is correct. The Court did find that -- it concluded that Mr. Tornetta and Cleaver-Brooks were sloppy in not noticing this discrepancy and not -- having not noticed it and having affirmatively not brought it to anyone's attention.

And the Court said that -- this was on -- it starts on page 104, line 24. Do you have it? Are you ready?

THE COURT: I'm looking at -- well, no, I don't see 104. Yes, I do.

MS. O'NEILL: Exhibit -- Exhibit B --

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THE COURT: I see it.

MS. O'NEILL: Okay. And it starts on page 104, line 24 where you say, "I'm striking all of these things. They're not going to the jury. Whatever you did about talking about it it's something you did. I can't unlock that door. I'm not allowing these things to be put in evidence and not letting it go to the jury, and the basis for it is a violation of South Carolina Rules with regard -- of Evidence regarding production."

The Court did say at other places in the transcript that the plaintiffs would have the opportunity to seek sanctions or do other things, but there was no actual finding made, and I think that's an important distinction here because, as the Court indicated to us, that you had directed the clerk not to enter the order because of this potential post -- posttrial motion issue.

And I would just note for the record that we did look and found nothing in the public roles with an order indicating that the -- the verdict should not be entered. And I'm not aware -- and maybe it's there and we couldn't

find it. There's nothing in the electronic record --

THE COURT: Let me clear this up for you, Ms. O'Neill. The clerk asked me whether to enter the verdict, and I told her to wait until we had finished with posttrial motions before entering the verdict. So that was a directive I gave to the clerk.

MS. O'NEILL: An order --

THE COURT: And therefore there is no verdict yet entered, and the record is clear in that regard.

MS. O'NEILL: And just so that I'm clear, may I ask a question?

THE COURT: Yeah.

MS. O'NEILL: Was that an oral directive? Was that --

THE COURT: Yes.

MS. O'NEILL: So that's why I couldn't find it.

THE COURT: But what you do find is the absence of any entry of verdict --

MS. O'NEILL: Yes. That's correct.

THE COURT: -- which I frankly thought was all that needed to be done about it at the time

since I had these posttrial matters to take into consideration.

At that point we didn't know whether they would move for a new trial or just what would happen, whether they would fold in their request for further sanctions financially or not. So I simply told them, "Leave it open until we can hear it." And then of course we had various things occur to bring us to this time.

MS. O'NEILL: I understand. And I appreciate that clarification because we did raise that point in our brief because we looked and didn't find a written order in the public role, and the way I interpreted South Carolina Rule of Civil Procedure 58 was that there was supposed to be a written order, and I appreciate the Court's clarification on that and we will move forward on that.

I have a whole section on that. I've got to look through my notes.

THE COURT: I understand.

So the plaintiffs have moved this court for relief under Supreme Court -- I'm sorry, South Carolina Rule of Civil Procedure 37(b). That rule does best support for authority to do

certain things, but it allows the award of fees for violation of the order. And there is no order of this Court for the production of index cards. And there is no order of this Court for production of any records with respect to boiler unit number 18344. The Court may recall that the boiler that was at Bowater had unit number 18343.

The failure to produce index cards -- and Ms. McVey said that Mr. Tornetta acknowledged at trial that he had been asked about the index cards at his deposition and about production of them. And he was asked on the record a lot of questions about the index cards. There's no question in the record at either of his depositions asking him to give them to me.

And I was not present at that deposition, Your Honor, so I cannot say what occurred off the record, but when you look at the record of this case, there is no record of a request to them, and there is no motion to this Court for an order of production of index cards, and there is no order compelling the production. And there is no order at all about 18344.

And I think that's relevant because the

plaintiffs argue -- they cited the case of Ethox, E-T-H-O-X, Chemical, LLC, versus Coca-Cola for the proposition that corporate representatives have to have knowledge of the documents that they're being asked about in their deposition and they have to be prepared to answer questions about them.

And the record does show that at the first deposition Mr. Tornetta was not fully prepared to answer the questions asked about Bowater documents. That's why there was another one. But Ethox and all the other cases focus on the witness's ability to answer questions, not volunteer, not point things out. Answer questions.

And answering questions is the key component, and nobody ever asked Mr. Tornetta about wanting 344 as a unit number in the Bowater record. And, you know, we stated at the trial -- the Court told you -- I stated at the trial I didn't notice the discrepancy until the plaintiff raised it. Mr. Tornetta said he had not noticed it.

I understand the Court found that that was sloppy, but -- so the plaintiffs' point that we

wouldn't have had a trial if they had known that, if I'd known it, I would have been running around the courthouse waving it in opposition to summary judgment because the plaintiffs -- Ms. McVey said at the trial that they knew -- they found that out before and they made a decision that -- that that was one of their arguments.

But their summary judgment motion, if you look at their summary judgment motion, Your Honor -- your summary judgment motion -- plaintiffs' summary judgment motion -- I'm sorry, not the plaintiffs --

THE COURT: Yeah.

MS. McVEY: -- plaintiffs' opposition to summary judgment, what they said on page 11 was, "Cleaver -- Cleaver-Brooks confirmed that the specifications for the boiler located at Bowater called for the boiler to be insulated."

It goes on and talks about their arguments about Bowater inspection reports, and then it says -- it -- it talks about, "Plaintiffs submit that the exhibit," meaning the commercial records, "in fact, supports Wayne Howe and Gilbert Small's testimony that the exhibits show

that during the time that Cleaver-Brooks insists it shifted its boiler to Bowater the only boilers at Bowater were located in the powerhouse."

The only boilers were located in the powerhouse. And the argument -- the argument on summary judgment for plaintiffs' opposition was talking about boilers in the singular for Cleaver-Brooks only references plural in the powerhouse, and that at the time was the battleground because Cleaver-Brooks said, "Our boiler was not in the powerhouse. So if your gentleman was in a boiler in the powerhouse, it's not ours."

And then if the Court recalls -- and this is I believe -- when I went back and looked at the transcripts that were prepared for this hearing, it was not quite as articulate as I had remembered it in my head being, but the Court will recall that what happened in this case was that on March 9th Bowater produced some additional documents that it had found pursuant to the plaintiffs' informal request that it continue to look for them, and those documents were marked as Trial Exhibit 21.

Those doc --

THE COURT: And those documents were a diagram of the administration building, were they not?

MS. O'NEILL: That was included within -- it is a series of documents, but that is included within those documents. But those documents also show -- they show there were two administration buildings, an old one and a new one, and they also showed that it was a combustion engineering package boiler in the powerhouse.

And then trial started on the 12th, and the plaintiffs opened and they didn't raise this -- this two boiler issue. They continued to argue that there were pow -- package boilers in the powerhouse and they had other arguments about Cleaver-Brooks using a hundred percent raw asbestos, et cetera.

And then on that same morning at 9:08 a.m. Bowater sent all counsel in the case, so Ms. McVey, Ms. Dean, myself, Mr. Pugh, some additional documents it had found over the weekend, again, in response to the plaintiffs' informal request that it continue to look. And

those documents showed that the Cleaver-Brooks boiler, at least at a certain point in time, was in the administration building. And those documents were marked as Trial Exhibit 23.

So Cleaver-Brooks is trying the case with the belief that we're talking about one boiler. No one had asked its witness this question. We had noticed this as the trial counsel. The witness had not noticed this. And I -- I understand and respect the comments the Court made in the trial about how the client should have done that, but it didn't happen.

This is not where we withheld something and had this big gotcha. We -- it's exculpatory. So if we noticed it, we would have waved it around. But at that point in time the plaintiffs know that there's no -- that -- that the Cleaver-Brooks boiler at least there's some good evidence it was in the powerhouse.

We did not know -- Cleaver-Brooks did not know and it could not know that the plaintiffs would misinterpret the mistake in the startup report suggesting that there were two boilers. We couldn't know that anymore than we would know that in closing the plaintiffs would tell the

jury that because Cleaver-Brooks used Johns Manville 352 which is in one of its parts numbers that it used a hundred percent raw asbestos when there's actually two different -- the Court may recall this at trial. There's two different kinds of JM 352. One of them is ten percent asbestos.

I mean, we couldn't know that the plaintiffs would make the mistake about JM 352, and we couldn't know that the plaintiffs would make this mistake about the document.

THE COURT: Ms. O'Neill, let me just ask you this. Would you agree that the original discovery requests of plaintiffs encompassed these index cards that lie at the heart of this problem?

MS. O'NEILL: No, Your Honor, for two reasons.

THE COURT: I mean, they -- these were very broad requests for all records that dealt with machines that supplied the Bowaters. And in response what your client did was to say, "We don't have those records anymore."

I conducted two hearings about that before this case was tried where y'all represented on

the part of Cleaver-Brooks they couldn't get these index cards because they didn't have them anymore or they couldn't locate them, or "We can't" --

MS. O'NEILL: I think you're mistaken, Your Honor.

THE COURT: -- "we can't find -- we can't use the numbering system to drill down the location of where boilers were located."

I mean, we spent a whole lot of time with y'all saying, "It's just not possible to go back in time for this time in the '50s and early '60s and find out where our boilers went. They go through suppliers," and all this kind of stuff.

Then later on comes information that they have unit numbers on them and there are index cards that are the beginning of the process, but Mr. Tornetta had those in his office but did not tell anybody and didn't review them. I mean, that is the -- the -- what proceeded the then several depositions of Tornetta and then what came up in the middle of the trial about this thing. That's what concerns me.

MS. O'NEILL: I think you're misremembering what -- or conflating a couple things which is

not -- it's -- it's completely understandable because there are a lot of moving parts.

But when we had the hearing, we talked not just about the Howe case, we also talked about the Smith and the Sizemore case. And one of the issues in Smith and Sizemore was the Duke Power plant, and the plaintiffs said, "You're supposed to give us documents about boilers of the Duke Power plant."

And we said, "Those documents we don't have any way to find or figure out because we don't have a unit number. We don't show sales to Duke, and so we don't have any way to get to those documents."

The Bowater documents we had had and we had produced before that hearing. The index card for unit number 18343 was not produced, and it had --

THE COURT: Why wasn't it produced?

MS. O'NEILL: It had not been produced because historically Cleaver-Brooks has not produced them because it's not really a record that relates to the boiler. It is part of a -- an index system to find those records. So to --

THE COURT: I -- I consider that to be a

distinction without a difference, and Mr. Tornetta ultimately said that's the way he came back to find his Illinois shipment of the boiler was to go back to those index cards and then go forward for them and look at the records.

So it is not a persuasive argument for me -- to me for you to then come back and say, "Well, the reason we didn't disclose it to begin with is because they really don't mean anything. It's the file that means something, and we can't find the files without the number."

I mean, that --

MS. O'NEILL: I understand that. Two -- two points to that, Your Honor. And I do understand your position, but for the record -- so the -- the request for production in this case are documents that relate to the boiler, the sales, the purchase orders. It does not include your internal index. I understand Your Honor feels differently, and I will tell you having learned of that we produced those index cards.

But the second reason these documents in our position were not required by discovery is

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because the discovery request is for boilers or -- I'm going to use boilers for Cleaver-Brooks, but for documents relating to products that employers -- where the plaintiff claims that he worked, job sites where the plaintiff claims to have worked, and --

THE COURT: But it turns it out there were documents in their file that you produced early on in the light of the assertion that each boiler has a discreet unit number and that's where you check -- trace things. There are documents that are -- Cleaver-Brooks produced documents that come from either Cleaver-Brooks centrally or from its suppliers and they've got -- some of them have 40 -- 1843 and some of them have 1844, and both of those sets of documents show those pieces of equipment as going to Bowater.

MS. O'NEILL: The 1843 -- 1844 documents don't show that boiler going to Bowater. That's why we don't believe those were -- even if -- even if we went back in time and we knew that -- that -- or we had found this -- this discrepancy or the plaintiffs had asked a question, 18 -- well, 18344 is the one that was in Illinois.

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The plaintiffs' argument was --

THE COURT: You have got some documents in here that show 1844 as going -- I think it's from Orangeburg to --

MS. O'NEILL: Yes, that's correct.

THE COURT: -- to --

MS. O'NEILL: Yes.

THE COURT: -- to Bowater.

MS. O'NEILL: Right. That is --

THE COURT: And that is -- and you've got some other documents in that file that show 1843 going to Bowaters.

MS. O'NEILL: Right.

THE COURT: And, you know, given Cleaver-Brooks' insistence that those numbers are discreet numbers that are for different units, it is -- I mean, it is absolutely amazing to me that you now blame them for not bringing your attention to it if you didn't notice it.

They noticed it, and as I said in the transcript, that's what they're supposed to do. That's what they do is notice these differences. And, no, they don't refer to them to you if they've got some reason to think you're going down the path that it's just one boiler.

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They've got written documents back at the time, ancient documents that have two different numbers and have those numbers going to the Bowater plant.

That's what the problem is, and it could have been cleared up very easily by your 30(b)(6) expert by going to those index cards which he testified about that said he either couldn't find or they weren't necessary or we don't disclose it. And my order said to disclose everything, the directives I made pretrial. I -- I made that very clear.

MS. O'NEILL: And, again, I understand the Court's position, but when we looked for the documents for Bowater, there's one unit number. There's one unit number on the index card. There's one unit number on the file folder which --

THE COURT: Are there not some documents --

MS. O'NEILL: Yes.

THE COURT: -- that talk about 1844 --

MS. O'NEILL: Yes.

THE COURT: -- and say that it was started up at the Bowater plant?

MS. O'NEILL: Yes. And so the documents

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when you look at them say 18343 which was shipped to Bowater.

THE COURT: Right.

MS. O'NEILL: Nothing says 18344 was shipped to Bowater, but there is a handwritten startup report from the contractor -- local contractor who was hired who wrote 18344. And that document was used --

THE COURT: That's a Cleaver-Brooks document produced by Cleaver-Brooks.

MS. O'NEILL: It was not a Cleaver-Brooks document. It was sent to Cleaver -- the -- the report itself is not a Cleaver-Brooks document, but it's produced by Cleaver-Brooks --

THE COURT: Because it was in your records.

MS. O'NEILL: Yes, ma'am. Yes, ma'am. I just want to make sure that distinction is clear.

THE COURT: It -- it was in your records --

MS. O'NEILL: Yes.

THE COURT: -- and had been in your records --

MS. O'NEILL: Right.

THE COURT: -- probably since the '50s when it was made.

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MS. O'NEILL: Yes. And that document was used -- the startup report was used to create an invoice request which was used to create a payment book.

THE COURT: And those --

MS. O'NEILL: Right.

THE COURT: -- so the 1844 thing was replicated several different times with activity by a supplier or -- or a contractor and Bowater is the place where it took place, activity on the 1844 boiler which would -- all right -- of necessity make them think they're two different boilers and that you just don't have all the records to either one of them.

MS. O'NEILL: Your Honor, respectfully I think that -- and they certainly don't -- it is up to them. If they don't want to tell -- don't want to do any discovery on their --

THE COURT: They don't need to. They've got the record -- they've got the records that you produced that say that the 1844 boiler was started at the Bowater plant at a certain time. They don't need anything other than that to show you.

It's up to Mr. Tornetta on your behalf to

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say, "Wait a minute. There's another way to crosscheck this."

They don't have access to that. He had access to that from the get-go.

MS. O'NEILL: I respectfully disagree --

THE COURT: Did he not -- well, did he not have access to these index cards all along?

MS. O'NEILL: He did, Your Honor, but I respectfully disagree that --

THE COURT: And was he not asked during -- was he not asked in his depositions to give the plaintiffs the index cards --

MS. O'NEILL: It's not --

THE COURT: -- directly asked that?

MS. O'NEILL: It's not on the record of those depositions, Your Honor, and I was not present, so I cannot say any more than that.

THE COURT: Well, my understanding is that -- that -- number one, that what was argued to me was the witness has been asked many times to produce those index cards and they say, "Don't produce them," or they can't locate them or whatnot, and it wasn't until right at the end when he suddenly disclosed, "I have them in my office and I had them all along in my office,

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and that's what I finally went to for the midnight disclosure of documents."

MS. O'NEILL: Well, the -- the location of them and the fact that he's had them is in his deposition in this case but --

THE COURT: No question. And -- and the fact that you could clear up any ambiguity about the records, which y'all ultimately did the day -- the midnight before the day of his testimony, that all that could be cleared up if he went to his index cards, and obviously at a certain point he did that.

MS. O'NEILL: And -- and respectfully, Your Honor, we disagree -- I understand the Court's position, but we respectfully disagree that the defendant has an obligation to have found -- noticed that, understood or anticipated how the plaintiffs would interpret it and to affirmatively have done it in the absence of question.

I understand the Court disagrees with that, but that is our position.

THE COURT: I -- I think you're parsing things very closely to saying the absence of a direct question. They can't ask what they don't

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know. He's -- they asked many times about those index cards and asked them to be produced and they were not, and suddenly when Cleaver-Brooks found itself in a bind with the approach they were going to take, they produced the cards.

I mean, that -- that's what I see. And as I said on the record, it is not a reflection on you and it's not a reflection on Mr. Pugh. You can only deal with what the client tells you, but it is a big-time reflexion on the client to have put these people through the rigors of a trial they've settled with everybody else when they held the key to saying, "Hey, these are two different -- these are the -- this notation is -- don't believe 1844. It's not true."

MS. O'NEILL: And certainly, Your Honor, if we had known that that's what their plan was, we would have been --

THE COURT: You produced the documents. You could look at them as well to say, "Oops, I forgot or I didn't see it, but that's all on the plaintiff because I get to withhold the documents that could quantify." That's, you know --

MS. O'NEILL: I didn't know clarification

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was necessary, sir, Your Honor, and I understand the Court's position.

THE COURT: But Mr. Tornetta apparently figured it out, didn't he?

MS. O'NEILL: Well, actually I -- Your Honor, as I said at the time of the trial, but when they crossed Mr. Welker and raised the question, I looked again, and on a break, because Mr. Tornetta was on the plane on the way down here, I called somebody and said, "I need this question answered."

And I -- we -- I said that when we had the -- either the initial hearing or the offer of proof, Your Honor, but I did that.

I'd like to move on to the amount of the fees and the costs --

THE COURT: All right.

MS. O'NEILL: -- because I think I get where this is going.

MR. PUGH: Hold on before you get there.

Judge, can I just say one thing just to kind of bring a little clarity to what we're talking about here, if you don't mind?

THE COURT: I don't mind.

MR. PUGH: All right. The -- the whole --

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43, 44, the whole business, everybody -- and I think you get this, but everyone -- plaintiffs, us, Bowater, everybody operated going in and during that trial that if at all there, was one Cleaver-Brooks boiler at Bowater, one. And the one Mr. Tornetta had already been deposed about twice, and the commercial records --

THE COURT: Mr. Pugh, I -- that's not clarification as far as I'm concerned. Ms. O'Neill has already made those points --

MR. PUGH: Here's where I'm going with it.

THE COURT: -- saying that they referred to "it" and "one" and so forth.

MR. PUGH: Here's -- here's where I'm going with that. And I understand your criticism of Mr. Tornetta was well heard. But it would require that everybody be on the same sheet of music with regard to noticing a discrepancy in some third party's document that ends up in Cleaver-Brooks file.

THE COURT: But it --

MR. PUGH: Then -- and then --

THE COURT: It's been in Cleaver Brooks's files since the '50s.

MR. PUGH: Right, but then he would somehow

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then go to pull records with regards to --

THE COURT: He was asked about that --

MR. PUGH: Nobody --

THE COURT: -- Mr. Pugh, you just want to add to what Ms. O'Neill has very ably argued on your behalf.

MR. PUGH: I'll be quiet.

THE COURT: But this is -- I mean, the logic of this just escapes me because what you're saying is Mr. Tornetta was asked many times about the documents that ultimately were disclosed to plaintiff at the eleventh hour. He was asked about those documents, could have gone to those documents and solved this problem, that it's not his fault and it's not y'all's fault and it's up to the plaintiffs. It's their fault.

I -- I don't get that. I really don't. These people were put through the rigors of a trial that they didn't need to be put through and so were y'all because you had a guy that either because he was extremely sloppy or maybe something worse than that. I don't understand it.

He had the ability to do this, and only

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when his counsel finally said one more time, "Look -- clarify this. I see this discrepancy."

Did -- the guy who had the records and who produced the records -- he's the man who searched for the records and got these things to you to begin with. He's the corporate rep that does all of this. That's all he does for the job is respond to discovery requests and he then testifies as the corporate rep. That's what he said.

So he had all this stuff, but it's somehow the plaintiffs' fault that it's not until the eleventh hour that they were produced. I -- I, you know -- I don't understand the logic of that argument.

MR. PUGH: I don't think I helped much.

THE COURT: I think Ms. O'Neill was perfectly capable of projecting an argument you want to make, and she is now on damages.

So tell me about it, Ms. O'Neill.

MS. O'NEILL: I do need to make one comment on the record, though, because I'm certain Cleaver-Brooks will see this transcript and I will probably get in a lot of trouble if I don't clarify that Mr. Tornetta does have other jobs.

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It's the primary part of his job, but he has other jobs.

THE COURT: Well, one of his job is he's the guy --

MS. O'NEILL: Yeah, that's correct.

THE COURT: -- to deal with discovery.

MS. O'NEILL: Oh, yeah. That's correct.

THE COURT: But there isn't somebody else that does part of it and he does part of it --

MS. O'NEILL: Yeah, that's correct.

THE COURT: -- he does it all.

MS. O'NEILL: That's correct.

So -- but I want to pick up on something the Court said. We would not -- we would not have had a trial if we had this. And as I said before, if -- if Cleaver-Brooks had noticed the discrepancy and known this, we certainly would have been waving those exculpatory documents around, but --

THE COURT: Well, you did know --

MS. O'NEILL: There's also --

THE COURT: -- you just didn't make the connection. You -- you did know. I mean --

MS. O'NEILL: But is there a --

THE COURT: -- you finally looked at the

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documents and figured it out. They had already looked at the documents, and because they were not given anything from the index cards, they had assumed that those two numbers were different, which they are.

MS. O'NEILL: I understand, Your Honor. But here -- here's the question -- here's the problem that I have with the theory that but for the failure to produce that we would not be here. If the entire case rests on the two boiler theory, then when -- when it was clear and when they learned through the midnight documents or whatever you want to call them about there being one boiler, under Rule 11 the case should have been immediately dismissed. And it wasn't.

And the two boilers -- or actually I think in closing it turned out to be maybe three boilers -- was one part of the argument, but it wasn't the only argument that they made. So I don't believe that --

THE COURT: That's not the only argument you made either. You made --

MS. O'NEILL: It's not.

THE COURT: -- a very effective argument by

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putting that tape on the door that it was too little a boiler to have done what they say it did. That was essentially what -- what you all -- it was a little teen -- teeny tiny thing.

MS. O'NEILL: That was one of our arguments, yes, sir.

THE COURT: Yeah.

MS. O'NEILL: But -- but I think that's relevant to the point of, you know, the -- the various representations and arguments that we should get all of our fees because if we had known this, we wouldn't be here. There are other arguments that they had because if that's the only argument, then under Rule 11 once they learned that it didn't work, they -- that should have been the end of the case and they couldn't have continued to advance it.

THE COURT: Would you have -- did you make a Rule 11 motion?

MS. O'NEILL: No, I did not, and I'm not going to, Your Honor. I -- but I think it goes to the point -- because I don't -- I don't -- and the point is -- and my point is that it's not the only reason we were at trial. That's what -- that's my point. I didn't make a

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Rule 11 motion because I don't believe it's the only reason we were at trial.

I don't believe it's the only argument that they had and were going to make, and in the absence of two boilers if you -- knowing that there's only one, we would have never been there. I didn't make a Rule 11 motion because I don't think that's accurate. And so I think that that -- that's a -- that's a fundamental, important point that we need to -- to look at.

With respect to the affidavits, Ms. McVey said that they're plaintiffs' lawyers. They don't charge by the hour. They don't really -- I think that was intended to address our point about how the rules say what you have to do is show this is a customary going rate for lawyers in your area for similar and the same type of work.

So she may not be able to say, "Here's my invoice," but there's all kinds of ways plaintiffs' lawyers prove their hourly rate, and they do it all the time. They show awards in similar cases to other people. They show class action awards where attorneys' fees have been granted. They show the rates charged for

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similar work where an attorney fee award under a fee shift -- shifting statute has been -- has been done.

And the plaintiffs did none of that here, Your Honor, and I think that if the Court is inclined to -- I think that before the Court awards any attorneys' fees an analysis of that needs to be made. It needs to be delved into to see what is, in fact, the rate that's being given to people in class -- plaintiffs' lawyers in class actions, what is the going rate that plaintiffs' lawyers in South Carolina are getting for complex, significant cases. I'm not suggesting we go look and see --

THE COURT: Well, now, this isn't a class action. This is an individual classic tort case.

MS. O'NEILL: It is, Your Honor. And I'm not saying that those would be the absolute bellwether, but there has to be a basis for it, and that is how courts have found the basis in other circumstances.

And I use class actions as an example because, as I'm sure the Court is aware, there's a lot of analysis of what attorneys' fees are

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going to be to plaintiffs' lawyers in class actions. There's a lot of analysis of what attorneys' fees are going to be to prevailing plaintiffs' lawyers in civil rights cases because of the fee shifting statutes.

And those provide some guidance to the Court and to the parties about what is the going general, customary rate for the lawyers in South Carolina representing plaintiffs in significant cases. And so before -- because I think I understand where this is going, before the Court awards any fees, I think that that kind of inquiry needs to be done. I don't think you can just take a mere affirmation by a plaintiff that this is it.

The second thing is that there was really no detail provided. There was simply a statement of hours, this day this many hours, this day this many hours. And I understand plaintiffs' lawyers don't keep time the way defense lawyers do because they don't bill their clients by the hour like defense lawyers do.

But I find it concerning that Ms. Holder and Ms. Dean -- Mr. Dean -- I got that back -- this is not right. Sorry.

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Ms. Dean and Mr. Holder had exactly the same hours all on the same days. This -- and the response to that was, "Well, they both worked on the case together."

Mr. Pugh and I worked on this case together, and other than the time we spent in court which is the same, we did not have the same amount of time, because while we both worked on this case, we worked on different things. We didn't work on -- some days he had more to prepare than I did. Some days I had more to prepare than he did. The -- the idea that it's exactly, exactly the same is somewhat concerning, and I think more inquiry needs to be made into what was done on what days before any fees are awarded.

We would -- we have a couple other points we'd like to make on this. Ms. Myers made a request for lost wages. Ms. Myers, you may recall, is Mr. Howe's daughter who came and testified. She's not a party to this case, Your Honor. And I -- while I appreciate that the plaintiffs wanted both of his children to come testify, she's not a party to this case, and I don't think that her lost wages are an

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appropriate portion of the award, nor do I think that Mr. Howe's wife Julie's wages are an appropriate award for the same reason.

Now, Tim Howe was a party, and I think if the Court is inclined to award his lost wages as a party, we would obviously oppose that for the various reasons set forth in our briefs. But when you look at it and you look at the equity, lost wages of a nonparty I don't believe is an appropriate part of a sanction.

We would also ask that there be more inquiry into the expenses. If you look at Exhibit 21 which was handed out to you which is Ms. Dean's affidavit, it has bills for Lyft which is a car service in California. It has bills for Uber plus Lyft plus rental car all in the same day, which seems odd. And perhaps there's a justification, but, you know, normally it's kind of one or the other.

It has a charge for gas in Texas which is where the lead plaintiffs' lawyers live. I don't know how that's a -- a charge that is fairly charged in travel.

It has a rental car in Oklahoma. And none of the witnesses that came to testify in this

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case were in Oklahoma for their depositions.

It has a com -- it has a charge to something called Blacklane, all one word, GmbH, which is a company in Berlin. I don't have any idea what they do or how it can possibly relate to this trial.

There are Uber and Lyft charges for after the trial ended for the end of March. March 20 -- there's several charges for March 26th. There are -- there's a receipt for merchandise from Target, but all of this is the American Express thing. It doesn't tell me what they bought. And if they needed pens or paper, I don't think that's a fair charge to us.

I mean, I had to go out and buy tape to do my little demonstration, and if they had something specific like that that they used -- maybe -- maybe that's a fair trial expense, Your Honor, but my pens, my paper, my Post-It notes, those are things lawyers are supposed to have.

They gave us -- they charged for discovery deposition costs which, again, Your Honor, I don't think those are appropriate in the calculation.

Discovery was going to happen no matter

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what. They charged for their general trial exhibit -- and I'm talking about expenses. I mean, this may also be in the time when you delve into it, but there -- there's a charge for their general trial exhibit preparation. It's not just for Cleaver-Brooks, and it's dated before we started trial. So up until -- the Court recalls -- you know, trial started on Monday. Up until Sunday there was more than one defendant left in the case. So it's reasonable to believe that there are charges in there for trial exhibits which apply to those other defendants, and that's not a fair expense to put on my client even as a sanction.

There are general charges -- I'm sorry, Ms. McVey said that they would -- they agreed with us that the cancellation charge due to the change is not something that should come to us.

And then there's unspecified Federal Express bills. And, again, perhaps there's something that's legitimate to that, but all it is is a Federal Express bill. We don't know what was Federal Expressed. We don't know why it was Federal Expressed. We don't know why it wasn't something that could be done here or, you

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know, if it was a trial exhibit, why it was done in a way that had to be Federal Expressed.

But I believe that before the Court can award expenses, additional inquiry needs to be had into those areas as well. Because even on a sanction, there has to be some equitable -- equitable basis for ascribing the amount to the defendant and relate it to the defendant's conduct, and given what we have right now, Your Honor, I don't believe that that can be done even if this court is inclined to the sanctions.

And I need to check with my village to make sure I didn't miss anything.

THE COURT: All right. You're good.

MS. O'NEILL: Okay, Your Honor, unless you have some more questions for me, that's it.

THE COURT: Very good. One moment.

(Off-the-record discussion.)

THE COURT: Ms. McVey, your reply?

MS. McVEY: Just briefly in reply, a couple things.

You asked a really good question about whether or not these index cards would be encompassed in discovery requests. Actually they absolutely were. We know that because you

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said that's the first step -- the next part to the first step, and if we had been given those index cards, we would all be on the same page. And we asked for them.

Now, what Ms. O'Neill says that Mr. Tornetta on his deposition -- it's not on the record whether or not we asked for those index cards. Well, you heard him at trial. He -- he was there at his deposition, says, "Yeah, you asked me for them. You asked me for them." And they gave us the same -- these are -- the commercial records are better than index cards. "They give you the same information." That's what he said.

Now, us misinterpreting these documents, this 43 versus 44, this is really important. They told us -- and we've submitted to you a million depo -- I'm teasing, but a bunch of depositions in various places where Mr. Tornetta, as he did on the stand in this case, has said, "They way you figure out where our boilers are is by the serial number, the unit number. Those are Social Security numbers for these boilers."

The commercial records says, "We know one

was shipped, and another different one was started up at Cleaver-Brooks. That's two. That's two. That's not only reasonable, it's how they told us to interpret it. That's the first thing.

I believe that their failure to produce these documents is a violation of a court order. So under Rule 37(d) you're entitled to go ahead and grant sanctions on that.

They -- one of the main reasons -- we all knew that the whole mention of this case -- and it's clear in their arguments and our arguments was whether or not the Cleaver-Brooks boilers, at least one of them, was in the powerhouse. By the time we got through trial, our law firm said, "Hey, I found a document that showed the other one was in the admin building."

And Bowater is really clear on this. They didn't have all the documents about where everything was located. So they found one document, but they didn't find the other. I think that's important.

Rule 11, let me talk about that for just a second. Ms. O'Neill is the person that -- we really believe the whole linchpin -- linchpin of

this case was that there were two boilers there. We really believed it. And what she's saying by Rule 11 our ethical duty would have been to stop the trial and say, "Nope, we were wrong after all. They should win." That's what she's saying.

I want to push back on that because I want to remind you when we got those midnight documents, we could not have been more surprised. And you remember the next day I showed up in my wet hair in the courthouse. For the first time in my entire professional life I overslept. We were speeding to the courthouse. We actually got pulled over by the police.

It was a rough night. It was a rough night because we didn't know what they had known. And, Your Honor, that's prejudicial and it makes a big difference. We cannot -- we have an ethical duty to our client to keep going forward. We're in the middle of trial. What were we going to do? We don't have -- our only choice was to go forward, try to keep the records out and do the best that we could. So I want to push back a lot on that Rule 11 issue.

In terms of hourly rates, Ms. O'Neill --

we've gone through a much more detailed analysis than I think Ms. O'Neill gives us credit for, but if you want more, we're happy to give you more. I'm happy to use -- use your discretion. Happy for you to use Mr. Pugh's or Ms. O'Neill's hourly rate, whatever you think is -- is sufficient and we'll abide by that.

MR. PUGH: Be careful what you ask for.

MS. McVEY: Yeah, I know. Better than my hourly rate.

Let me also address this idea of Jonathan Holder and Jessica Dean working the exact same hours. Jonathan is an associate on trial with a named partner of a law firm. As long as Jessica's up doing work and doing stuff, Jess -- Jonathan is right there doing it with her in the war room. That's how this works on the plaintiffs' side.

My hours were different. My job is a little bit different. So some nights I worked a whole lot longer and some nights I didn't.

As to the actual expenses, if you want clarity on these, my expectation is that the Uber to and from was for experts or other trial personnel to get to and from, but I'm happy to

give you clarification on anything you want, or if you want to discount them, I understand that as well. But I'm happy to give you any more clarity for what you need. I'm happy to answer any questions.

THE COURT: Ms. McVey, with respect to the -- the legal fees, were these hours from -- were these hours spent in the actual trial of the case?

MS. McVEY: Yes, ma'am. So what we did was --

THE COURT: In other words -- here's what I'm asking. Until midnight on Sunday -- or sometime Sunday the day before you were to begin trial, you still had other defendants in the case?

MS. McVEY: Yes, ma'am.

THE COURT: So I understand -- I am under the understanding that the hours you are requesting in the three lawyers' affidavits deal with hours spent after all the other defendants were out of the case.

MS. McVEY: That's --

THE COURT: Am I correct?

MS. McVEY: Absolutely.

THE COURT: All right. That's the first one.

The second thing is you say with respect to the similarity between Mr. Holder's hours and Ms. Dean's hours that they were together in the courtroom always together or he was out of the courtroom working on things, and when you finished the day's work, they worked together until they both took some time to go to sleep and refresh themselves.

MS. McVEY: Until the work was done, you know, and sometimes all three of us were doing the same exact hours.

THE COURT: Yeah.

MS. McVEY: Sometimes it was just the two of them. It just varied.

THE COURT: But you are saying these are all in-trial hours?

MS. McVEY: Yes, ma'am.

THE COURT: All right.

MS. McVEY: And we stop it, you know, when the verdict comes in --

THE COURT: Right.

MS. McVEY: -- not even this posttrial stuff that we've been doing. We stopped it

then.

Any -- let me just -- one other point. She talked about discovery depositions. The only thing we've requested for that are the Tornetta depositions. We believe that goes to this issue because of the index card issue, so we didn't bill for any other discovery depositions. We did bill for Dr. Oury's deposition which was on the Sunday before trial at the request of Cleaver-Brooks. So that bill was in there as well.

THE COURT: Okay. And I'm going to turn back again for a minute and talk more about these hourly rates, but have you got anything else you would like to advise me about in terms of the hourly rate you've selected for this?

MS. McVEY: No, Your Honor. The only thing I would do is we did attach in our briefing an exhibit where other plaintiffs' lawyers have gotten hourly rates.

THE COURT: Yes.

MS. McVEY: You know, I didn't have any -- I asked informally my friends in the defense bar who I know get hourly rates about the ranges of rates --

THE COURT: Yes.

MS. McVEY: -- and I was given a variety of those. Nobody wanted to give me an affidavit about their hourly rate which I understand. But I have not done more than that. I'm happy to do more if you want, or my -- my guess is you know better than anyone what a reasonable hourly rate --

THE COURT: None of these rates are outside of what I have heard in other cases, but I want to be sure that it is more than just something that I don't have any records reviewed by someone else.

MS. McVEY: And we have given -- in our briefing and the exhibits, we have given you examples in other ways --

THE COURT: Right. Exactly.

MS. McVEY: -- to analyze that.

THE COURT: I -- I think that's all the questions I have.

MS. McVEY: Okay. Thank you.

THE COURT: All right. Mr. Pugh and Ms. O'Neill, I don't want you to -- I'm not asking you to reveal your own rates and would not do that, but what do you know about

prevailing rates in South Carolina that you can share with me about what you think is a more reasonable range of rates?

I mean, the top rate for the main partner who's the lead counsel in the case was 550, the lead South Carolina counsel was the same, and the associate was 400?

MS. McVEY: Yes, ma'am.

THE COURT: All right. I mean, is that way beyond the range of what the experience would -- of these two lawyers and their standing -- Ms. McVey is the president of the Association for Justice which is the leading plaintiffs' organization in South Carolina, and Ms. Dean is someone who tries cases from all over the country, just as your co-counsel does. Mr. Holder is an associate of Ms. Dean's.

I certainly don't want to make a mistake that could be corrected, but I don't want to string this thing out forever either. So help me out a little bit with how I can ascertain this if you say that it is not reasonable.

MR. PUGH: Well, I guess I'll start with this. I don't disagree with you with regard to Theile being, you know, a high ranking member of

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the plaintiffs' bar in South Carolina --
THE COURT: Right.
MR. PUGH: -- is well respected. Jessica Dean tries cases all over the place. Jonathan Holder tags along with her and obviously does a lot of the important work, either behind the scenes, or if you'll recall, I think we got to see him take his first witness on the case.
THE COURT: Yes, and his mom was there when he examined his first witness.
MR. PUGH: Which was great.
You know, you asked for me not to reveal my rate. I don't mind doing it, but I won't do it, but I will tell you, it's certainly south of where these rates are. I'm not suggesting that that should be the plaintiffs' problem. Perhaps that's my problem, and -- but I will tell you I think --
THE COURT: I did a lot of defense work. I know the difference. I understand what you're saying. I would have been overjoyed to be able to bill what even defense lawyers can bill in this day and age.
MR. PUGH: Although I will tell you, Your Honor, in my other life -- as you know, I'm

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doing some work for a utility company around here --
THE COURT: Yes.
MR. PUGH: -- and I see some rates that lawyers from other places are charging, and my criticism is borne out of jealousy. You know, I -- I think you could certainly adjust the rates. I don't particularly have a criticism of saying, "Oh, that's 50 percent too high," or --
THE COURT: Yeah.
MR. PUGH: -- you know, but I think there's certainly some adjustment to be made, but do I think that if the lawyers on the other side did not bring value to the case, that would be an absurd statement to make.
THE COURT: Okay.
MR. PUGH: So I -- I would say that I think that some adjustment could be made, but -- but I'm not going to offer to you that it ought to be cut in half or by, you know, some particular measure --
THE COURT: All right.
MR. PUGH: -- because you, of anyone, have had experience with these lawyers both in the courtroom, in motions hearings and -- and you've

Page 67

had -- you know, I would just say you've had the opportunity to view them in relation to their peers in the asbestos bar on the other side, and so --
THE COURT: And I can't think of two lawyers that are more -- represent to the highest degree of professionalism that is present in the asbestos bar than you and you Ms. O'Neill.
MR. PUGH: Well, I appreciate --
THE COURT: Both of you are of the highest rank and highest ability as far as I'm concerned.
MR. PUGH: So I -- you know, I can't sit here and tell you that I would have some, you know, number to give you and say, "This is what it ought to be cut to." I think -- I think perhaps it ought to be cut to a certain extent, but, you know, that's certainly within your discretion and I'll leave that to you --
THE COURT: Okay.
MR. PUGH: -- with the comments I've made.
THE COURT: All right. Anything further?
MS. McVEY: No, ma'am.
THE COURT: All right. I am persuaded that

Page 68

this case might not have been tried had these records been available, but at the same time I am very sympathetic to the observations by Ms. O'Neill on behalf of Cleaver-Brooks that plaintiffs had several different approaches to these things and they got very creative about the approaches they took as they were presented with the disaster that there were other records that suddenly became available that attacked the very premise of their case. The whole case was about product identification.
There was really no dispute about the damages that the plaintiff suffered. The dispute was simply and solely about whether this particular supplier had a product at the places he -- the place he worked that caused injury. And I am very troubled by what the defendant's representative did with respect to disclosing this matter.
I don't criticize the plaintiff for observing that there were records that had been produced that had two different unit numbers on them, and assuming that that might mean there were two different boilers, but deliberately not asking directly about that but rather asking for

more documents that would track that down since Mr. Tornetta said that the index cards are the place you start, and was really much more a problem with the defendant Cleaver-Brooks and its failure to bring these materials forward.

Mr. Tornetta left everybody with the understanding that the records he did produce were better than the index cards and that those records could be completely relied upon to identify the product, and the records that were produced showed two different products, both present at Bowater.

They did not say exactly where the products were installed, but there were two -- there were documents in the 25 pages that were produced, some from Cleaver-Brooks directly and some from their suppliers or intermediary and some from the mechanics that worked on starting up the machines, and they showed two different unit numbers which their corporate representative indicated are like Social Security numbers and therefore would indicate two different sets of equipment.

I think that sloppiness or whatever on the part of the corporate representative and the

30(b)(6) witness extended this trial and caused much more expense in trying the case that in all probability would not have been tried if those index cards had been produced before they were.

I trust in the honesty of the lawyers on both sides in terms of the representations they sincerely made that what they knew about this, but I think the defendant Cleaver-Brooks who had already been criticized by me with its failure to honor discovery requests is the reason that this matter went to trial and was in trial the length of time it was, and therefore I -- as a sanction for its failure to obey the rules of discovery and my directives in the various hearings that I have on this matter, some of which do not result in separate orders, but all of which result in oral orders and directives by me for the defendant to produce their records, but as a sanction for Cleaver-Brooks' failure to honor those directives and failure to obey the rules of discovery, I think an award of attorneys' fees and expenses is appropriate.

And my inclination is to take a little bit further look at the hours that have been projected in this matter, and what's been told

to me now is that these hours that are projected in the affidavits from the lawyers are only in-trial hours. I want to take a little closer look at those and at my own notes where I try to record from what my part in it is in terms of length of time, but understand that most preparation's been before and after I commence court and adjourn court or recess court. I want to look at those a little bit more, and I want to look at these expenses.

I do not think it's necessary for anybody to submit anything more to me. I don't intend to make a full award of what has been requested, but I want to look at these requests in a little more detail, and I will give you before the end of this week my decision as to exactly what will be awarded. And when I do that, I will then direct that Ms. McVey prepare an order that reflects these rulings, including the amount and send it to Ms. O'Neill and Mr. Pugh for their review and then get it back to me.

I'm not going to put any type of time limits on y'all, but I know y'all would like to conclude this matter, so you think you need to go before any further relief in the matter. So

I want to get it concluded as well. So I will try to get that to you all -- dispatched with the hope that you will then be able to go back and forth amongst yourself and come up with not an order you love but one that you think accurately reflects what I'm trying to direct by way of a ruling.

So the net result is on this record right now I am granting the request for sanctions, but the mandate of the order and the amounts await a little further review on my important part and will be communicated to you very shortly.

Anything further?

MS. McVEY: No, ma'am. Thank you.

MS. O'NEILL: We would ask -- we would gratefully ask that the Court do two things. One, enter -- direct the clerk to enter the judgment and, two, that the Court will recall we have given at the Court's instruction our affidavit of net worth to the plaintiffs in anticipation of the punitive damages phase.

The Court required them to hold it in absolute confidence until we got to that. We are obviously not in any of it. We would ask that the Court as part of its posttrial motions

require the plaintiffs to either give it back to us and/or certify that all copies of it have been destroyed and not disseminated any further.

THE COURT: Well, I'll make that directive right now and I would ask Ms. McVey before the close of business today to give you an affidavit that says it's been held in absolute confidence and to give you the copy she received of the matter and destroy any other copies that she may have in her files with respect to the matter --

MS. O'NEILL: Thank you.

THE COURT: -- so that --

MS. McVEY: Just for clarity, there was only one copy --

MS. O'NEILL: Yes.

MS. McVEY: -- and it was destroyed -- I'm pretty sure it was destroyed. I did not destroy it, but I'll confirm.

MS. O'NEILL: That's fine.

MS. McVEY: I don't have it, so --

MS. O'NEILL: As long as we can get that so that will close the loop.

THE COURT: The biggest thing you don't want to have happen, Ms. McVey -- and I want you to represent on the record right now what I

think -- here's the fact that I think -- they don't want this to be floating out with respect to any other cases they have or shown to any other plaintiff counsel and everything.

Can you represent to me that it was held in absolute confidence and that its amounts will not be shared by you or anyone else in your firm?

MS. McVEY: Yes, ma'am, I can represent that it is not -- to my knowledge -- and I'll double check with the other people. It has not been shared by anyone, certainly by me, took -- all of us who were at this trial took your directive not to share with even our expert when it was given --

THE COURT: Great. And that -- so if you would just give Ms. O'Neill an affidavit to that effect, then I think that will close the loop on that for her client.

MS. O'NEILL: Thank you.

THE COURT: And with respect to the entry of judgment, I will end -- I will direct that the judgment be entered when I file this order.

MS. O'NEILL: Thank you, Your Honor.

THE COURT: And they will be run

sequentially.

And, you know, if I've done something that y'all disagree with, you are certainly free to pursue that, but I did some consultation before I made that directive after I was asked a question by the clerk of court. But it's on me. I -- I made that decision, not the clerk's office or anybody else. They asked me. I made some inquires, and then I directed them to hold the entry of judgment until we had this hearing.

Very good. Thank you very much.

(The hearing was concluded at 12:16 p.m.)

CERTIFICATE OF REPORTER

I, Yvonne R. Thurston-Bohannon, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing transcript was taken before me on the date and at the time and location stated on page 1 of this transcript; that all statements made on the record at the time of the proceeding were recorded stenographically by me and were thereafter transcribed; that the foregoing proceeding as typed is a true, accurate and complete record of the proceeding to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal October 23, 2018, at Columbia, Richland County, South Carolina.

Yvonne R. Thurston-Bohannon
Registered Merit
Reporter, CRR
My Commission expires
May 6, 2025

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E X H I B I T S

(None marked.)

File M030-0004-Lauch

FACTORY INSURANCE ASSOCIATION

HARTFORD · CHICAGO · SAN FRANCISCO

COPY

FIELD OFFICE
131 PROVIDENCE ROAD
CHARLOTTE, NORTH CAROLINA 28207
TEL. (704) ED 3-1100

BOWATERS CAROLINA CORPORATION
MAINTENANCE AND ENGINEERING DEPTS.
RECEIVED
MAR 22 1971

March 18, 1971

Gas Heat Engineering Corporation
2150 Hawkins Street
Charlotte, North Carolina 28203

Attention: Mr. Chandler Arndt, Vice President

Gentlemen:

BOWATERS CAROLINA CORPORATION
CATAWBA, SOUTH CAROLINA
FIA FILE NO. F-14738-W

I acknowledge receipt in this office of your Drawing 171-D showing the piping schematic and basic wiring layout for conversion of two boilers at Bowaters Carolina Corporation in Catawba, South Carolina. The boilers in question are:

1. A 30 HP Cleaver-Brooks gas-fired boiler in the Administration Building.

2. A 37.5 HP Kewanee gas-fired boiler in the new Office Building.

I understand you plan to use Minneapolis Honeywell R-4150 flame safeguards on each boiler. The drawings appear to be acceptable to us as shown and are approved without comment.

We are retaining our usual two (2) copies and returning the remaining three (3) to you marked with our stamp of approval subject, of course, to final inspection and tests by a representative of this Association.

Sincerely,

Sammy G. Blackburn
Engineer

PLAINTIFF'S EXHIBIT 45
PENGAD 800-631-6989

SGB/ja

cc: Irby-Adams-Cates Co., 125 Fulton Fed. Bldg., Atlanta, Ga. 30303
Mr. James G. Cate, Jr., Bowaters Southern Paper Corp. Calhoun, Tenn. 37309
Mr. M. W. Bates, Bowaters, Box 351, Catawba, S. C.



BPM 000001

PLAINTIFF'S EXHIBIT 55

Rec. 678

Danny Syfrett

P723-30

#0-18343

Conv to #2-900 w/FIA

Basic —— 625.

FIA —— 1425

2050.00

F130

CODS — 50

Timer — 80

RAB90 — 500

M-RHCAL — 50

Bell — 50

GASCING — 695

1425

6-7-13

BPM 000002

Rec. 679

Danny Seffert

P723-30

#0-18343

Conv to Comb #2-gas

Extra F.M.

Basic — 625.00

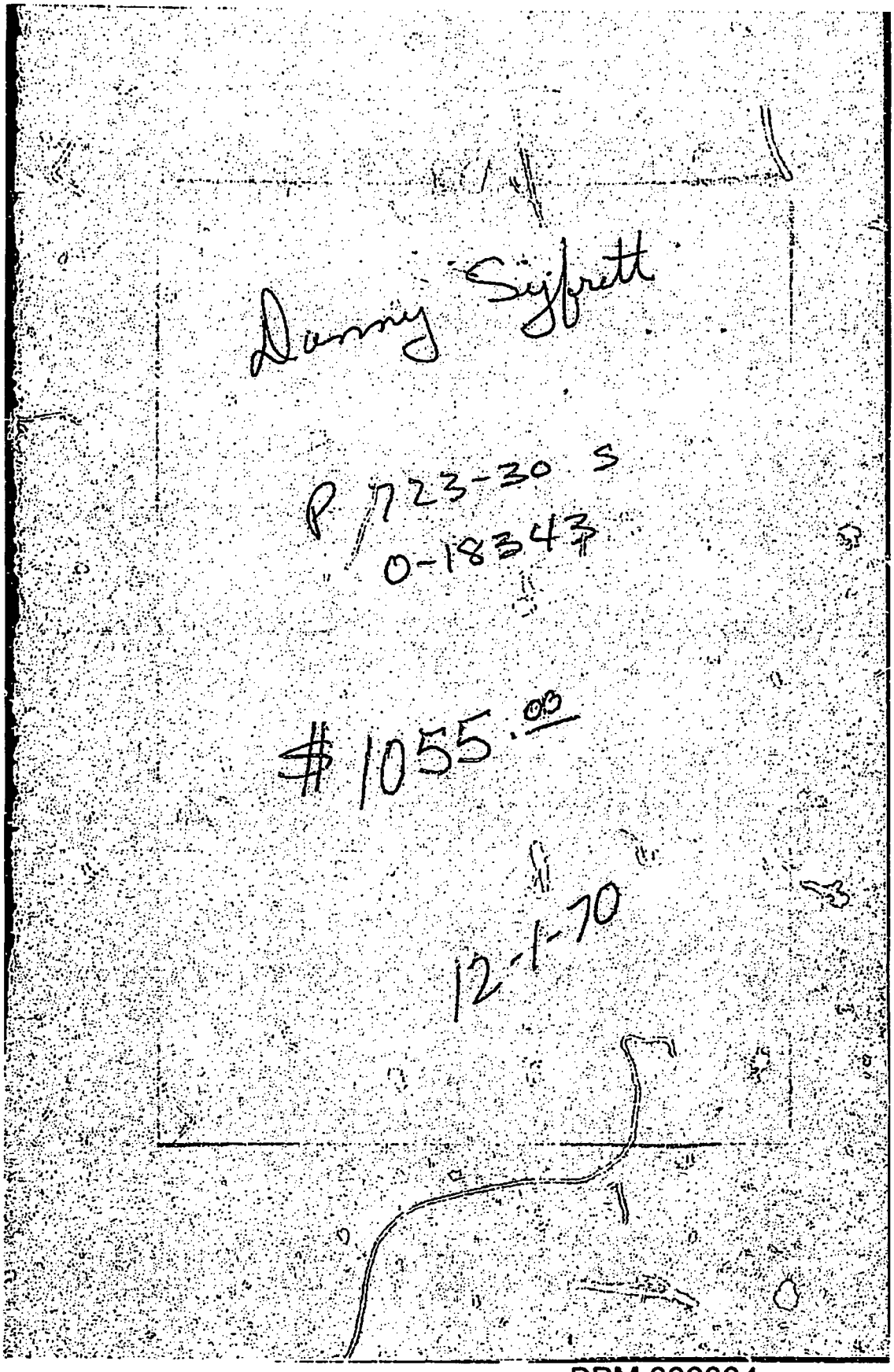
F.M — 690.00

$1,315.00

F.M

HCGPS	125
L Plug	40
Hyd Lin dia	125
COPS	50
MR-HCPC	50
RA890	300
	690

BPM 000003



BPM 000004

Cleaver Brooks

REMITTANCE REQUEST

REFERENCE	PAYABLE	DATE
Invoice No. 2-196-58		MAR 5 1958

3 SIGNATURES REQUIRED

PAY TO: Applied Engineering Co., Inc.
468 Carolina Avenue, N.
P. O. Box 506
Orangeburg, S. C.

Description	Amount
Job Reference: C. Carolina Bowaters Corporation Catawba, S. C. Unit Size P 723-30 S Unit No(s) O-18344 Shipped 11/5/57 Substantiating paper and/or work involved: For starting service per field report of Mr. Robert Tiner, dated 2/11/58 2% of $2620.00	$52.40

Accounting Department Code To: 931-682

ACCOUNT	DISTRIBUTION	

DISTRIBUTION
WHITE - ACCOUNTING DEPT.
PINK - CUSTOMER'S FILE
YELLOW - PAYEE'S COPY
GREEN - SERVICE - PARTS COPY

C21-199A

BPM 000005

Rec. 682

APPLIED ENGINEERING COMPANY

ORANGEBURG, S. C.



INVOICE NO. 2-196-58

INVOICE DATE February 20, 1958

SOLD TO Cleaver-Brooks Company
326 E. Keefe Avenue
Milwaukee 12, Wisconsin

SHIPPED TO Job:
Daniel Construction
% Carolina Bowaters Corp.
Catawba, S. C.

From: Orangeburg

OUR ORDER NO.	YOUR ORDER NO.	SALESMAN	TERMS	SHIPPED VIA	PPD. OR COLL.
Service	Verbal		Labor: Net 10 days	Our Serviceman	

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Starting service by our Engineer, R. M. Tiner on Cleaver-Brooks Boiler Model P723-30S; Unit #0-18344 on February 10 & 11, 1958 located at Carolina Bowaters Corp. in Catawba, S. C.		
	2% of $2,620.00		$52.40
	Report Attached		
	order Complete		

BPM 000006

Cleaver-Brooks Company
326 East Keefe Avenue
Milwaukee 12, Wisconsin

Date 2-11-58

FIELD REPORT

Name Catawba Boilers Corp
Address
City & State Catawba S. C.
Telephone Number
Name and initials of owner, or General Manager, or General Superintendent, (one only)

Unit Started For Daniel Construction Co.

Model No. CB-723-30S	REASON FOR CALL - (check one only)
Serial No. 0-18344	Starting Service ✓
Pressure 15# Max. W.P. 45	Recheck on Starting
If oil operation - state grade of oil	Customer Request
	Agent Request
If gas operation - state B.T.U. content of gas 2300 LP Gas	Milw. Request
	Conversion

All dimensions for the following to represent inches above lowest visible portion of gauge glass.

	Master Control CB 42	Auxiliary
Pump Off	1 1/4"	
Pump On	3/4"	
Low Whistle Alarm		
Low Water Cut-off	1/2"	
Mfg. M-M #42 CB		

Combustion Test Results					Settings	
Fire	CO2	O2	CO	Stack Temp.	Oper. Steam Press.	14#
Lo	10.6%				Relay Safety Timing	Sec.
Hi	10.6%				Safety Valve Setting	15#

SERVICE CHECK LIST

Blow down Valves - Shell	✓
Blow down Valves - Columns	✓
Operating Manual - Given to (initial & name)	Love at Stack
Verbal operating & maintenance instructions to	Mr. Jones (Daniel Const. Co.)
Boiler water treatment discussed with (initial & name)	Mr. Jones (Daniel Const. Co.)

FORM NO. 217 C10-265A (1)

BPM 000007

Rec. 684

Cleaver-Brooks Company
326 East Keefe Avenue
Milwaukee 12, Wisconsin

TIME AND TRAVEL

Date	From	To	Miles	Travel Time	Job Time
2-10-58	Orbe CATAWBA-ROCK HILL		122	2 1/2	4
2-11-58					11 88 1/2

Is call to be paid for by customer? No

If call is to be paid for by customer, Form No. 216 must accompany this report.

Accepted:

By: R. M. Jones

Field Representative

Note to Field Representative:

Because signatures are seldom legible, PRINT, on following line, name and initial of person signing report.

Note to Customer:

The following comments are a part of this report. Cleaver-Brooks Company suggest you initial the end of this report indicating comments have been read.

If customer desires copy of this report, so state here and give us initials, name, and title of person to whom same should be mailed.

Please Print:

Initials Name Title

If new starting job, Supplemental form must accompany this report. In event unit is combination, use both oil and gas forms.

Comments, material changes, instructions to Milwaukee, etc., to be noted on following pages.

C10-255A (2)

BPM 000008

Cleaver-Brooks Company
326 East Keefe Avenue
Milwaukee 12, Wisconsin

Checked out all Gas lines and regulators from LP tanks to Boiler. Set pressures & checked Pumps & Aux Low Water cut off switches. Started unit and let heat up slowly. Set pressure controls and put Unit on plant load. Found it to perform very nicely, but is being slightly over fired as Natural regulator could not get pressure low enough.

Set up on Gas at Natural regulator & W.C. When unit is running pressure is 3 W.C. CO2 Reads 7½

This unit will be properly fired on Natural Gas (000 BTU) in about 2 or 3 weeks.

C10-285A (9)

BPM 000009

SUPPLEMENTAL FIELD REPORT

CB-15 – 150 UNITS

Job Name Carolina Beverage Corp. Date 2-10-58

Model P-723-30S Unit No. 0-18344 Pressure 15#

Complete all items. If for any reason, readings of any one or more items cannot be taken, fill in after each item reason for non-completion.

1. Oil Suction Line Size _____ 2. Oil Return Line Size _____
3. Length of Horizontal Suction Line Run _____ 4. Length of Vertical Lift of Suction Line _____
5. Type of Check Valve Used _____
6. Where is Check Valve Located _____
7. Inches of Vacuum at Terminal Block with Unit Running _____
8. How Fast Does Fuel Oil Pressure Come Up to Running Pressure?
   a. CB15-40 _____ No. of Seconds b. CB50-150 _____ No. of Seconds
9. Is Fuel Supply Tank Above or Below Level of Boiler _____
10. Is There a Day Storage Tank or Any Other Means of Oil Storage Installed to Aid in Faster Lightoff? _____
11. Was Operator Shown How to Adjust Belts _____ (Burner Motor to Fuel and Air Pumps)
12. Was Burner Removed Before Firing _____
13. Indicate Number and Sizes of
    a. Nozzles Installed in Burner _____ b. Air Purge Nozzle (CB50-150) _____
14. Was Strainer (Fuel Oil) Removed from Body and Customer Shown How to Clean _____ In Case of Strainer Built-in Fuel Pump Was
15. Operator Told How to Remove and Clean _____
16. Was Ignition (Straight Electric) Explained to Operator with Burner Removed from unit _____ Shown How to Clean and Set Properly _____
17. Did Operator Remove Burner and Clean and Adjust Same _____
18. Was the Relative Positioning of Electrodes Explained to Operator _____ Give Dimensions
    a. From Nozzle Face to Electrode _____ b. From Center (Orifice Hole) to Electrode _____
    c. Arc (Air) Gap _____
19. In case of Gas or Oil-Fired Pilots, Was Front Door Opened (By Operator) and Pilot Removed _____
    a. Electrode, Cleaned and Set _____ b. Nozzles (Gas or Oil) Cleaned _____
    c. Bonnet Tightened _____ d. Size of Air Inlet Orifice _____
20. Were Inserts of Relay Terminals Tightened _____
21. While the Front Door was Open, Did you Explain or Show the Following: Also Give Dimensions.
    a. Burner Nozzle, Position to Diffuser Plate _____ b. Plate, Diffuser, Position to Gas Ring _____
    c. Orifice, Scanner, Cleanliness for Good Sight of Flame _____
    d. Gaskets, Importance of Sealing _____ e. Wash Cooling Brick _____
22. Was Scanner Removed and Functions of Same Explained to Operator _____ Importance of Keeping Clean _____
23. Is Scanner Properly Aligned? _____

Form 214 C-10-260A (1)

BPM 000010

Rec. 687

24. When Starting Unit Was Selector Switch Turned to Manual Position and Potentiometer in Closed Position? _____

a. At What Steam Pressure or Temperature Was Burner Turned to Automatic Position? _____

25. What CO_2 Is Obtained on:

a. CB15-40 Lo Fire _____ Hi Fire 10 to

b. CB50-150 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7 _____

8 _____ 9 _____ 10 _____ 11 _____

26. Was Air Filter and Importance of Oil Level Explained to Operator? _____

27. Was Atomizing Air Pressure Adjustment Explained to Operator and Its Effect on Lighting and Combustion? _____

28. Has Secondary Air Adjustment Been Explained to Operator and Effect on Lighting and Combustion? _____

29. Was Lube Oil Strainer Removed and Importance of Being Clean Explained? _____

30. Was Lube Oil Level – Max. and Min. – Explained? _____

31. Was Operation of Metering Oil Valve and Cam Explained to Operator? _____

a. Adjustment Screws In Cam for More or Less Oil _____ b. Tightening Packing Screw on Metering Valve _____

32. Was Air Switch and Its Interlocking with Fuel Oil Valve Explained? _____

33. Air Pressuretrol Set at _____

34. Oil Pressure at Burner Set at Lo Fire _____ Hi Fire _____

35. Air Pressure (Atomizing) Lo Fire _____ Hi Fire _____

36. Gas Pressure for Pilot – a. Closed Solenoid Valve _____ b. Open Solenoid Valve _____

37. Light Oil Pilot Pressure Set at _____ lbs.

38. Was Operation and Correct Cleaning of Fireye Explained and Demonstrated to Operator? _____

Fireye Model No. _____ Serial No. _____ Code _____

39. Safety Timing (Fireye) of Relay Drops Out (Flame Failure) _____ Sec. Lockout (Safety Switch Warps Out) _____ Sec.

40. Injector Operation _____

41. Water Level, at 0° Glass of Water in Gauge Glass, Is _____" of Water Over Tubes

42. Blower Motor Voltage _____ Blower Motor Current Draw _____ Amps.

a. Fuses Used: Type _____ Size _____

43. Control Circuit Voltage _____

44. Load on Unit (Circle One) Moderate Heavy Light Extremely Light Extremely Heavy

45. Is Relief Door Tight? _____

46. Are Safety Valves Properly Piped and Provided with Proper Drains? _____

47. Are Column and Low Water Cutoff Blowdown Valves Tight? _____

48. Is Boiler Level? _____

49. Are Proper Blowdown Valves Provided on Boiler Shell? Front _____ Rear _____

50. Feedwater Inlet Temperature _____

51. Have All Handholes Been Tightened? _____

52. Do Any Handholes Leak? _____

53. Has Unit Been Boiled Out? _____

54. If More Than One Unit, Does Each Unit Have Individual Suction Line or Is It Common to Both? _____

55. Have Low Water Readings Been Taken Under Pressure As Well as Cold? _____

Are They Noted on Page One of Field Report? _____

56. If Dry-Fire Control Is Installed, Have They Been Set According to Customer's Requirements? _____

57. Type of Return System Used _____

58. Pressuretrol Settings – Low Fire Cut-In _____ Cut-Out _____

High Fire Cut-In _____ Cut-Out _____

C10-280A (2)

BPM 000011

Rec. 688

COMBINATION GAS AND OIL OR STRAIGHT GAS

59. Was Customer Shown how to engage clutch in center of motor for oil operation? _____
and disengage clutch for gas operation? _____ so compressor and oil pump will not run.

60. Does Gas Valve Close Tight on Shutdown? yes

61. Is there Combustion Noise on Gas Fire? No

62. General Information:
1. Name of gas company Unit Field on Butane Gas
2. B.T.U. value of gas 2300
3. Pressure in gas main 10"

63. Gas Piping System:
1. Gas Meter
Name Fisher
Size 1"
Capacity 1000 cu. ft. per hr.
Gas Pressure Entering Meter None
Does meter furnish gas for any equipment other than this unit? No
If so, describe briefly No

2. Gas Piping
Length and Size of pipe from meter to regulator No meter
Length and Size of pipe from regulator to boiler 4" about 80'
Is gas line provided with filter? No
Size of Cleaver-Brooks piping 1½"

64. Gas Regulator:
1. Name Fisher 2 Pressure Reg.
2. Size 1"
3. Capacity
4. Type
5. Regulator furnished and specified by
6. Is regulator properly piped?
7. If more than one unit, does each unit have individual regulators?
8. Gas pressure upstream of regulator
9. Gas pressure downstream of regulator
10. Is operation of regulator satisfactory?

65. Gas Booster:
1. Name None
2. Size
3. Capacity
4. Booster furnished and specified by
5. Pressure at booster discharge
6. Does booster operate continuously or with starting and stopping of boiler?
7. Is operation of booster satisfactory?

66. Operating Gas Pressures:
1. Gas pressure at boiler — Low Fire
2. Gas pressure at boiler — High Fire 3"
3. Gas pressure at boiler — Lock-up
4. Gas pressure at boiler — On Pilot
5. Gas consumption — Low Fire
6. Gas consumption — High Fire

Operating Characteristics:
1. Is pilot adjustment critical?
2. Ignition gap in pilot

BPM 000012

PRINTED IN U.S.A.

THE "STANDARD CONDITIONS OF SALE" ON REVERSE SIDE ARE PART OF THIS INVOICE.

CUSTOMER'S FILE

aqua-chem, Inc.

MILWAUKEE, WISCONSIN 53201

PLEASE PAY FROM INVOICE
To: AQUA-CHEM, INC.
P.O. Box 421
Milwaukee, Wis. 53201

TELEPHONE: 414 - 962-0100
D-U-N-S 608-3927

- CLEAVER-BROOKS DIV [X] PG
- WATER TECHNOLOGIES DIV [ ]
- DAVIS ENGINEERING DIV [ ]

VIA
$151.50 PP UPS

DATE SHIPPED	UNIT NUMBER	B/L	INVOICE DATE	INVOICE NO.
8/29/69	18342		9/9/69	61697

P.O.	AGENT	DATE ENTERED	APPROX. SHIP. FROM FACTORY	CB ORDER NO.
53568		8/28/69	53569	38440

SOLD TO
0101
APPLIED ENGINEERING COMPANY
P.O. BOX 505
ORANGEBURG, SOUTH CAROLINA 29115

SHIP TO
BOWATERS CAROLINA CORP.
CATAWBA, SOUTH CAROLINA 29704
M/F T-24283

TERMS: N/30-DATE OF SHIPMENT, FINANCE CHARGE ON OVERDUE ACCOUNTS

F.O.B. SHIPPING POINT — PREPAID [X] COLLECT [ ] TRUCK [ ] RAIL [ ]

ITEM NO.	QUANTITY ORDERED	PART NO.	DESCRIPTION	CPU	QUANTITY BACK ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
1	10	350-210	SWITCH TOGGLE CH7320K3			10	2.25	22.50
							LESS 15%	(3.38)
								19.12
							PLUS PPD CHARGES	.61
								$19.73

THANK YOU

ACCOUNT	DISTRIBUTION		COMMISSION	
				NET COMMISSION DUE

FORM CI-7(A) REV. 6/69

BPM 000013

Rec. 690

FORM A-35
REV. 5-57

326 EAST KEEFE AVENUE

Cleaver Brooks
COMPANY

MILWAUKEE 12, WISCONSIN

TELEPHONE WOodruff 2-0100

CP

SALES ORDER NO. 11784

CUSTOMER'S ORDER NO.		DATE	CREDIT NO.
16390	CREDIT MEMO	5-9-58	58-8875

CREDIT TO: APPLIED ENGINEERING COMPANY
P. O. BOX 506
ORANGEBURG, SOUTH CAROLINA

SHIP TO: DANIEL CONSTRUCTION COMPANY
C/O BOWATERS PLANT
CATAWBA, SOUTH CAROLINA

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
	WE CREDIT YOUR ACCOUNT TO CANCEL INVOICE #30044 DATED 2-5-58, COVERING REPLACEMENT PARTS FOR STEAM BOILER MODEL P723-30S, UNIT #0-18343 IN ITS ENTIRETY, FOR MATERIALS RETURNED ON R. R. 3076 OF 3-18-58		66.05
		LESS 25-15%	23.94
		CREDIT DUE	$42.11

CUSTOMER FILE

BPM 000014

Rec. 691

CUSTOMER'S FILE

Cleaver Brooks

COMPANY

325 EAST KEEFE AVENUE — MILWAUKEE 12, WISCONSIN — TELEPHONE WO 6-1100

DW

INVOICE NO. 30044

CUSTOMER'S ORDER NO.	DATE ENTERED	APPROXIMATE DELIVERY	AGENT	DATE SHIPPED	INVOICE DATE	SALES ORDER NO.
16390	1-2858		F.P. 2515	1-28-58	2-558	11784

A22

SOLD TO APPLIED ENGINEERING COMPANY
P. O. BOX 506
ORANGEBURG, SOUTH CAROLINA

SHIP TO DANIEL CONSTRUCTION COMPANY
% BOWATERS PLANT
CATAWBA, SOUTH CAROLINA

TERMS-N/30-DATE OF INV. — F. O. B. SHIPPING POINT FOREST PARK, ILLINOIS — VIA AIR EXPRESS — PREPAID ☐ COLLECT ☒

ITEM NO.	QUANTITY ORDERED	DESCRIPTION	PART NO.	QUANTITY BACK ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
		FOR: STEAM BOILER					
1	1	CONTROL, PUMP AND LOW WATER CUT-OFF MC M, 42-CB	817-401		1	66.05	66.05
						LESS 25-15%	23.94
							$42.11

PLEASE PAY BY INVOICE - MONTHLY STATEMENTS ARE NOT FURNISHED. INTEREST CHARGED ON OVERDUE ACCOUNTS.
SELLER REPRESENTS THAT WITH RESPECT TO THE PRODUCTION OF THE ARTICLES AND/OR THE PERFORMANCE OF THE SERVICES COVERED BY THIS INVOICE, IT HAS FULLY COMPLIED WITH SECTION 12 (A) OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED.

COMMISSION DUE	AMOUNT

BPM 000015

Rec. 692

CUSTOMER'S FILE

Cleaver Brooks

COMPANY EMK

226 EAST KEEFE AVENUE

MILWAUKEE 12, WISCONSIN

TELEPHONE VO edraff 2-0100

INVOICE NO. P-24598

CUSTOMER'S ORDER NO.	DATE ENTERED	APPROXIMATE DELIVERY	AGENT	DATE SHIPPED	INVOICE DATE	SALES ORDER NO.
2023-220 9-3-57	9-23-57 (10-14-57)		APPLIED ENG.CO.	11-5-57	11-11-57	P-1170

SOLD TO CRANE COMPANY
836 SOUTH MICHIGAN AVE.
CHICAGO 5, ILLINOIS

SHIP TO BOWATERS-CAROLINA CORP.
C/O DANIEL CONSTRUCTION CORP.
CATAWBA, SOUTH CAROLINA

TERMS: 2% 10th Prox; Net 15th inclusive, if paid between 1st to 15th inclusive.
1% - 1st to last day of month following.
Invoice total 1st to last day of month inclusive if paid on or before 10th of following month.

F.O.B. SHIPPING POINT MILWAUKEE, WIS.

VIA FRED OLSON TO CHICAGO
C/O MC LEAN TRUCK LINE

PREPAID [X] COLLECT [ ]

ITEM NO.	QUANTITY ORDERED	DESCRIPTION	PART NO.	QUANTITY ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
		P-723-30S 15#	0-18343				
1	1	P-700-30S CLEAVER-BROOKS PROGRESS BOILER, UNIT #0-18343, 15# DESIGN PRESSURE, INCLUDING GAS BURNING EQUIPMENT, INSULATED AND LAGGED; ELECTRIC CURRENT, 440 VOLT, 3 PHASE, 60 CYCLE PRICE F.O.B. MILWAUKEE, WISCONSIN			1	2,620.00	
						LESS 10% & 15%	2094.30
		EXTRA FOR 340/3/60				55.03	
						LESS 10% & 15%	42.07
							$2,046.37
		PLUS PREPAID FREIGHT - 3,250# @ $2.75/100#				89.38	
		TAX				2.68	
							92.06
							$2,138.43
		SEE ATTACHED COPY OF FREIGHT BILL					
		CRANE CO. 221 N. MC BEE AVE. GREENVILLE, SOUTH CAROLINA					
		INVOICE IN DUPLICATE.					

PLEASE PAY BY INVOICE. MONTHLY STATEMENTS ARE NOT FURNISHED - INTEREST CHARGED ON OVERDUE ACCOUNTS.
SELLER REPRESENTS THAT WITH RESPECT TO THE PRODUCTION OF THE ARTICLES AND/OR THE PERFORMANCE OF THE SERVICES COVERED BY THIS INVOICE, IT HAS FULLY COMPLIED WITH SECTION 12 (A) OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED.

COMMISSION DUE	AMOUNT
12% OF $2,046.37	$245.56

BPM 000016

Rec. 693

Escalator 2023-220 9/3/57

S.O. WP-1170

Ship: TO BE ADVISED

Date: 9/23/57

PRICE WORK SHEET

Sold To:

Crane Company

836 South Michigan Avenue

Chicago 5, Illinois

Ship To:

Bowaters-Carolina Corp.

c/o DANIEL CONSTRUCTION CORP.

Catawba, South Carolina

1 Pr 760-305 15# NAT GAS 7620 LEGS 10-15

240/3/60 CANSUL FLAG

1 EXTRA FOR 240/3/60 55 LESS 10-15

5 HOLES

Crane Co

223 W. McBee Ave

Greenville, South Carolina

Terms PROGRESS

Freight MOTOR FREIGHT PREPAID

(270)

Commission APPROVED ENGINEERING (ALL)

Clause

By Bert Thom 11/8/57

BPM 000017

Rec. 694

INTER-OFFICE CORRESPONDENCE

Cleaver-Brooks
COMPANY

MILWAUKEE 12, WISCONSIN

RECEIVED SEP 12 1957

TO Cleaver-Brooks Company Milwaukee, Wisconsin

DATE September 19, 1957

ATTENTION Elmer Pollnow

SUBJECT Crane Company
Order #2023-220
Daniel Construction Co.
C/o Bowater-Carolina Corp.
Catawba, S. C.

FROM Applied Engineering Company Orangeburg, S. C.

Dear Elmer:

Enclosed please find purchase order and boiler data sheet covering one Progress P-700-30S, 30 HP, 15# steam, for 440 Volt 3 phase, 60 cycle operation.

We have forwarded the contractor standard progress prints and winding diagrams for approval.

We believe that the gas will be bottle gas since this is a new job site and natural gas is not yet available.

Do not ship until approval is received.

Yours very truly,

APPLIED ENGINEERING COMPANY

George K. Rose

GKR/gs

Enclosure

BUILDERS OF EQUIPMENT FOR THE GENERATION AND UTILIZATION OF STEAM

BPM 000018

FOUNDED BY R. T. CRANE, 1855

SHOW OUR PURCHASE ORDER NUMBER ON ALL INVOICES AND PACKAGES.

CRANE CO.

223 W. McBEE AVE.
GREENVILLE, S. C.

PURCHASE ORDER

No. 2023-220

DATE: September 3, 1957

TO:

Cleaver Brooks Co.,
Milwaukee 12, Wisconsin

SHIP TO:

Daniel Construction Co.,
c/o Bowaters-Carolina Corporation
Catawba, South Carolina

MARK PACKAGES:

Order 10,015

SHIP VIA: (Cheapest way unless otherwise specified herein:)

Motor Freight

This purchase is to be charged to and will be paid by—
CRANE CO., 836 S. Michigan Ave., Chicago 5, Ill.

Please prepare invoice in duplicate and mail as follows:
CRANE CO., 836 S. Michigan Ave., Chicago 5, Ill.
Original Invoice.
CRANE CO., 223 W. McBee Ave., Greenville, South Carolina
Duplicate Invoice with Shipping Memorandum and Original Bill of Lading.

Please observe the following when shipment is subject to:
Full Freight Allowance—ship PREPAID.
Partial Freight Allowance—ship PREPAID.
Itemize on invoice transportation charge and allowance, showing weight, rates and name of carrier, or attach paid freight bill.
No Freight Allowance—ship COLLECT unless otherwise specified.
Show on invoice whether shipment was prepaid or collect.

The following material purchased for resale unless otherwise specified

QUANTITY		PRICE
1	Cleaver-Brooks Progress P700-30S, 30 HP boiler, 15 lb. steam, gas fired to be of four pass construction, guaranteed 80% efficiency, insulation and insulation and lagging with metal jacket, forced draft, complete with main gas regulator piped and assembled as in integral part of the boiler. One day starting service included with this order. Unit for 440 volt, 3 phase, 60 cycle current.	

SUBMITTED BY G.K. MOSS

Please submit six (6) copies of certified prints, parts list, operating maintenance instructions.

RECEIVED
SEP 7 1957
APPLIED ENGINEERING CO.
ORANGEBURG, S. C.

By acceptance of this order, Seller agrees to and shall be bound by the terms and conditions appearing on the back hereof.

☒ SOLD ORDERS CUSTOMER ☐ STOCK ORDER NO.

Register 46253-220

CRANE CO.

George B. Reed

BPM 000019

Rec. 696

BOILER ORDER DATA

Cleaver-Brooks
Progress
Packaged Boiler

Cleaver-Brooks AGENCY Applied Engineering Co

Signed by (for Agent) Leon Davis

Date Sept 10, 1957

Approved by (Wholesaler) Leon Davis

Title

Note to Agent: Send white copy to Cleaver-Brooks Co., Milwaukee, Wis., return yellow copy to wholesaler after checking and countersigning, and retain blue copy for your files.

WHOLESALER & SHIPPING DATA

Purchased by Crane Co. (Wholesaler) on Purchase Order No. 2023-220

Street Address 223 N. Cobb Avenue City Greenville State S. C.

Ship to Bowaters-Carolina Corp. (Name of Job)

c/o Daniel Construction Co. (Name of Heating Contractor)

Address

Catawba City State S. C.

Type of Building Paper Mill

Delivery Carrier Specify "best way" unless contractor advises otherwise. In all cases specify delivery carrier. (Check access doors to see that they will pass boiler.)

Prepaid [✓], or Collect [ ] Earliest Date Delivery Acceptable now Del. Date Desired

BOILER DATA

1. Size and Type

Quantity 1 Model P- 700-30-S [✓] 15 psi steam* [ ] 30 psi water (Check one)

Altitude (feet above sea level) * To be installed in State of

* *Standard boilers are for altitudes from 0 to 3000'. For others, contact your agent.*

2. Type of Fuel

Light oil is understood to conform with specifications of Commercial Standard No. 12-48.

(Check which applies)

Light Oil No. 2

Gas-Type BTU/cubic feet Specific Gravity

Gas Pressure at Point of Service Connection to Burner

Note: Where pressure at burner is below the minimum pressure required, the customer must furnish a booster. Check with local Gas Company.

BPM 000020

Rec. 697

3. Current Characteristics

Standard current is 230 volt, single phase, 60 cycle for motor. If other than standard, see current price sheet for addition and indicate.

460 Volts 3 Phase 60 Cycle

Control circuit is 115 volt, single phase, 60 cycle.

4. Optional Trim

Must be specified if required. See current price sheet for addition and indicate.

a. Steam Boiler

☑ Feed pump control* McDonnell-Miller No.42CB in place of standard No.64CB Low water cutoff.

*42CB includes low water cutoff.

☐ Water feeder McDonnell-Miller No.247 in addition to standard No.64CB Low water cutoff.

b. Hot Water Boiler

☐ Low water cutoff McDonnell-Miller No.64CB.

5. General Data

Name of Fire Insurance Company (Fire Insurance does not refer to Boiler, but to Building including Boiler Room.)

_____

Important: Boilers insured by companies affiliated with Factory Mutual or Fire Insurance Association require special unit approval prior to shipment.

Is it known that building openings are adequate or will be provided to move boiler into boiler room?

Yes ☐ No ☐

Has provision been made for future tube removal and cleaning and adequate aisle space around boiler?

Yes ☐ No ☐

In sizing boiler have possible customer plans for future plant expansion been taken into consideration?

Yes ☐ No ☐

Has piping loss, pickup load, and hot water load been added to radiation load?

Yes ☐ No ☐

6. Miscellaneous (for Cleaver-Brooks office use)

_____

_____

_____

_____

_____

_____

CB-2952

BPM 000021

Bowaters-Carolina Corp.
Catawba, South Carolina

Unit No. C-18343 P-30, 15 lb Steam
S.O. No. P-1170 Kehoss 30 lb Water

FORM P-2 MANUFACTURERS' DATA REPORT – ALL TYPES OF BOILERS EXCEPT WATER-TUBE
As Required by the Provisions of the A.S.M.E. Code Rules and National Board 524-556 (D)

C18-3114(1)

1. Manufactured by Cleaver-Brooks Company, Milwaukee, Wisconsin

2. Manufactured for

3. Type Internally Fired (H.R.T., Loco., Compact, Marine) Boiler No. 10509 (Mfrs. Serial No.) (State and State No.) Nat'l. Board No. Year Built 1957

4. The chemical and physical properties of all parts meet the requirements of material specifications of the ASME Boiler Code. The design, construction, and workmanship conform to ASME Rules, Section IV (I, III, IV, or V)

Remarks: Manufacturer's Data Records properly identified and signed by Commissioned Inspectors, have been furnished for the following items of this report None
(Name of part—item number, manufacturer's name, and identifying stamp)

We certify the statements in this data report to be correct.

Date October 22, 19 57 Signed Cleaver-Brooks Co. (Manufacturer) By (Representative)

Certificate of Authorization Expires December 31 19 58

CERTIFICATE OF BOILER SHOP INSPECTION

Insurance Companies' Serial Number H.S.B. 10509

BOILER WORKS OF Cleaver-Brooks Company at Milwaukee, Wisconsin

I, the undersigned, inspector of steam boilers employed by Hartford Steam Boiler Inspection & Insurance Co.
of Hartford, Conn. have inspected the boiler referred to as data items 1-9, 11, 16, & 19-24 incl.
and have examined manufacturers' data for items None
and certify that the material, construction, and workmanship are in accordance with ASME Boiler Code Rules.

October 22, 19 57 H. E. Mussett Commissions NB
Inspector (Sealed or Nat'l. Board and No.)
H. E. Mussett

CERTIFICATE OF FIELD ASSEMBLY INSPECTION

I, the undersigned, inspector of steam boilers employed by
of , have compared the statement in this manufacturer's data report with the completed boiler and certify that parts referred to as data items
; not included in certificate of shop inspection, are in accordance with the requirements of the ASME Boiler Code. The completed boiler was inspected and subjected to a hydrostatic test of psi.

DATE , 19 Inspector Commissions (Sealed or Nat'l. Board and No.)

IMPORTANT THIS COPY CANNOT BE REMOVED FROM FILE

BPM 000022

Rec. 699

5. Boiler Shells or Drums: No. 1 Diam. 36" Length Ft. 70-7/8" In. Diam. Length Ft. In.

6. Shell Plates: Flange SA-212B 1/4" IN. (For each Drum, state: Steel Manufacturer's Brand; Material Specification Number; Thickness)

7. (a) Longitudinal Joint: Fusion double welded butt (Seamless, Fusion or Forge Welded, Riveted-Lap or Butt-Single, Double, Triple or Quadruple)

(b) Rivets (Diameter and Material Specification No.) Rivet Holes (Diameter and Pitch) Eff. of Long. Joint 72 % (Compared to shell plate)

8. (a) Tube Sheet: R. B. SA285C 3/8" Flange SA-285C 3/8" (Brand, Mat. Spec. No.; Thickness) Reinforcement (No. and Thickness of Straps) Rivets: Fillet weld (No., Rows; Mat. Spec. No.; Hole Diam. and Pitch)

(b) Tube Holes: 2.020" (Diameter) Pitch (Longitudinal and Girth) Eff. of Tube Ligament (Compared to shell plate)

9. Girth Joint (Seamless, Fusion or Forge Welded, Riveted-Lap or Butt) Rivet Holes (No. rows—Diam. and Pitch) No. of Courses 1

10. Heads:

11. Boiler Tube: No. SA-178A, 44, Straight Diam. 2" Length (If various, give maximum and minimum lengths) 71-3/8" Gage .095" (or thickness)

12. Headers: No. Heads or Ends Hydro. Test

13. 2nd Drum: Heads or Ends Hydro. Test

14. (a) Waterwall Headers: No. Heads or Ends Hydro. Test

(b) Tube Holes: Tubes Gap Heating Surface sq. ft.

15. (a) Superheater Headers: No. Heads or Ends Hydro. Test

(b) Tube Holes: Tubes Gap

Steam or Boiler	Material Spec. No.	Type	No.	Size	Welded or Rabbeted	Tube Hole Area	Ligament	Diam. Tube Holes to Shell	Area Between Holes	Max. S.W.P.
(a) F.H. above tubes			0					10-3/16"	0	15# S.
(b) R.H. above tubes			0					10-3/16"	0	30# W.
(c) F.H. below tubes										
(d) R.H. below tubes										
(e) Through below tubes										
(f) Down baffle										

16. Steam Outlet: Pitch Max. S.W.P.

17. (a) Drum: Diam. Longitudinal Seam Eff. % How is secured to shell

(b) Opening in shell: Head

18. (a) Superheater: No. 1 Size 12-3/4" OD (Inlet Diam. or I. & S. x H.) Length, each Section, front 71-1/8" Type Plain (Plain, Additions, or Coils)

SA 53, 330" (Brand, Mat. Spec. No.; Thickness) (b) Seams: Type Seamless (Seamless, Fusion or Forge Welded, Riveted, Lap, or Butt) Location (Drum)

20. Openings: (a) Steam 1 @ 4" NPT (No., Size, and Type of Nozzles or Outlets) (b) Safety Valve 1 @ 2" NPT (No., Size, and Type of Nozzles or Outlets)

(c) Blowoff 1 @ 1" NPT Bottom @ Rear 1 @ 1-1/2" NPT Bottom @ Front (No., Size, Type, and Location of Outlets) (d) Feed 2 @ 1" NPT, R & L Bottom 17# (No., Size, Type, and Location of Connections)

(e) Boiling Connection 1 @ 4" NPT (f) Relief Valve (g) Controls 3 @ 1/2" NPT

(g) Manholes: No. None Size Location (Now Attached (f))

(h) Handholes: No. 3 Size 2-3/4" x 3-1/2" Location Shell (How reinforced)

21. Combustion Chamber (If Used) (No., Diam., Location, Mfrs. Stamp) Boiler Supports: No. 4 Legs (Hangers or Legs; Riveted or Welded)

22. Fusion Welding Complies With Paragraphs: H-69 thru 82

23. Bursting Pressure 694 (Calculated Rupture Pressure) psi Max. S.W.P. 15# S. / 30# W. psi F.S. 1.6/2.2/2.1 Heating Surface 162 (Total) sq. ft.

24. Longitudinal Seams (a) ft. (b) ft. (c) 60 ft. (Welded Drums) (Riveted Drums) (Completed Boiler)

C18-3114(2)

BPM 000023

MASTER SHEET

SALES ORDER P-1170 SHIPPING DATE REQUIRED W.A. DATE 9/25.

FIRM NAME Bowaters-Carolina Corp. SHIP TO.

Catawba, South Carolina

Routing

QUANTITY 1 MODEL PMD-305 H.P. 30

DES. PRESS. 15 OPER. PRESS. POPS

DESIGNED FOR S.P. STATE ALTITUDE

FUEL OIL and/or Bottle GAS BTU # W.C.

CURRENT 440/3/60 COLUMN: LEFT RIGHT V

BOILER FEED PUMP CONT. WATER FEED

WATER PRESSURE INS. & LAG.

DAY-NITE SYSTEM: YES NO

LOW OPER. PRESS. HEAT LOAD

INSURANCE:

RETURN SYSTEM: YES NO

PUMP ASSY. H.P. & PSI

RECEIVER ASSY. FOR H.P.

DATE	CHANGE ORDER

PRINTS:

DIMENSION FEED PUMP

WIRING RECEIVER

OIL PUMP

	NO.	SIZE	MAKE	FIG.
QUICK OPENING B.O. VALVE				
SLOW OPENING B.O. VALVE				
MAIN STEAM VALVE				
NON RETURN VALVE				
FEED VALVE, GLOBE				
FEED VALVE, CHECK				

MISCELLANEOUS:

Witness Test

C.S.A.

Per Dave Sinclair
SALES DEPARTMENT

BPM 000024

Rec. 701

Cleaver Brooks COMPANY

971-A

ASSEMBLY CHECK SHEET

MODEL P 723-30 DP 154 DATE 11-1-57

CURRENT CHARACTERISTICS: VOLTS 440 PHASE 3 CY 60 NAME Bowman Carolina

CONTROL CIRCUIT: VOLTS 115 PHASE 1 CY 60 ADDRESS Sumter, S. Car.

WIRING DIAGRAM NO. 630-902 (Rev. 1)

BOILER UNIT NO. 0-18343 JOB NO. 9770 (8453) SALES ORDER NO. P-1170

ITEM	DESCRIPTION
MOTOR, BLOWER	MAKE Thornton H.P. 3/4 VOLT 220/440 PH. 3 CY. 60 AMPS. 2.8/1.4 RPM. 1450/1750 SERIAL
CONTROL, M.H.	TYPE M.H. MODEL 20780C CODE SERIAL
HEATER COILS	(BLOWER STARTER) #1021 A C.H.
RELAY, MOTOR	MAKE C.H. TYPE [illegible] VOLTAGE 110 & 550
PUMP, OIL	MAKE MODEL SERIAL
CABLE, IGNITION	QTY. Two LENGTH 8'-10"
VALVE, SAFETY	QTY. one MAKE Kunkle SIZE 1½" FIG. 34 CAPACITY: 1036 LBS/HR. set at 15# BTU/HR.
	QTY. MAKE SIZE FIG. CAPACITY: LBS/HR. BTU/HR.
VALVE, GAS	MAKE M. H. TYPE 948A SIZE 1½" SERIAL
REGULATOR, GAS	MAKE Fulton TYPE RV 61 SIZE 1½"
OIL PUMP, (AUX.)	MAKE MODEL SERIAL
MOTOR, OIL PUMP	MAKE H.P. VOLT PH. CY. AMPS. RPM SERIAL FRAME
FEED PUMP	MAKE MODEL SERIAL
MOTOR, FEED PUMP	MAKE H.P. VOLT PH. CY. AMPS. RPM FRAME SERIAL

REMARKS JO-8770

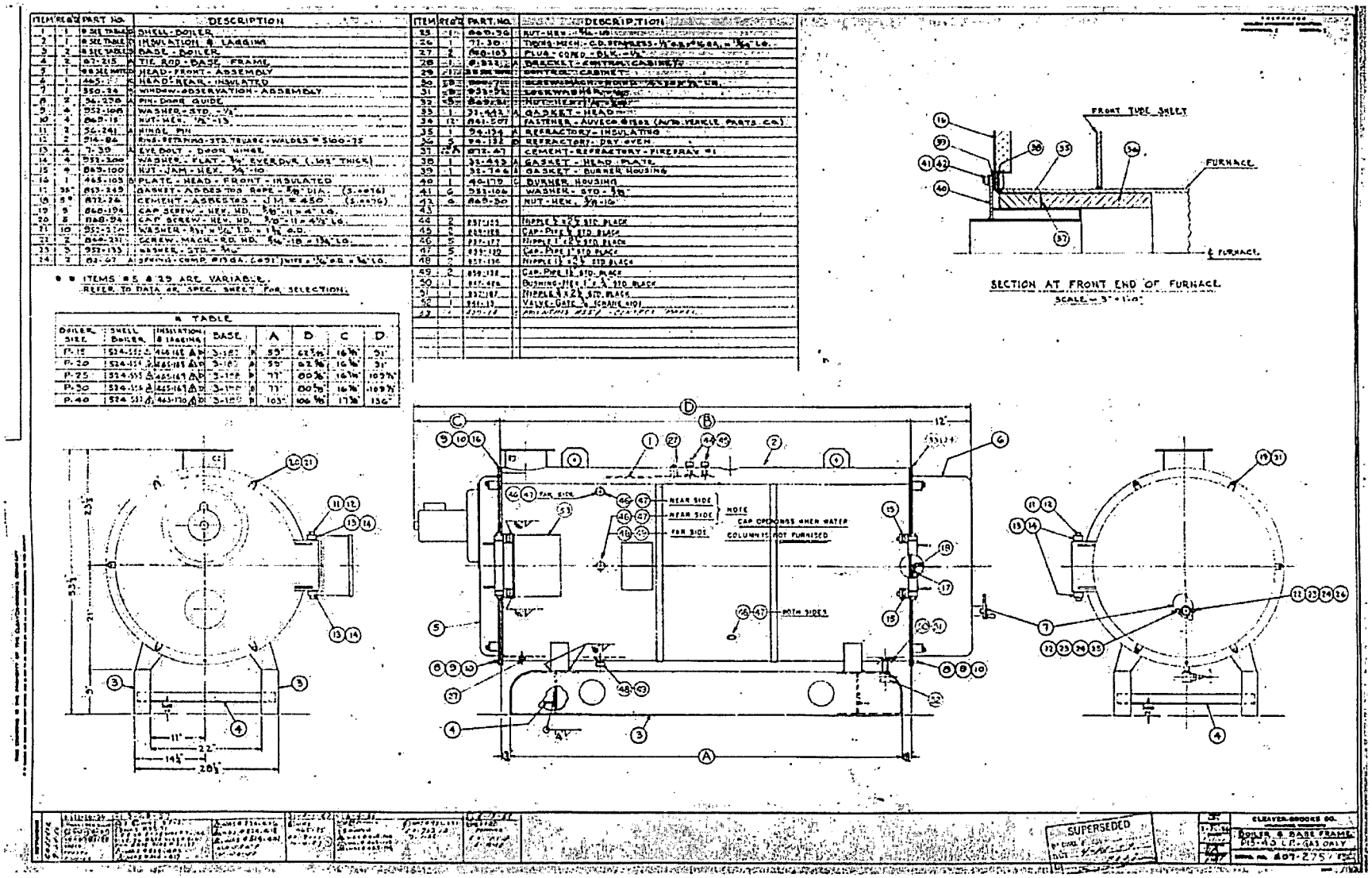
0-18343

CHECKED BY E.F.

C25-418A

BPM 000025

Rec. 702



Rec. 703

BPM 000026

ITEM	REQ'D	PART NO.		DESCRIPTION
1	1	59-902	K	PLATE, SHELL - BOILER
2	1	151-496	D	TUBE SHEET BLANK - FRONT
3	1	151-495	D	TUBE SHEET DRILLED - REAR
4	2	9-112	A	BAFFLE - FEED WATER
5	8	558-116		TUBE, 3" O.D. x 134 L. (.095 WALL) x 7'-10" LG. (S-0020)
6	1	554-185	-1	FURNACE - PLAIN - ROLLED - 16" I.D. x 1/4" WALL x APX 246.835-147)
7	3	849-571		FLANGE - WELDING - 1 1/4" N.P.T. - SERIES 125 (PHOENIX)
8	1	668-21		COUPLING - STD. - 1/4" - N.P.T. - STEEL
9	1	558-39		COUPLING - S.H. - 2" N.P.T. - STEEL
10	4	849-68		FLANGE - WELDING - 1" N.P.T. - SERIES 150 (PHOENIX)
11	2	849-69		FLANGE - WELDING - 1 1/2" N.P.T. - SERIES 150 (PHOENIX)
12	1	849-305		FLANGE - WELDING - 4" N.P.T. - SERIES 150 (PHOENIX)
13	1	30-71	A	FITTING - 1" N.P.T.
14	1	80-36	A	RING FLANGE - FRONT
15	1	53-687	A	FLANGE - FURNACE EXTENSION
16	1	224-35	D	BAFFLE - FRONT EXTENSION (S-0048)
17	3	571-151		BAR - SQUARE - 1/2" x 10 1/2" LG. - HRS.
18	1	39-864	A	STUD - VENT
19	2	7-48	A	EYE - LIFTING
20	4	85-147	A	SUPPORT

ITEM	REQ'D	PART NO.		DESCRIPTION
21	10	971-22		STRIP - 3/16" x 1 1/4" x 2 3/4" LG. HRS. (S-0136)
22	10	65-29	A	RETAINER - HEAD BOLT NUT (S-0136)
23	10	51-160	A	NUT - HEAD BOLT (S-0136)
24	10	903-112		PIN - COTTER - 1/16" x 1 1/4" LG. - STEEL (S-0136)
25	5	821-46		COVER - HAND HOLE - 2 3/8" x 3 1/2"
26	5	653-177		GASKET - HANDHOLE - 2 3/4" x 3 1/2"
27	5	985-12		YOKE - HANDHOLE
28	2	65-46	A	SHROUD - HANDHOLE - 6 1/4" I.D.
29	6	848-65		CAP SCREW - HEX HD. - 3/8"-16 x 2" LG.
30	2	8-545	D	BRACKET - HINGE (UPPER FRONT & LOWER REAR (S-0136)
31	2	8-548	D	BRACKET - HINGE (LOWER FRONT & UPPER REAR (S-0136)
32	1	110-335	A	PLATE - DATA STAMPING (S-0041)
33	1	426-353	D	LAGGING HOOK - LOCATIONS (NOT SHOWN)
34	4	971-51		BAR - 1/4" x 1" x 3/4" HR. (S-0040)
35	1	9-321	B	STRIP - SEAL - BAFFLE (S-0048)

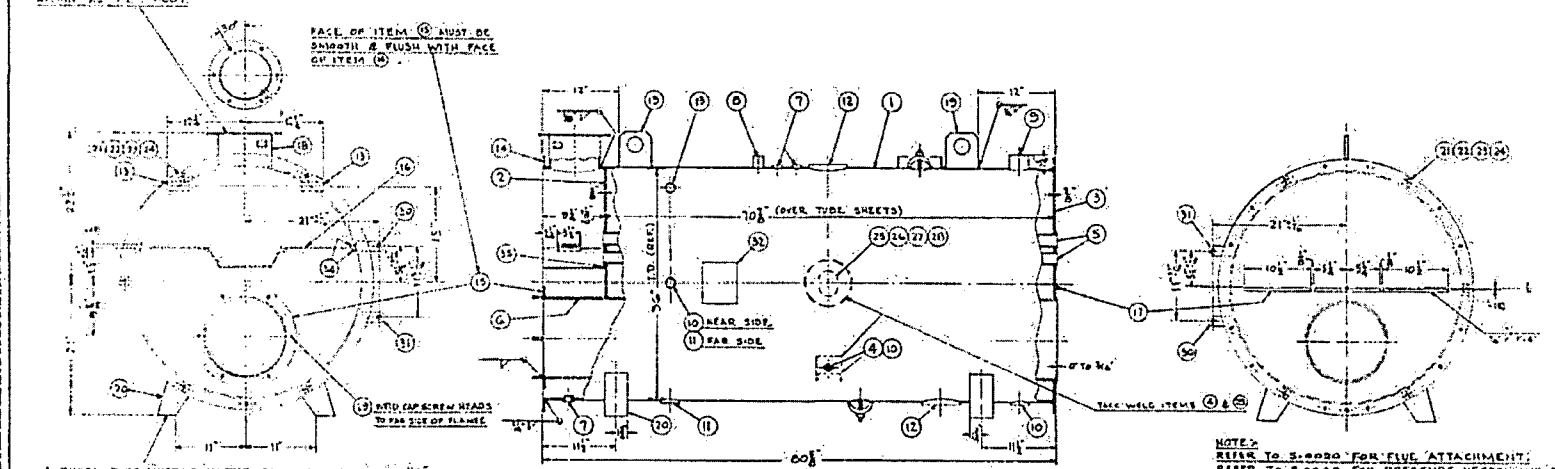
A ALL SIZES ON BILL OF MATERIAL ARE FOR REFERENCE ONLY. DRAWING DIMENSIONS SHALL BE FOLLOWED.

BOILER SIZE	TUBE PATTERN	QUANTITY OF TUBES	PART NO.
F25	151-496	38	554-555
F30	151-496	44	554-556

A STEEL PLATES MUST BE PARALLEL WITH THE PLANE OF THE BASE WITHIN 1/8" PER FOOT.

FACE OF ITEM (2) MUST BE SMOOTH & FLUSH WITH FACE OF ITEM (3).

A THE 21" HOLES MUST BE IN THE SAME PLANE WITHIN 1/8". THIS PLANE MUST BE PARALLEL WITH THE BOILER HORIZONTAL & WITHIN 1/8" AT OUTSIDE DIA. OF SHELL.



NOTE:
REFER TO S-0020 FOR FIVE ATTACHMENT.
REFER TO S-0040 FOR PRESSURE VESSEL WELDS.
DESIGN & CONSTRUCTION COMPLIES WITH THE A.S.M.E. L.P. HEATING BOILER CODE.
LONGITUDINAL & GIRTH JOINTS IN PRESSURE VESSEL TO BE DOUBLE WELDED BUTT.

CLEAVER-BROOKS CO.
SHELL - BOILER
F25 & 30 - L

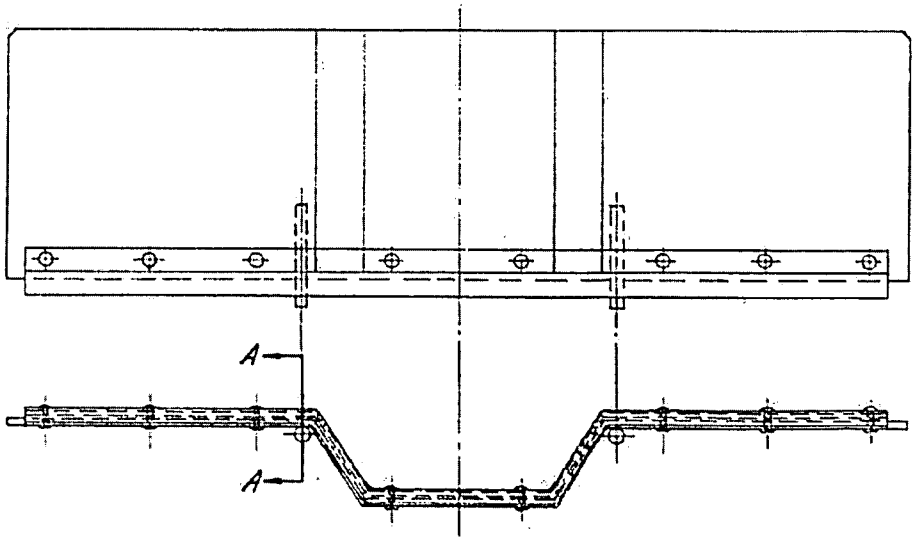
Rec. 704

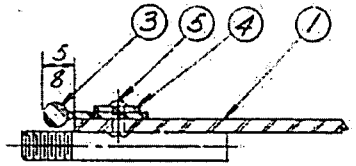
BPM 000027

ITEM	REQ.	PART No.		DESCRIPTION
1	1	9-126	B	BAFFLE - FRONT EXTENSION
2	~~2~~	~~51-45-A~~		~~STUD - FRONT HEAD PLATE~~
3	1	853-394		GASKET - 2 X 38 LG. - JM TADPOLE - STYLE 123 SIZE 7
4	1	65-25	A	RETAINER - FRONT BAFFLE GASKET
5	8	841-551		RIVET - SPLIT - 1/4 DIA. X 3/8 LG.

TOLERANCE
UNLESS OTHERWISE SPECIFIED,
FRACTIONAL ± DECIMAL ±

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SECTION "A-A"
6" = 1:0"

REVISIONS				
EN 55498 2-17-56	1	10-17-56	2	12-5-56
	⑤ DELETED EN 55713 10-26-56		⑤ WAS 8 REQ'D NOTE REMOVED EN 55777 12-5-56 ⑤	

261-35

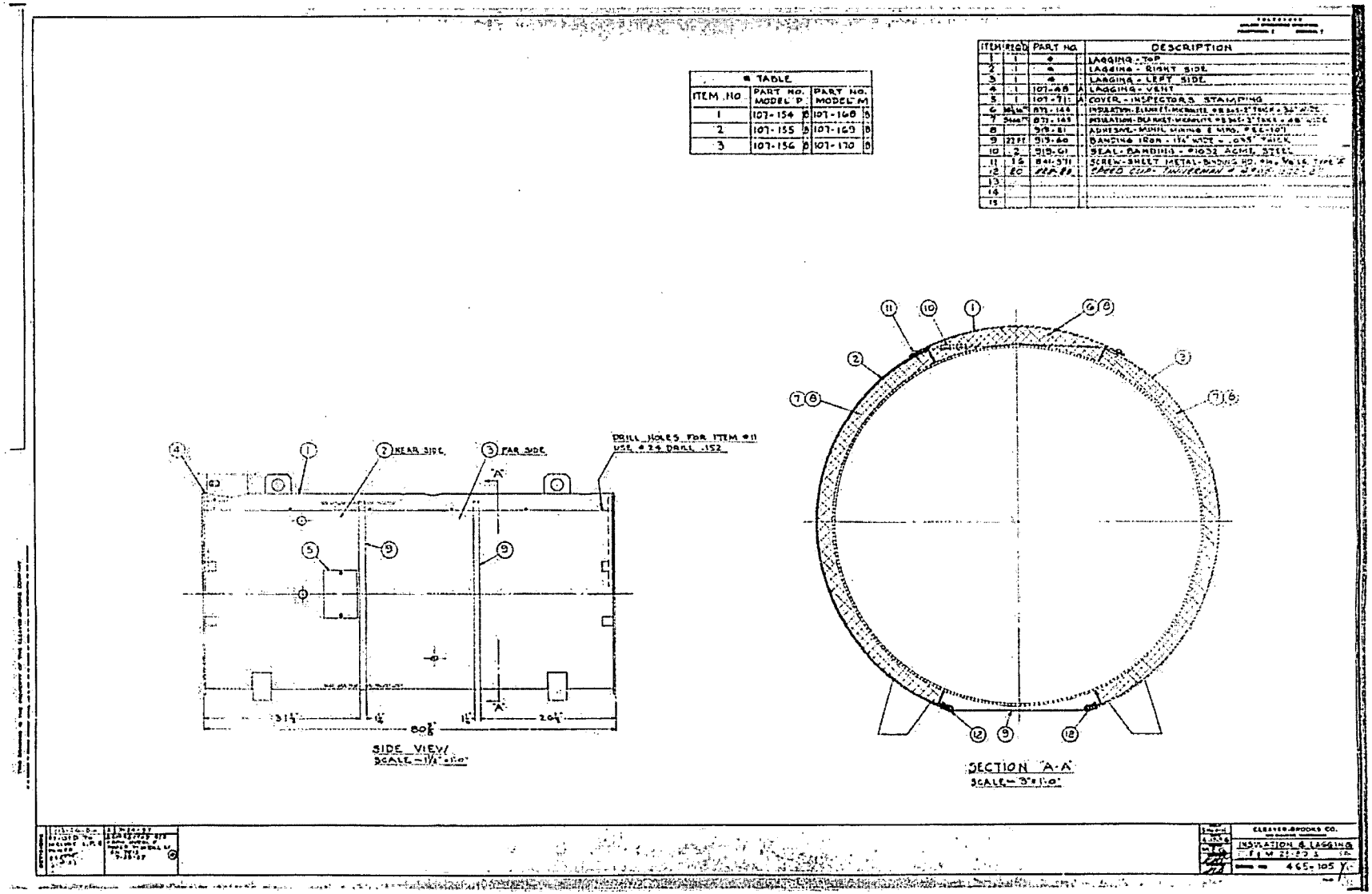
SCALE	1/4" = 1'-0"
DATE	6-28-54
DRAWN	WFK
CHECKED	JA
APPROVED	

CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN
BAFFLE ASSEMBLY FRONT EXTENSION P-15 TO 40
DRWG. NO. 261-35

SEPIA AT CBCO MILWAUKEE

Rec. 705

BPM 000028


* TABLE
ITEM NO
PART NO. MODEL P
PART NO. MODEL M
1
107-154 B
107-160 B
2
107-155 B
107-169 B
3
107-156 B
107-170 B
ITEM
REQ'D
PART NO.
DESCRIPTION
1
1
*
LAGGING - TOP
2
1
*
LAGGING - RIGHT SIDE
3
1
*
LAGGING - LEFT SIDE
4
1
107-48 A
LAGGING - VENT
5
1
107-71 A
COVER - INSPECTOR'S STAMPING
6
871-148
7
871-149
8
519-81
9
21 FT
519-80
10
2
519-61
11
16
801-511
12
AR
MARK
DRILL HOLES FOR ITEM #11 USE #24 DRILL .152
NEAR SIDE
FAR SIDE
SIDE VIEW
SCALE - 1/4" = 1'-0"
SECTION "A-A"
SCALE - 3" = 1'-0"
CLEAVER-BROOKS CO.
INSULATION & LAGGING
FLM 2502 S
465-105

THIS DRAWING IS THE PROPERTY OF THE CLEAVER-BROOKS COMPANY

ITEM	REQD	PART NO.		DESCRIPTION
1	1	132-185	D	HEAD - REAR
2	23	903-137		PIN - INSULATION RETAINER - 1½" LG. - CUP SHAPED HEAD
3	1	872-61		BOARD - ASBESTOS - ¼" x 4" x 34" J.M. #100
4	1	872-61		BOARD - ASBESTOS - ¼" x 2" x 33" J.M. #100
5	1	971-53		BAR - ¼" x 1½" x 33" LG. H.R.
6	4	868-157		CAP SCREW - HEX. HD. ⅜"-16 x 1¼" LG.
7	1	80-xx		[illegible]
8	7	94-115	A	TILE
9	60"	872-162		VEE - BLOCK MIX. (ASBESTOS)
10	150"	872-96		REFRACTORY - CASTABLE - BAFFLECRETE (MEX-R-CO)
11	1	853-348		ROPE, ASBESTOS 3 PLY ¼" x 105" LG. J-M #4202
12	1"	872-105		CEMENT ASBESTOS FURNACE
13	2"	872-29		CEMENT, REFRACTORY FIREFRAX #1
14	1	94-143	A	CERAMIC SLEEVE

COMPRESS ITEM 11 INTO GROOVE WITH CAULKING TOOL, FILL WITH ITEM 12.

EXTEND ITEM #10 AROUND BAFFLE BRICK TO SEAL ENDS.

(5) SPACED 30° APART

(4) SPACED 12" APART

REVISIONS

465-61

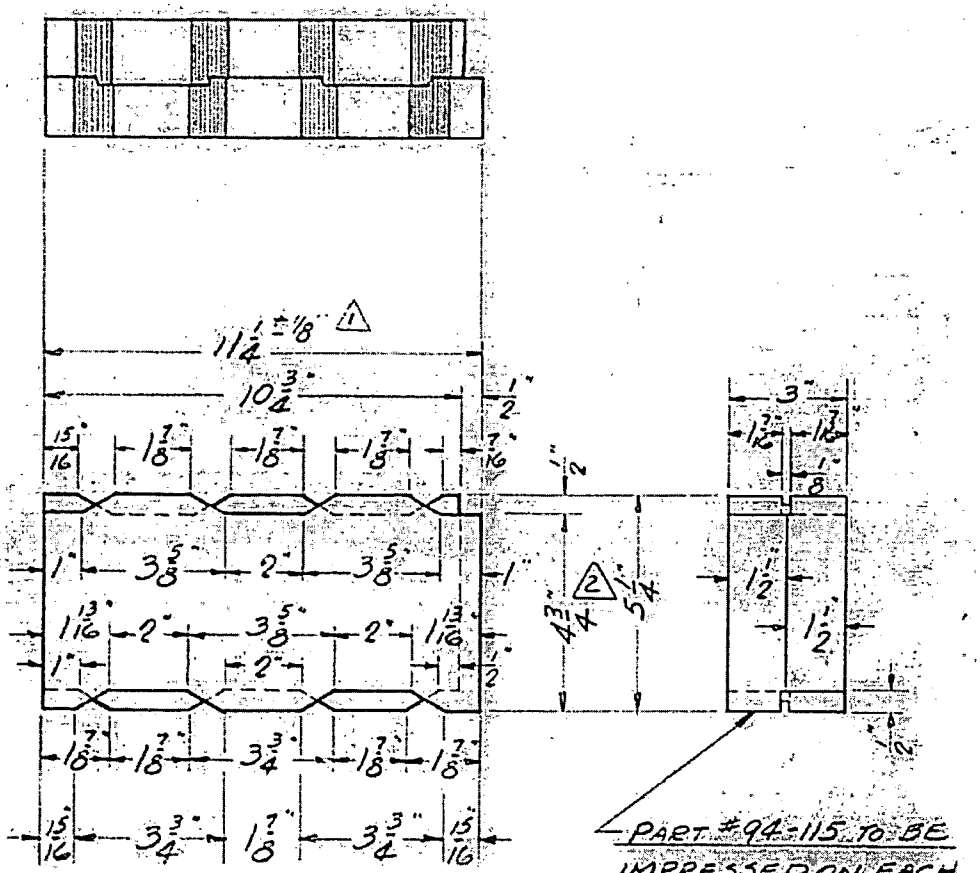
HEAD - REAR - INSULATED

CLEAVER-BROOKS CO.

Rec. 707

BPM 000030

NOTE:-
ALL TILE MUST BE UNIFORM IN SHAPE & DIMENSIONS.
THE TILE IN A SHIPMENT MUST MATE THE OTHER TILE OF THE SHIPMENT & OF PRECEDING SHIPMENTS.



PART #94-115 TO BE IMPRESSED ON EACH TILE. MINIMUM HEIGHT OF NUMERALS TO BE 1"

MATERIAL:-
SUPER DUTY REFRACTORY P.C.E. 34, #872-97
REF:- LACLEDE-CHRISTY CO., DWG. #10498-8X
REF:- MEXICO REFRACTORIES CO., DWG. # CL-192

USED ON 465-68 D

REVISIONS				
1	2-17-54	2	8-30-54	
REDRAWN & REVISED EN 4184 3-8-54		1	TOLERANCE ADDED	
EN 4339E 9-30-54		2	DIMS WERE 5 & 5 1/2	
		EN 4628 12-27-54		

SCALE 1/4
DATE 2-17-54
DRAWN RLS
CHECKED
APPROVED

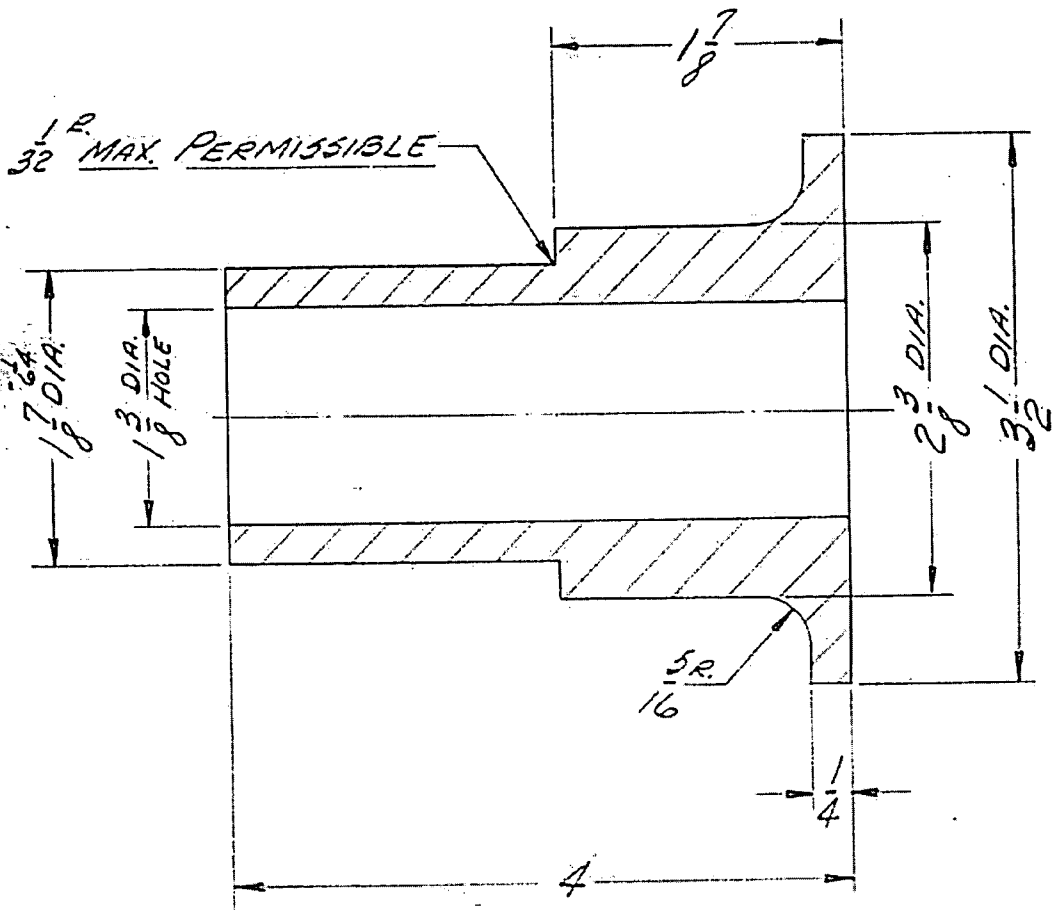
CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN
TILE, REAR HEAD
CB 15-40 INCL.
SERIAL NO.
DRWG. NO. 94A115 2

SUPERSEDES 94-115 1/8/54

94A115-2

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FRACTIONAL ± DECIMAL ±



DU-CO CERAMICS CO.
SAXONBURG PA.
-FIREBRICK ENGINEERS
MILWAUKEE

MATERIAL -
MOLDED CERAMIC
TO WITHSTAND 2500°F.

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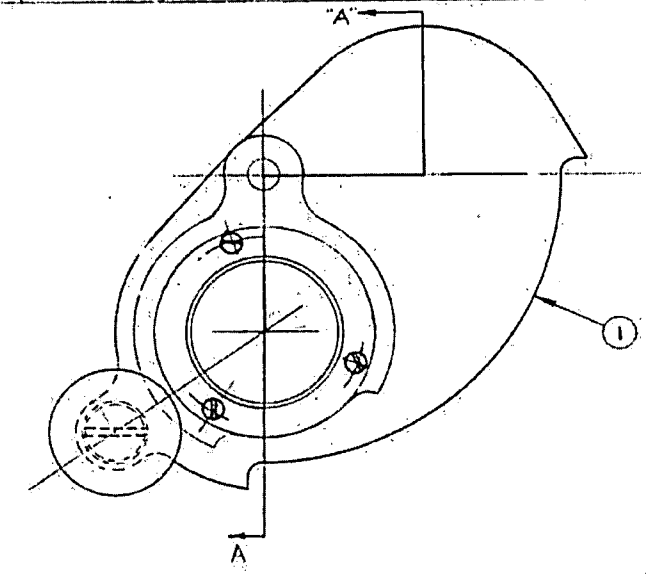
Apr 63

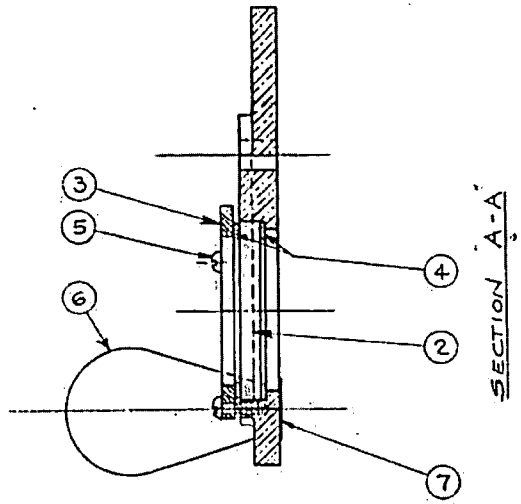
94A143

REVISIONS	SCALE FULL	CLEAVER-BROOKS CO. MILWAUKEE, WISCONSIN
	DATE 10-12-56	CERAMIC SLEEVE FOR SIGHT HOLE
	DRAWN O.G.D.	
	CHECKED V	
	APPROVED CBT	DRWG. NO. 94A143 D

PE-20

ITEM	REQD	PART Nº	DESCRIPTION	WEIGHT RGH	WEIGHT FIN	ITEM	REQD	PART Nº	DESCRIPTION	WEIGHT RGH	WEIGHT FIN
1	1	59-579	D PLATE, PIVOT			6	1	865-18	HANDLE, PLASTIC, HARRY DAVIS MOLDING Co "70"		
2	1	851-26	GLASS - PYREX 1 3/4" DIA. X 3/16 TH.			7	1	860-139	SCREW, MACH, RD. HD. 3/8-16 x 1" LG. STL.		
3	1	80-17 A	RING, RETAINER.								
4	2	853-213	GASKET, ASBESTOS SHEET PACKING J.M. #60 1 3/4 O.D. x 1 3/16 I.D. x 1/16 TH.								
5	3	860-59	SCREW, MACH, RD. HD. 6-32 NC x 5/8" LG.								





SECTION A-A

SUPERSEDED
BY DWG. 550-21
DATE 10-7-63
EN 9910

REVISIONS			
1 10-14-53	3 3-18-55	4 6-9-58	
Was 66-43 AR	(6) WAS 1/4" LG.	(5) WAS 1/2" LG.	
2 12-1-53	(7) WAS 1 1/2" LG.	EN 7487	
ITEM (7) WAS	EN 4803	6-13-58	
PART No. 860-139	4-11-55		
EN 4803			
12-8-53			

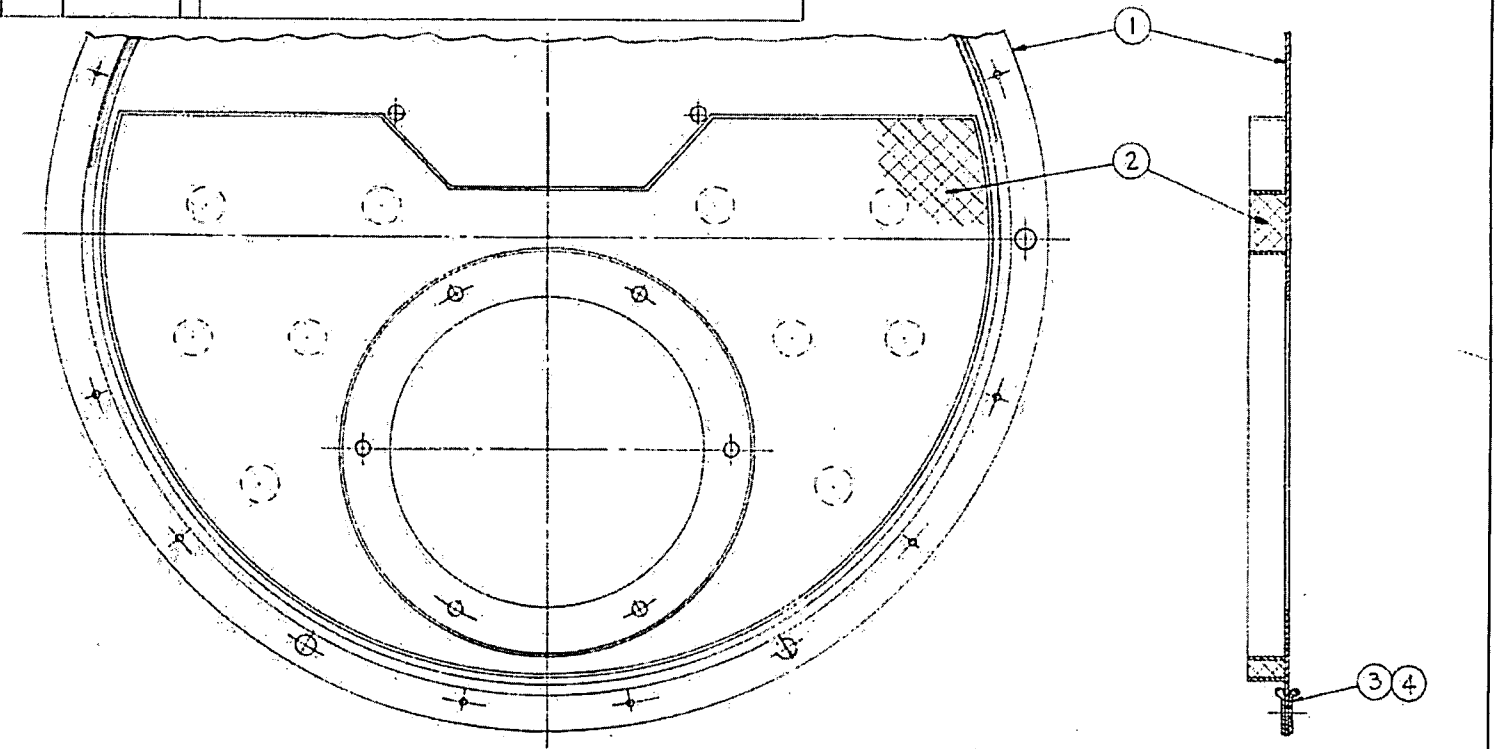
550-24

SCALE 12" = 1'-0"	CLEAVER-BROOKS CO. MILWAUKEE, WISCONSIN
DATE 7-30-53	OBSERVATION WINDOW ASSEMBLY
DRAWN W.G.	C.B. BOILERS
TRACED	DETAIL NO.
CHECKED	DRAWING NO. 550-24

THIS DRAWING IS THE PROPERTY OF THE CLEAVER-BROOKS COMPANY

ITEM	REQ'D	PART NO.		DESCRIPTION
1	1	132-194	C	PLATE HEAD FRONT
2	.50 CU. FT.	872-162		V-BLOCK MIX (ASBESTOS)
3	12	841-494		RIVET-SPLIT-3/16" DIA. x 3/4" LG.
4	2	32-442	A	GASKET - HEAD
5				

TOLERANCE
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FRACTIONAL ± DECIMAL ±



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REVISIONS		
EN 3503 P-10-32	1	7-24-57
	Δ	ADDED REF TO MODEL M EN 7019 7-29-57 (M)

465-103

SCALE 3"=1'-0"
DATE 2-16-56
DRAWN M.E.G.
CHECKED JH
APPROVED RAH

CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN
PLATE-HEAD-FRONT-INSULATED
P-M 15 TO 40 Δ
DRWG. NO. 465-103

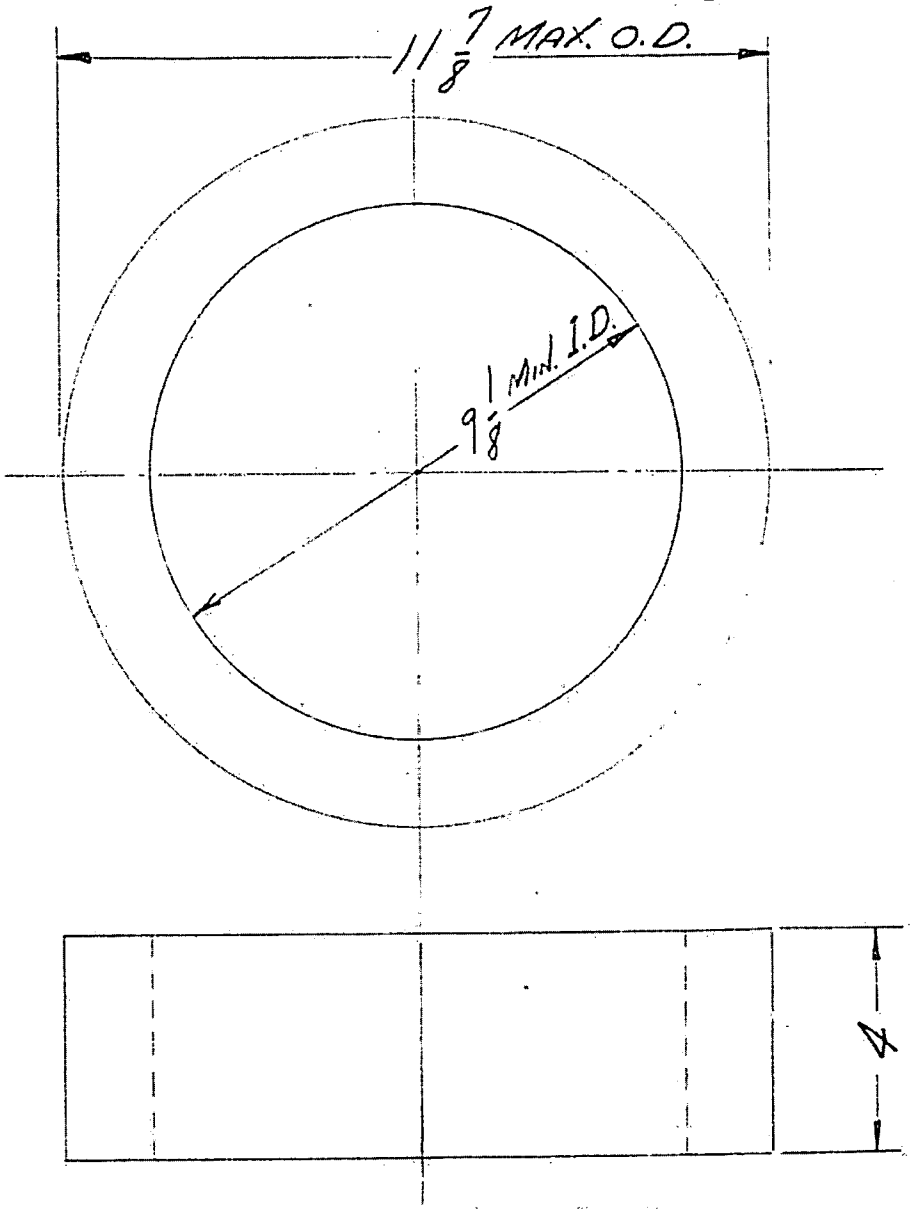
Rec. 711

BPM 000034

30°
30°
10°
10°
20°
20°
20°
20°
20°
20°
20°
20°
10°
10°
30°
30°
38¼ B.C.
7" I.D.
3½16
5-HOLES 11/16 D.
SPACED AS SHOWN
12 HOLES, 7/32 DIA
SPACED AS SHOWN
ON 38¼ B.C
1-HOLE 7/8 D FOR
LOCATING STUD
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SUPERSEDED #
Same
4-12-61
8949
MATERIAL: SEE MATERIAL SPECS. NO. 2-5
SEE PAR. 5 - 35-825
FURNISH WITH GRAFHITE ON GASKET BULB
USE W.T. 765-60
1559-115
REVISIONS
ISSUED 11/9/53
EN 4026
1 5-25-54
NOTE ADDED
EN 4038
6-17-54
SCALE 1½"=1'-0
DATE 7-24-53
DRAWN
CHECKED
APPROVED
CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN
GASKET, HEAD, FRT + REAR
CE-15 TO 40
SERIAL NO.
DRWG. NO. 32-442
FOR AT CB60 WHA

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MATERIAL -
INSULATING REFRACTORY
2300 °F.

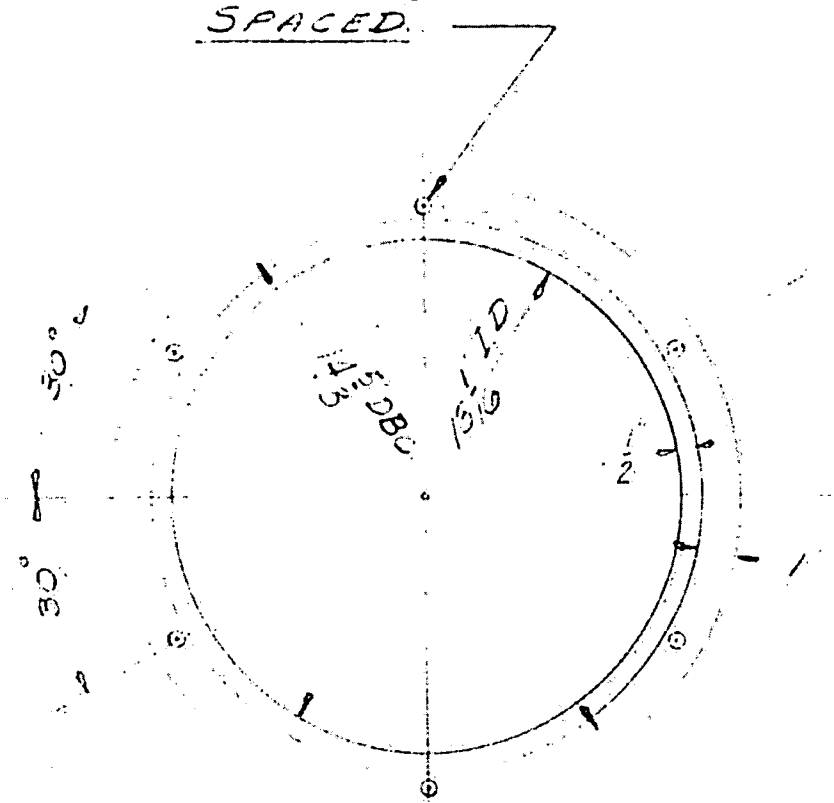
REVISIONS					
E.N. #5540 9-15-56	1	7-24-57	SCALE 3/8" = 1"	CLEAVER-BROOKS CO. MILWAUKEE, WISCONSIN	
	⚠	ADDED REF. TO MODEL M EN 7013 7-29-57 WM	DATE 8-6-56	REFRACTORY, INSULATING	
			DRAWN O.C.O.	P & M 15 TO 40 GAS ONLY	
			CHECKED GDC		
			APPROVED DWP	DRWG. NO. 94-134	

94-134

TOLERANCE
UNLESS OTHERWISE SPECIFIED,
FRACTIONAL ±
DECIMAL ±
© Sept 63
THIS DRAWING IS THE PROPERTY OF THE CLEAVER-BROOKS COMPANY
11"
6 1/32"
60°
4 11/16" MIN. R.
6 1/32" MAX. R.
MATERIAL :-
FIRE BRICK - SUPER DUTY - P.C.E. 34
REVISIONS
1 11-6-56
WAS 4 3/4"
2 7-24-57
ADDED NEW TO MODEL M EN 7013 7-29-57
94B132-2
6"=1'-0"
8-7-56
M.E.G.
GDC
CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN
REFRACTORY - DRY OVEN
P & M 15-40 GAS ONLY
DRWG. NO. 94B132
SEPIA AT CBCO WAUKESHA

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6-HOLES 7/16" DIA. EQUALLY SPACED.



MATERIAL: J-M TADPOLE - STYLE NO. 123
SIZE NO. 5
853-365

FURNISH WITH GRAPHITE ON GASKET BULB

SUPERSEDED
BY DWG. # Same #
DATE 7-12-61
EN 8949

REVISIONS		
ISSUED 11/9/53 EN 4026	1	5-25-54
	⚠	NOTE ADDED
		EN 4584 6-17-54

SCALE 3"=1'-0"
DATE 7-24-53
DRAWN
TRACED
CHECKED
SERIAL NO.

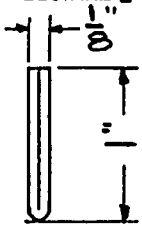
CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN

GASKET - DRY OVEN
CB-15 TO 40

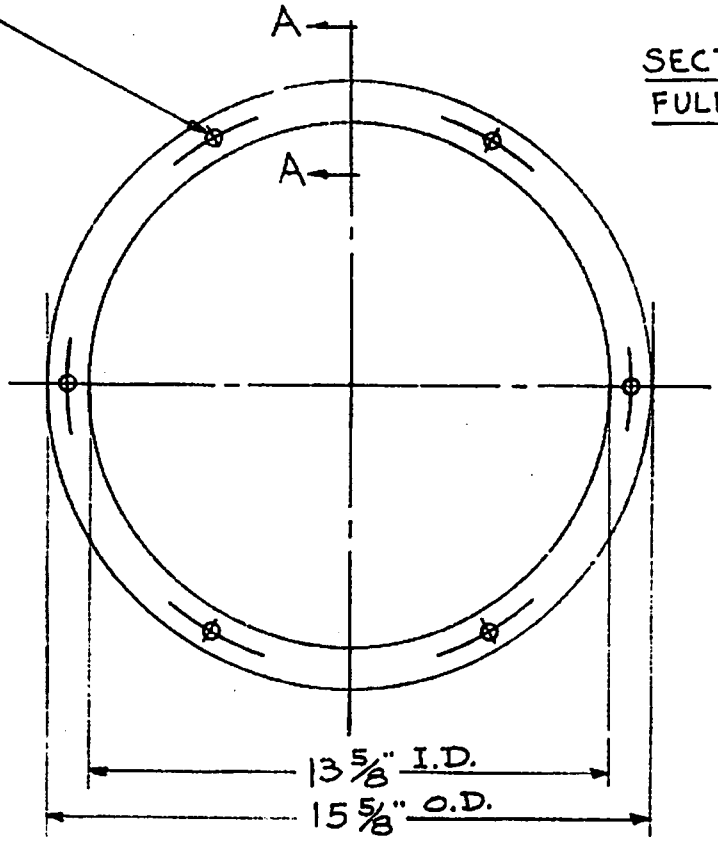
DRWG. NO. 32-443

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6 HOLES 7/16" DIA.-60° O.C.
ON 14 5/8" DIA. B.C.



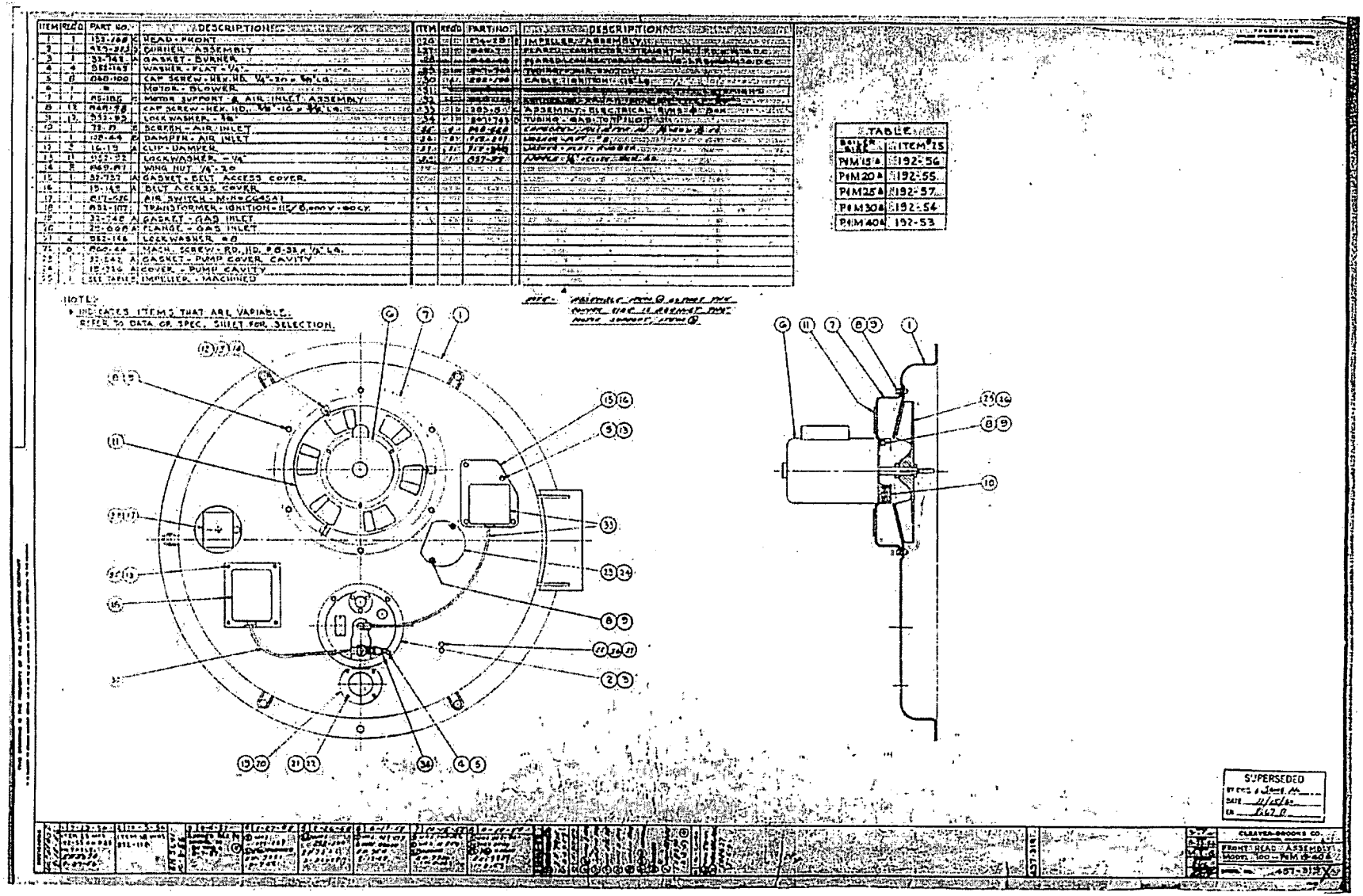
SECTION "A-A"
FULL SIZE

MATERIAL:- (AMERICAN GASKET)
KEARSARGE - WIRE INSERTED GASKET CLOTH
1/16" THK. - STYLE #656 RAYBESTOS MANHATTAN

REVISIONS					
ENG'G'D 8-17-56	(21)	1 7-24-57 ⚠ ADDED REF. TO MODEL M EN 7D13 7-29-57	SCALE 3"=1'0"	CLEAVER-BROOKS CO. MILWAUKEE, WISCONSIN	
			DATE 8-7-56	GASKET-BURNER HOUSING	
			DRAWN M.E.G.	P & M 15-40 ⚠	
			CHECKED JA	DRWG. NO. 32-746	
			APPROVED CHP		

PIE-20

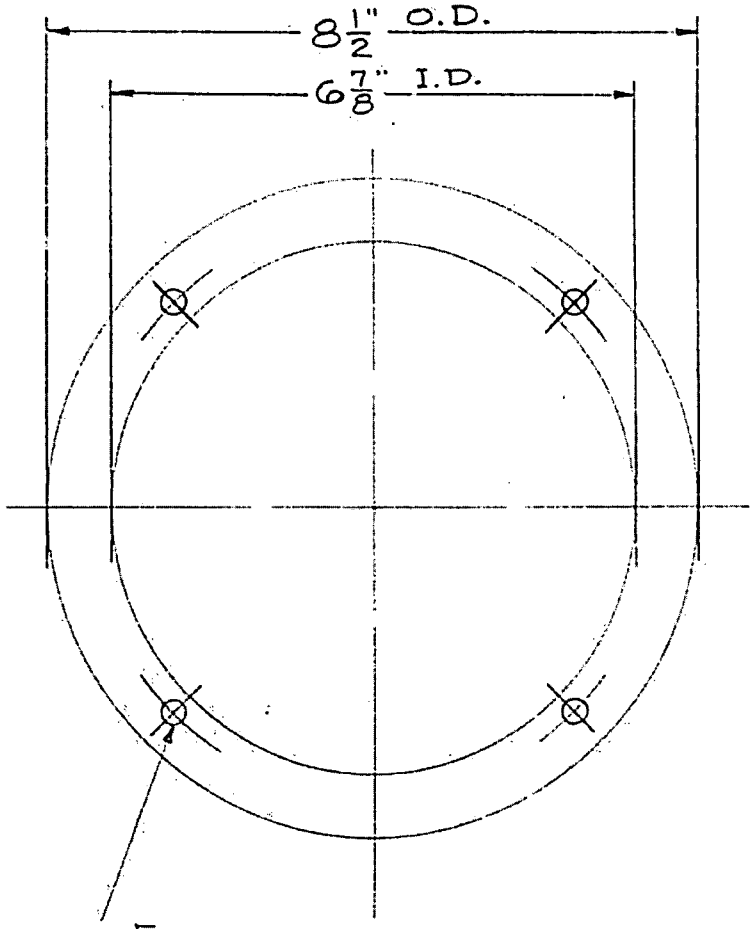
BPM 000039



Rec. 717

BPM 000040

TOLERANCE
UNLESS OTHERWISE SPECIFIED:
FRACTIONAL ± DECIMAL ±



4 HOLES 5/16" DIA. - 90° O.C.
ON 7 1/2" DIA. B.C.

MATERIAL:-
1/16" THK. x 8 1/2" O.D. x 6 7/8" I.D. - JM STYLE 60

REVISIONS		
	1	8-6-57
	Δ	ADDED REF TO MODEL M EN 7013 A 8-7-57

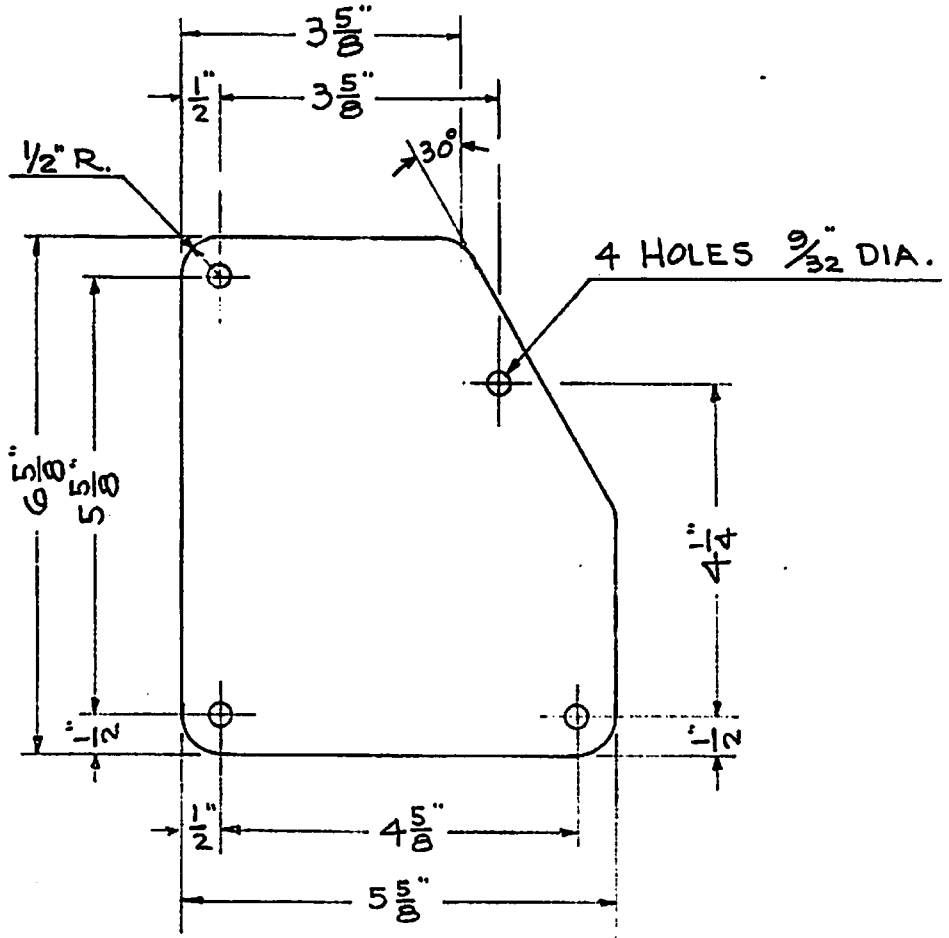
SCALE	6" = 1'-0"
DATE	7-10-56
DRAWN	M.E.G.
CHECKED	ZA
APPROVED	RLP

CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN
GASKET - BURNER
PM 15-40 Δ
DRWG. NO. 32-742

PC-20

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MATERIAL :-
1/8" THICK RAINBOW RED RUBBER (# 853-266)

32A737

REVISIONS		
	1	8-5-57
ENG 5408 8-12-56		ADDED REF. TO MODEL M EN 7019 A 8-7-57

SCALE	6" = 1'-0"
DATE	7-6-56
DRAWN	M.E.G.
CHECKED	ZA
APPROVED	CHP

CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN

GASKET - BELT ACCESS COVER P&M 15-40 A

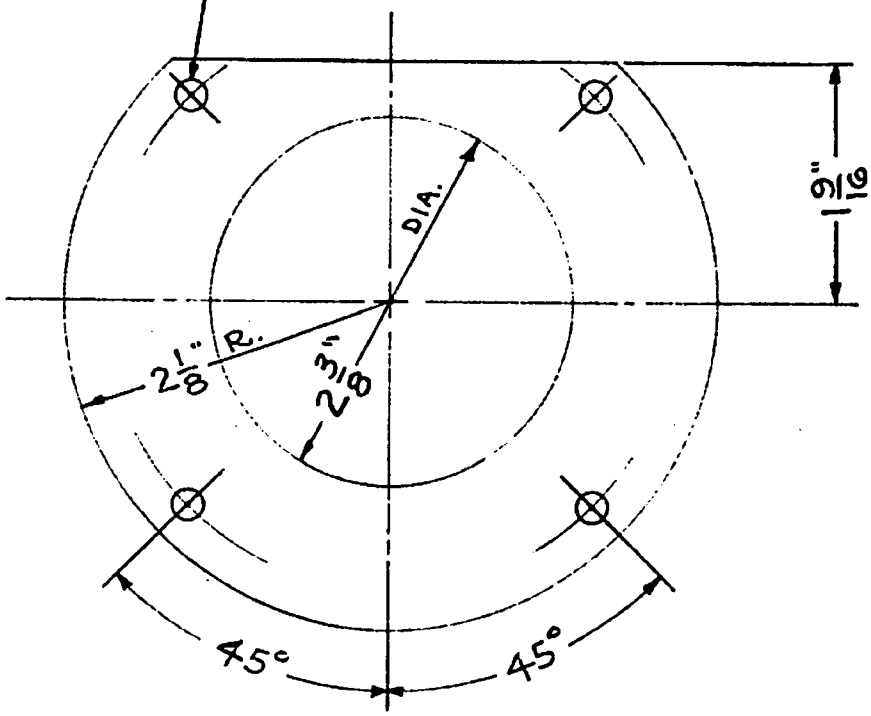
DRWG. NO. 32A737 | 1

FE-10

BPM 000042

TOLERANCE
UNLESS OTHERWISE SPECIFIED:
FRACTIONAL ± DECIMAL ±

4 HOLES 3/16" DIA.-90° O.C.
ON 3 3/4" DIA. B.C.



MATERIAL:-
1/8" THICK RAINBOW RED RUBBER #853-266

REVISIONS			
E.N. #5540 9-15-56	1	B-5-57	ADDED REF TO MODEL M-EN-7013A 8-7-57

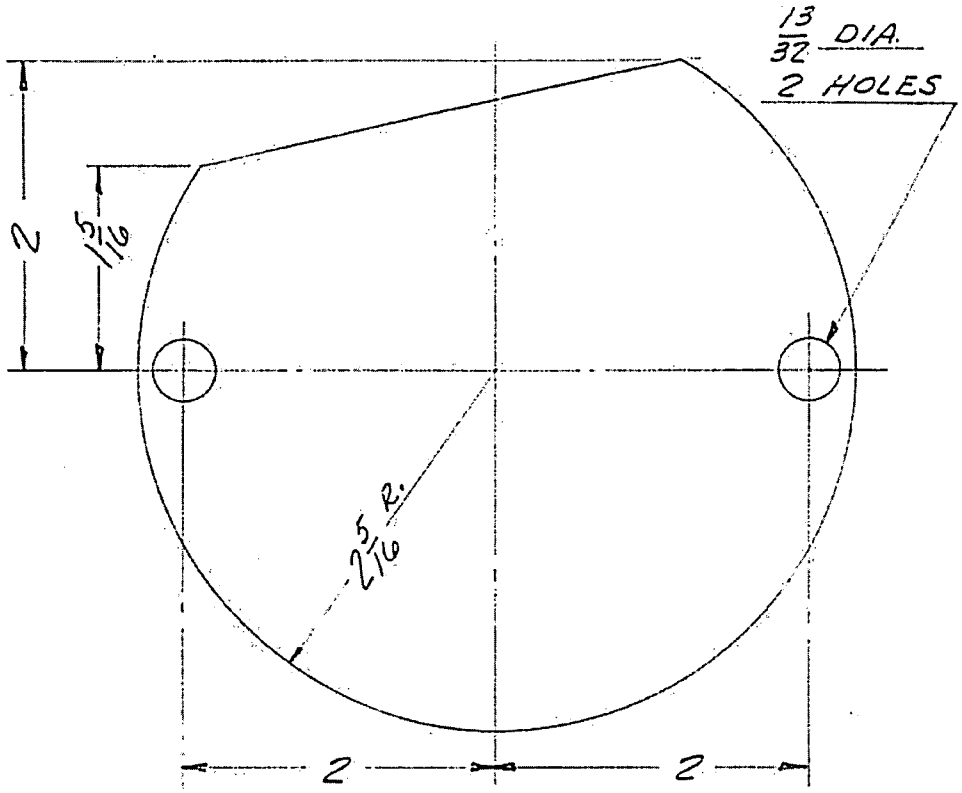
SCALE FULL
DATE 8-16-56
DRAWN M.E.G.
CHECKED
APPROVED

CLEAVER-BROOKS CO.
MILWAUKEE, WISCONSIN
GASKET- GAS INLET
P&M 15-40 A
DRWG. NO. 32-748

PE-33

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MATERIAL - 1/16 VELLUMOID GASKET

NOTE -
TO BE USED ON CAST FRONT HEAD 132-97(d)

w/c 22433

REVISIONS		SCALE F.S.	CLEAVER-BROOKS CO. MILWAUKEE, WISCONSIN
EN 4163 (H) 2-18-54		DATE 2-15-54	GASKET - COVER PUMP
		DRAWN W.K.	CAVITY - CB 15-40 - GAS ONLY
		CHKD.	
		APPROVED E.R.	SERIAL NO. DRWG. NO. 32A542 0

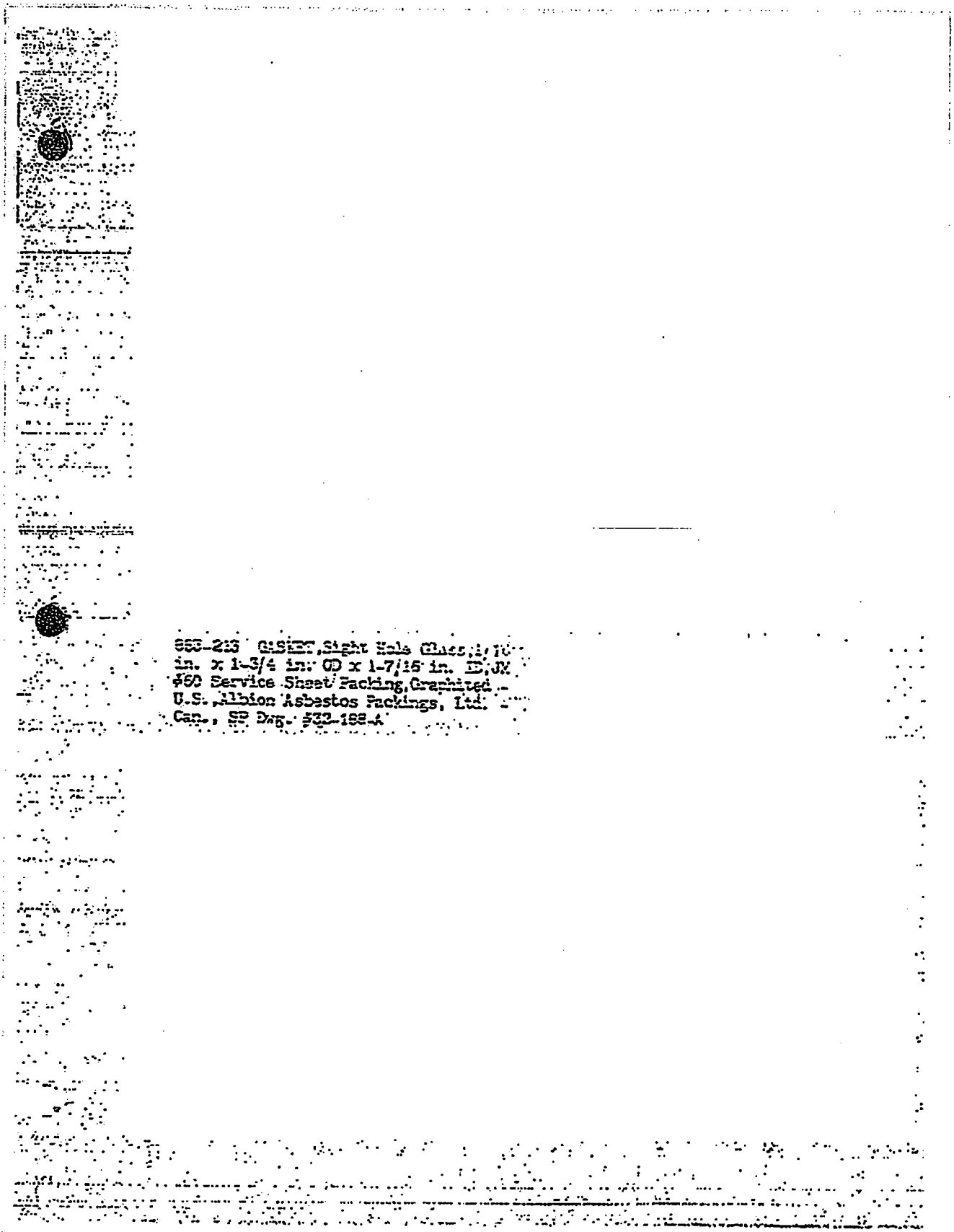
32A542

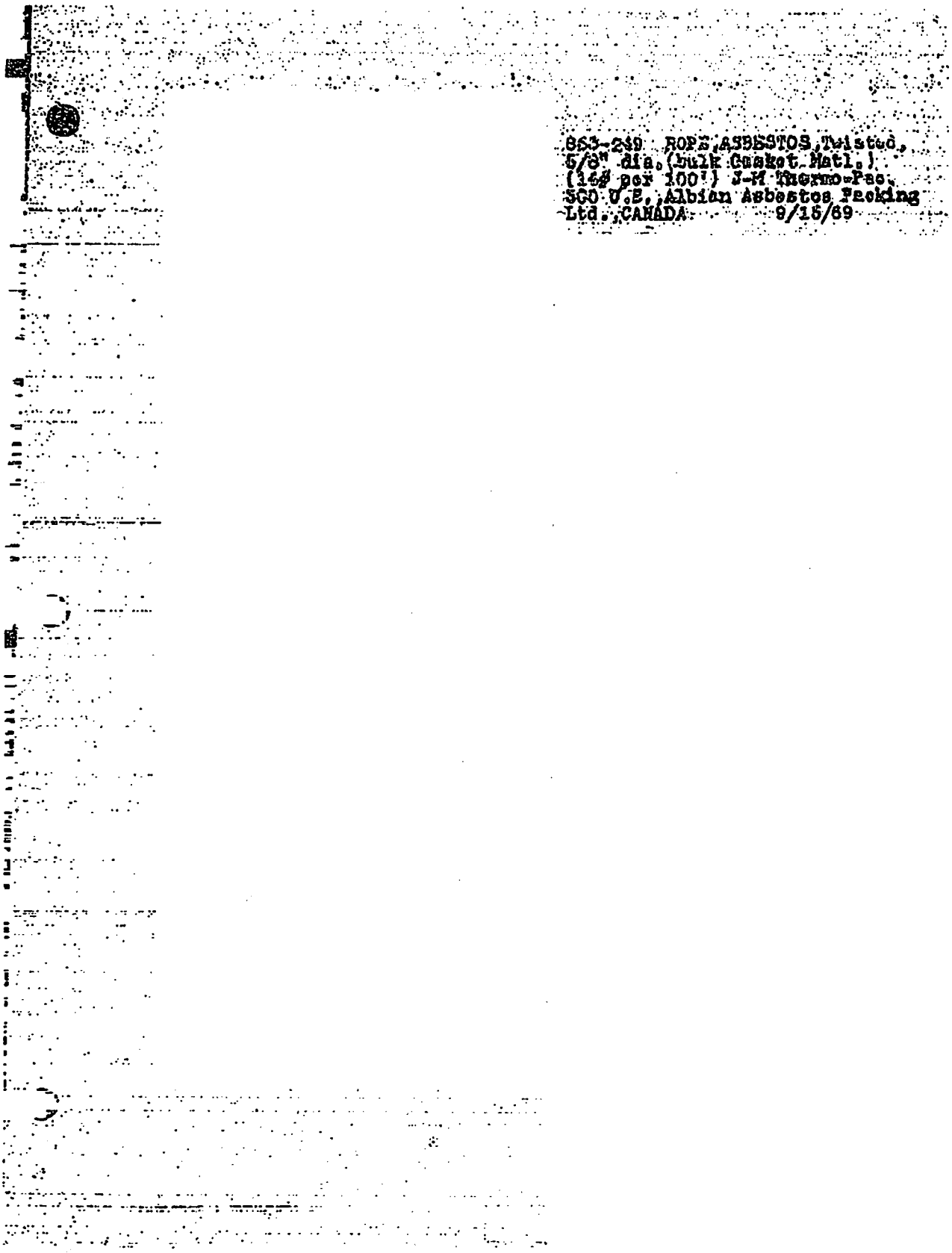
PE 20

BPM 000044

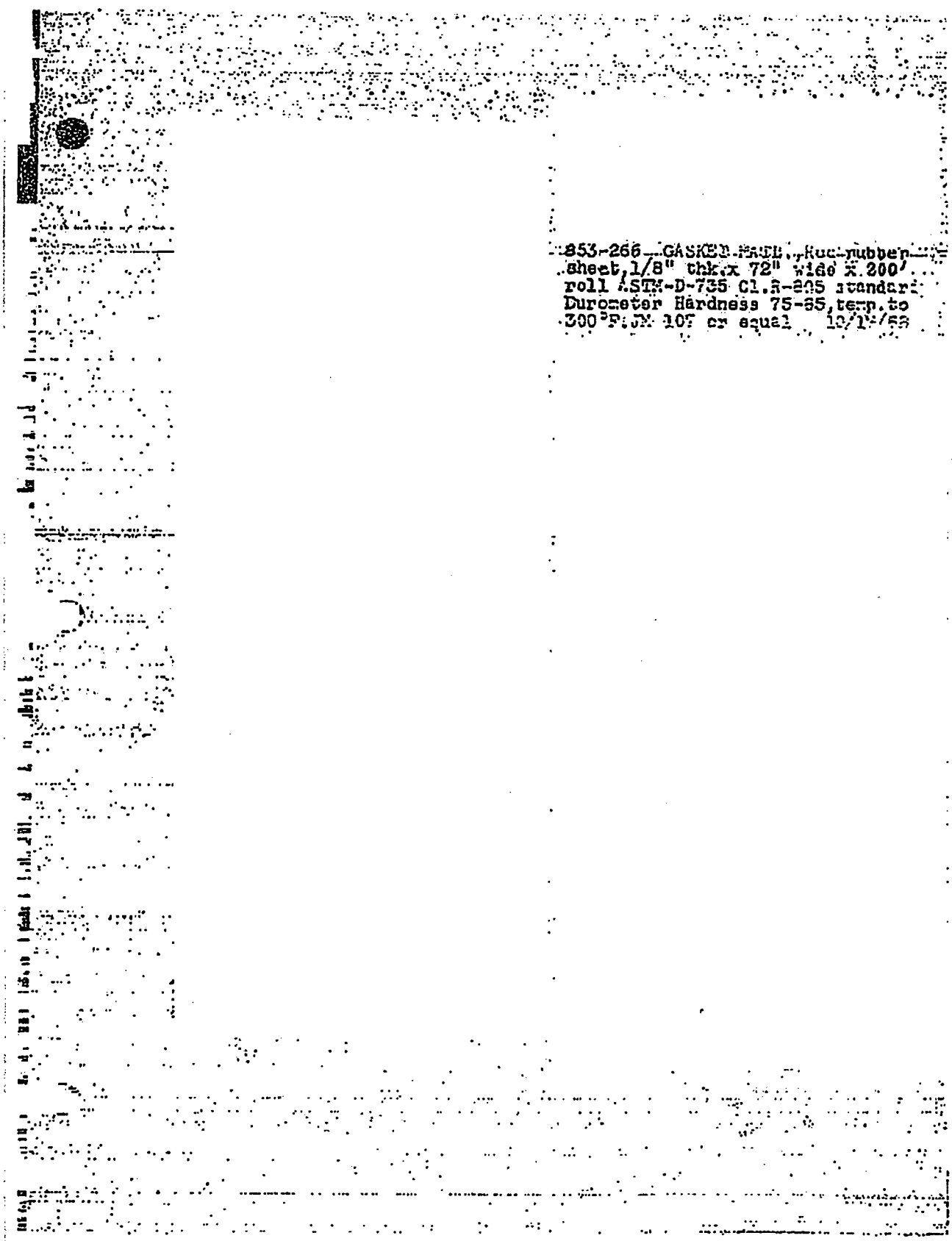
Rec. 721

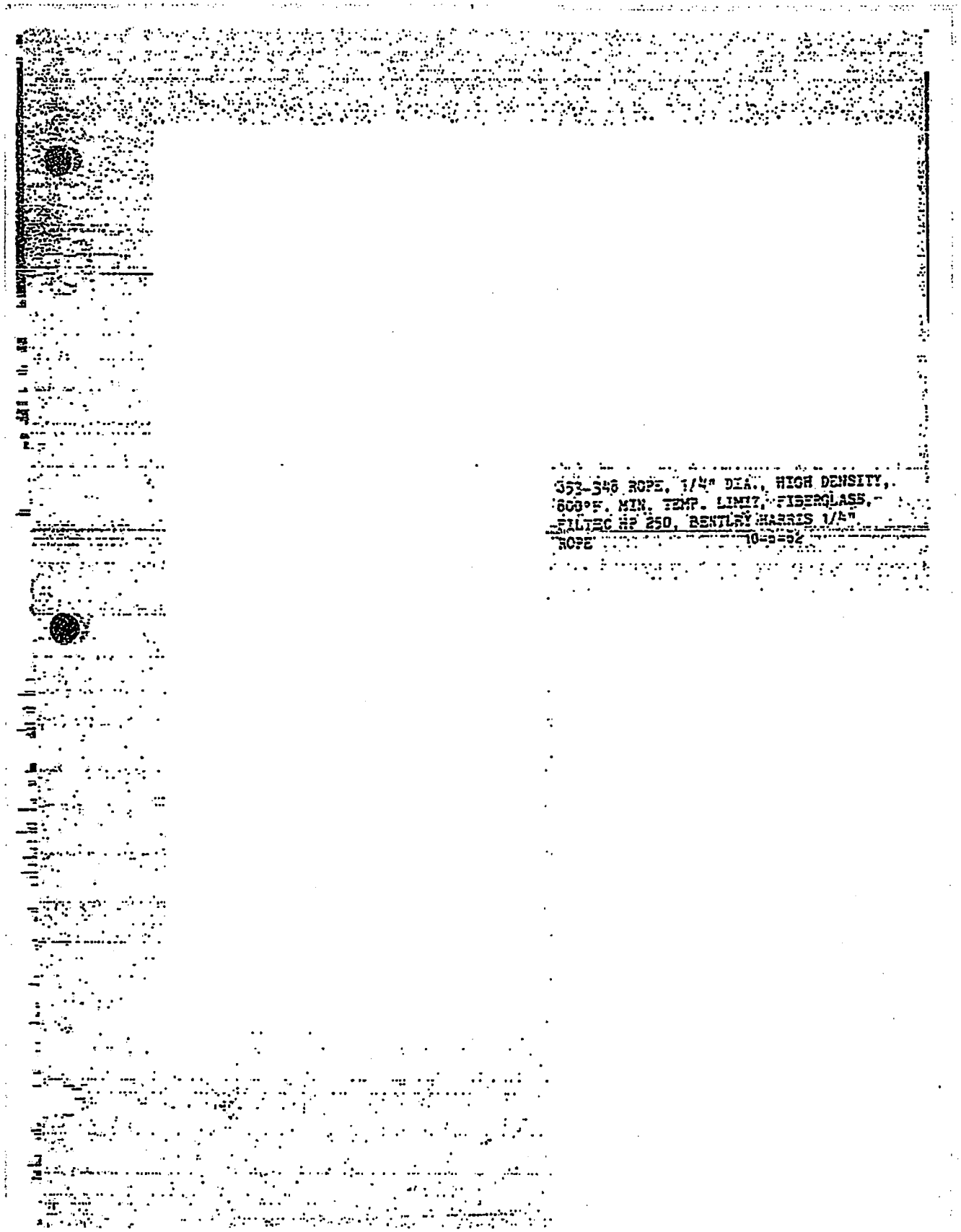
855-173 GASKET,[illegible]
3-1/2" obround,5/16" wide, .175
or 3/16" tk.Zn Pl.carbon stl.w/
abs.filler,0-499 PSI,Phoxitallic
style F,GarlockTy.BH,J-N2918-(75)

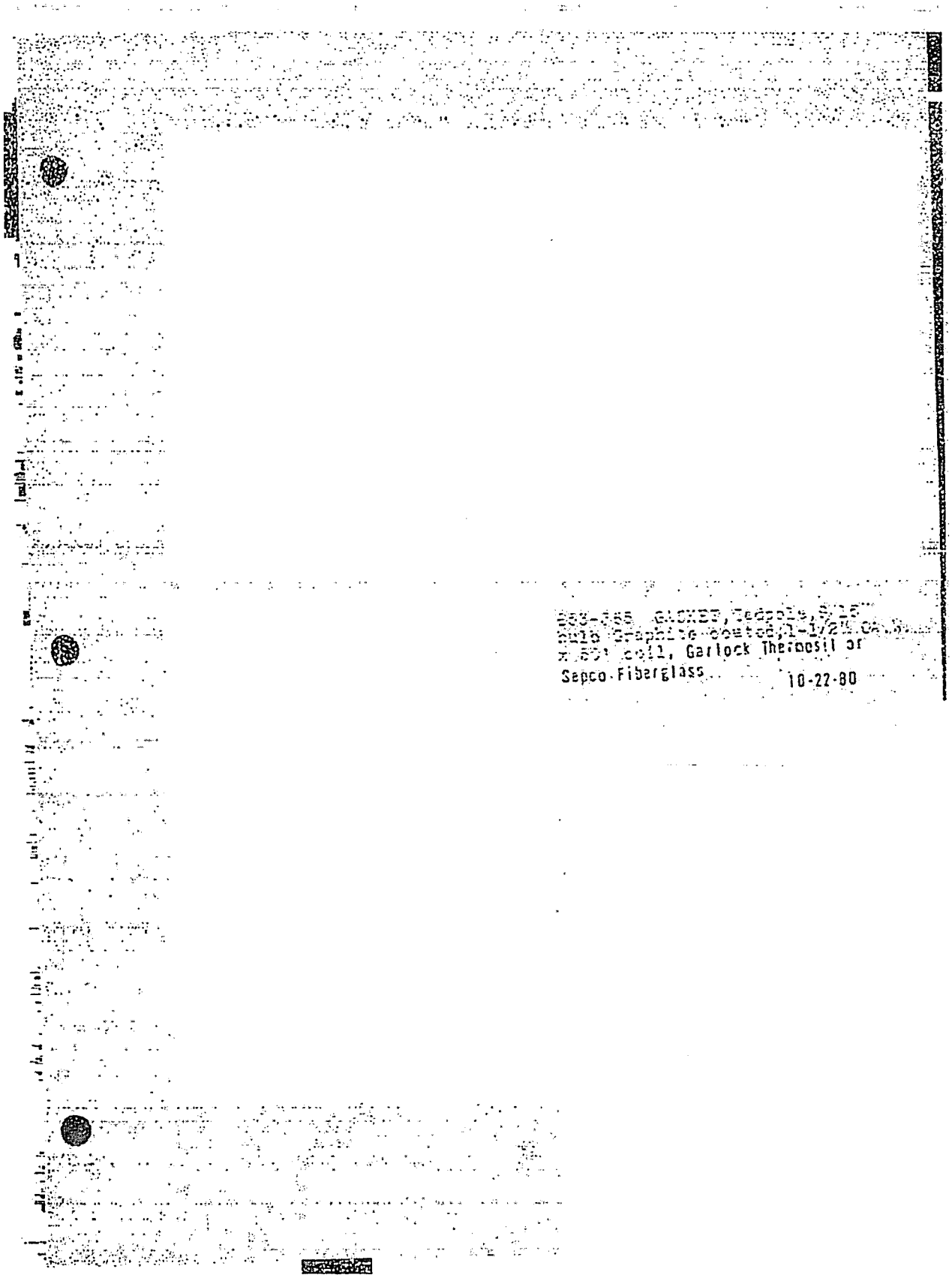

860-213 Gasket,Sight Hole Glass,1/16
in. x 1-3/4 in. OD x 1-7/16 in. ID,JM
#60 Service Sheet Packing,Graphited -
U.S. Albion Asbestos Packings, Ltd.
Can., SP Dwg. 532-188-A

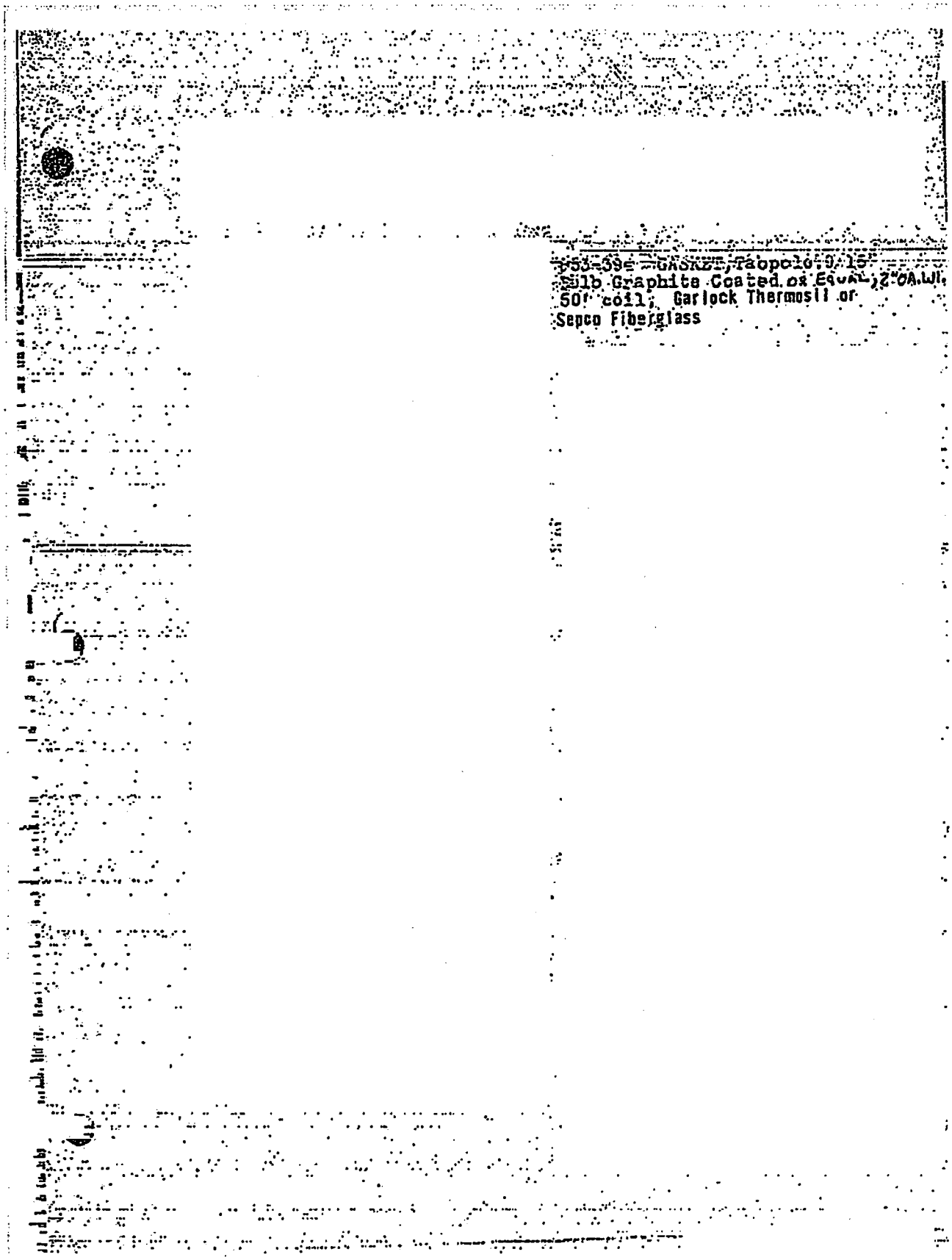


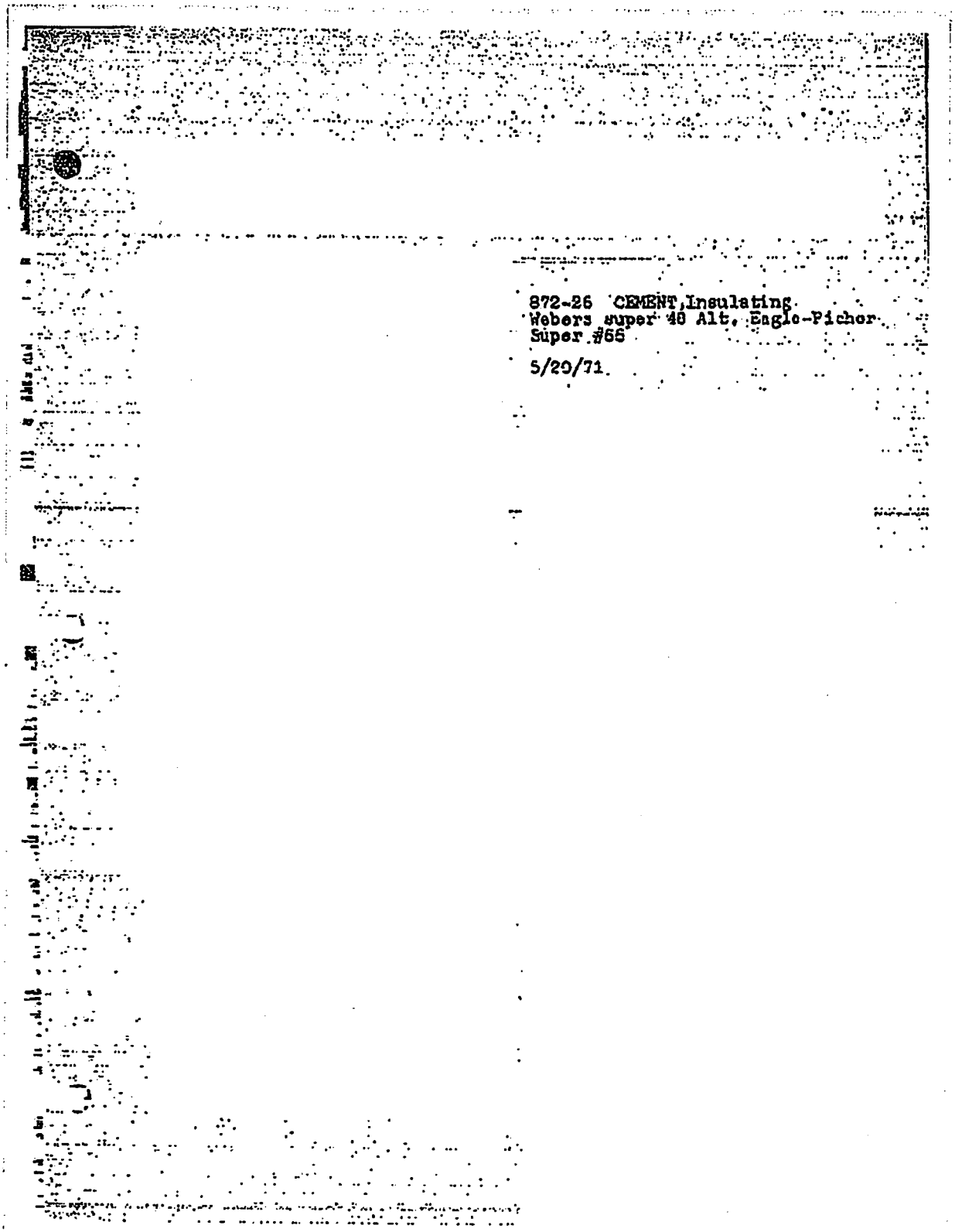
863-249 ROPE,ASBESTOS,Twisted,
5/8" dia.(bulk Gasket Matl.)
(16# per 100') J-M Thermo-Pac
SCO U.S., Albian Asbestos Packing
Ltd., CANADA 9/15/69


853-266 GASKET MATL., Rubber
sheet, 1/8" thk. x 72" wide x 200'
roll ASTM-D-735 Cl.A-205 standard
Durometer Hardness 75-85, temp. to
300°F. EX 107 or equal 10/1[illegible]/68


353-348 ROPE, 1/4" DIA., HIGH DENSITY,
600°F. MIN. TEMP. LIMIT, FIBERGLASS,
FILTEC HP 250, BENTLEY HARRIS 1/4"
ROPE
10-8-92

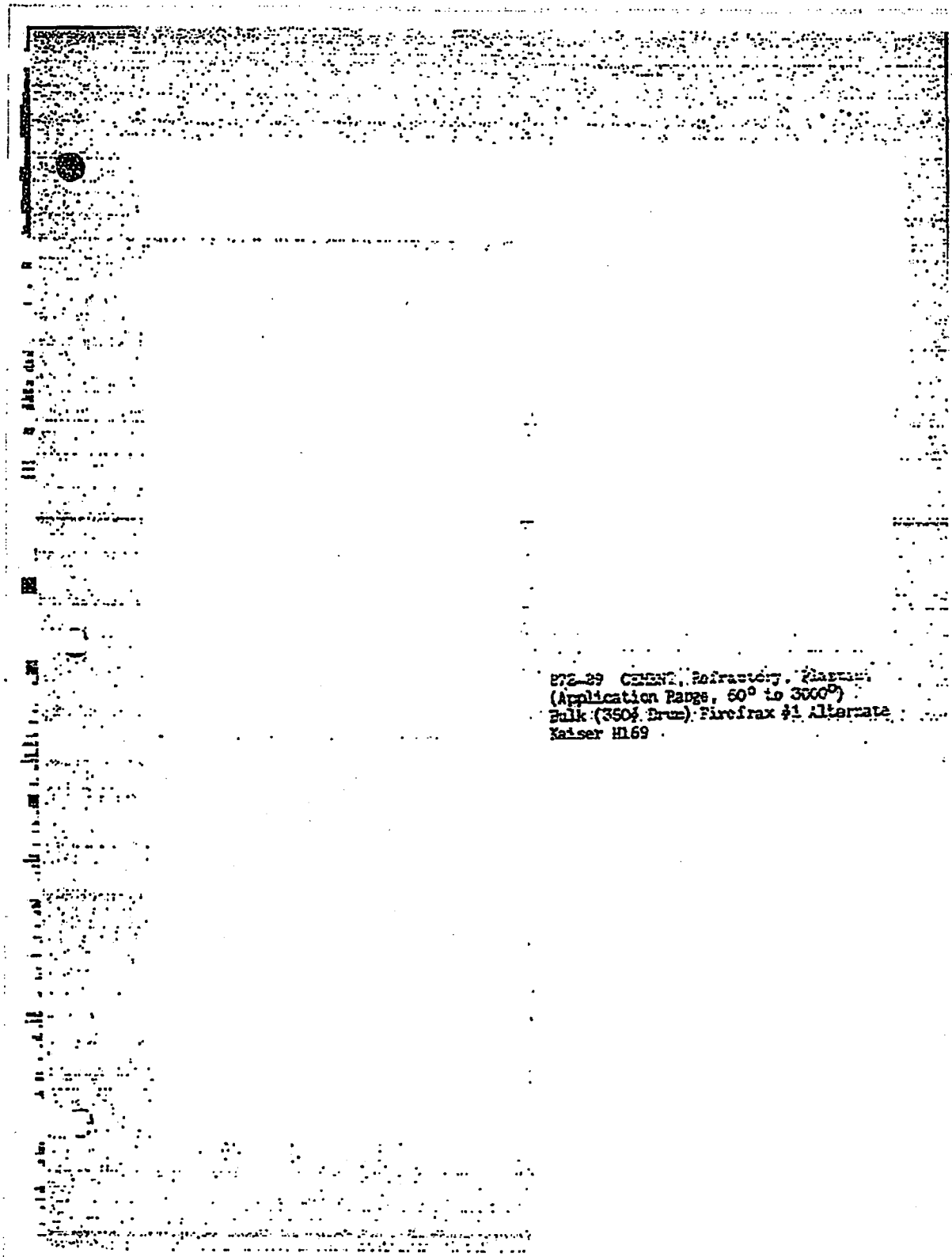

Sepco-Fiberglass
10-22-80


Sepco Fiberglass



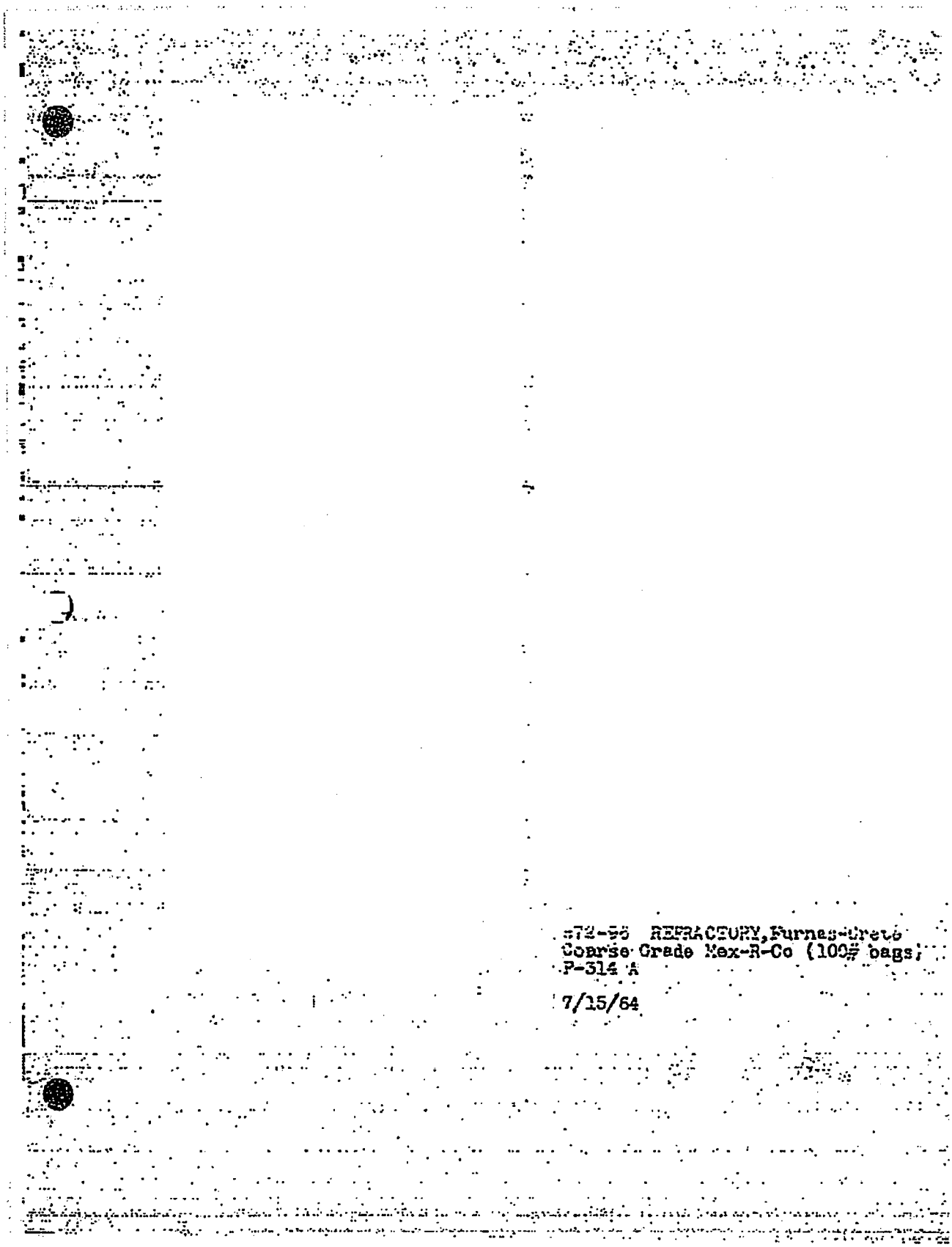
872-26 CEMENT,Insulating
Webers super 40 Alt. Eagle-Picher
Super #66

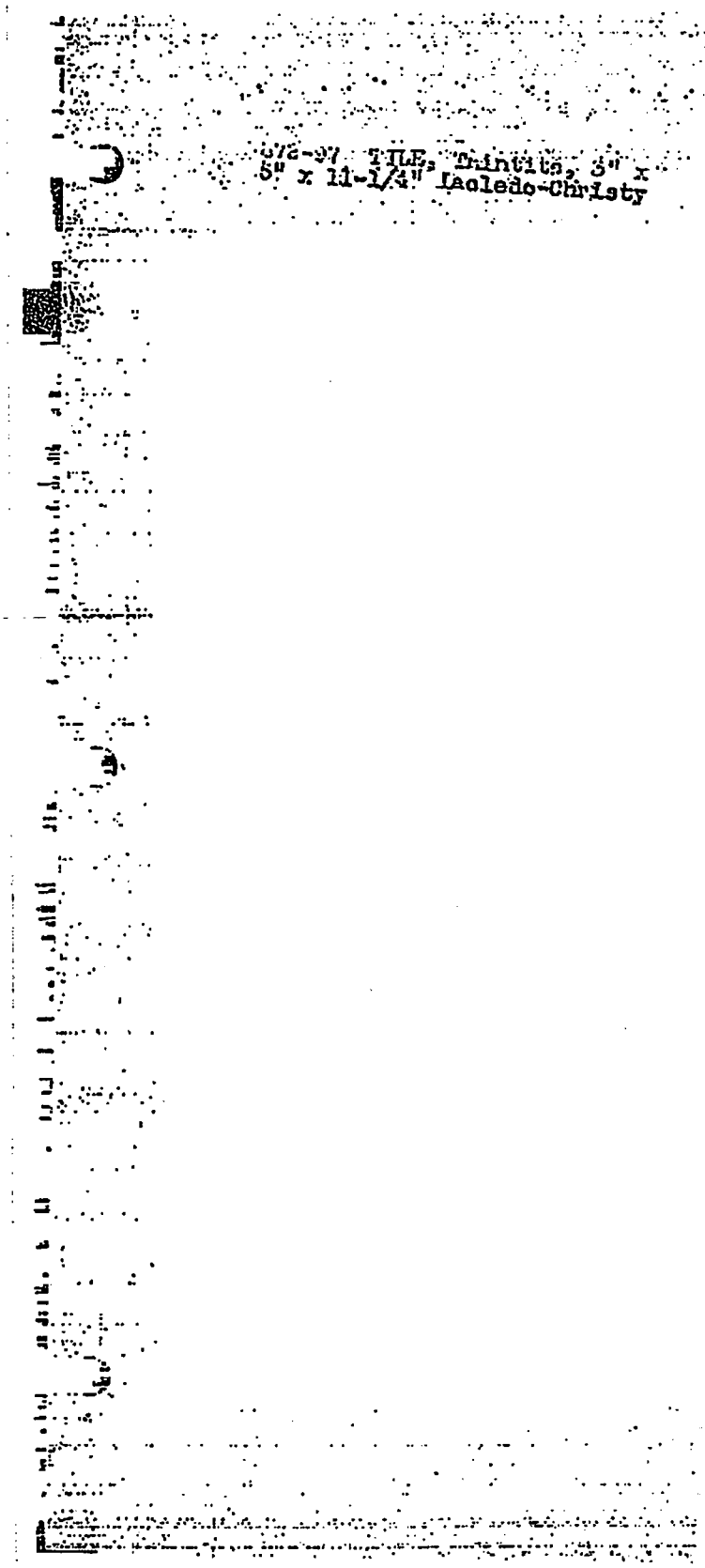
5/20/71

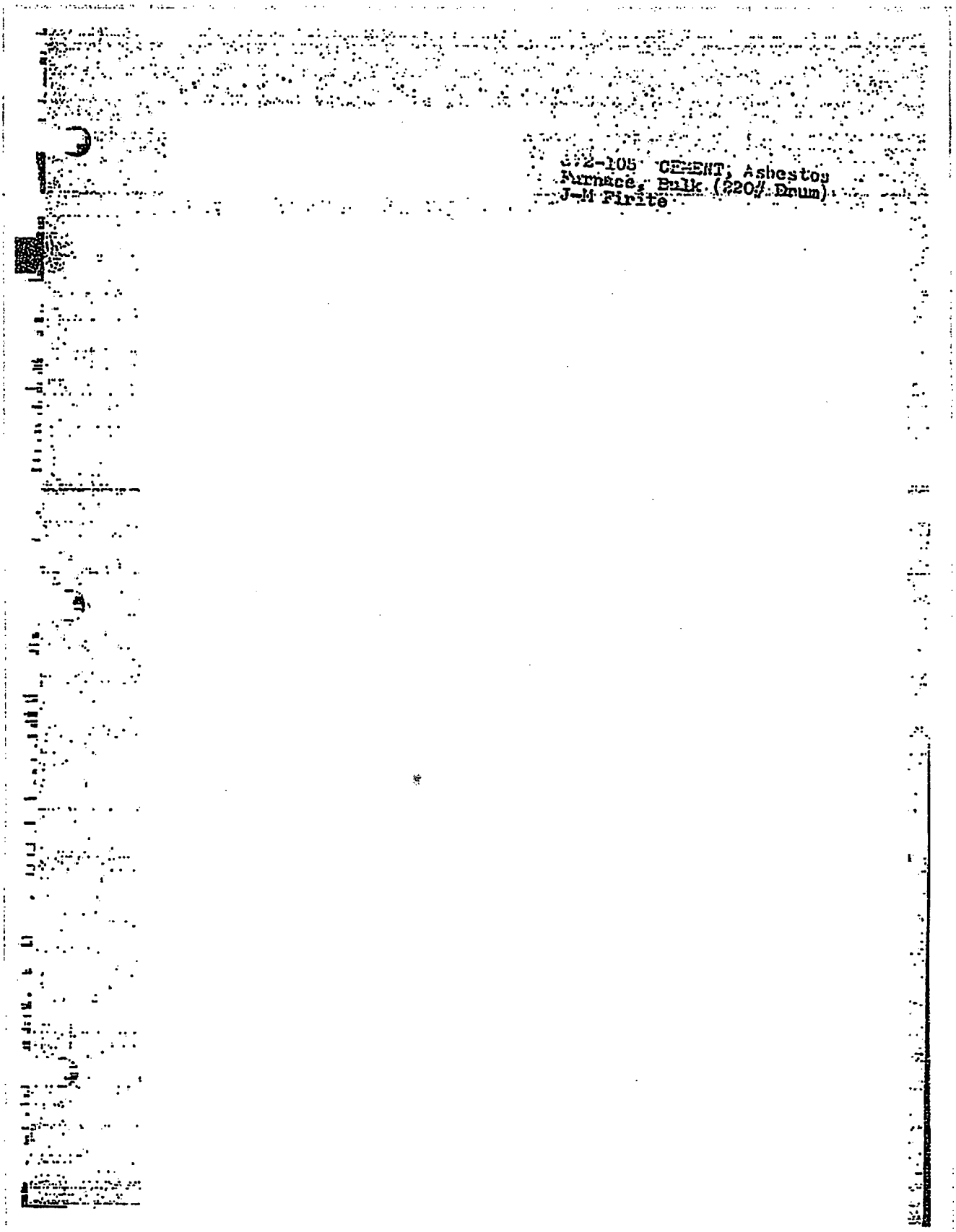

(Application Range, 60° to 3000°)
Bulk (350# Drum) Firefrax #1 Alternate
Kaiser H169

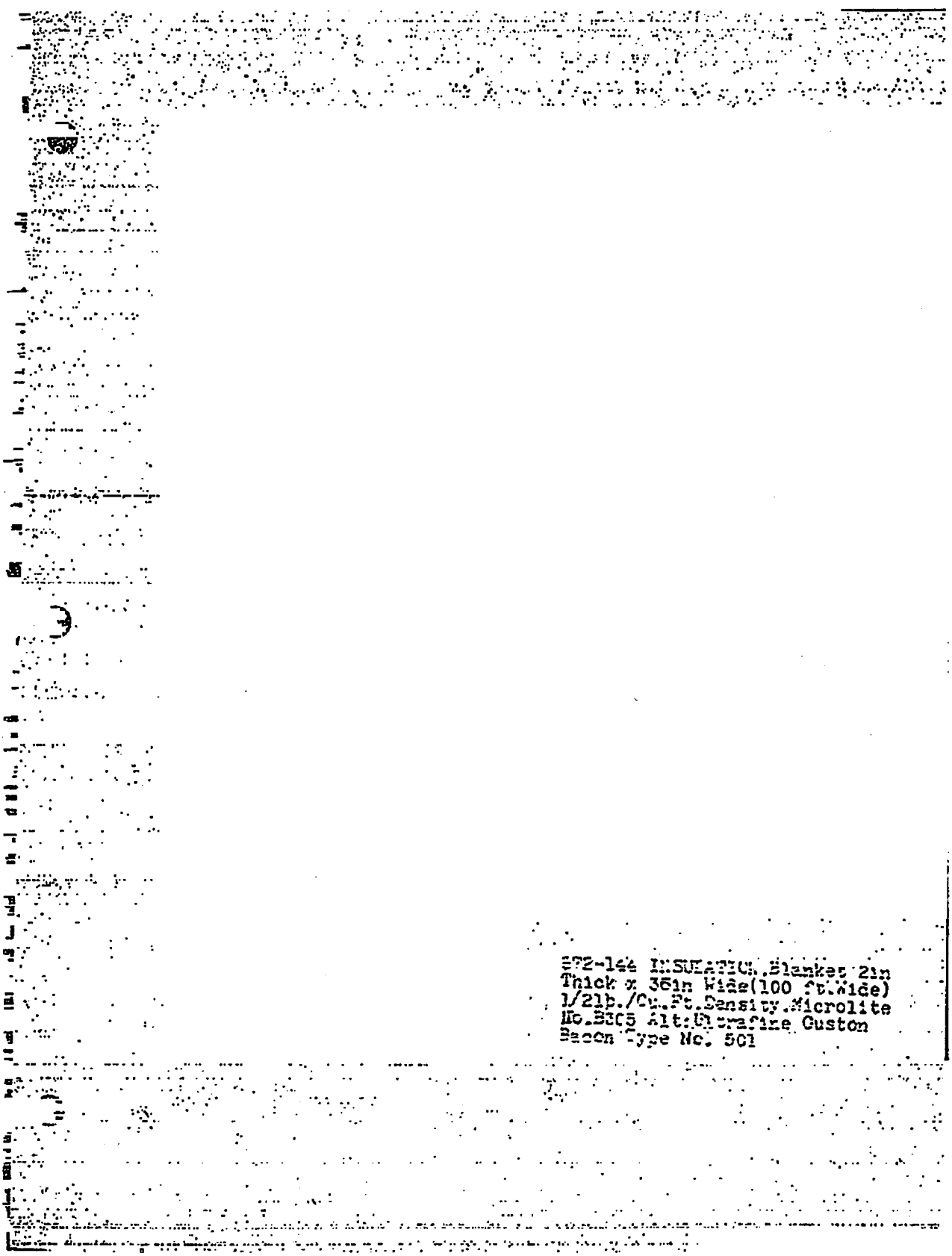
672-47 CEMENT, Refractory, Plastic
(Application Range, 60° to 3000°) 45#
Drum, KAISER #Hi69 DENSE
(FOR PARTS USE ONLY) 4/21/82

672-81 INSULATION, 1/4 in. X 40 in.
X 48 in. LG. 13# CU. FT
DENSITY,
EAGLE PICHER SUPER GLASS BOARD
3-17-80


-72-50 REFRACTORY,Burnes-Greco
Coarse Grade Mex-R-Co (100# bags)
P-314 A
7/15/64


672-97 TILE, Tintia, 3" x
5" x 11-1/4" Laoledo-Christy


372-105 CEMENT, Asbestos
Furnace, Bulk (220# Drum)
J-M Firite

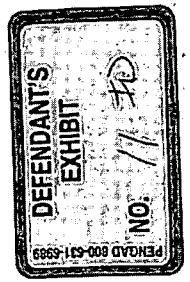

372-144 INSULATION Blanket 2in
Thick x 36in Wide(100 ft.Wide)
1/2lb./Cu.Ft.Density.Microlite
No.B3C5 Alt:Ultrafine Guston
Bacon Type No. 501

872-145 INSULATION Blanket 2in
Thick x 48in Wide(100ft Rolls)
1/2lb./Cu.Ft.Density,Microlite
No.B305.Alt:Ultrafine Guston
Bacon Type No. 501

BPM 000060

872-162 REFRACTORY; Vee-Block Mix
Kaiser (50# Bags)

7/15/64



Name BOWATERS-CAROLINA CORPORATION

Street Address _____

City CATAWABA

State SOUTH CAROLINA

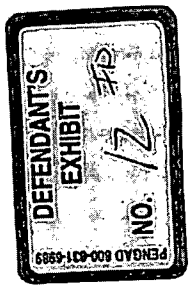
Model Number P-723-30S

Unit Number 0-18343

S. O. Number P-1170

C 10-689 A

Rec. 739



Name NATIONAL PROTEIN CORP.

Street Address

City CHAMPAIGN,

State IL

Formerally:
American Milling & Refin'g.

Model Number CB223-80, 150#

Unit Number 0-18344

S. O. Number 5549 Nov.14,1957

C-10-682 A

NATIONAL PROTEIN CORP. 150#
CHAMPAIGN, IL CB223-80
SO-5549 0-18344

FILED CLEARED

CLEARED

FILED
NUMERICALLY

DEFENDANT'S
EXHIBIT
NO. 13 FD
PEHOAD 800-631-6989

From

FORM C21-624A

Cleaver-Brooks

MILWAUKEE, WIS. 53201

Printed in U.S.A.

Date

Attention of

Subject Enclosure

W/D 1630-1153

CB773-SD D-18344

To Frank Watts

Pt Preble Bldg. 04-Ft.

MESSAGE

1607 S. Neil St

Champaign Ill

Enclosed please find your request to our Service Faculty CBDS Chicago

S Don

Signed

ANSWER

Signed Date

SENDER—Keep Yellow part—Send White and Pink parts with carbon intact. If folded at Blue marks proper address will fit window envelope.

ANSWERGRAM

RECIPIENT—Detach stub and carbon. Keep White part. Return Pink part. If folded at Red marks proper address will fit window envelope.

SPEED LETTER®

FROM SYD SNOW TO CBBS

CB 223-50

SUBJECT O-18344

FOLD

MESSAGE DATE 1-4-78 19

PLEASE SEND 3 COPIES OF WIRING DIAGRAMS TO:
FRANK WALTERS
RELIABLE PLB & HTG
1607 S. NIELSEN ST.
CHAMPAIGN, IL
61820

THANKS;
DAVE

SIGNED

REPLY DATE 19

1130-1135

FOLD

SIGNED

Copyflow "SNAP-A-WAY" FORM 54-902 3-PARTY
WILSON JONES COMPANY © 1961 PRINTED IN U.S.A.

RETAIN WHITE COPY. RETURN PINK COPY. TURN OVER FOR USE WITH WINDOW ENVELOPE.

Cleaver Brooks DIVISION / aqua-chem, inc.
Inter-Organization Correspondence

To: File

Date: October 4, 1977

From: John Ilen

Subject: CB223-80
0-18344

The subject boiler is now located at National Protein Corporation, Champaign, Illinois.

Please change our Unit Book, customer file label, and Territorial Listing from American Milling & Refining Co., Monmouth, Illinois (Warren County), to read NATIONAL PROTEIN CORP., CHAMPAIGN, Il. (Champaign County).

A 4" x 6" alphabetical cross-reference card will be required for:

National Protein Corp.
Champaign, Illinois

Fred W. Kramer & Assoc., Territory # 18 will remain the agent.

This file has been cleared of all superfluous papers by the writer and can be found filed numerically under the Unit number.

John Ilen

cc: L.Selbert
B.Edwards
Fred W.Kramer & Assoc.

Cleaver Brooks

DIVISION OF AQUA-CHEM, INC.

P.O. BOX 421, MILWAUKEE, WISCONSIN 53201

To: Milwaukee

Attention: Mr. John Iler

From: Fred J. Kramer & Associates, Inc.

Date: October 3, 1977

Subject: Ralph Wells & Company
National Protein Corporation
Champaign, Illinois
1 - CB200-80, 150#
Unit No. 0-18344

Gentlemen:

This is to advise that the subject boiler is now installed at National Protein Corporation, 3004 N. Oak Street, Champaign, Illinois.

Very truly yours,

RICHARD W. RIETZ Jr.
am
cc: Mr. Darrel Becker

January 16, 1974

WELLS Division of
National Pet Food Corp.
617 South D Street
Monmouth, Illinois 60007

Attention: Mr. Charles White

Gentlemen:

Subject: Cleaver-Brooks Boiler FILE
CB223-80, 0-18344
P. O. 07974

We acknowledge and thank you for your order covering replacement parts for your Cleaver-Brooks boiler.

Your order has been forwarded to:

C-B Boiler Service Company
30 Hays Hill Road
Elk Grove Village, IL 60007

This company is our representative in your area and maintains complete parts stock and service. Future requests for quotations or orders should be forwarded to them for handling.

Very truly yours,

CLEAVER-BROOKS

Michael B. Aiken

MBW/ad

cc: C-B Boiler Service
Harvey Fleischmann

PURCHASE ORDER

Wells DIVISION/NATIONAL PET FOOD CORPORATION

617 SOUTH D STREET, MONMOUTH, ILLINOIS 61462 (309) 734-3121

PURCHASE ORDER NUMBER: 07974

THIS NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES, PACKING LISTS AND BILLS OF LADING.

CLEAVER BROOKS SERVICE DEPT.
P. O. BOX 421
Milwaukee, Wisconsin 53201

SHIP TO

Wells Division-Ingredient Plant
Monmouth, Illinois

INVOICE TO: SEE BELOW

DATE OF ORDER	SHIPPING DATE	SHIP VIA	R.F.A. NO.	F.O.B.
12/11/73	ASAP	Best Way		

REQUISITION NUMBERS	DEPARTMENT	TERMS
313231	3rd St.	

QUANTITY	UNIT	ITEM DESCRIPTION	PRICE	UNIT	CHARGE NUMBER
1		#295-2 Valve Oil meteringass'y.			
2		24-38 Stem, metering valve #1			
3		908-113 Packing Kit, metering valve			
3		853-1 "O" ring metering valve, ass'y			
		For 80hp boiler Model CB 223-80 Ser. No. 0-18344 Date 11-13-57			

THIS PURCHASE ORDER IS VOID AND INEFFECTIVE UNLESS THE SELLER IS COMPLYING WITH EXECUTIVE ORDER NO. 11246 INCLUDING SECTION 202 (1) TO (7) (EQUAL OPPORTUNITY EMPLOYMENT UNDER FEDERAL CONTRACTS) AT THE TIME OF ACCEPTANCE OF THIS ORDER.

☐ Not Confirming: Please Fill Order As Specified Above
☐ Confirming Only

For information concerning this order, please contact
At

IMPORTANT

All Invoices MUST Be Rendered In Duplicate To

All Taxes Must Be Shown Separately

Packing List Must Accompany All Shipments.

This Order Must Be Acknowledged Immediately Confirming Price And Delivery.

(See other conditions on reverse side)

INVOICE TO:
WELLS DIV./NATIONAL PET FOOD CORP.
617 SOUTH D STREET
MONMOUTH, ILLINOIS 61462

PLEASE ENTER OUR ORDER FOR THE ABOVE MATERIALS SUBJECT TO THE TERMS AND CONDITIONS PRINTED AND WRITTEN UPON THE FACE HEREOF AND THE REVERSE SIDE TO WHICH YOU AGREE BY YOUR ACCEPTANCE OF THIS ORDER.

WELLS DIVISION/NATIONAL PET FOOD CORPORATION

BY

Cleaver-Brooks Company
326 East Keefe Avenue
Milwaukee 12, Wisconsin

Date JAN. 7, 1958

FIELD REPORT

Name RALPH WELLS & CO. (AMERICAN MILLING)
Address 617 S. D. STREET
City & State MONMOUTH, ILL.
Telephone Number 615
Name and initials of owner, or General Manager, or General Superintendent, (one only) ~~ADRIAN~~ WELLS, RALPH ; (OWNER)

Model No. CB-223-80	REASON FOR CALL - (check one only)
Serial No. 0-18344	Starting Service
Pressure HIGH Max. W.P. 150#	Recheck on Starting
If oil operation - state grade of oil #2	Customer Request
If gas operation - state B.T.U. content of gas 1000 B.T.U.	Agent Request
	Milw. Request
	Conversion

All dimensions for the following to represent inches above lowest visible portion of gauge glass.

	Water Control	NEW GAUGE WATER	Auxiliary
Pump Off	2 1/8"	1 5/8"	
Pump On	1 5/8"	1 1/8"	
Low Whistle Alarm			
Low Water Cut-off	1 1/4"	3/4"	~~3/4"~~ 1/16"
Mfg.	M & M		

Combustion Test Results			Settings	
Fire	CO_2 ~~O_2~~	~~CO~~ Stack Temp.		
LOW	9.8	13.6 305° F	Oper. Steam Press.	75 #
HIGH	9.7	13.4 305° F	Relay Safety Timing	12 Sec.
	GAS & OIL		Safety Valve Setting	

SERVICE CHECK LIST

Blow down Valves - Shell	1 REAR
Blow down Valves - Columns	1 EACH
Operating Manual - Given to (initial & name)	ADRIAN WELLS
Verbal operating & maintenance instructions to	R. GARNER, A. WELLS
Boiler water treatment discussed with (initial & name)	A. WELL,

FORM NO. 217 C10-265A (1)

Cleaver-Brooks Company
326 East Keefe Avenue
Milwaukee 12, Wisconsin

TIME AND TRAVEL

Date	From	To	Miles	Travel Time	Job Time
9/6	HOME	JOB	208	6 HRS.	
9/7	MOTEL	JOB	4	½ HR.	9
9/8	MOTEL	JOB	4	½ HR.	5
9/9	MOTEL	JOB	224	1 HR.	7

Is call to be paid for by customer?

If call is to be paid for by customer, Form No. 216 must accompany this report.

Accepted: Ralph Wells & Co

By: Albert R. Wells
Ray E. Mehrens
Field Representative

Note to Field Representative:

Because signatures are seldom legible, PRINT, on following line, name and initial of person signing report. A. R. WELLS

Note to Customer:

The following comments are a part of this report. Cleaver-Brooks Company suggest you initial the end of this report indicating comments have been read.

If customer desires copy of this report, so state here and give us initials, name, and title of person to whom same should be mailed.

Please Print: A. R. (Initials) WELLS (Name) PLANT ENG (Title)

If new starting job, Supplemental form must accompany this report. In event unit is combination, use both oil and gas forms.

Comments, material changes, instructions to Milwaukee, etc., to be noted on following pages: OMIT ALL - USE STARTING PAR

WATER GAUGE GLASS COCK VALVE HOLDER LEAKING AT JOINT, REPAIRED SAME, BUT FEEL CUSTOMER SHOULD BE SENT A NEW ONE

Cleaver-Brooks Company
326 East Keefe Avenue
Milwaukee 12, Wisconsin

AS THIS ONE IS BADLY BEAT UP BY WORKING ON IT. MICRO-SWITCH STICKING. TOO MUCH PAINT!! REMOVED SAME (PAINT). SWITCH WORKS FINE.

1-8-57 1-9-57

MODULATING MOTOR STICKING. WATER GAUGE GLASS COCK LEAKING AGAIN. INSTALLED M904F MOTOR & 927C RELAY IN PLACE M904E MOTOR ALSO. REPLACED GAUGE COCKS WITH SET OF HEAVY DUTY COCKS.

SUPPLEMENTAL FIELD REPORT

CB-15 – 150 UNITS

Job Name RALPH WELLS & CO. (AMERICAN MILLING) Date JAN. 7, 1958

Model CB 223-80 Unit No. 0-18344 Pressure HIGH

Complete all items. If for any reason, readings of any one or more items cannot be taken, fill in after each item reason for non-completion.

1. Oil Suction Line Size 3/4" 2. Oil Return Line Size 3/4"
3. Length of Horizontal Suction Line Run 50' 4. Length of Vertical Lift of Suction Line EVEN
5. Type of Check Valve Used SWING CHECK
6. Where is Check Valve Located BETWEEN TERMINAL BLOCK & STRAINER AT BOILER
7. Inches of Vacuum at Terminal Block with Unit Running —
8. How Fast Does Fuel Oil Pressure Come up to Running Pressure?
   a. CB15-40 — No. of Seconds b. CB50-150 2 No. of Seconds
9. Is Fuel Supply Tank Above or Below Level of Boiler EVEN WITH BOILER
10. Is There a Day Storage Tank or Any Other Means of Oil Storage Installed to Aid in Fuel Lighting? NO
11. Was Operator Shown How to Adjust Belts YES (Burner Motor to Fuel and Air Pumps)
12. Was Burner Purged Before Firing YES
13. Indicate Number and Sizes of a. Nozzles Installed in Burner 2 - 1H0 b. Air Purge Nozzle (CB50-150) —
14. Was Strainer (Fuel Oil) Removed from Body and Customer Shown How to Clean EXPLAINED 15. In Case of Strainer Built-in Fuel Pump Was Operator Told How to Remove and Clean —
16. Was Ignition (Straight Electric) Explained to Operator with Burner Removed from Unit — Shown How to Clean and Set Properly —
17. Did Operator Remove Burner and Clean and Adjust Same YES (CHECKED WITH SERVICEMAN)
18. Was the Positive Positioning of Electrodes Explained to Operator — Give Dimensions
   a. From Nozzle Face to Electrode — b. From Center (Orifice Hole) to Electrode —
   c. Arc (Spark) Gap —
19. In case of Gas or Oil-Fired Pilots, Was Front Door Opened (By Operator) and Pilot Removed ASSISTED CHECKED
   a. Electrode, Cleaned and Set YES b. Nozzles (Gas or Oil) Cleaned —
   c. Bonnet Tightened YES d. Size of Air Inlet Orifice HALES IN PIPE
20. Were Inserts of Rajah Terminals Tightened YES
21. While the Front Door was Open, Did you Explain or Show the Following: Also Give Dimensions.
   a. Burner Nozzle Position to Diffuser Plate YE 1/4" b. Plate, Diffuser, Position to Gas Ring FLUSH
   c. Orifice, Scanner, Cleanliness for Good Sight of Flame YES
   d. Gaskets, Importance of Sealing YES e. Wash Coating Brick YES
22. Was Scanner Removed and Functions of Same Explained to Operator YES Importance of Keeping Clean YES
23. Is Scanner Properly Aligned? YES

Form 234 Rec 7-57 CID 2805 (1)

24. When Starting Unit Was Selector Switch Turned to Manual Position and Potentiometer in Closed Position? YES
a. At What Steam Pressure or Temperature Was Burner Turned to Automatic Position? 200° F. STACK

25. What CO_2 is Obtained on:
a. ~~CB15-40~~ Lo Fire 13.6 = OIL 9.8 = GAS Hi Fire 13.4 = OIL 9.7 = GAS
b. CB50-150 1 ____ 2 ____ 3 ____ 4 ____ 5 ____ 6 ____ 7 ____
8 ____ 9 ____ 10 ____ 11 ____

26. Was Air Filter and Importance of Oil Level Explained to Operator? YES
27. Was Atomizing Air Pressure Adjustment Explained to Operator and Its Effect on Lighting and Combustion? YES

28. Has Secondary Air Adjustment Been Explained to Operator and Effect on Lighting and Combustion? YES
29. Was Lube Oil Strainer Removed and Importance of Being Clean Explained? YES

30. Was Lube Oil Level – Max. and Min. – Explained? YES

31. Was Operation of Metering Oil Valve and Cam Explained to Operator? YES
a. Adjustment Screws in Cam for More or Less Oil YES b. Tightening Packing Screw on Metering Valve YES

32. Was Air Switch and Its Interlocking with Fuel Oil Valve Explained? YES
33. Air Pressuretrol Set at 6 #

34. Oil Pressure at Burner Set at Lo Fire 45 # Hi Fire 42 #

35. Air Pressure (Atomizing) Lo Fire 15 # Hi Fire 23 #

36. Gas Pressure for Pilot – a. Closed Solenoid Valve 7" b. Open Solenoid Valve 1"

37. Light Oil Pilot Pressure Set at ____ lbs.

38. Was Operation and Contact Cleaning of Fireye Explained and Demonstrated to Operator? YES
Fireye Model No. 1008 Serial No 57096378 Code 8

39. Safety Timing (Fireye) of Relay Drops Out (Flame Failure) ____ Sec. Latchout (Safety Switch Warps Out) ____ Sec.

40. Injector Operation YES
41. Water Level at 0" Glass of Water in Gauge Glass. There is 3 " of Water Over Tubes.

42. Blower Motor Voltage 235 Blower Motor Current Draw 8 8½ 9 Amps.
a. Fuses Used: Type OLD BOX Size 4 FUSES

43. Control Circuit Voltage 125 V.

44. Load on Unit (Circle One) Moderate Heavy Light Extremely Light Extremely Heavy

45. Is Relief Door Tight? YES
46. Are Safety Valves Properly Piped and Provided with Proper Drains? NO

47. Are Column and Low Water Cutoff Blowdown Valves Tight? YES
48. Is Boiler Level? YES

49. Are Proper Blowdown Valves Provided on Boiler Shell? Front NO Rear YES

50. Feedwater Inlet Temperature 150°
51. Have All Handholes Been Tightened? CHECKED

52. Do Any Handhole Leak? NO
53. Has Unit Been Boiled Out? NO

54. If More Than One Unit, Does Each Unit Have Individual Suction Line or Is It Common to Both? ONE UNIT

55. Have Low Water Readings Been Taken Under Pressure As Well as Cold? YES
Are They Noted on Page One of Field Report? YES

56. If Day-Nite Control Is Installed, Have They Been Set According to Customer's Requirements? NONE
57. Type of Return System Used RECEIVER & PUMP

58. Pressure Settings – Low Fire Cut-In ____ Cut-Out ____
High Fire Cut-In 72 # Cut-Out 80 #

COMBINATION GAS AND OIL OR STRAIGHT GAS

59. Was Customer Shown how to engage clutch in center of meter for oil operation? YES
and disengage clutch for gas operation? YES so compressor and oil pump will not run.

60. Does Gas Valve Close Tight on Shutdown? YES

61. Is there Combustion Noise on Gas Fire? NO

62. General Information:
1. Name of gas company ILLINOIS POWER CO.
2. B.T.U. value of gas 1000
3. Pressure in gas main 6#

63. Gas Piping System:
1. Gas Meter
Name AMERICAN METER CO. INC. (BASE PRESS. INDEX)
Size 800 IRON CASE
Capacity 2500 CU.FT. @ .7" DIFF.
Gas Pressure Entering Meter 6#
Does meter furnish gas for any equipment other than this unit? NO
If so, describe briefly
2. Gas Piping
Length and Size of pipe from meter to regulator TWO 2" REGULATORS
Length and Size of pipe from regulator to boiler 2"
Is gas line provided with filter? NO
Size of Cleaver-Brooks piping 2"

64. Gas Regulator:
1. Name EMCO "SECOND REG. DELIVERS 8" TO BOILER
2. Size 2"
3. Capacity 3.80
4. Type
5. Regulator furnished and specified by
6. Is regulator properly piped? YES
7. If more than one unit, does each unit have individual regulators?
8. Gas pressure upstream of regulator 6#
9. Gas pressure downstream of regulator 11"
10. Is operation of regulator satisfactory? YES

65. Gas Booster:
1. Name
2. Size
3. Capacity
4. Booster furnished and specified by
5. Pressure at booster discharge
6. Does booster operate continuously or with starting and stopping of boiler?
7. Is operation of booster satisfactory?

66. Operating Gas Pressures:
1. Gas pressure at boiler — Low Fire 2"
2. Gas pressure at boiler — High Fire 4"
3. Gas pressure at boiler — Lock-up
4. Gas pressure at boiler — On Pilot 8" PROPANE
5. Gas consumption — Low Fire 1220 CFPH
6. Gas consumption — High Fire 3340 C.F.P.H.

67. Operating Characteristics:
1. Is pilot adjustment critical? NO
2. Ignition gap in pilot YES

February 7, 1958

Ralph Wells & Co.
617 S. D. Street
Fannouth, Illinois

Attention: Mr. Ralph Wells

Subject: Cleaver-Brooks Boiler Model CB 223-80
0-1834/1

Dear Mr. Wells:

We have recently received the field reports from [illegible] sentative, Mr. Ray Behrens, covering the starting service on the subject unit.

The purpose of rendering such starting service is to acquaint new owners or operators with the proper maintenance, function, and adjustment of their new equipment. We trust that matters have been handled to the satisfaction of all concerned and express our appreciation for the cooperation given Mr. Ray Behrens.

We are attaching copies of the field and supplemental field reports, covering the starting service on the subject boiler.

An operating and instruction manual has been left with Mr. Adrien Wells. It is most important for operators or supervisors to study this manual now, so that they learn the correct methods of handling this new equipment. The manual should also be reviewed regularly since it contains detailed information on many phases of boiler operation and maintenance which operators may face from time to time.

I know you are well aware of the importance of the proper treatment of feedwater for your boiler, however, am attaching a copy of our printed comments regarding the treatment of boiler feedwater with the thought that you might possibly wish to pass these comments on to the man to [illegible] have assigned the operation of your Cleaver-Brooks boiler.

May I take this opportunity to thank you for again being able to serve you and to assure you of our continued interest in the operation of your Cleaver-Brooks boilers.

With best personal regards to both yourself and Adrien, we remain

Very truly yours,

Encl.
Att. (4 pp - 263)
cc: Fred W. Kranz & Associates
Darrel Becker

CLEAVER-BROOKS COMPANY

Harold Prescott

THE "STANDARD CONDITIONS OF SALE" ON REVERSE SIDE ARE PART OF THIS INVOICE.

CUSTOMER'S FILE

Cleaver Brooks

328 EAST KEEFE AVENUE

TELEPHONE WO odfruit 2-0100

CABLE ADDRESS: "CIEBRO"

COMPANY

MILWAUKEE 12, WISCONSIN

INVOICE NO. 71957

CUSTOMER'S ORDER NO.	DATE ENTERED	APPROXIMATE DELIVERY	AGENT	DATE SHIPPED	INVOICE DATE	SALES ORDER
R. R. WELLS	3/3/60			3/9/60	3/21/60	FP-8026

SOLD TO: RALPH WELLS AND COMPANY
535 SOUTH THIRD STREET
MONMOUTH, ILLINOIS

SHIP TO: SAME

TERMS: N/30 DATE OF INV.

VIA: UNITED PARCEL SERVICE

SHIPPING POINT: FOREST PARK, ILLINOIS

PREPAY ☒ COLLECT ☐

ITEM NO.	QUANTITY ORDERED	DESCRIPTION	PART NO.	QUANTITY BACK ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
		FOR STEAM BOILER: MODEL CB 223-80 UNIT 0-18344					
1	1	RELAY (EXCHANGE)	833-879ER		1	99.00	99.00
			PLUS 3% ILLINOIS USE TAX				2.97
		MATERIAL RETURNED ON R.R. NO. 50422					$101.97

COMMISSION

CUSTOMER'S FILE

THE "STANDARD CONDITIONS OF SALE" ON REVERSE SIDE ARE PART OF THIS INVOICE

328 EAST KEEFE AVENUE

Cleaver Brooks

COMPANY

MILWAUKEE 12, WISCONSIN

TELEPHONE WO-ndruff 2-0100

CABLE ADDRESS: "CLEBRO"

DZ

INVOICE NO. 70303

HY

CUSTOMER'S ORDER NO.	DATE ENTERED	APPROXIMATE DELIVERY	AGENT	DATE SHIPPED	INVOICE DATE	SALES ORDER
2175	2-29-60			2-29-60	3/3/60	FP-7923

SOLD TO: RALPH WELLS & CO.
530 SOUTH 3RD ST.
P.O. BOX 315
MONMOUTH, ILLINOIS

SHIP TO: SAME
American Fidelity & Insurance

TERMS: N/30 - DATE OF INV.

VIA: UNITED PARCEL

SHIPPING POINT: FOREST PARK, ILLINOIS

X PREPAID | COLLECT

ITEM NO.	QUANTITY ORDERED	DESCRIPTION	PART NO.	QUANTITY BACK ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
		FOR STEAM BOILER CB-223-60 D18245					
1	4	GASKET, GAUGE GLASS RUBBER 5/8" DIA	853-515		4	.25	1
						MINIMUM BILLING	3.00
						PLUS 3% ILLINOIS USE TAX	.09
							3.09
						PLUS PREPAID CHARGES	.32
							3.41

COMMISSION

Rec'd 760

FORM A-88
REV. 2-57

326 EAST KEEFE AVENUE

Cleaver Brooks
COMPANY
MILWAUKEE, 12, WISCONSIN

TELEPHONE WOodruff 2-0100

DZ

SALES ORDER NO. 25661

CUSTOMER'S ORDER NO. ADRIAN WELLS

CREDIT MEMO

DATE 1-26-59

CREDIT NO. 59-82449

CREDIT TO · RALPH WELLS COMPANY
530 S. 3RD. STREET
MONMOUTH, ILLINOIS

SHIP TO American Milling Co.
· PET FOOD DIV.
RALPH WELLS CO.
617 S. D. STREET
MONMOUTH, ILLINOIS

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
	WE CREDIT YOUR ACCOUNT TO ADJUST INVOICE #47991 DATED 1-20-59 AS FOLLOWS:		
	WE BILLED YOU:		
ITEM 1 2	HOSE, METAL, 5/16" X 32" @10.20EA.	20.40	
	PLUS 2½% ILLINOIS USE TAX	.51	
		20.91	
	PLUS PREPAID CHARGES	.94	
			31.85
	SHOULD BE:		
ITEM 1 2	HOSE, METAL, 5/16" X 32" @10.20EA.	20.40	
	PLUS 2½% ILLINOIS USE TAX	.51	
		20.91	
	PLUS PREPAID CHARGES	.94	
			21.85
	CREDIT DUE		$10.00
	FOR: STEAM BOILER MODEL CB223-80 UNIT NO. 0-18344		

CUSTOMER FILE

CUSTOMER'S FILE

59-12449

Cleaver-Brooks

325 EAST KEEFE AVENUE — TELEPHONE WO 4-8100

COMPANY

MILWAUKEE 12, WISCONSIN

DZ

AB

INVOICE NO. 47991

CUSTOMER'S ORDER NO.	DATE ENTERED	APPROXIMATE DELIVERY	AGENT	DATE SHIPPED	INVOICE DATE	SALES ORDER
ADRIAN WELLS	1-15-59	1-15-59	KRAMER	1-15-59	1-20-59	25661

American Billing & Library

SOLD TO: RALPH WELLS COMPANY
520 S. 3RD STREET
MONMOUTH, ILLINOIS

SHIP TO: PET FOOD DIV.
RALPH WELLS CO.
617 S. D. STREET
MONMOUTH, ILLINOIS

TERMS: N/30 - DATE OF INV.

VIA: PARCEL POST SPECIAL DELIVERY

F.O.B. SHIPPING POINT

[X] PREPAID [ ] COLLECT

ITEM NO.	QUANTITY ORDERED	DESCRIPTION	PART NO.	QUANTITY BACK ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
		FOR 2 STEAM BOILER MODEL CB223-80 UNIT # 0-13346					
1	2	HOSE, METAL, 5/16" X 22"	361-21		2	10.20	20.40
		PLUS 2% ILLINOIS USE TAX					.51
							20.91
		PLUS PREPAID CHARGES					1.94
							$31.85

COMMISSION

5% OF $20.40 — $1.02

Rec. 758

THE "STANDARD CONDITIONS OF SALE" ON REVERSE SIDE ARE PART OF THIS INVOICE

CUSTOMER'S FILE

Cleaver Brooks

COMPANY

326 EAST KEEFE AVENUE

MILWAUKEE 12, WISCONSIN

TELEPHONE WO od rob 2-0100

CABLE ADDRESS: CLEBRO

INVOICE NO. 67113

CUSTOMER'S ORDER NO.	DATE ENTERED	APPROXIMATE DELIVERY	AGENT	DATE SHIPPED	INVOICE DATE	SALES ORDER
2040	12/21/59			12/22/59	1-7-60	FP-7252

SOLD TO: RALPH WELLS AND COMPANY
530-600 S. THIRD ST. P.O. BOX 315
MONMOUTH, ILLINOIS

SHIP TO: RALPH WELLS AND COMPANY
PET FOOD DIVISION
617 SOUTH "D" STREET
MONMOUTH, ILLINOIS

Attention Jim Wren - Rebinson

TERMS: N/30 DATE OF INV.

VIA: UNITED PARCEL SERVICE

F.O.B. SHIPPING POINT: FOREST PARK, ILLINOIS

PREPAID X COLLECT

ITEM NO.	QUANTITY ORDERED	DESCRIPTION	PART NO.	QUANTITY BACK ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
		FOR STEAM BOILER: MODEL CB 223-50 UNIT C-1034					
1	12	HANDHOLE GASKETS	853-191		12	.60	7.20
		PLUS 3% ILLINOIS SB TAX					.22
							7.42
		PLUS PREPAID CHARGES					.37
							7.79

COMMISSION

CUSTOMER'S FILE

Cleaver Brooks OZ COMPANY

326 EAST KEEFE AVENUE — TELEPHONE WOodruff 2-9180

MILWAUKEE 12, WISCONSIN

DS

INVOICE NO. 54463

CUSTOMER'S ORDER NO.	DATE ENTERED	APPROXIMATE DELIVERY	AGENT	DATE SHIPPED	INVOICE DATE	SALES ORDER
1487	4-28-59		KRAMER	4-28-59	5-6-59	FP 5533

SOLD TO: RALPH SELLS AND COMPANY
530 S. THIRD ST.
MONMOUTH, ILLINOIS

SHIP TO: SAME

American Boiler & Refining

TERMS: N/30 DATE OF INV.

VIA: UNITED PARCEL

F. O. B. SHIPPING POINT: FOREST PARK, ILLINOIS — XXX PREPAID — COLLECT

ITEM NO.	QUANTITY ORDERED	DESCRIPTION	PART NO.	QUANTITY BACK ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
		FORT STEAM BOILER; CB 223-80 UNIT D- 1834					
1	1	THERMOMETER, STACK	937-28		1	18.95	18.95
		PLUS PREPAID CHARGES					.37
							19.32
		PLUS 2% ILLINOIS USE TAX OF $18.95					.47
							$19.79

COMMISSION

5% OF $18.95 — $0.95

Rep 300

CUSTOMER'S FILE

Cleaver Brooks

COMPANY

315 EAST KEEFE AVENUE
MILWAUKEE 12, WISCONSIN
TELEPHONE WO adruff 2-0100

INVOICE NO. 25079

CUSTOMER'S ORDER NO.	DATE ENTERED	APPROXIMATE DELIVERY	AGENT	DATE SHIPPED	INVOICE DATE	SALES ORDER NO.
1095 10-15-57	10-15-57 (10-29-57)		KRAMER & ASSOC.	11-14-57	11-19-57	5549

A-25

SOLD TO RALPH WELLS & COMPANY
P. O. BOX 555
MONMOUTH, ILLINOIS

SHIP TO AMERICAN MILLING & REFINING COMPANY
617 SOUTH 'D'
MONMOUTH, ILLINOIS

TERMS: N/30 - DATE OF INV.	F. O. B. SHIPPING POINT	VIA
	MILWAUKEE, WIS.	CUSTOMER PICK UP

CB223-GD 150 H 0-18344

PREPAID ☐ COLLECT ☐

ITEM NO.	QUANTITY COVERED	DESCRIPTION	PART NO.	QUANTITY BACK ORDERED	QUANTITY SHIPPED	UNIT PRICE	AMOUNT
	1	CB20G-80 CLEAVER-BROOKS STEAM BOILER, UNIT NO. O-18344, 2760# OF STEAM PER HOUR CAPACITY, 80 B.H.P., CONFORM TO THE ASME CODE FOR 150# DESIGN PRESSURE, WITH LIGHT OIL BURNING EQUIPMENT FOR OPERATION WITH #2 COMMERCIAL STANDARD CS12-48, HAVING A MAXIMUM VISCOSITY OF 50 SSU AT 100° F.; INCLUDING GAS BURNING EQUIPMENT AND FULLY AUTOMATIC IGNITION; INSULATED AND LAGGED.			1	LOT	
	1	ELECTRIC CURRENT: 220 VOLT, 3 PHASE, 60 CYCLE			1		
	1	AUXILIARY LOW WATER CUTOFF			1		
		INJECTOR					
		GAS PRESSURE REGULATOR; BY F.M. KRAMER & ASSOC.					
		PRICE F.O.B. MILWAUKEE, WISCONSIN				6,230.00	$6,230.00

INVOICE IN DUPLICATE.

PLEASE PAY BY INVOICE - MONTHLY STATEMENTS ARE NOT FURNISHED - INTEREST CHARGED ON OVERDUE ACCOUNTS.
SELLER REPRESENTS THAT WITH RESPECT TO THE PRODUCTION OF THE ARTICLES AND/OR THE PERFORMANCE OF THE SERVICES COVERED BY THIS INVOICE IT HAS FULLY COMPLIED WITH SECTION 12 (A) OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED.

COMMISSION DUE	AMOUNT

Rec. 761

FORM A-58
REV. 2-57

326 EAST KEEFE AVENUE

Cleaver Brooks

MILWAUKEE 12, WISCONSIN

TELEPHONE WOodruff 2-0100

CUSTOMER'S ORDER NO.

SALES ORDER NO.

CREDIT MEMO

DATE 11-19-57

CREDIT NO. 57-79535

CREDIT TO
FRED W. KRAMER & ASSOC.
128-138 S. PAULINA ST.
CHICAGO 12, ILLINOIS

SOLD ~~SHIP~~ TO
RALPH WELLS & CO.
MONMOUTH, ILLINOIS

QUANTITY	DESCRIPTION		UNIT PRICE	AMOUNT
	WE CREDIT YOUR ACCOUNT FOR COMMISSION ON ITEMS LISTED ON INVOICE #25079, DATED 11-19-57, AS FOLLOWS:			
1	CB200-80, 150# D.P., LIGHT OIL, GAS FIRED, INSULATED & LAGGED.	6,030.00	COMM. 15%	904.50
1	AUX. LOW WATER CUTOFF; 1- INJECTOR.	225.00	COMM. 15%	33.75
1	GAS PRESSURE REGULATOR TO BE PROVIDED BY YOU.	50.00		50.00
		6,305.00		988.25
	ACTUAL SELLING PRICE 6,305.00 PRICE TO CUSTOMER 6,230.00			
	SHORTAGE 75.00		- YOU TO ABSORB 1/2	37.50
			C-B TO ABSORB 1/2	$950.75

CUSTOMER FILE

Rec 762

INTER-OFFICE CORRESPONDENCE

Cleaver Brooks

COMPANY

MILWAUKEE 12, WISCONSIN

TO Milwaukee

ATTENTION Mr. E. D. Langley

FROM Fred W. Kramer & Associates

DATE October 18, 1957

SUBJECT
American Milling & Refining Co.
Monmouth, Illinois
1-CB-200-80, 150#

Dear Ed:

We are enclosing Purchase Order No. 1095 which we received from Ralph Wells & Company for the subject job for which we have previously sent you the Purchase Order Supplement.

The price breakdown is as follows:

1 - CB-200-80, 150# d.p. Cleaver-Brooks Steam Boiler -	$6,030.00
Injector -	130.00
Auxiliary low water cutoff - - - - - - - - - - - - -	95.00
Gas pressure regulating (by K&A) - - - - - - - - - -	50.00
	6,305.00
Order received F.O.B. Milwaukee - - - - - - - - - - -	6,230.00
Shortage -	$ 75.00

Mr. Fred Kramer will discuss this shortage with you in the near future.

You will note that our office will furnish the gas pressure regulator. We would appreciate it if you will kindly acknowledge and invoice the customer for this item and credit our commission accordingly.

Very truly yours,

R. RIETZ

RR/eb
Enc.

MASTER SHEET

SALES ORDER 3549 SHIPPING DATE REQUIRED 4/4 APPROX DATE 10/17/57

FIRM NAME AMERICAN MILLING & REFINING CO. SHIP TO

MONMOUTH, ILLINOIS Routing

QUANTITY 1 MODEL CB300-30 H.P. 50

DES. PRESS. 150 OPER. PRESS. 125 POPS 150

DESIGNED FOR ILLINOIS STATE ALTITUDE 760 FT.

FUEL #2 OIL and/or NAT. GAS BTU @ W.C.

CURRENT 220/3/60 COLUMN: LEFT RIGHT

BOILER FEED: PUMP CONT. X WATER FEED

WATER PRESSURE INS. & LAG. YES.

DE-NITE SYSTEM: YES NO X

LOW OPER. PRESS. HEAT LOAD

INSURANCE: HARTFORD FIRE INS. CO.

RETURN SYSTEM: YES NO X

PUMP ASSY. H.P. @ PSI

RECEIVER ASSY. X FOR H.P.

DATE CHANGE ORDER

PRINTS 5

DIMENSION YES FEED PUMP

WIRING YES RECEIVER

OIL PUMP

QUICK OPENING B.O. VALVE	NO.	SIZE	MAKE	FIG.
SLOW OPENING B.O. VALVE	NO.	SIZE	MAKE	FIG.
MAIN STEAM VALVE	NO.	SIZE	MAKE	FIGS
NON RETURN VALVE	NO.	SIZE	MAKE	FIG.
FEED VALVE, GLOBE	NO.	SIZE	MAKE	FIG.
FEED VALVE, CHECK	NO.	SIZE	MAKE	FIG.

MISCELLANEOUS: FURNISH FULL SIZE WATER FOLLOWED REDUCER VALVE. FURNISH JACKETED PRESS KRAMER VALVE PIPE. FURNISH CHECKERED L.W.C.O.

Witness Test

P Don Sheehan
SALES DEPARTMENT

C9-9A

PURCHASE ORDER RECD OCT 18 1957

Ralph Wells & Company

№ 1095

530-600 South Third Street /P.O. Box 555

Monmouth, Illinois

Telephones 615 - 616 - 617

October 15, 1957

Cleaver-Brooks Company
℅ Kramer & Associates
128 South Paulina St.
Chicago 12, Illinois

Attn: Mr. J. E. McKeegan

Ship To: Will Call

Via:

Delivery: November 4, 1957

Quan.	Article No.	Description
1	CB-200-80	Cleaver Brooks Steam Boiler and accessories as described on Proposal CH-4193 dated October 15, 1957

References: National Bank of Monmouth
Second National Bank of Monmouth
Monmouth Trust & Savings Bank
Rock Co. National Bank, Janesville, Wis.
Capital and Surplus: $350,000.00

RALPH WELLS & CO.

by Alvin R. Wells

PROPOSAL

Cleaver-Brooks

MILWAUKEE 12, WISCONSIN • • • CABLE ADDRESS – CLEBRO

To Ralph Wells & Company, Attention: Mr. Adrian Wells Proposal No. CH-4193

Address 530 S. Third Street, Monmouth, Illinois Date October 15, 1957

SUBJECT: ~~AMERICAN MILLING & REFINING~~ Ralph Wells & Co. COMPANY Your Reference No. From Fred W. Kramer & Associates 128 S. Paulina Street Chicago 12, Illinois

1	CB-200-80	Cleaver-Brooks Steam Boiler, to operate on No. 2 or lighter fuel oil and gas. To develop a maximum of 2,760 pounds of steam per hour, from and at 212° F., or approximately 80 H.P. Boiler to be of 4-pass construction and have a total of 405 square feet of heating surface. Built to conform to A.S.M.E. Code for 150 pounds design pressure. Boiler shell insulation consisting of 2" fibre glass blanket covered by a sheet metal lagging is included. An oil pump with capacity of twice the maximum burning rate of the burner will be mounted on the boiler front head. Boiler to be furnished in accordance with Specification Sheet No. 2326 attached and also including an injector, gas pressure regulating valve, and auxiliary low water cutoff.

PRICE: F.O.B. MILWAUKEE, WISCONSIN - - - - - - - - - - $6,230.00

Shipping Terms Will Call

Current Characteristics 220/3/60 (motors), 110/1/60 (controls)

Approximate Shipping Weight 8,500 lbs.

Payment Terms Net 30 days

Approximate Shipment after Receipt of Order and Complete Details November 4, 1957

THE TERMS AND CONDITIONS OF SALE PRINTED ON THE REVERSE SIDE OF THIS SHEET, UNLESS EXPRESSLY EXCEPTED HEREIN, ARE PART OF THIS PROPOSAL.

THIS PROPOSAL IS SUBJECT TO CHANGE OR WITHDRAWAL WITHOUT NOTICE. PRICES QUOTED SHALL BE FIRM FOR THIRTY (30) DAYS FROM DATE OF PROPOSAL UNLESS OTHERWISE SPECIFIED. ANY EXTENSION OF TIME IS SUBJECT TO APPROVAL OF COMPANY. IF ACCEPTED BY THE PURCHASER IT SHALL BECOME A CONTRACT WHEN APPROVED AT MILWAUKEE, WISCONSIN, BY AN AUTHORIZED COMPANY REPRESENTATIVE AND MAY THEN BE MODIFIED BY WRITTEN AGREEMENT ONLY. NO STATEMENTS OR UNDERSTANDINGS RELATING TO THE SUBJECT MATTER, OTHER THAN THOSE SET FORTH HEREIN, SHALL BE BINDING ON CLEAVER-BROOKS COMPANY HEREINAFTER REFERRED TO AS THE "COMPANY".

PROPOSAL FURNISHED BY:

FRED W. KRAMER & ASSOCIATES

J. E. McKeegan

J. E. McKEEGAN

RR/eb

Date ACCEPTED October 16 1957 Milwaukee, Wis. ,195

Ralph Wells & Co.

By Adrian R Wells

PURCHASER

APPROVED FOR CLEAVER-BROOKS COMPANY

PURCHASE ORDER SUPPLEMENT
FOR
CLEAVER-BROOKS BOILERS

Agency: Fred W. Kramer & Associates

Salesman: J. E. McKeegan

To Purchaser:
The information on this form will be used by the Cleaver-Brooks Company to construct the boiler you have ordered. Please check the data to be sure that all information is correct. Later revisions may require rework and necessitate extra charges.

1. JOB NAME American Milling & Refining Company

2. SHIP TO Same

617 South "D", Monmouth, Illinois

3. INVOICE TO Ralph Wells & Company

4. ORDER NO. 1095 SHIP VIA ____ Rail X Truck X Prepaid ____ Collect
(If none shown, shipment will be made best way, collect)

5. SHIPPING DATE At once (Earliest Acceptable) DATE DESIRED 10/28/57 TYPE OF INDUSTRY Feed Mill

6. BOILER SELECTION: Quantity 1 Model CB-200-80 Design Pressure 150# H.P. 80

7. Type of Fuel: (Check One)
____ No. 2 Oil (100 Series) X No. 2 Oil and Gas (200 Series)
____ No. 5 Oil (500 Series) ____ No. 5 Oil and Gas (300 Series)
____ No. 6 Oil (600 Series) ____ No. 6 Oil and Gas (400 Series)
____ Gas (700 Series) Type of Gas: X Natural ____ Mfg. ____ LP

8. Steam or Hot Water: X Steam 125# Max. Operating Pressure ____ Hot Water ____ Max. Temperature

9. Safety or Relief Valve Setting: 150

10. Current Characteristics: 220 Volts 3 Phase 60 Cycle ____ Wire Altitude: 700 ft.
Note: Control Circuit on CB Boilers is 115/1/60

11. Water Column Position: CB Boilers Right Side Only, LR Boilers ____ Right ____ Left

12. Construct To: Illinois State or Provincial Code, and Hartford Fire Insurance Company
Note: Above affects Boiler Shell only – Local Codes affecting Burner or Trim must be noted under Miscellaneous

13. **DRAWING REQUIREMENTS:** Are Drawings Required __X__ Yes _____ No
If "Yes" State: __1__ Quantity __X__ Dimension __X__ Wiring _____ Oil Pump _____ Boiler Feed System

14. Are Drawings Required for Approval _____ Yes __X__ No
Note: If approval is required, units will not be placed into production until approved prints have been received.

15. **EXTRA PRICE EQUIPMENT:** Boiler Feed Water Control: __X__ Pump Control _____ Water Feeder (15 pound Units Only)
(See Price Sheet)

16. Day-Night Control: _____ Yes _____ No Auxiliary Low Water Cutoff: __X__ Yes _____ No

17. Alarm Bell: _____ Low Water _____ Flame Failure _____ Mounted _____ Loose

18. Indicating Lights: _____ Yes _____ No _____
(Describe Function)

19. Control Circuit Transformer:(Applies only to CB Boilers): _____ Yes _____ No _____ Mounted _____ Loose

20. High Pressure Boiler for Low Pressure Operation: _____ Yes _____ No
If Checked "Yes," is Steam Outlet _____ 150 pounds or _____ 300 pounds.
is Injector Required _____ Yes _____ No
Steam Gauge and Pressure Controls for _____ 15 pounds or _____ 150 pounds

21. Insulation and Metal Jacket: __X__ Yes _____ No. Future Gas Conversion: _____ Yes _____ No

22. Boiler Feed System: _____ Pump Model _____ Motor HP for _____ PSI.

23. _____ Receiver Size for _____ Boiler Horsepower.

24. Accessory Valves: _____ Yes _____ No _____ Shipped Loose _____ Mounted

Quick Opening B.O. Valve	Qty. _____	Size _____	Make _____	Fig. _____
Slow Opening B.O. Valve	Qty. _____	Size _____	Make _____	Fig. _____
Main Steam Valve	Qty. _____	Size _____	Make _____	Fig. _____
Non Return Valve	Qty. _____	Size _____	Make _____	Fig. _____
Feed Valve, Globe	Qty. _____	Size _____	Make _____	Fig. _____
Feed Valve, Check	Qty. _____	Size _____	Make _____	Fig. _____

25. **MISCELLANEOUS:** 1. Attach Fred W. Kramer & Associates nameplate.

2. Three (3) copies of Manufacturers' Data Report.

3. Full size water column blowoff valve.

4. Injector.

R. Kay
(Agent's Signature)

(Customer's Signature)

Escalator 1095 10/15/57

Ship: APPROX. NOV 4

S.O. #5549

Date: 10/15/57

PRICE WORK SHEET

Sold To:

Ralph Wells Company
P.O. Box 555
Monmouth, Illinois

Ship To:

American Milling & Refining Company
617 SOUTH "D"
Monmouth, Illinois

1 CB. 300 - 80 150# # 2 OIL & NAT. GAS

220/3/60 INSOL & LAC 6030#

1 AUXILIARY LOW WATER CUT OFF 95#

1 INJECTOR 130#

1 GAS PRESSURE REGULATOR 13Y

F. W. KRAMER & ASSOCIATES 50#

ACTUAL SELLING PRICE 6305

Now 6230

SHORTAGE 75

F.O.B. mill Plus frt

To SHORTAGE - 12 CB & IL AGENT

x add to agents Comm

Terms NET 30 DAYS

Freight TRUCK (PREPAID)

Commission KRAMER (ACL)

Clause

By Bill Lee 10/21/57

C9-149A-4-57

Rec 769

S.O. 5549
Unit G-18314

American Milling & Refining Co.
Monmouth, Illinois

CB 80
150# W.P.

Kehoss

FORM P-2 MANUFACTURERS' DATA REPORT FOR ALL TYPES OF BOILERS EXCEPT WATER-TUBE
As Required by the Provisions of the ASME Code Rules 524-234

C18-71A

1. Manufactured by Cleaver-Brooks Company, Milwaukee, Wisconsin

2. Manufactured for Stock

3. Type Internally Fired (H.R.T.—Loco—Compact—Marine) Boiler No. 10,028 (Mfrs. Serial No.) 5331 (State and State No.) Nat'l. Board No. Year Built 1957

4. The chemical and physical properties of all parts meet the requirements of material specifications of the ASME Boiler Code. The design, construction, and workmanship conform to ASME Rules, Section I (I, III, IV, or V)

Remarks: Manufacturer's Data Records properly identified and signed by Commissioned Inspectors, have been furnished for the following items of this report (Name of Part—Item number, manufacturer's name, and identifying stamp)

We certify the statement in this data report to be correct.

Date June 18, 1957 Signed Cleaver-Brooks Co. (Manufacturer) By (Representative)

Certificate of Authorization Expires December 31, 1958

CERTIFICATE OF BOILER SHOP INSPECTION

Insurance Companies' Serial Number H.S.B. 10,028

BOILER WORKS OF Cleaver-Brooks Company at Milwaukee, Wisconsin

I, the undersigned, inspector of steam boilers employed by Hartford Steam Boiler Inspection & Insurance Co.

of Hartford, Conn., have inspected the boiler referred to as data items 1-11 incl. & 19-24 incl. & 16

and have examined manufacturer's data for items None

and certify that the material, construction, and workmanship are in accordance with the ASME Boiler Code Rules.

DATE June 18, 1957 H. J. Wessell Commissions NB 1268 (Insp.) (State or Nat'l. Board and No.)

CERTIFICATE OF FIELD ASSEMBLY INSPECTION

I, the undersigned, inspector of steam boilers employed by

of , have compared the statement in this manufacturer's data report with the completed boiler and certify that parts referred to as data items

, not included in certificate of shop inspection, are in accordance with the requirements of the ASME Boiler Code. The completed boiler was inspected and subjected to a hydrostatic test of psi.

DATE 19 Commissions (Inspector) (State or Nat'l. Board and No.)

IMPORTANT—THIS COPY CANNOT BE REMOVED FROM FILE

Nov. 21, 1957 5-3 Reamer 2 Nat'l. Board C.I. State Dept.

NSC 770

5. Boiler Shells or Drums: No. 1 Diam. 48 Length 10 Ft. 1 In. Diam. Length Ft. In.

6. Shell Plates SA-212C Flange Steel 5/16" Inland
(For each Drum, state: Steel Manufacturer's Brand; Material Specification Number; Thickness)

7. (a) Longitudinal Joint Fusion double welded butt
(Seamless, Fusion or Forge Welded, Riveted—Lap or Butt—Single, Double, Triple or Quadruple)

(b) Rivets (Diameter and Material Specification No.) Rivet Holes (Diameter and Pitch) Eff. of Long. Joint 90 % (As compared to shell plate)

8. (a) Tube Sheet SA285C F.B. 1/2" (Brand, Mat. Spec. No.; Thickness) Reinforcement (No. and Thickness of Straps) Rivets Fillet weld. (No. Rows; Mat. Spec. No.; Hole Diam. and Pitch)

(b) Tube Holes 2.520" (Diameter) Pitch (Longitudinal and Girth) Eff. of Tube Ligament % (Compared to shell plate)

9. Girth Joints Fusion double welded butt (Seamless, Fusion or Forge Welded, Riveted—Lap or Butt) Rivet Holes (No. rows—Diam. and Pitch) No. of Courses 2

10. Heads SA-178A, 57, Str. 2-1/2" 10'-1-5/8" .105"

11. Boiler Tubes: No. (Mat. Spec. No.—Straight or Bent) Diam. Length (If various, give maximum and minimum lengths) Gage (or thickness)

12. Headers: No. Heads or Ends Hydro. Test lb.

13. Mud Drum Heads or Ends Hydro. Test lb.

14. (a) Waterwall Headers, No. Heads or Ends Hydro. Test lb.

(b) Tube Holes Tubes Gage Heating Surface sq. ft.

15. (a) Superheater Headers, No. Heads or Ends Hydro. Test lb.

(b) Tube Holes Tubes Gage

Stays or Braces	Material Spec. No.	Type	No.	Size	Welded or Nebbed	Total Net Area	Elg. P-#8 Ref.	Dist. Tubes to Shell	Area to be Stayed	Max. S.W.P.
(a) F.H. above tubes	SA31	Dies.	8	1-1/8	Weldless	5.90		15"	170	188.7
(b) R.H. above tubes	SA31	Dies.	0	1-1/8	Weldless	5.95		15"	170	150.7
(c) F.H. below tubes										
(d) R.H. below tubes										
(e) Through below tubes										
(f) Dome Stays										

17. Staybolts Pitch Max. S.W.P.

18. (a) Dome, Diam. Longitudinal Seam Eff. % How secured to shell

(b) Opening in shell Hand

19. (a) Furnace: No. 1 Size 38 13/16" (No. Gas, or LXVXH) Length, each Section, front In., rear In., Total 121 1/2 in. Type Plain (Plain, Adamson, or Cor.)

(b) Seam SA55 .593" (Brand, Mat. Spec. No.; Thickness) Seamless (Seamless, Fusion or Forge W., Riveted, Lap or Butt) Location (Seam)

20. Openings: (a) Steam 1 @ 3" half coupling (b) Safety Valve 1 @ 2" welding flange (No., Size, and Type of Nozzles or Outlets)

1 @ 2" welding flange

(c) Blowoff 1 @ 1" welding flange (d) Feed 2 @ 1-1/4" welding flange (No., Size, Type, and Location of Connections)

Injector 1 @ 1" welding flange

(e) Return Connections (f) Relief Valve

(g) Manholes: No. 1 Size 3-1/4" x 4-1/2" Location Shell (How reinforced)

(h) Handholes: No. Size Location (How reinforced)

21. Fusible Plug (If Used) (No., Diam., Location, Mfr., Stamp) Boiler Supports: No. 4 saddles (Expansion Legs, Riveted or Welded)

22. Fusion Welding Complies with Paragraphs P-101 thru 105, 108 thru 111, 115, 186-C, 260-C, 250, 268

23. Bursting Pressure 814 psi (Collapse, Yankee Test) Max. S.W.P. 150# psi F.S. 5.43 Heating Surface 405 sq. ft. (Total)

24. Hydrostatic Test (a) lb. (Welded Drums) (b) lb. (Riveted Drums) (c) 225 lb. (Completed Boiler)

Rec. 4/1

C18-384A

C9-16A

ENGINEERING SPECIFICATIONS

S.O. 5549 Customer American Milling & Regining Company, Monmouth, Illinois

Model 1-CB223-80 150# (Code 598-2) ASME Code

Wiring Diagram 1630-1155 Spec. Features See Attached Sheet Dated 10-18-57

Current Characteristics 220/3/60 115 V. CC

Water Column Position Right Boiler Feed Pump Control

Type of Unit #2 Oil & Natural Gas Fired

Pop Valve Setting

(1) Fabrication Required
(2) Mech. Assembly Required
(3) Electrical Required
(4) Elevation Required
(5) Operating Char.
(6) Return System
(7) Loose Spare Parts
(8)

Index		Index	
1472-1	Variable Items		
1201-3	Front Head Assembly		
1227-1	Floor Assembly		
1287-1	Light Oil Fittings		
1581	Control Panel		
1237-1	Fuse Protection		
1354	Burner Assembly		
1144-1	WaterColumn Assembly		
1276	Pressure Controls		
1289-2	Gas Line, Gas Pilot Line		
1184	Spare Parts		

Ins. & Lag Yes

PRODUCTION CONTROL DEPARTMENT

Witness Test No.

Mfg. Order No. 30-8749

Date Rec'd 10-24-57

Unit No. 0-183454

Date Issued

Drawings No.

Rec. 772

Date Completed

ENGINEERING SPECIFICATION SHEET
REQUEST FOR SPECIAL PARTS

Customer - American Milling & Refining Company
Monmouth, Illinois

Sales Order - 5549 Shipping Date- 11/4

Model - 1 - CB223-80 150# 10-18-57

1144 Water Column Assembly

Add (1) 817-97 Aux. LWCO, McD & M #150-M

Add (1) 941-39 Valve, Globe, ½", Link #407

Add Withdrawal List #736 Injector, CC-332, ⅜"

Add Krzmerc Nameplates

Cleaver Brooks

COMPANY

ASSEMBLY CHECK SHEET

MODEL CB 228-80 DP 150# DATE 11/10/57

CURRENT

CHARACTERISTICS: VOLTS 220 PHASE 3 CY 60 NAME American Milling + Refining Co

CONTROL CIRCUIT: VOLTS 115 PHASE 1 CY 60 ADDRESS Monmouth, Ill.

WIRING DIAGRAM NO. 1630-1155

BOILER UNIT NO. 0-18344 JOB NO. 8749 SALES ORDER NO. 5549

	DESCRIPTION
MOTOR, 3 ∅	MAKE U.S. H.P. 5 VOLT 220/440 PH. 3 CY. 60/50 AMPS. 14/7 RPM 3600/3000 SERIAL 2702570
CONTROL, FIREYE	TYPE 22RJ8 MODEL 1008 CODE 8 SERIAL 510563?8
HEATER COILS	(BLOWER STARTER) S.D. B22.
PUMP, AIR	MAKE CBCo SIZE 2X4 SERIAL F 3267A
PUMP, OIL	MAKE — MODEL — SERIAL —
HEATER, OIL	MAKE — TYPE — VOLT —
CABLE, IGNITION	QTY. 1 LENGTH 31" Eyelet
VALVE, SAFETY B.O.	MAKE Konkle SIZE 1½ FIG. 83
	CAPACITY: 150# LBS/HR. 4057 BTU/HR.
	MAKE SIZE FIG.
	CAPACITY: LBS/HR. BTU/HR.
VALVE, GAS, HYDRAMOTOR	MAKE Gen Control TYPE H-2 SIZE 2" SERIAL H 77205K
OIL PUMP, (AUX.)	MAKE MODEL SERIAL
MOTOR, OIL PUMP	MAKE H.P. VOLT PH. CY.
	AMPS. RPM SERIAL FRAME
FEED PUMP	MAKE MODEL SERIAL
MOTOR, FEED PUMP	MAKE H.P. VOLT PH. CY.
	AMPS. RPM FRAME SERIAL

C25-343A

CHECKED BY AW

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
IN RE: SOUTH CAROLINA ASBESTOS LITIGATION	)	ASBESTOS TRIAL DOCKET AMENDED GENERAL SCHEDULING ORDER

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
2010 OCT 8 PM 3 59

This order amends the September 30, 2010 Asbestos Trial Docket General Scheduling Order. The court finds that in the interest of fairness and justice the scheduling of trials on the South Carolina asbestos docket shall be as follows:

1. The court may set a date certain trial date to begin approximately every six weeks for an asbestos trial. Groups of at least four (4) but no more than six (6) cases (hereinafter "Group") shall be tried. The Group shall be listed in order of priority for trial. The court shall contemporaneously notify Plaintiff and Defense counsel and the asbestos bar of the trial date. The court will endeavor to give at least 120 days notice of the trial date. Within ten (10) days of notification, the Plaintiff and Defense bar shall submit a list of at least four (4) but no more than six (6) individual cases that comprise the Group and could potentially be tried on that date certain. It is presumed the cases in the Group shall be tried individually as part of a trailing docket; however, nothing in the order prohibits a party from seeking consolidation for trial purposes pursuant to Rule 42, SCRCP. Any such consolidation motion **must** be filed within 45 days of the trial date notification.

DEFENDANT'S EXHIBIT NO. 19 ED
PENDAD 800-451-8686

EXHIBIT E

2. No case shall be placed in a proposed Group by the parties or the court for a date certain trial unless (1) the Defense has been provided appropriate pathology material (or B-Reader x-rays), or been given authorization to obtain such; (2) Defendants have had an opportunity to depose the Plaintiff or Plaintiffs' representative; and (3) Plaintiffs have disclosed any co-worker witnesses they may call and provided their contact information, if known.

3. In the event Plaintiff and Defense counsel cannot agree on the cases to be included within a Group, the court shall select the Group. In making the selection, the court will generally give great weight to the date of the filing, but may also consider the state of discovery, trial preparation, commonality of factual issues, commonality of counsel, common worksite, common occupation, type of disease, and any other factor the court deems appropriate.

4. Cases in which an Expedited Trial Order has been granted shall be given the priority accorded by the Asbestos and Silica Claims Procedure Act of 2006, S.C. Code § 44-135-10 et. seq., but must still meet the criteria in paragraph 2 above before being set for a date certain.

5. In the event the lead case in a Group resolves after a trial block begins, the next case in the Group shall be tried, but such trial shall not begin sooner than 10 business days after the date of settlement of the previous case.

6. This court shall retain the discretion to modify this order or suspend any of its terms.

IT IS SO ORDERED.

March 5, 2015
Greenville, SC

D. Garrison Hill
Circuit Judge

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	
IN RE:	)	MASTER
	)	DISCOVERY/SCHEDULING ORDER
ASBESTOS LITIGATION COORDINATED DOCKET	)	

Counsel for the plaintiffs and for the defendants in this litigation, referred to as "asbestos litigation," have agreed that a standard discovery procedure should be utilized in all pending and future asbestos related personal injury cases assigned by the South Carolina Supreme Court to Judge D. Garrison Hill, as Administrative Judge for asbestos litigation in the Circuit Courts for the State of South Carolina. It further appearing to the Court that these procedures have been used successfully in prior years by both South Carolina state courts and federal courts, and that certain parties have suggested that this Court adopt this procedure and execute this Order making this agreed upon discovery practice applicable to all pending and future Circuit Court asbestos cases.

NOW, THEREFORE, IT IS ORDERED that the discovery practices and procedures to be utilized by the parties to this litigation shall consist of the following:

I. Coordinated Docket and Administrative Procedures.

(a) Judge Hill will manage all personal injury asbestos cases filed in the Circuit Courts for South Carolina as a Coordinated Docket. This coordinated docket will be managed as a single asbestos docket, although each case will be handled by the parties and the Court on an individual basis.

(b) In filing asbestos personal injury complaints, plaintiff's counsel shall

DH

indicate on the face of the complaint (i) the occupation of the plaintiff/decedent, and (ii) the specific disease allegedly contracted.

(c) Pleadings filed in the Circuit Courts for South Carolina which apply to the entire asbestos docket, as discussed supra, shall contain the notation:

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

Those pleadings that are anticipated to apply to the Coordinated Docket are subject to the mandatory Master Discovery as set forth infra, Master Scheduling Orders, Standing Orders for the Release of Pathology, and Orders the Court may promulgate to the entire asbestos bar. In the Court's discretion, pleadings improperly filed in the Coordinated Docket may be returned to the filer for re-filing in specific case(s) as may be appropriate.

(d) The Court shall convene, at least quarterly, a status conference, which all counsel in this litigation are invited to attend, to address issues relating to the entire asbestos docket, including scheduling and case management.

II. Interrogatories and Requests for Production.

(a) Standard – The Standard Interrogatories and Requests for Production to be used by the plaintiffs and defendants in these cases shall be those attached to this Order as Exhibits 1,2,3, and 4. These four (4) sets of Interrogatories are hereby deemed served by both parties in any pending or future asbestos related personal injury cases on the asbestos litigation coordinated docket.

With respect to Exhibits 1 ("Plaintiff's First Set of Interrogatories") and 2 ("Defendant's Master Set of Interrogatories and Requests for Production of Documents"), all parties who have not yet responded to these Interrogatories shall do within sixty (60) days.

With respect to Exhibit 3 ("Defendant's Standard Interrogatories to Plaintiffs"), the plaintiff shall respond within sixty (60) days from the date of the filing of the case.

With respect to Exhibit 4 ("Plaintiff's Standard Interrogatories and Requests for Production of Documents"), the defendants shall be deemed to have been served with these interrogatories. The defendants shall respond to Exhibit 4 within thirty (30) days of receipt of a written response to Exhibit 3 (Defendants' Standard Interrogatories to Plaintiffs). If there are conflicts between these due dates and those specified in a scheduling order applicable to an individual case, the scheduling order in that case shall control.

(b) Additional Interrogatories:

(1) Plaintiff's attorneys may serve (a) no more than five (5) additional Interrogatories, including sub-parts, in an individual plaintiff's case, dealing with matters specifically related to that case, and (b) no more than five (5) additional general interrogatories, including sub-parts, directed to all or some of the defendants regarding additional general liability matters which arise in the course of the litigation and shall be designated by defendant involved; e.g., "Number 1 Set of Supplemental Interrogatories to Johns Manville" in order that each defendant can determine which set of Interrogatories is being addressed.

(2) Defendants may serve no more than ten (10) additional Interrogatories, including sub-parts, in an individual case dealing with specifics involved in that case; all defendants who have made an appearance in the case

9th

shall coordinate in drafting these ten (10) additional Interrogatories. All parties retain the right to request leave of court to serve additional Interrogatories for good cause shown.

(3) With regard to any set of Interrogatories, the parties shall type both the questions and the answers in responding to the same.

(4) Any ruling that this Court shall make in connection with any Interrogatories outlined herein shall be governed by the laws of South Carolina, including the South Carolina Rules of Civil Procedure.

III. Depositions.

(a) Depositions of critically ill plaintiffs – Prior to plaintiffs' attorneys taking a deposition of a critically ill plaintiff, they must provide to defendants (1) a medical statement indicating that the plaintiff is physically capable of giving a deposition, (2) the functional equivalent of the information regarding jobsites and exposures as requested in the Standard Interrogatories attached as Exhibit 3 hereto, at least five (5) days prior to the deposition, (3) a time for a defendants' discovery deposition for the plaintiff at least 24 hours in advance of plaintiffs' deposition.

(b) The deadline above, in section III (a) of this Order, may be varied by consent of all counsel affected, without leave of Court.

IV. General Discovery.

(a) Plaintiff – Within sixty (60) days of filing of a suit, counsel for the plaintiff shall provide to the defendants (1) a medical authorization from the plaintiff enabling

defendants to gather medical records and documentation about the plaintiff, (2) a Social Security authorization in order to secure a Social Security printout on the plaintiff, (3) a military medical and employment record authorization, if applicable, (4) a Veteran's Administration authorization for medical records, if applicable, and (5) those medical data, records, or reports, which are in the plaintiff's attorney's possession at that time.

(b) Defendants – Defendant shall provide to counsel for plaintiff, as they are received, copies of all medicals, military records, Social Security information, claims information, and VA information gathered pursuant to utilization of authorizations provided. Likewise, the plaintiffs shall provide the defendants all medical records, names of physicians, Social Security information, and VA information as that information is received by plaintiffs' attorneys.

(c) Court – The Court shall issue, at the time of the filing in this State of a Complaint for asbestos personal injury, a standard Order compelling the release of pathology materials. A copy of that standard Order is attached hereto as Exhibit 5. It is the responsibility of counsel to advise the court of the filing and to request issuance of the Order.

V. Standard Scheduling Order – As soon as a case is set for trial, the Standard Scheduling Order, attached hereto as Exhibit 6, shall be issued by the Court, and all due dates, including discovery, motions practice, mandatory mediation, and pre-trial matters, shall be controlled by that issued Order.

VI. Mandatory Mediation – All asbestos cases set for trial in the Circuit Courts of this State shall be subject to mandatory mediation, by a mediator appointed by the Court.

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VII. Sanctions.

The parties acknowledge that this Court has the power to impose such sanctions pursuant to its inherent power and the South Carolina Rules of Civil Procedure and common law as it deems appropriate in the event of any failure of any party to comply with the provisions of this Order.

IT IS SO ORDERED at Greenville, South Carolina this 30th day of September, 2010.

D. Garrison Hill
Circuit Judge
S.C. Asbestos Master Docket

EXHIBIT 1

EXHIBIT "1"

STATE OF SOUTH CAROLINA	)
	)
COUNTY OF GREENVILLE	)
IN RE:	)
	)
ASBESTOS LITIGATION	)
COORDINATED DOCKET	)

PLAINTIFF'S FIRST SET OF INTERROGATORIES

TO: ALL DEFENDANTS

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 33 of the South Carolina Rules of Civil Procedure you are hereby directed to file answers to the following Interrogatories within thirty (30) days of service hereof unless further extension is granted by the Court. These Interrogatories shall be deemed continuing in the sense of Rule 26 of the South Carolinal Rules of Civil Procedure so as to require supplemental answers a reasonable time prior to trial if additional information with respect to these Interrogatories is obtained by you or your counsel.

INSTRUCTIONS AND/OR DEFINITIONS

1. Whenever it is requested that a person or persons be identified, the full name and current address of the person should be stated and the relationship with the answering defendant. In any instance where the defendant is unable to identify all persons requested to be identified, the Interrogatories should be answered to the fullest extent possible by the defendant.

2. When used in these Interrogatories, the term "defendant" or any synonym thereof, whether singular or plural, is intended to and shall embrace and include counsel for the defendant, all agents, servants, employees, representatives and others who are in possession of or may have obtained information for or on behalf of the defendant, and shall include all

subsidiaries, predecessors and/or affiliates presently or in the past which would have information requested by the interrogatory.

3. Reference to the term "you" or "your" means the defendant or any agent, representative, employee, servant, affiliate, subsidiary or predecessor.

4. Use of the term "document" is to include any form of writing or communication whether it be by paper, film, microfilm, microfiche, computer print-out, reports, records, lists, memoranda, correspondence, telegrams, schedules, photographs, drawings, charts and other form of information preservation. Any request concerning a document is to be considered a continuing request as defendant becomes aware of such document.

5. Reference to the term "identify" or "identity" when used in reference to an individual person, company or other entity, means to state the full name, present address, in the case of a person his or her business affiliation. When these terms are used in reference to a document, it includes a description of the document, including the nature and content thereof, the date thereof, the name and address of the author and recipients thereof and the present location of the person or entity having custody thereof.

6. Please note that these interrogatories when referring to the word "product" are intended to include all asbestos or asbestos-containing products mined, milled, manufactured or distributed by you which were intended for thermal insulation use or were cloth or spray products containing asbestos.

7. State the full name, present business address, present residence and capacity or title of the individual signing these interrogatories answered provided the name of the person supplying the information to answer that interrogatory or identify the document referred to in answering that interrogatory.

8. Please note that in these interrogatories the word "co-defendant" means any of the following companies:

Johns-Manville Sales Corporation
Owens-Illinois, Inc.
Owens-Corning Fiberglass Corporation
The Celotex Corporation
Raybestos-Manhattan, inc.
National Gypsum Company
Unarco Industries, Inc.
Fibreboard Corporation
Armstrong World Industries, Inc.
Nicolet, Inc.
Forty-Eight Insulation, Inc.
Eagle-Picher Industries, Inc.
Covil Corporation
Keene Corporation
GAF Corporation
Rock Wool Manufacturing Co., Inc.
North Brothers, Inc.
Carey Canada, Inc.
Combustion Engineering, Inc.
Pittsburgh Corning Corporation
AC&S, Inc.
Amatex Corporation, Inc.
Amchem, Inc.
Vimasco Corporation
Johns-Manville Amiante Canada, Inc.
C. E. Thurston & Sons, Inc.

SECTION A

1. Identify the registered name of the answering defendant as well as all prior names or predecessor entities by which the defendant has existed.

(a) For each give the current address and the state of incorporation and whether or not it is an active corporation.

2. Set forth the full and correct name, the principal place of business and the state and date of incorporation of the answering defendant.

3. Identify all divisions, subsidiaries or affiliated companies of the answering defendant.

4. For each entity or division listed in response to #3, state whether it ever has or presently engages in any phase or mining, manufacturing, sale, supply, distribution, or design of asbestos or asbestos-containing products.

5. With respect to each division, subsidiary or company listed in #4, identify the nature and extent of its function during the period of time it was in existence.

6. Has this answering defendant been sued under its correct name? If no, please state the correct legal name of the defendant and provide the information requested in Interrogatory #1 above concerning the defendant as correctly named.

7. Please state whether or not you have ever held a certificate of authority to do business in this state and the address for your registered agent for service in this state.

PRODUCT IDENTIFICATION

8. Have you ever mined asbestos?

9. If the answer to the previous interrogatory is "yes", please state the dates in which you were involved in mining of asbestos, and the locations of your mines.

10. Have you ever sold raw asbestos fiber to any of the co-defendants? If so, in what years and in what quantities did you make such sales.

11. As to any product containing asbestos in any form or quantity, has this defendant ever:

(a) designed such a product;

(b) manufactured such a product;

(c) processed such a product;

(d) sold such a product;

(e) distributed such a product;

(f) relabeled such a product manufactured or designed by another;

(g) held a patent for such a product.

12. If the answer to the previous interrogatory or any subpart thereof was in the affirmative, please state the following information about each product:

(a) the manufacturer of the product;

(b) the designer of the product;

(c) the supplier of the raw asbestos fiber used in the product;

(d) the dates of its manufacture or sale by the answering defendant;

(e) the percentage of asbestos content of the product;

(f) the type of asbestos used in the manufacture of the product;

13. In what year did the answering defendant first begin selling or distributing asbestos-containing products? Please be specific for each asbestos-containing product manufactured, sold or distributed by you.

14. In what year did the answering defendant last sell, distribute or manufacture an asbestos-containing product? Please be specific for each asbestos-containing product.

15. For each asbestos-containing product manufactured and/or distributed by you, state:

(a) the brand name of the product and the inclusive years of its manufacture and/or distribution;

(b) the asbestos content by weight of each product for each year;

(c) the type of asbestos fiber used in each product;

(d) the application for which such product was advertised or sold;

(e) the temperature ranges for the products used;

(f) whether the product was a cement, a pipe covering, a cloth or other type of thermal insulation product;

16. Describe each product as to its color and physical characteristics and appearances.

17. As to each product, state how such product was packaged or supplied.

18. Does the answering defendant claim that any patent would cover any product listed in response to the interrogatories above? If so, give the number of the patent, the date same was issued and the number of each patent application that is pending.

19. For such asbestos-containing product manufactured or designed by you, please state the specific batching requirements for that product.

20. State the time period each particular batching requirement was followed and any changes that were made.

21. For each asbestos-containing product that you manufactured, please set forth the supplier of the raw asbestos fiber used for that product.

22. As to each product mentioned above, identify the following:

(a) any pertinent trademark that was applicable to the product during any time of its sale;

(b) the label on the packaging of that particular product for each year of its manufacture;

(c) all sales brochures, specification sheets, performance data or other promotional material, as well as any and all installation materials, data or brochures which would have accompanied or been distributed in

connection with the installation, application or use of each of the products listed above.

(d) The advertised use of the product (as to this interrogatory, you may provide a copy of the document in lieu of describing the same.)

23. For each document listed or described above, please indicate the name or the names of the individuals having custody of said documents or copies thereof, and where they are located.

24. Please describe in detail the method for disbursement and sale of each asbestos-containing product manufactured, designed or distributed by the answering defendant.

25. Have any of the products listed in the answer to Interrogatories Nos. 12, 13 and 16 above been altered in chemical composition or asbestos type or content since their first being marketed?

26. If so, please state:

(a) the trade name of each such product;

(b) the date such product was altered;

(c) the nature of that alteration;

(d) the reason for the alteration;

(e) what person has knowledge concerning the alterations.

27. Identify all sales literature including brochures, advertisements, pamphlets or other material describing each asbestos-containing product manufactured by you beginning in 1925 and coming forward to date.

28. Prior to 1960, did you conduct any tests concerning the health consequences of the use of your asbestos-containing product?

29. Prior to 1960, did you conduct any tests concerning the health consequences related to the manufacture of your asbestos-containing product?

30. Do any written memoranda, specifications, recommendations or other written materials of any kind or character related to the testing of said products exist?

31. If so, please state:

(a) identify each such written material or document;

(b) who presently has possession of each such document and where is it located?

32. Have you conducted any tests concerning the health consequences of the use of your product between 1960 and 1975 or the date that the asbestos content was removed from the product, whichever in the later.

33. If so, please state:

(a) what tests were done;

(b) who was responsible for conducting the tests;

(c) what the results of the tests were;

(d) identify any documents concerning the tests.

34. When did the asbestos-containing products manufactured by you first contain any warning or caution concerning the health consequences of the use of the product or the breathing of asbestos dust?

35. For each such product, please state:

(a) the wording of each warning or caution;

(b) the description of each such printed warning or caution;

(c) the method used to distribute the warning to persons who were likely to use the products;

(d) the date each such warning was issued;

(e) the name, address and job classification of each person who presently has possession of the above-described warning or caution;

(f) identify the warning or caution by date and content;

(g) state whether any industrial psychologist or human factors engineers were consulted prior to utilizing such warnings, or cautions;

(h) identify any special instructions provided with each product regarding its use or safety procedures to be employed by persons handling such product.

36. For any warning ever provided on an asbestos-containing product manufactured or distributed by you, please state:

(a) when the warning first appeared;

(b) what was the precise wording of the warning when it first appeared;

(c) was the warning ever altered, amended or changed in any manner and, if so, how and when;

(d) where was the warning located on the product or packaging;

37. When did you first become aware that warnings were placed on products distributed by other defendants?

38. State the manner in which each of your products was shipped and the type of container it was shipped in to the retailers.

39. When, if ever, did you specifically inform the purchaser or user of your products that contained asbestos that the use of that product or exposure to asbestos dust could cause cancer, asbestosis or other serious diseases? Please identify the document containing this information by date and location.

40. Identify any and all labeling or relabeling agreements in existence since 1925 between you and any other person including co-defendants.

41. Did you sell any of your products containing asbestos fibers or any raw fiber to any of the companies named as co-defendants in this suit?

42. If so, please state:

(a) the name, address and job classification of each individual who currently has possession of such knowledge, either by documents or records;

(b) please list the names of each co-defendant to whom your products have been sold;

(c) please state the dates of each such sale and the amount and kind of materials sold;

43. State whether your company manufactured asbestos-containing insulation products for a co-defendant and placed the co-defendant's labels, logos or insignia on said products and list each such co-defendant.

44. Has this defendant ever acquired another corporation, company or business which manufactured, sold, processed, distributed or contracted to apply insulation products containing asbestos.

45. If the answer to the above interrogatory is yes, please state the following concerning such other entity:

(a) the full and correct name;

(b) the principal place of business;

(c) the state of incorporation;

(d) the date of its acquisition by you;

(e) the products that the other entity manufactured, distributed, sold or used.

46. Did you ever stamp or imprint the name of your company, its initials or any identifying logo on any of your asbestos-containing products? If so, please describe the identifying logo or initials and the dates of its inclusion on the product and the product on which it was included.

47. As of the date of your answers to these interrogatories, is your company still manufacturing, selling or distributing any asbestos-containing products? If so, give the brand names of each such product.

48. For each product identified as being manufactured, sold or distributed by you in interrogatories No. 12, 13, or 16, state whether:

(a) you have actual containers or photographs of containers in which said products were sold or distributed;

(b) who is the custodian or keeper of said containers or photographs including their address and telephone number.

49. From what source or sources did you obtain raw asbestos fiber beginning in 1940 and going to date, on a yearly basis?

50. State whether or not any warnings, cautions, caveats, or directions accompanied the raw asbestos fiber referred to in the previous interrogatory and identify the nature and extent of said warnings, cautions, caveats or directions accompanying said fiber.

51. State what date said warnings, cautions, caveats or directions first appeared on the mined asbestos fiber.

52. If you have discontinued manufacturing and/or selling asbestos products, please state the reason or reasons.

NOTICE

53. When was the first time that you received notice that any person was claiming an injury as the result of using asbestos-containing products manufactured and/or sold by your company?

54. For each such injury that you received notice of or a claim for prior to 1970, please list:

(a) the name and address of each claimant;

(b) the date of the notice of each claim;

(c) a description of the claim (i.e. workmen's compensation or a third party liability action);

(d) the type of injury allegedly sustained;

(e) the name and address of each attorney who represents individuals making such claims;

(f) the style and the court number of each claim;

(g) the resolution of each claim that has been disposed of;

(h) the custodian of the records that relate to the claim (in lieu of answering the above question, you may attach copies of any and all claims).

55. Do you contend that insulation products containing asbestos can be manufactured or treated so as to eliminate all potential health hazards to workers installing the same? If so, please explain in detail what your contentions are and the basis for each contention.

56. Did you receive any reports or communications from your workmen's compensation insurance carrier or products liability insurance carrier with regard to the hazards incident to the use of asbestos-containing insulation products? If so, please state who has possession of the contents of such reports, the location of such reports and the substance of the contents of such reports, listing for each such report the respective insurance company, its address, the agents signing such correspondence and the date of such notice or report.

57. Have any of the co-defendants named in this litigation ever furnished you with any information as to the state of the medical knowledge regarding the connection between asbestos dust exposure and the contracting of pulmonary diseases including asbestosis and cancer?

58. If the answer to the proceeding interrogatory is in the affirmative, please identify:

(a) what information you were furnished;

(b) who furnished that information;

(c) when that information was furnished.

59. Have you at any time since 1930 interchanged results of research tests, medical studies or experiments regarding the state of the medical knowledge regarding the connection between asbestos exposure and the contracting of pulmonary diseases including lung cancer and asbestosis with any other person, including any co-defendants in this action?

60. If the answer to the proceeding interrogatory is in the affirmative, please state:

(a) when this interchange took place;

(b) who participated in these interchanges;

(c) summarize the content of these interchanges or studies.

61. Please state if you or anyone on your behalf ever conducted, sponsored or contributed financially to any studies or research to determine if the inhalation of asbestos fibers may be harmful.

62. If the answer to the above question is in the affirmative, please state:

(a) by whom the research was conducted, giving complete names and addresses;

(b) the dates that each such research project or text was conducted;

(c) the complete results of each test or study;

(d) identify all documents that refer, reflect or related to the test or study;

(e) supply copies of the reports of the research department pertaining to the use of the use by the corporation of asbestos in their manufacture of insulation products.

63. Please state the names and addresses of your chief medical officers employed by defendant in that capacity. If you did not have a medical officer, please indicate what persons or persons performed that function.

64. Please state the names and addresses of all physicians who were employed, retained or otherwise engaged by you at any of your facilities from the years 1930 until the present.

65. Please state the names and addresses of all persons employed by you from 1930 until the present time who functioned as industrial hygienists. As used in this interrogatory, an

industrial hygienist is one who performs engineering or health studies to identify and evaluate potential health hazards and suggests methods of dealing with the same.

66. For each industrial hygienist listed above, please state:

(a) the facility or office to which that individual was assigned;

(b) the complete and precise duties and responsibilities.

67. Did anyone ever make any recommendations and/or suggests to you pertaining to the risks and hazards associated with the manufacturing or use of insulation products containing asbestos?

68. If the answer to the above question is yes, please state:

(a) where such recommendations or suggestions were made;

(b) who made such recommendations or suggestions;

(c) to whom were these recommendations or suggestions made;

(d) the substance of the recommendations or suggestions;

(e) what actions did you take as the result of those recommendations and suggestions?

69. Do you agree that there is a causal connection between the asbestos dust exposure and

(a) asbestosis?

(b) lung cancer?

(c) mesothelioma?

(d) other cancers?

70. If your answer to the previous Interrogatory is yes as to any or all subparts, please identify the following as to each disease process listed above:

(a) when and how you first learned of such connection:

(b) if the knowledge was obtained by the attendance of any conference, lecture, convention, symposium, or meeting, identify such event and provide the name of the person attending or the documents obtained from that meeting;

(c) if knowledge was obtained from a medical or scientific study or any other published works, identify the same;

(d) if the knowledge was otherwise obtained, identify the manner of receipt of the document or communication.

71. With regard to any knowledge obtained subsequent to that identified in the previous Interrogatory, please identify:

(a) all documents or other communications, oral or written concerning the causal connection between exposure to asbestos dust or asbestos products and the disease processes identified in question No. 60 above;

(b) identify the person communicating the information.

72. When and by what manner were you first aware of the hazards of asbestos or asbestos-containing products to the users of those products?

73. Identify any medical examination programs offered or sponsored by your or your insurance carrier for employees handling or otherwise exposed to asbestos and asbestos products. With respect to each such program, please state:

(a) the manner of communicating with employees about such program;

(b) whether examination was mandatory or optional;

(c) what percentage of workers permitted to undergo such examination actually participated;

(d) what percentage of workers were found to have asbestosis or mesothelioma or bronchogenic carcinoma;

(e) with respect to (d). what percentage of such workers were paid disability, workmen's compensation benefits or for whose benefit medical expenses were paid to undergone treatment for such conditions.

74. Identify all trade organizations, associations or other entities including but not limited to ATI, IHF, NAIMA, AIA, NICA, TIMA, QAMA, PICA QAPA, to which you belonged or in which you have participated since 1925 and the years of your participation.

75. Identify all persons attending on your behalf any meetings held by any trade organization listed in the Interrogatory stated above.

76. Identify the names or nature of all asbestos notes, report studies or other writings submitted by you or received by you at meeting identified in the Interrogatory stated above.

77. Identify all documents you received from or submitted to the trade organizations, associations or other entities identified in Interrogatory relating to the relationship between asbestos exposure and disease.

78. Did you direct to be performed, sponsor, finance or receive the results of any studies or tests performed by the Saranac Lake Laboratory or the Trudeau Foundation relating to asbestos exposure and its effect on human life? If so, identify:

(a) all documents summarizing findings or results of those studies or tests which you have in your possession or control;

(b) all communications, oral or written, between answering defendant and Saranac personnel, including but not limited to Gerrit W. H. Schepers, M.D.;

(c) all documents relating to Saranac studies received or submitted by you, either directly, through associated or predecessor companies, through other companies, or through any trade associations, organizations or entities;

(d) all recommendations or findings of such studies in relating to:

(1) adequacy or inadequacy of the threshhold limit values;

(2) the substitution of materials other than asbestos to be used in insulation process;

(e) where the documents and/or communications identified in this interrogatory are presently maintained.

79. Identify all persons who have testified on your behalf and all documents presented to or utilized in preparation of testimony before the Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, any U.S. Congressional committee or subcommittee or governmental hearing or investigative proceeding on the subjects of biological effects on human life from exposure to asbestos and the setting, modification, feasibility and acceptance of allegedly safe or proper levels of such exposure to asbestos and asbestos products.

80. For all testimony set forth above, please identify:

(a) the dates and descriptions of the proceedings;

(b) the relationship between the person who testified or responded and you;

(c) all studies, test results or other scientific or medical documents relied upon by said person as a basis for any recommendations made or testimony given;

(d) whether at any time prior to or following such testimony you possessed knowledge of documents suggesting that existing or proposed threshhold limit values were not safe or proper or that lower threshhold limit values were necessary in order to prevent disease; as to this response, please identify the origin of the knowledge and all documents relating thereto;

(e) whether at any time prior to or following such testimony you were aware that the proper method for determination of safe levels of asbestos dust was to test concentrations of fibers in the air rather than the total number of particles. If your answer is in the affirmative, identify the origin of said knowledge and all documents relating thereto.

81. What do you understand "threshhold limit value" to mean?

82. What do you understand "dose response relationship" to mean?

83. What is being measured when you take the measurement of threshhold limit value as you define it?

84. Did you advertise any of your asbestos-containing products for use on ships or navy vessels?

85. If the response to Interrogatory No. 84 was yes, please state

(a) the name of the product;

(b) in what years you advertised the product;

(c) the intended purpose of the product.

86. Did you design any asbestos-containing products for use on ships or navy vessels? If so, please state

(a) the name of the products;

(b) the year of their design;

(c) the manufacturer;

(d) the intended use.

87. Did you sell any asbestos-containing materials to the:

(a) United States government?

(b) General Services Agency?

(c) United States Navy?

(d) any naval shipyard?

(e) any shipyard?

88. Do you ever conduct any dust studies in any of your asbestos product manufacturing facilities? If so, please state:

(a) the data of each such study;

(b) the person conducting the study;

(c) the result or conclusion;

(d) who presently has possession of the report or study

D. Garrison Hill
Circuit Judge
S.C. Asbestos Master Docket

Greenville, S. C.

September 30, 2010.

EXHIBIT 2

EXHIBIT "2"

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
IN RE:)
)
ASBESTOS LITIGATION)
COORDINATED DOCKET)
)

DEFENDANTS' MASTER SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Defendants hereby request that you answer separately and fully, in writing under oath, each of the following interrogatories in accordance with Rule 33 of the South Carolina Rules of Civil Procedure. These interrogatories are continuing in character and require you to file supplementary answers in accordance with Rule 26(e) of the South Carolina Rules if you obtain further or different information after your initial answers and before trial, including in such supplemental answers the date upon and the manner in which such further or different information came to your attention.

1. Identify all documents of which plaintiffs have knowledge that relate to the allegations that plaintiffs are entitled receive punitive or exemplary damages.

2. Identify all persons that plaintiffs believe have knowledge of facts or opinions that relate to the allegations that plaintiffs are entitled to receive punitive or exemplary damages.

3. If plaintiffs contend that there is prior testimony relates to the claim for punitive or exemplary damages, please state the following:

(a) Date and place of the prior testimony and identity of cause in which it was taken;

(b) Identify the person making the prior testimony;

(c) Describe the form in which the prior testimony exists, (i.e., written, typed, recorded, etc.);

(d) Identify the custodian of the prior testimony; and

(e) Identify the person who obtained the prior testimony.

4. Identify all documents of which plaintiffs have knowledge, including but not limited to medical articles, medical journals, case reports, textbooks, abstracts, or synopses, which plaintiffs, believe relate to their position on the "state-of-the-art" defense.

5. Identify all persons whom plaintiffs expect to call as witnesses at trial, including a summary of the testimony that each witness is expected to give.

6. Identify all documents which plaintiffs expect to offer as evidence at trial.

7. Identify all persons whom plaintiffs expect to call as expert witnesses at trial, and as to each such person, provide a summary of the testimony each witness is expected to give.

8. Identify all persons whom plaintiffs have retained or employed in anticipation of litigation or for trial preparation purpose whom the plaintiffs do not expect to call as expert witnesses at trial.

9. State all facts and opinions on which plaintiffs rely in alleging that plaintiffs are entitled to punitive or exemplary damages, include in your response a detailed description of all activities of each named defendant which plaintiff allege justify the imposition of punitive damages

10. Identify all documents of which plaintiffs have knowledge including but not limited to sales literature, promotion material technical or education literature, or intra-corporate memoranda, which were produced, distributed or maintained by any defendant which plaintiffs believe relate to any matter at issue in this litigation.

11. Identify and describe with particularity each written express warranty or guaranty, if any, which plaintiffs believe they received in connection with the use of any products sold or distributed by defendant.

12. Identify and describe with particularity each oral or express warranty or guaranty, if any, which plaintiffs believe they received in connection with the use of any products sold or distributed by defendant.

13. Identify and describe with particularity every implied warranty or guaranty, if any, which plaintiffs believe they received in connection with the use of any products sold or distributed by defendant.

14. Identify all documents which relate to plaintiffs allegations that any defendant has breached any warranties given in connection with the sale or distribution of any asbestos products used by any plaintiff.

15. State all facts and opinions on which plaintiffs rely in alleging that defendants breached any warranties which may have been given in connection with the sale or distribution of any asbestos products used by any plaintiff.

16. State all facts and opinions on which plaintiffs rely in alleging that defendants acted negligently with respect to the plaintiffs.

17. Identify all documents of which plaintiffs have knowledge which relate to plaintiffs claim that defendants acted negligently with respect to the plaintiffs.

18. State all facts or opinions upon which plaintiffs rely in alleging that defendants are strictly liable in tort for injuries that may have been suffered by plaintiffs.

19. Identify all documents of which plaintiffs have knowledge which relate to plaintiffs claim that defendants are strictly liable in tort for injuries which may have been suffered by plaintiffs.

20. State all facts and opinions upon which plaintiffs rely in claiming that products sold by defendants and used by plaintiffs were "unreasonably dangerous."

21. Identify all documents of which plaintiffs have knowledge which relate to plaintiffs claim that products sold by defendants and used by plaintiffs were "unreasonably dangerous."

22. If plaintiffs contend that there is prior testimony that relates to plaintiffs' claim that defendants' products used by plaintiffs were "unreasonably dangerous," please state the following:

(a) Date, location, jurisdiction and title of cause of said prior testimony;

(b) Identify the person making the prior testimony;

(c) Describe the form in which the prior testimony exists, (i.e., written, typed, recorded, etc.);

(d) Identify the custodian of the prior testimony; and

(e) Identify the person who obtained the prior testimony.

23. Identify all written statements or transcriptions of oral statements of any defendant to this action, or agent, employee, representative, former agent, former employee, or former representative of any defendant that plaintiffs contend are relevant to the subject matter of these lawsuits.

24. Identify all photographs, charts, drawings, diagrams, or other graphic representations or documents made by or on behalf of plaintiffs which relate to the illnesses,

relevant working conditions, or other circumstances complained of in these actions or related to the subject matter of these actions.

25. Identify all written statements which plaintiffs have made that relate to the facts of these lawsuits and the damages claimed, including but not limited to statements made to any police or law officer, insurance company representative, investigator, state or federal agents, representative or employee of any kind.

26. Identify all investigations or other reports that have been prepared, compiled, submitted, conducted, or made by plaintiffs or anyone acting in their behalf which relate to the subject matter action.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Defendants hereby request, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, that plaintiffs produce for inspection and copying the following writings or documents within you possession, custody or control:

1. All documents identified in response to the foregoing interrogatories.

2. All documents referred to in preparing the answers to the foregoing interrogatories.

3. Each plaintiffs' Federal and State income tax returns for the past three (3) years.

4. All damage studies, damage reports or damage analyses, or any and all other documents containing any mention of facts or opinions which relate to plaintiffs' claims for damages suffered as a result of acts of any of the defendants.

5. All correspondence between any defendants and any other person which plaintiffs contend relate to any matter at issue in this litigation.

6. All documents which relate to or identify insulation projects or jobs upon which each plaintiff worked.

7. All documents which relate to or identify asbestos-containing materials with which each plaintiff may have worked.

8. All packaging materials which plaintiffs allege were used in packaging asbestos containing materials.

9. All medical, doctor or hospital reports, summaries, test results, or other records of any type which relate to each plaintiffs medical history and/or current medical condition.

10. All x-rays which have ever been taken of each plaintiff's chest.

11. Each plaintiff's Social Security Administration printout and work record.

D. Garrison Hill
Circuit Judge
S.C. Asbestos Master Docket

Greenville, S. C.

September 30, 2010.

EXHIBIT 3

EXHIBIT "3"

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
IN RE:)
)
ASBESTOS LITIGATION)
COORDINATED DOCKET)

DEFENDANTS' STANDARD INTERROGATORIES TO PLAINTIFFS

1. State your full name, address and telephone number, date of birth, educational background and Social Security number.

2. State the complete address of all places you have resided in the past twenty years giving the inclusive dates of residence for each place named.

3. If you are now or have ever been a member of a trade labor union, provide the following information:

(a) the name of the union or unions to which you belonged;

(b) the inclusive dates of your membership in each;

(c) the numbers and complete address of the local unions to which you have belonged; and

(d) all officers or other positions which you have held in each union, identifying the office, position, and union in which held and inclusive dates the position or office was held.

4. Identify all jobs and projects on which you worked or around asbestos or materials containing asbestos and state separately as to each job or project the following:

(a) the name and location of each job (stating the job site, city, county and state);

(b) the name and address of each employer for whom you worked;

(c) the beginning and ending dates of each job or project;

(d) the name and manufacturer of each and every product containing asbestos with which you worked or to which you were exposed on each particular job or project and a general description of each such product;

(e) the identity of your immediate superior or job superintendent on each such job or project;

(f) the identity of all persons with whom you worked on each such job or project;

(g) the length of time that you worked on each such job or project;

(h) whether or not you wore a respirator or mask on each such job or project; and

(i) your specific duties on each job.

5. Identify all jobs you have had during your lifetime that are not listed in No. 4 above. As to each, state:

(a) the general nature of the work you performed (i.e., coal miner, textile worker, etc.)

(b) the name and location of each job (stating the job site, city, county and state);

(c) the name and address of each employer for whom you worked;

(d) the beginning and ending dates of each job or project.

(a) the name and address of each hospital, clinic or other medical facility at which you were treated or admitted;

(b) the dates on which said treatment or treatments were rendered including the dates of entry into and discharge from said hospitals, clinics or other medical facility;

(c) an itemization of the charges rendered by each hospital, clinic or other medical facility; and

(d) the expenses of examination or treatment by any doctors who have examined or treated you.

11. Identity each physician or other practitioner of the healing arts not previously identified herein who has examined or treated you for any reason, and for each such individual so identified provide the following information:

(a) the reason for such examination or treatment;

(b) the date of each examination or treatment; and

(c) the diagnosis resulting from each such examination or treatment.

12. Identify each hospital, clinic or other medical facility not previously identified herein at which you had been examined or received medical treatment, and for each such facility identified provide the following information:

(a) the reason for such examination or treatment;

(b) the date of each such examination or treatment;

(c) if you were an in—patient, the dates of admission to and discharge from such hospital, clinic or medical facility; and

(d) the diagnosis resulting from each such examination or treatment.

13. If you are currently receiving medical services or treatment of any nature whatsoever, state:

(a) the name or names of the person or persons attending you;

(b) the approximate frequency of said treatment or services; and

(c) the date you last received said treatment or services.

14. If you have ever had x-rays taken of your chest, provide the following information for each set of x-rays taken:

(a) the name and addresses of the office or hospital where the x-rays were taken;

(b) the reason why such x-rays were taken;

(c) the date of dates on which the x-rays were taken;

(d) the information reported to you as being the x-ray diagnosis; and

(e) the identity of the person or persons who took the x-ray and the person or persons who made the diagnosis.

15. If you have made any Workers' Compensation claim as a result of any injuries or diseases, provide the following information:

(a) the date you first reported to your employer the incident of your injury or disease;

(b) the date and name of the agency with which you filed a claim for workers' Compensation benefits;

(c) the date upon which you first received any Workers' Compensation benefits, either for disability or medical treatment;

(d) the name and address of the employer against whom you made said claim; and

(e) the nature of the injury or disease for which a claim was made.

16. If you have filed any claim with the Social Security administration as a result of any injuries or disease, provide the following information:

(a) the date you filed said claim;

(b) the nature of such claim;

(c) the date upon which you first received any benefits, either for disability or for medical treatment; and

(d) the amount of benefits you are receiving and the frequency with which you receive these benefits.

17. If you have ever been involved in any other legal action, including criminal charges against you, provide the following information:

(a) whether you were a plaintiff or defendant;

(b) the nature of the claim made by or against you, including the nature of any criminal charge made against you;

(c) the date and place each such action was filed, giving the name of the Court, the name of the other party or parties involved, the number of such action or actions and the names of the attorneys representing each party; and

(d) the result of each such action, whether there was an appeal and the result of the appeal, and whether such case was reported, and the name, volume number and page citation of the report.

18. Do you or your counsel have written reports from any physician or practitioner of the healing arts respecting any injuries or diseases that you have identified in your response to these interrogatories? If so, please attach a copy of said report or reports to your answers to these interrogatories.

19. As to any job or jobs on which you allege you were injuriously exposed to asbestos—containing materials, was there any company other than your employer installing or handling asbestos—containing materials at the same job site? If so, please identify each job, its location, the approximate dates on which you worked on that job and the other company alleged to be installing or handling asbestos-containing materials at that site.

20. Do you now, or have you ever, chewed, smoked, consumed, or otherwise used tobacco or tobacco products? If so, please state:

(a) the type or types of products (i.e., cigarettes, cigars, etc.);

(b) the brand name of each product listed above;

(c) the inclusive dates of use of each product listed above: and

(d) the frequency of use or amount of use (i.e., one pack a day, etc.).

D. Garrison Hill
Circuit Judge
S.C. Asbestos Master Docket

Greenville, S. C.

September 20, 2010.

EXHIBIT 4

EXHIBIT "4"

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
IN RE:)
)
ASBESTOS LITIGATION)
COORDINATED DOCKET)

PLAINTIFF'S STANDARD INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: ALL DEFENDANTS IN EACH OF THE ABOVE-NAMED CASES:

PLEASE TAKE NOTICE that pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the defendant is hereby directed to file answers to the following Interrogatories within thirty (30) days after service. These Interrogatories shall be deemed continuing in the sense of Rule 26(e) of the South Carolina Rules of Civil Procedure so as to require supplemental answers a reasonable time prior to trial if additional information with respect to these Interrogatories is obtained by the defendant or its counsel.

1. Did you sell and/or distribute products containing asbestos to the employers and job sites of plaintiff as listed in the Answer to Defendant Interrogatory No. 4 attached during the time listed or one year prior thereto? Please note that this Interrogatory includes thermal insulation asbestos products or cloth or spray products containing asbestos.

2. Did you sell and/or distribute products containing asbestos to job sites at which plaintiff was employed as described in Exhibit A for the time periods that plaintiff was at each job site?

3. If the answer to Interrogatory #1 or #2 is in the affirmative, please state:

(a) The names of the products sold;

(b) To whom the product was sold and shipped;

(c) As to each of the above-mentioned products, please include the quantities of each shipped to each company during the applicable time period; the site to which each product was shipped; and the date of shipment;

(d) As to each of the products mentioned above, will you provide without a Motion to Produce copies of:

(1) Any pertinent trademark, copy of such trademark, and the trademark registration number;

(2) The label, or copy of the label, used in the packaging of the particular product;

(3) A photograph of the product itself; -

(4) Sales brochures, specification sheets, performance data, or other promotional material as well as any and all installation materials, date or brochures which would have accompanied or been distributed in connection with the installation, application or use of each of the above-mentioned products;

(5) Copies of any invoices, sales receipts or other documents which show sales referred to in Interrogatories #1 and #2 above.

(e) If you cannot provide all of the above documents, please indicate the name or names of the individuals having custody of said documents or copies thereof.

4. Have you consulted with any expert whom you expect to call as an expert witness at the trial of this case? If so, please give:

(a) The name and address of each such person so consulted;

(b) When the person was consulted and what did the person do as a result;

(c) The subject matter on which the expert is expected to testify;

(d) State the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds of each opinion of the expert.

5. State the names and addresses of all witnesses the defendant intends to call to testify and give a brief statement of the substance of the testimony of each such witness.

6. With regard to the preceding Interrogatory, state whether or not a written or recorded statement or deposition or testimony has been given by such witness and indicate who has possession of such statement, deposition or testimony.

7. Set forth a list of photographs, plats, sketches, or other documents relating to the individual plaintiff in this case in the possession of the party or its attorneys that will potentially be used as an exhibit at the trial of this case by you.

8. Did you provide instructions and/or warnings concerning the potential health hazards of asbestos exposure to plaintiff's employers during the time period during which plaintiff was employed by each of his employers as listed in Answer to Defendant Interrogatory No. 4?

If so, please state:

(a) Whether the employer was expected or requested to transfer the instructions and/or warnings to its employees such as plaintiff;

(b) The date(s) you provided instructions and/or warnings to plaintiff's employer;

(c) Who prepared the instructions and/or warnings;

(d) To whom the instructions and/or warnings were addressed;

(e) The manner in which the instructions and/or warnings were transmitted to plaintiff's employers (i.e., orally, printed, pamphlets, printed on carton, etc.);

(f) The precise wording used in the instructions and/or warnings or in lieu thereof attach an authenticated copy of the instructions and/or warnings.

9. Did you provide instructions and/or warnings concerning the potential health hazards of asbestos exposure to plaintiff and/or his co—workers at each of the job sites listed in Answer to Defendant Interrogatory No. 4?

If so, please state:

(a) The date(s) you provided instructions and/or warnings to plaintiff and/or co—workers;

(b) Who prepared the instructions and/or warnings;

(c) To whom the instructions and/or warnings were addressed;

(d) The manner in which the instructions and/or warnings were transmitted to plaintiff and/or his co-workers (i.e., orally, printed pamphlets, printed on carton, etc.);

(e) The precise wording used in the instructions and/or warnings or in lieu thereof attached an authenticated copy of the instructions and/or warnings.

10. Did you provide instructions and/or warnings concerning the potential health hazards of asbestos exposure to any persons at plaintiff's job sites during the time period during which plaintiff was employed at each job site as listed in Answer to Defendant Interrogatory No. 4?

If so, please state:

(a) Whether the employer was expected or requested to transfer the instructions or warnings to persons at plaintiff's job sites;

(b) The date(s) you provided instructions and/or warnings to persons at plaintiff's job sites;

(c) Who prepared the instructions and/or warnings;

(d) To whom the instructions and/or warnings were addressed;

(e) The manner in which the instructions and/or warnings were transmitted to persons at plaintiff's job sites (i.e., orally, printed pamphlets, printed on carton, etc.);

(f) The precise wording used in the instructions and/or warnings or in lieu thereof attach an authenticated copy of the instructions and/or warnings.

11. Did you provide respirators to plaintiff, plaintiff's employers or persons at plaintiff's job sites during the time period plaintiff was employed at each as listed in Answer to Defendant Interrogatory No. 4?

If so, please state:

(a) The dates respirators were provided:

(b) To whom the respirators were provided;

(c) The type of respirators provided;

(d) The instructions and/or warnings provided with the respirators, if any.

12. Did you receive any comments or complaints concerning asbestos dust and/or asbestos health hazards from any persons who were co-employees or employed at plaintiff's job sites during the time period plaintiff was employed as described in Answer to Defendant Interrogatory No. 4?

If so, please state:

(a) The name and address of the person commenting or complaining;

(b) The precise wording of the comment and/or complaint;

(c) The date the comment and/or complaint was received by you;

(d) What action, if any, was taken in response to the comment and/or complaint?

D. Garrison Hill
Circuit Judge
S.C. Asbestos Master Docket

Greenville, S. C.

September 30, 2010.

EXHIBIT 5

EXHIBIT "5"

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	CIVIL ACTION NO.
	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	ORDER FOR RELEASE OF
	)	PATHOLOGY MATERIALS
	)	
	)	
Defendants.	)	
	)	
	)	

ORDER

This matter comes before the Court pursuant to the parties standing request for the Release of Pathology Materials in asbestos cases in South Carolina. In the above-captioned case, this Court finds that the request is proper and should be granted.

IT IS THEREFORE ORDERED that any physician, laboratory, hospital, clinic or other person or entity, who is currently in possession of pathology material, whether tissue, pathology slides, or any other form of pathology material, shall release them to the parties in this matter.

Further, this Court respectfully requests that the courts of any other state within whose borders such pathology materials may be located, honor this Order and domesticate it as if originally issued in that jurisdiction

IT IS SO ORDERED.

D. GARRISON HILL
CIRCUIT COURT JUDGE
13TH JUDICIAL CIRCUIT

_____, 20__
Greenville, South Carolina

EXHIBIT 6

AMENDED EXHIBIT 6 TO OCT. 13, 2010 ASBESTOS MASTER DISCOVERY/SCHEDULING ORDER

In light of other asbestos trial settings, counsel is expected to cooperate in scheduling the various events, particularly depositions, addressed in this Order. The parties may modify these deadlines by agreement, and the court may suspend any of these deadlines in cases with a living mesothelioma Plaintiff or other appropriate circumstances.

45 days after filing Complaint

(a) Plaintiff shall answer Master Discovery. Plaintiff shall be under a continuing duty to supplement discovery responses as necessary.

(b) Plaintiff shall provide copies of all medical records in Plaintiff's possession, custody or control. Plaintiff shall provide defendants with the necessary authorizations to gather medical records.

FILED
2015 JUN 16 PM 4:00
GREENVILLE CO. S.C.
PAUL BRASHIER

75 days after filing Complaint

(a) Plaintiff deposition to be completed, if health permits.

(b) If Plaintiff's deposition occurs before Master Discovery responses are due, or have been provided to defendants, Plaintiff must provide defendants a work history sheet, any known testimony or discovery from Plaintiff in a previous asbestos related case, and all available medical and social security records at least two business days prior to deposition.

(c) Plaintiff shall provide all pathology materials already available to Plaintiff to the defense liaison as well as authorizations for pathology. No alteration or destruction of any pathology materials may occur without agreement of all parties or a court order. Pathology must be returned to Plaintiff within 60 days of receipt. In the event any defendant receives pathology before the Plaintiff, it should be produced to Plaintiff's counsel within the week it is received. Plaintiff must return the pathology to the defense liaison within 60 days of receipt.

45 days after Defendant's Answer is filed

(a) Defendant shall answer Master Discovery. Defendant shall be under a continuing duty to supplement discovery responses as necessary.

105 days after filing Complaint

(a) Plaintiff shall designate all fact witnesses expected to be called at trial. The designation should include a brief summary of expected testimony, whether the witness is a co-worker, family member, treating physician, or other fact witness. This list may be supplemented up to five days before the deadline to depose all Plaintiff's fact witnesses.

(b) Plaintiff shall designate all expert witnesses expected to be called at trial. The designation should include a brief summary of the anticipated testimony. This list may be supplemented up to five days before the deadline to depose all Plaintiff's expert witnesses.

125 days after filing Complaint

(a) Counsel for Defendants shall designate all fact witnesses expected to be called at trial. The designation should include a brief summary of expected testimony, whether the witness is a co-worker, family member, treating physician, or other fact witness. This list may be supplemented up to five days before the deadline to depose Defendant's fact witnesses.

(b) Counsel for Defendants shall designate all expert witnesses and any of the Plaintiff's treating physicians expected to be called at trial. The designation should include a brief summary of the anticipated testimony. This list may be supplemented up to five days before the deadline to depose all Defendant's expert witnesses.

The following deadlines must be followed and met once the Court has assigned a trial date:

70 days before trial

(a) Depositions of Plaintiff's fact witnesses with the exception of family members who do not have product identification testimony who may be deposed up until the close of discovery or later if by agreement.

(b) Deposition of Defendants' fact witnesses completed, with the exception of Defendant's 30(b)(6) witnesses.

55 days before trial

(a) Defendants to file and serve dispositive motions.

45 days before trial

(a) Depositions of Plaintiff's expert witnesses completed.

(b) Depositions of Defendants' 30(b)(6) witnesses completed. This deadline can be extended by agreement with counsel for Plaintiff and the counsel for deponent.

30 days before trial

(a) Plaintiffs to file and serve response to Defendants' dispositive motions.

(b) Depositions of Defendants' expert witnesses completed.

(c) Mediation completed. Each party shall have a person with final settlement authority present at the deposition, or accessible at all times by phone during the entire mediation.

(d) All discovery completed.

20 days before trial

(a) Defendants to file and serve Reply to Plaintiff's Response to Defendants' dispositive motions.

14 days before trial

(a) Parties to exchange final list of all witnesses to be called at trial.

7 days before trial

(a) Parties to exchange final exhibit lists. Exhibits are to be made available for exchange electronically on this date, upon request.

(b) Parties are to file Motions in Limine.

(c) Page/Line designations to be exchanged.

3 days before trial

(a) Parties to exchange any objections and counter page/line designations of depositions to be read at trial.

1 day before trial

(a) Parties to exchange any objections to counter page/line designations and any final counter-designations.

IT IS SO ORDERED.

D. Garrison Hill
Circuit Judge

June 25, 2015
Greenville, SC

Couch, Ashley L.

From: Steve Pugh <SPugh@RichardsonPlowden.com>
Sent: Sunday, March 18, 2018 12:47 PM
To: Couch, Ashley L.
Subject: FW: HOWE CHARTS
Attachments: Howe Charts-Mcvey.pdf; ATT00001.htm

EXTERNAL EMAIL: Open Attachments and Links With Caution.

From: Theile McVey [mailto:TMcVey@kassellaw.com]
Sent: Wednesday, March 14, 2018 4:13 PM
To: Steve Pugh; Elizabeth.ONeill@wbd-us.com; jdean@dobllp.com; jholder@dobllp.com; rtravis@thetrialgroup.com
Subject: Fwd: HOWE CHARTS

As promised, here is the updated numbers from Oliver Wood. Thanks, Theile

Sent from my iPhone

Begin forwarded message:

> **From:** Ena Hagon <enaatogwecon@yahoo.com>
> **Date:** March 14, 2018 at 12:00:39 PM EDT
> **To:** Theile McVey <tmcvey@kassellaw.com>, Jonathan Holder <jholder@dobllp.com>
> **Cc:** Belinda Jolivet <bjolivet@dobllp.com>, Elizabeth Moultrie <emoultrie@kassellaw.com>
> **Subject: HOWE CHARTS**
>
> Hello
>
> As requested, attached are the Howe charts for your info.
>
> See you tomorrow at 0900.
>
> Ena

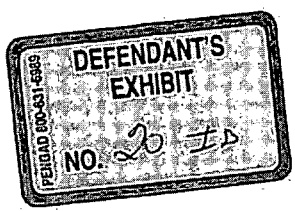


CHART 1
ELEMENTS OF LIFE CARE PLAN

Elements	Frequency	Average Current Periodic or Annual Cost	Duration
A. HOME CARE			
1. PCA	annual	183,960	2018 - husband's le
2. LPN	annual	8,320	2018 - husband's le
3. RN/CM	annual	1,080	2018 - husband's le
OR			
B. FACILITY CARE			
1. Assisted Living Facility	annual	79,188	2018 - husband's le.
Less: Estimated Normal Living Exp.		(15,676)	
Equals: Net Assisted Living Facility		63,512	

Source: Ms. Sarah Lustig, RN, LNC, CLCP, CNCLP.

CHART 2
VALUE OF CARE FOR MS. JEANETTE HOWE
(FROM THE DATE OF HUSBAND'S DEATH ON 3/8/16 TO THE DATE OF TRIAL - 03/12/18)

VALUE OF CARE FOR MS. JEANETTE HOWE AS MEASURED BY HOME CARE ELEMENTS IN THE LIFE CARE PLAN:			
1. PCA			
2016	(03/08 - 12/31)	$150,847	
2017		183,960	
2018	(01/01 - 03/12)	36,792	
Subtotal PCA			$371,599
2. LPN			
2016	(03/08 - 12/31)	6,822	
2017		8,320	
2018	(01/01 - 03/12)	1,664	
Subtotal LPN			16,806
3. RN/CM			
2016	(03/08 - 12/31)	886	
2017		1,080	
2018	(01/01 - 03/12)	216	
Subtotal RN/CM			2,182
TOTAL VALUE OF CARE 3/6/16 - 3/12/18			$390,587

CHART 3
PRESENT VALUE OF AFTER-TRIAL COST OF HOME CARE: PCA
(03/13/18 TO HUSBAND'S LIFE EXPECTANCY ON 2028.84 = 10.64 YEARS)

Year Ending	Annual Amount	Discounted to Present Value
2019.20	$183,960	$175,200
2020.20	188,320	170,812
2021.20	192,783	166,533
2022.20	197,352	162,362
2023.20	202,029	158,295
2024.20	206,817	154,330
2025.20	211,719	150,465
2026.20	216,737	146,696
2027.20	221,873	143,021
2028.20	227,132	139,439
2028.84	148,809	88,547
Totals	$2,197,531	$1,655,700

CHART 4
PRESENT VALUE OF AFTER-TRIAL LIFE CARE PLAN COSTS
(03/13/18 - HUSBAND'S LIFE EXPECTANCY ON 2028.84)

Elements	Present Value	
A. HOME CARE		
1. PCA	$1,655,700	
2. LPN	74,883	
3. RN/CM	9,721	
Total Home Care Costs		$1,740,304
OR		
B. FACILITY CARE		
1. Net Assisted Living Facility		$571,629

CHART 5
PRESENT VALUE OF TOTAL FINANCIAL LOSS
(AS MEASURED BY THE VALUE/COST OF CARE)

	Before-Trial Value of Care	Present Value of After-Trial Cost of Care	Total Value/Cost of Care
Home Care: Total Care Value/Cost (Total Financial Loss)	$390,587	$1,740,304	$2,130,891
OR			
Facility Care: Total Care Value/Cost (Total Financial Loss)	$390,587	$571,629	$962,216

Couch, Ashley L.

From:	Kennaday, Tom <TKennaday@TurnerPadget.com>
Sent:	Friday, March 09, 2018 5:50 PM
To:	Jessica Dean; O'Neill, Elizabeth
Cc:	S. Pugh; Trey Branham; tmcvey@kassellaw.com; Jonathan Holder (jholder@dobllp.com); Reeg, Kurtis B.
Subject:	Bowater - package boiler questions
Attachments:	CTE-37ML-1.PDF; D-10-517-PROG.PDF; CTE-10C-3 ca 1958 annotated afw 030618.pdf; CTE-36CC-3001 Annotated afw 030618.pdf; CTE-10C-2.PDF; D-10-62.PDF

EXTERNAL EMAIL: Open Attachments and Links With Caution.

Jessica and Elizabeth,

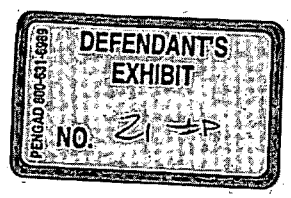
Pursuant to informal questions I was asked after depositions of my client, Resolute FP US, Inc., (one taken in the Smith and Sizemore cases and one taken in Howe,) I followed up with Mr. Art Welker. What I was asked about relates largely to the dispute you are having about where at the Bowater Catawba mill a Cleaver Brooks package boiler may have been located and when. I've already relayed information Art gave me to Trey and Theile and I think to Jonathan during the mediation, and to Elizabeth after today's hearing. With this e-mail I am passing on documents that Art used to support his conclusions so that if you ask Art at trial about the information I passed on and he says he knows something based on a document he looked at after the depositions, you will not be surprised and you will have the document. I believe the red, or red highlighted notes on the documents are Art's notes.

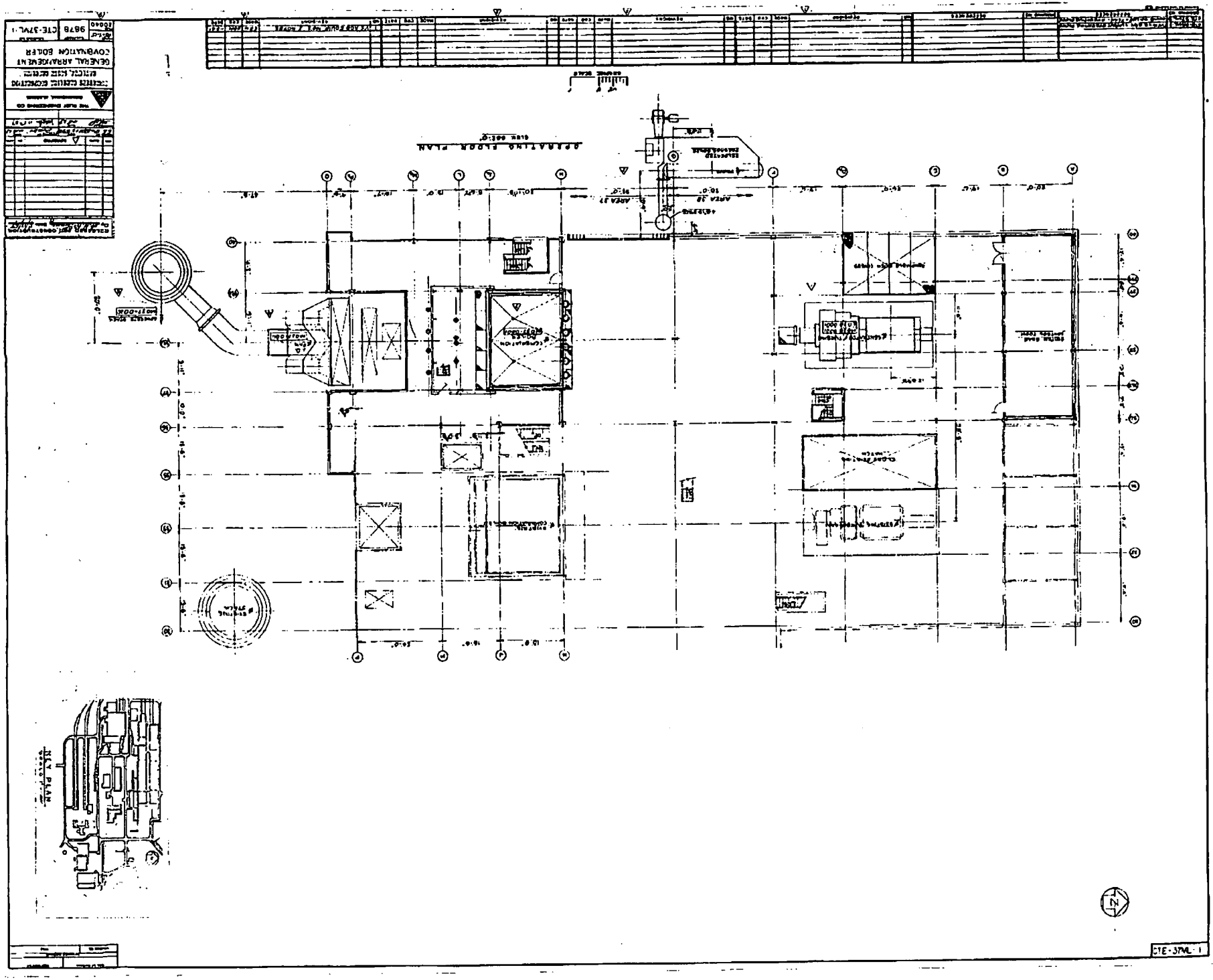
I am waiving any work product protection that Resolute may have to the notes on these documents, but only as to these notes, because you have an urgent need for the documents with trial starting Monday, and because you arguably have a substantial need for the notes. I am not passing on the actual e-mail from Mr. Welker because it is protected by attorney client privilege and the work product doctrine and I was able to give you the information without giving you the e-mail.

If you have any questions, please give me a call. My cell is 803-206-7283.

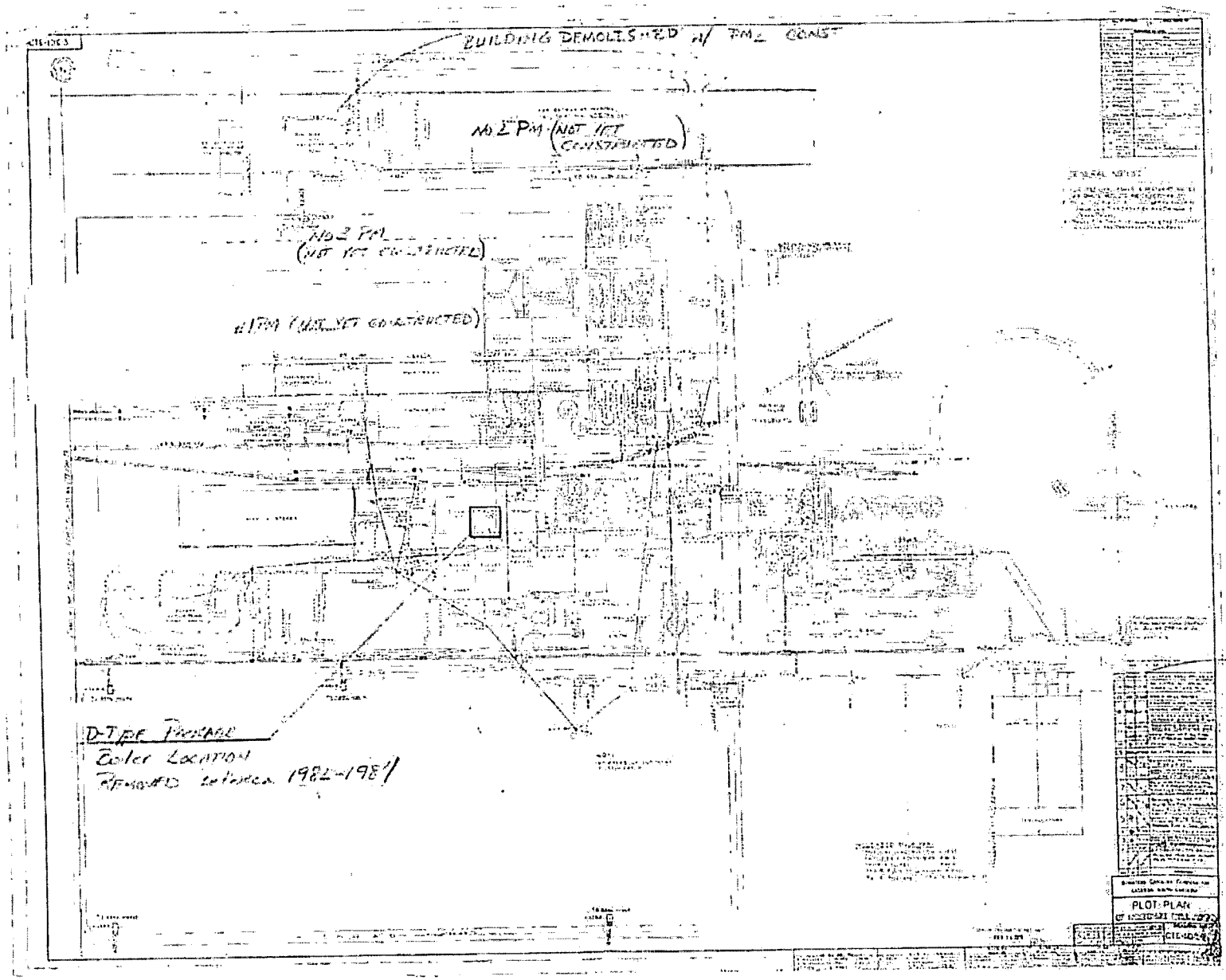
Tom.

Tom Kennaday
Attorney
PO Box 1473 | Columbia, SC 29202
1901 Main Street, Suite 1700 | Columbia, SC 29201
803-227-4290 | Fax 803-400-1553
tkennaday@turnerpadget.com
Bio | vCard | Location

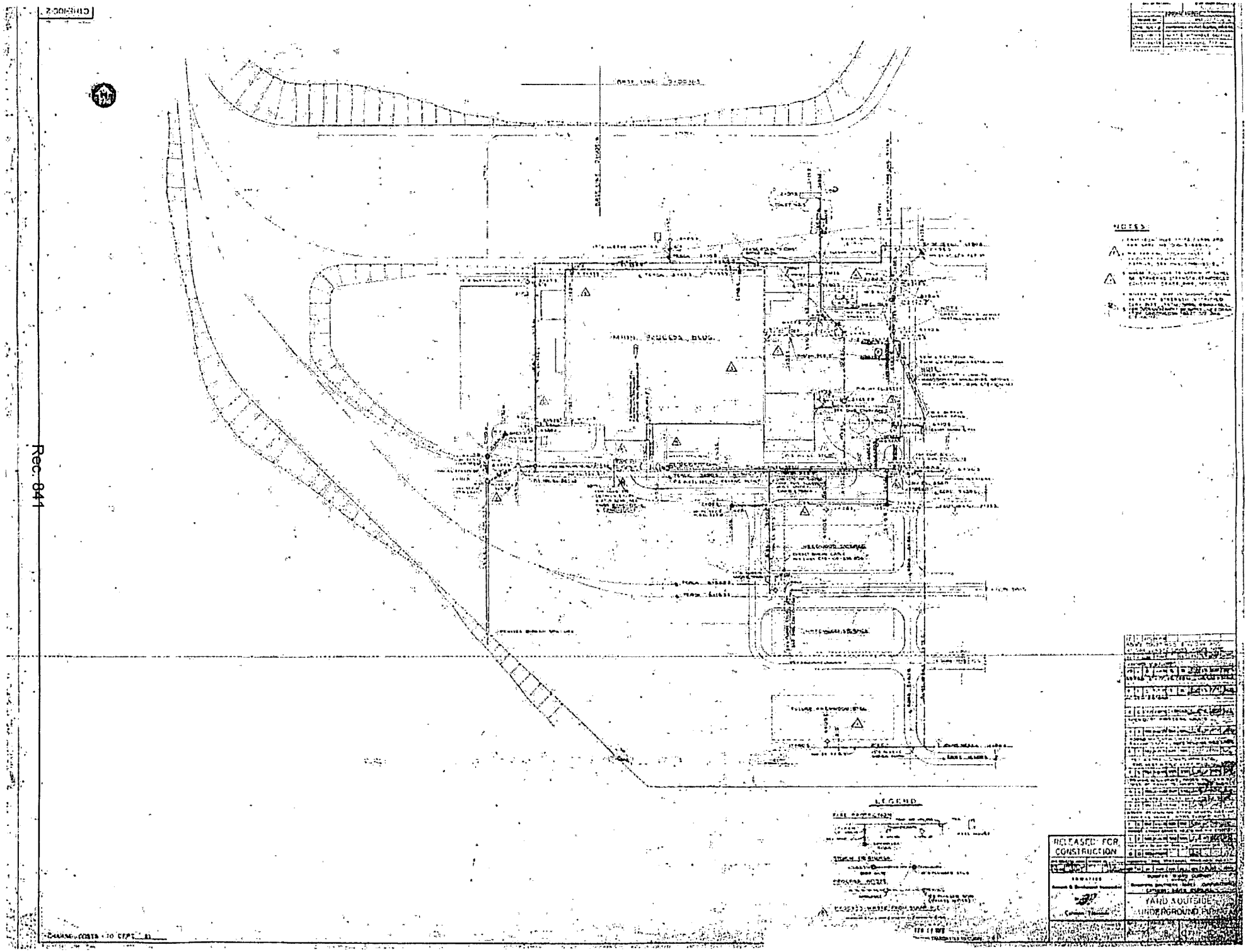




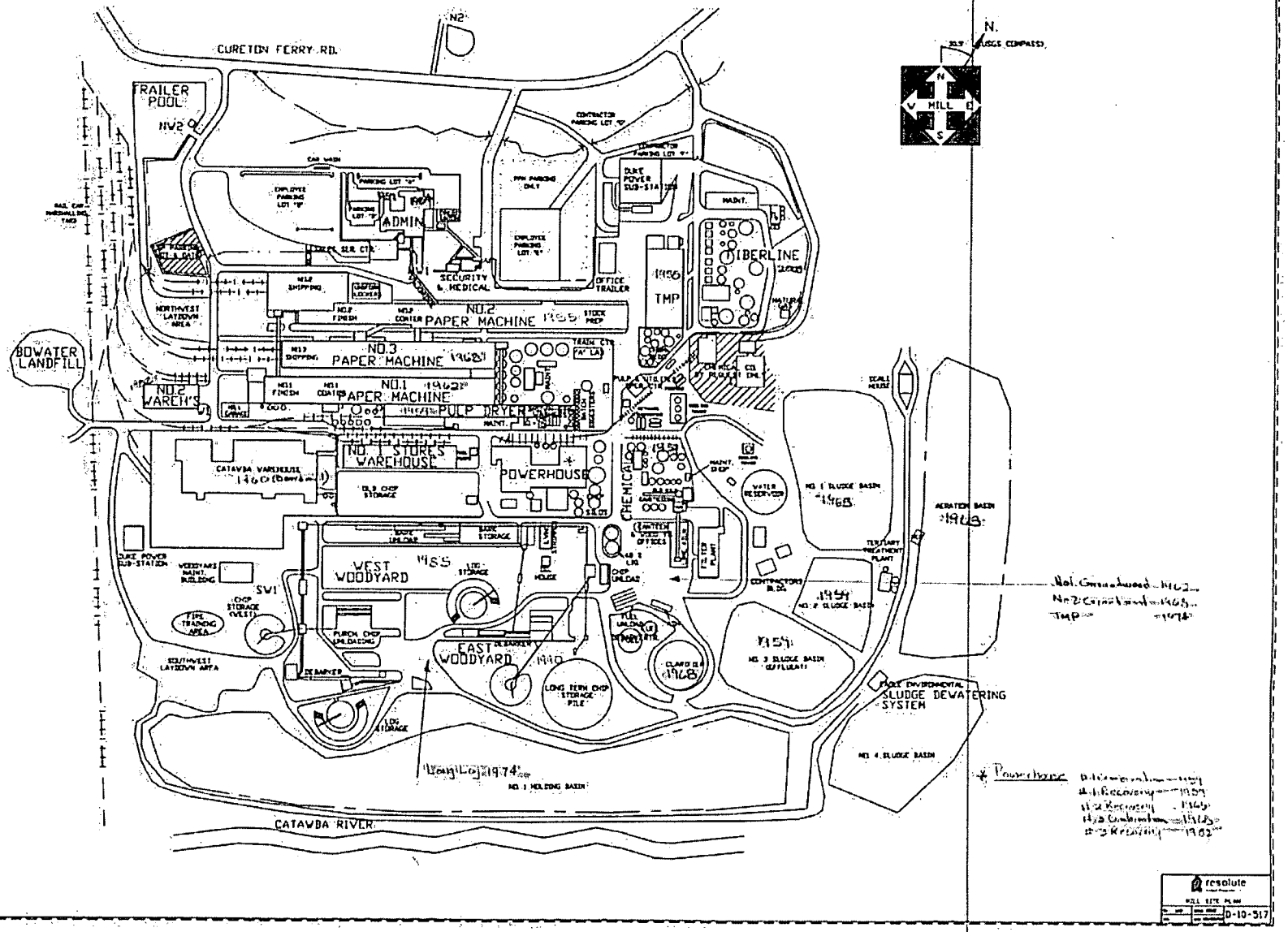
Rec. 839


BUILDING DEMOLISHED W/ PM2 CONST
NO 2 PM (NOT YET CONSTRUCTED)
NO 2 PM (NOT YET CONSTRUCTED)
#1 PM (NOT YET CONSTRUCTED)
1958
D-TYPE PACKAGE
Color Location
Revised between 1982-1984
PLOT PLAN

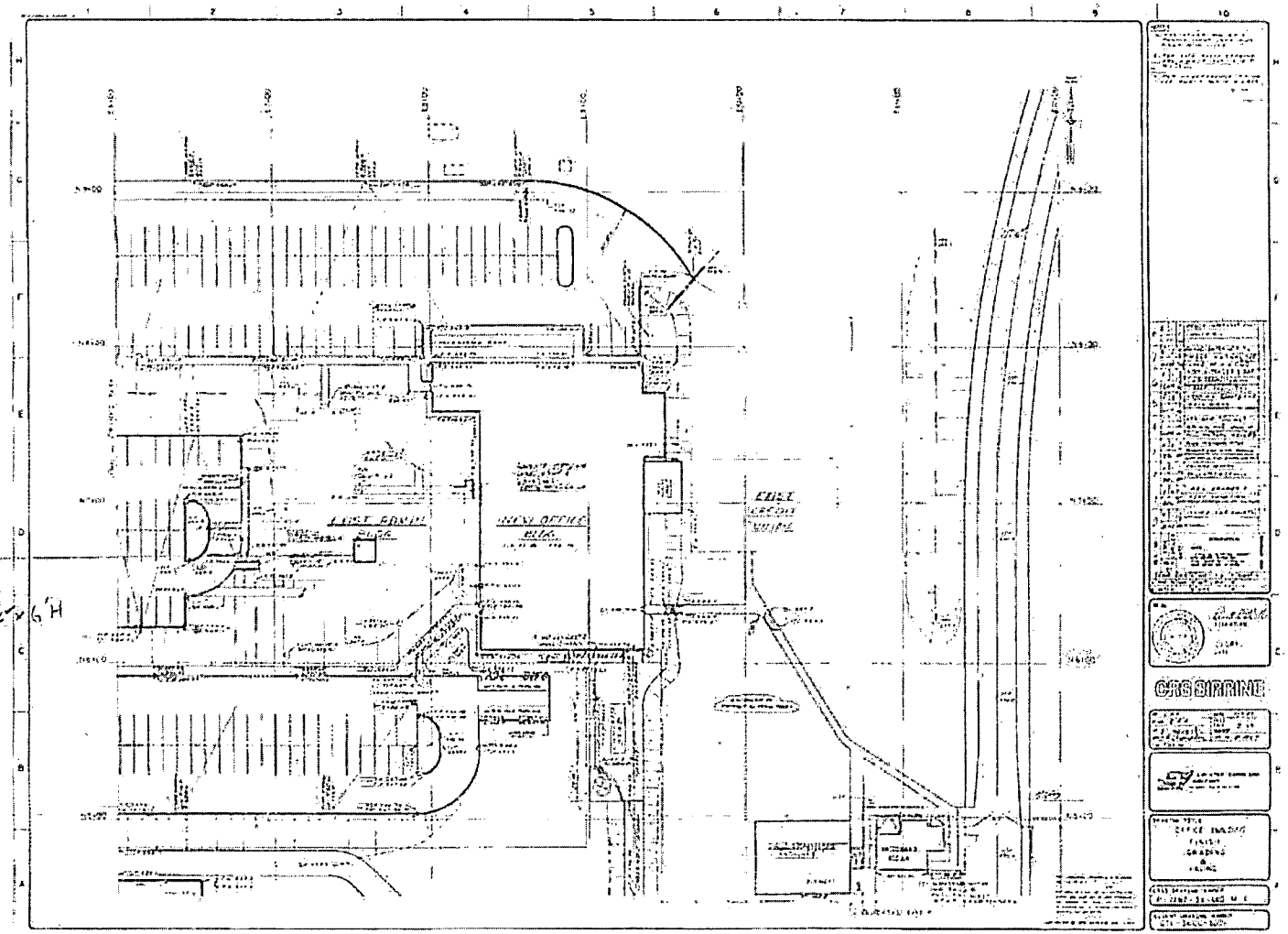
Rec. 840

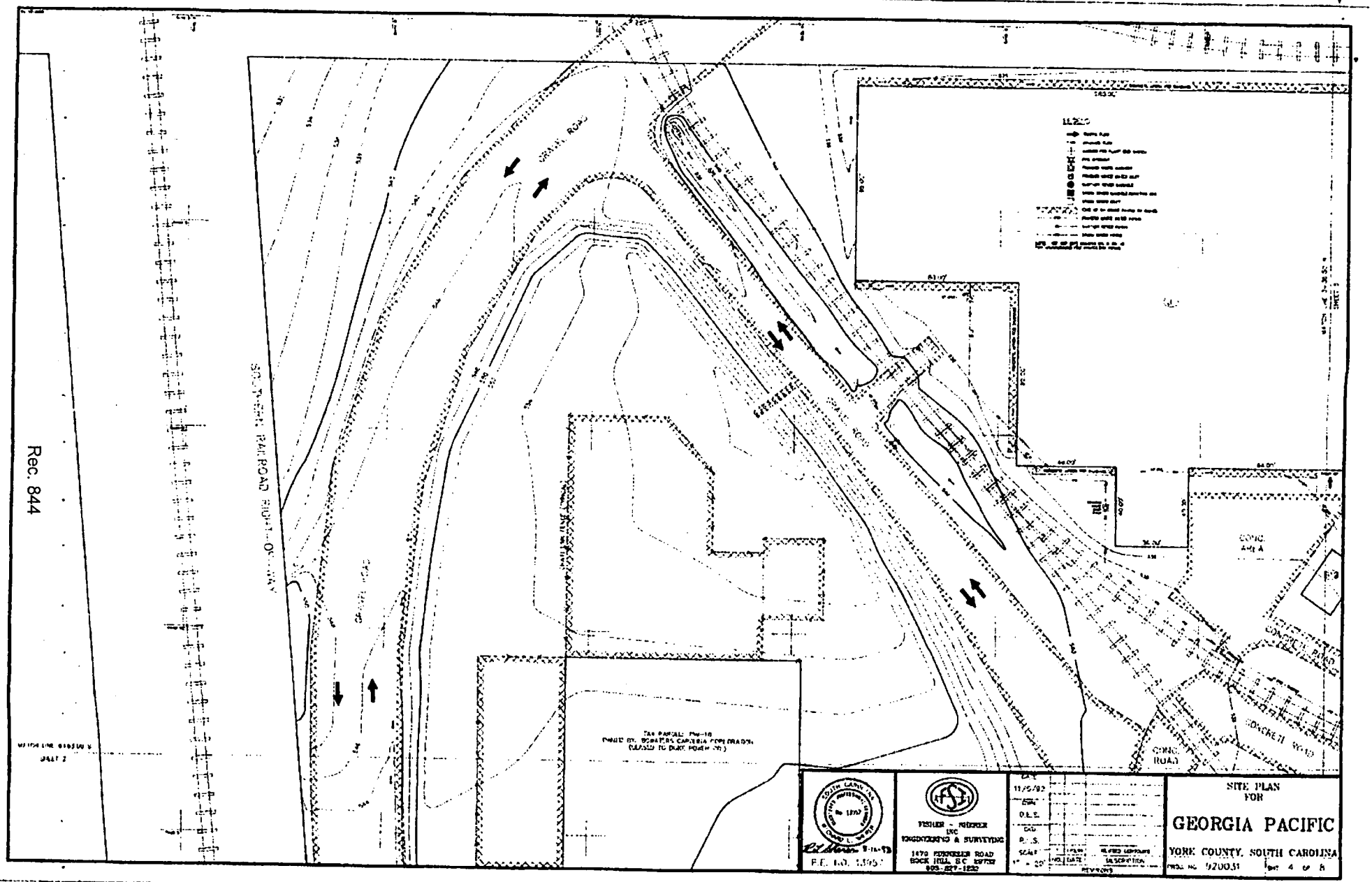

NOTES
LEGEND
RELEASED FOR CONSTRUCTION
YARD & OUTSIDE UNDERGROUND PIPING

Rec. 841


CURETON FERRY RD.
TRAILER POOL
ADMIN
SECURITY & MEDICAL
OFFICE TRAILER
DUKE POWER SUB-STA.
MAINT.
IBERLINE
1956 TMP
NO.2 PAPER MACHINE 1955
NO.3 PAPER MACHINE 1968
NO.1 PAPER MACHINE 1962
PULP DRYER
NO. 1 STORES WAREHOUSE
POWERHOUSE
CHEMICAL
WATER RESERVOIR
NO. 1 SLUDGE BASIN 1968
AERATION BASIN 1968
TERTIARY TREATMENT PLANT
NO. 2 SLUDGE BASIN 1954
NO. 3 SLUDGE BASIN (EFFLUENT)
WEST WOODYARD 1955
EAST WOODYARD 1960
LONG TERM CHIP STORAGE PILE
CLAMP 8 1968
NO. 4 SLUDGE BASIN
SLUDGE DEWATERING SYSTEM
NO. 1 HOLDING BASIN
BOWATER LANDFILL
NO.2 WAREH'S
CATAWBA WAREHOUSE 1960
CATAWBA RIVER
N.
MILL SITE PLAN
D-10-517

Rec. 842


APPROX. LOCATION
FOR ALARM BOILER
PACKAGE SIZE 4'x8'x6'H
CRS SIRRINE

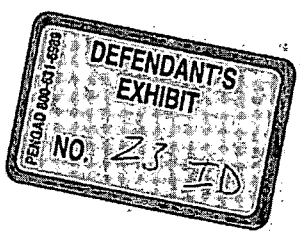

Rec. 844
SEABOARD RAILROAD RIGHT-OF-WAY
GRADE ROAD
GRADE ROAD
GRADE ROAD
CONC. ROAD
CONCRETE ROAD
CONCRETE ROAD
CONC. ROAD
TAX PARCEL 7M-16
OWNED BY: BOWATER CAROLINA CORPORATION
(LEASED TO DUKE POWER CO.)
SITE PLAN
FOR
GEORGIA PACIFIC
YORK COUNTY, SOUTH CAROLINA
FISHER - WHITTLER
INC
ENGINEERING & SURVEYING
1470 FERGUSON ROAD
ROCK HILL, S.C. 29730
803-329-1252
P.E. I.D. 13957
11/5/92
D.E.S.
D.D.
P.L.S.
SCALE
1" = 50'
DATE
DESCRIPTION
REVISIONS
PROJ. NO. 920051
SHT. 4 OF 5

Couch, Ashley L.

From: Kennaday, Tom <TKennaday@TurnerPadget.com>
Sent: Monday, March 12, 2018 9:08 AM
To: O'Neill, Elizabeth; jdean@dobllp.com
Subject: - ResoluteFP Catawba - C-E Package Boiler
Attachments: Combustion Engineering - Shipment Confirmation 091664.pdf; Combustion Engineering - Engineering Drawing Package Cover 090164.pdf; CTE-37ML-1.PDF

EXTERNAL EMAIL: Open Attachments and Links With Caution.

Jessica and Elizabeth,
Attached are documents I received from Art this morning.
Tom



TEL. 688-1911
AREA CODE 203

CABLE ADDRESS: COALBURN
WINDSOR, CONN.

COMBUSTION ENGINEERING, INC.

1000 PROSPECT HILL ROAD
WINDSOR, CONNECTICUT

Address Reply to
CHARLOTTE OFFICE
222 SOUTH CHURCH STREET
CHARLOTTE 2, NORTH CAROLINA

September 1, 1964

BOWATERS CAROLINA CORPORATION
CATAWBA, S. C.
SEP 4 1964
C. H. H... ...R.

Bowaters Carolina Corporation
Catawba,
South Carolina

Attention: Mr. C. H. Hornsby
Chief Engineer

Subject: Shop Assembled, Water Tube Boiler
East Highlands Purchase Order EH-1307
Our Contract 15764

Gentlemen:

We enclose herewith ten (10) prints each of the following contract drawings:

COMBUSTION ENGINEERING, INC.

D-382-105-0	Arrangement of Boiler and F.D. Fan
E-896-659-0	Pressure Parts Arrangement
D-895-011-3	Arrangement of Purge Air Piping
D-895-017-1	Arrangement of Blow-Off Piping
A-141-782-2A	Approved Installation of Safety Valve Discharge Piping
Revision 3	Equipment Summary Sheet

PEABODY ENGINEERING CORPORATION

B-52474	ME-28 Non-Insulated Register
B-48522-A	Type "FPM" Ignitor
B-52475	Oil-Steam & Ignitor Piping
A-52473	Package Burner

DOMBUSTION ENGINEERING,INC.
Charlotte, North Carolina

Drawing A-52473 is in the process of being revised based upon red pencil dimension notations shown on the enclosed prints. Revised drawings incorporating red pencil notations will be forwarded to you as soon as these are received from Peabody Engineering Corporation and checked by our Engineering Department.

Details of the forced draft fan and arrangement of the Bailey pneumatic positioning combustion control system will be forwarded to you as soon as drawings are received from the Clarage Fan Company and Bailey Meter Company.

We also confirm telephone conversation with Mr. M. W. Bates on August 18, 1964 wherein we were advised a 10" steam line schedule 80 with 300 pound flanges will be furnished by the Purchaser.

We acknowledge receipt of your letter of August 28, 1964 with attendant prints of your drawing E-26-21-Piping Arrangement For Package Boiler.

With reference to the writer's telephone conversation with Mr. M. W. Bates on August 31, 1964, we confirm herewith our request for layout prints from you showing the proposed location of the self-supporting stack to be furnished by the Purchaser in relation to lateral tie in from adjacent building steel. Upon receipt of the requested prints, we will forward these prints to our Engineering Department for engineering contract coordination.

Very truly yours,

COMBUSTION ENGINEERING,INC.

Orville E. Heckman, Jr.
District Engineer

OEHJR:DD

Enclosures (As Stated)

cc: Mr. R. B. Rea
General Purchasing Agent
Bowaters Southern Paper Corporation
Calhoun, Tennessee

Mr. L. W. Camplong
Purchasing Agent
Bowaters Carolina Corporation
Catawba, South Carolina

TEL. MURDOCK 8-1911
AREA CODE 203

CABLE ADDRESS: COALBURN
WINDSOR, CONN.

COMBUSTION ENGINEERING, INC.

1000 PROSPECT HILL ROAD
WINDSOR, CONNECTICUT

Address Reply to
BIRMINGHAM OFFICE
14 OFFICE PARK
BIRMINGHAM 13, ALABAMA
P. O. BOX 7586

BOWATER CAROLINA CORP.
ENGINEERING DEPT.
RECEIVED
SEP 18 1964
AM 7,8,9,10,11,12,1,2,3,4,5,6 PM

September 15, 1964

RECEIVED
PURCHASING

mtb
JF 16 24

East Highlands Company
Calhoun, Tennessee

Attention: Mr. R. B. Reid

Subject: Bowaters Carolina Corporation
Shop Assembled Package Boiler
Your Purchase Order No. EH-1307-R
Our Contract 15764

Gentlemen:

Confirming our teletype of last week to you, we herein tabulate the detailed shipping schedule for the equipment and material included in this contract as received in an interoffice communication dated September 9 from our Production Planning Department.

Order No.	Vendor	Material	Expected Ship Date
3452025	Chattanooga Div.	(A) one 25 VP12WR PBA	10-30-64
3452025	Chattanooga Div.	(M) Boiler Base	10-30-64
3452392	Chattanooga Div.	(M) Casing Parts	10-30-64
3452392	Chattanooga Div.	(M) Misc. Parts	10-30-64
3452026	St. Louis Div.	(M) Upper Drum Separators	10-2-64
1402795	Peabody Engr. Co.	(M) Burner & Controls	10-16-64
1402795	Peabody Engr. Co.	(M) Burner Tile	9-18-64
1403010	Clarage Fan Co.	(D) F. D. Fan	10-30-64
1403010	Clarage Fan Co.	(D) F. D. Fan Coupling	9-25-64
1403110	Reliance Elec. & Engr.	(D) F. D. Fan Motor	10-30-64
		(D) Air Duct	10-30-64

The Boiler marked (A) will ship assembled from Chattanooga with those items marked (M) required at our shop for mounting on the Boiler. Items marked (D) will ship direct to the job site in line with the boiler date for field assembly.

M. W. BATES
COPY TO
Messrs. Hair
Hornsby
Nichols
Camplong
DATE 9/18/64

All Engineering is complete except Air Ducts which will be released September 18 and arrangements have been made to assure that this item will be completed in time to meet the required shipping date.

Yours very truly,

COMBUSTION ENGINEERING, INC.

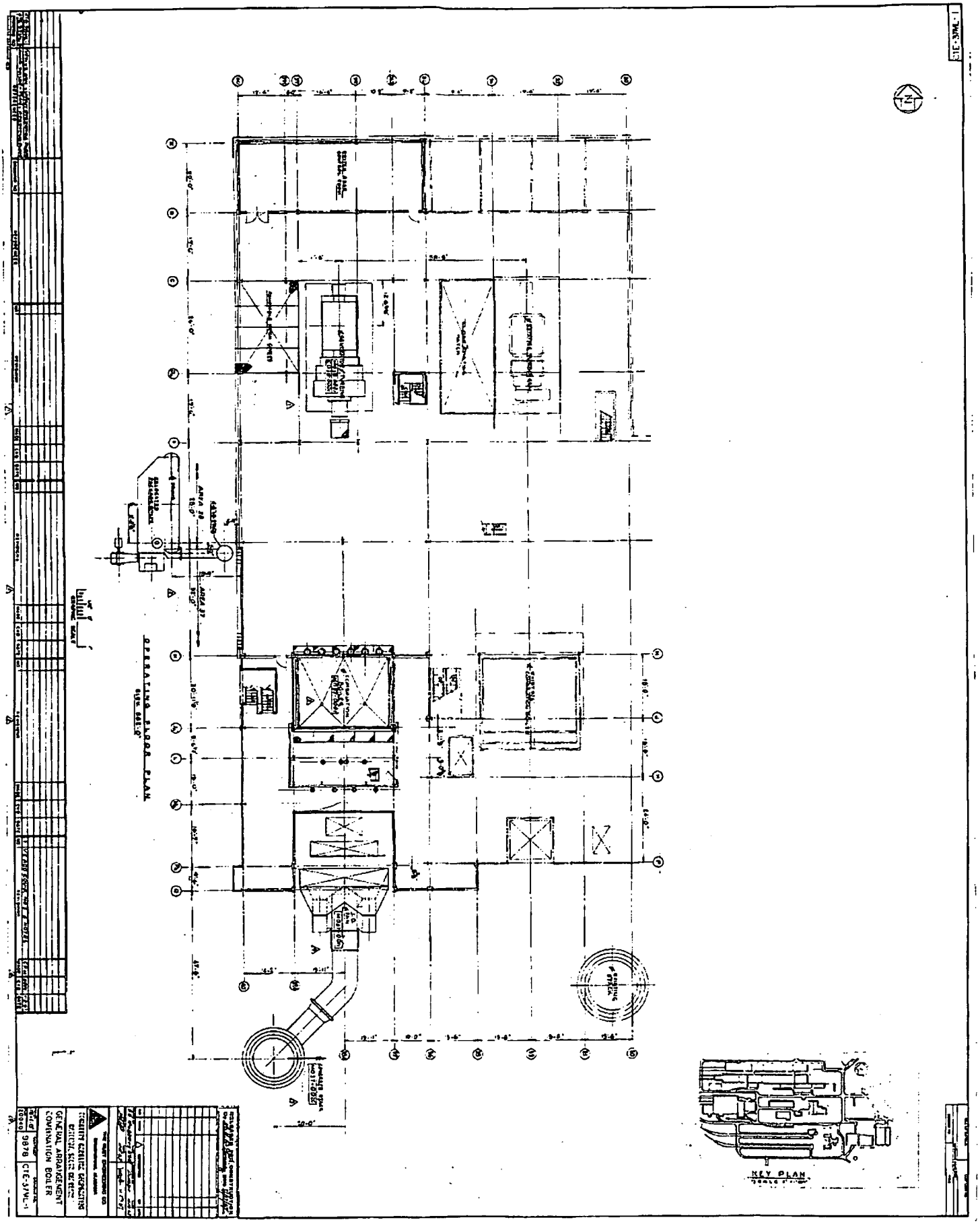
Paul D. Chaffee

Paul D. Chaffee
Sales Engineer

CC: Mr. L. W. Camplong
Bowaters Carolina Corporation
Catawba, South Carolina

PDC/kh

R. B. REID	
Copy To	Date
M. W. Bates	
	9/16/64


OPERATING FLOOR PLAN
KEY PLAN
GENERAL ARRANGEMENT
COMBINATION BOILER

Couch, Ashley L.

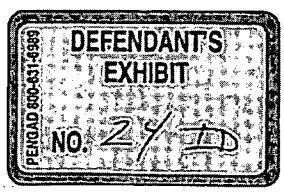
From:	Kennaday, Tom <TKennaday@TurnerPadget.com>
Sent:	Monday, March 12, 2018 8:07 PM
To:	O'Neill, Elizabeth; Jessica Dean
Subject:	Fwd: Resolute Catawba Confidential - Attorney-Client Privilege- Additional Information
Attachments:	Office Building Fire Tube Boiler Purch Order 1961.pdf; kewanee boiler.PDF; Fire Insurance Assoc 031872.pdf; ctd-36M-1100.PDF

EXTERNAL EMAIL: Open Attachments and Links With Caution.

Art found more documents. Call me with your questions.

Tom Kennaday

-------- Original Message --------
Subject: Resolute Catawba Confidential - Attorney-Client Privilege- Additional Information
From: Art.Welker@resolutefp.com
Date: Mar 12, 2018, 7:59 PM
To: "Kennaday, Tom" <TKennaday@TurnerPadget.com>



BOWATERS CAROLINA CORPORATION

A MEMBER OF THE BOWATER ORGANIZATION

PURCHASE ORDER
BC No. 0507 C
ALL INVOICES AND PACKAGES MUST SHOW THIS NUMBER

CATAWBA, SOUTH CAROLINA

Gas Heat Engineering Corporation
P. O. Box 3064
Charlotte 3, North Carolina

M-36-0001

SHIP TO
BOWATERS CAROLINA CORPORATION
Bowaters Construction Store
CATAWBA, SOUTH CAROLINA

INVOICE AND ADDRESS CORRESPONDENCE TO
BOWATERS CAROLINA CORPORATION
ATTENTION PURCHASING DEPARTMENT
CALHOUN, TENNESSEE

Please Furnish the Material Specified Below Subject to the Conditions and Instructions Set Forth on the Face and Reverse Side Hereof.

SHIP	SHIPVIA		DATE OF ORDER
See below	Motor Freight		Nov. 9/61
TERMS	F.O.B.		REQUISITION NO.
Net 30 days	Shipping point, F/A to Catawba, S.C.		20015-36-3, (P
WRITTEN	ACCOUNT	CHECKED	DATE OF REQ.
CLG/mg	20015-36-334.2-0001-03	JDH	Nov. 8/61

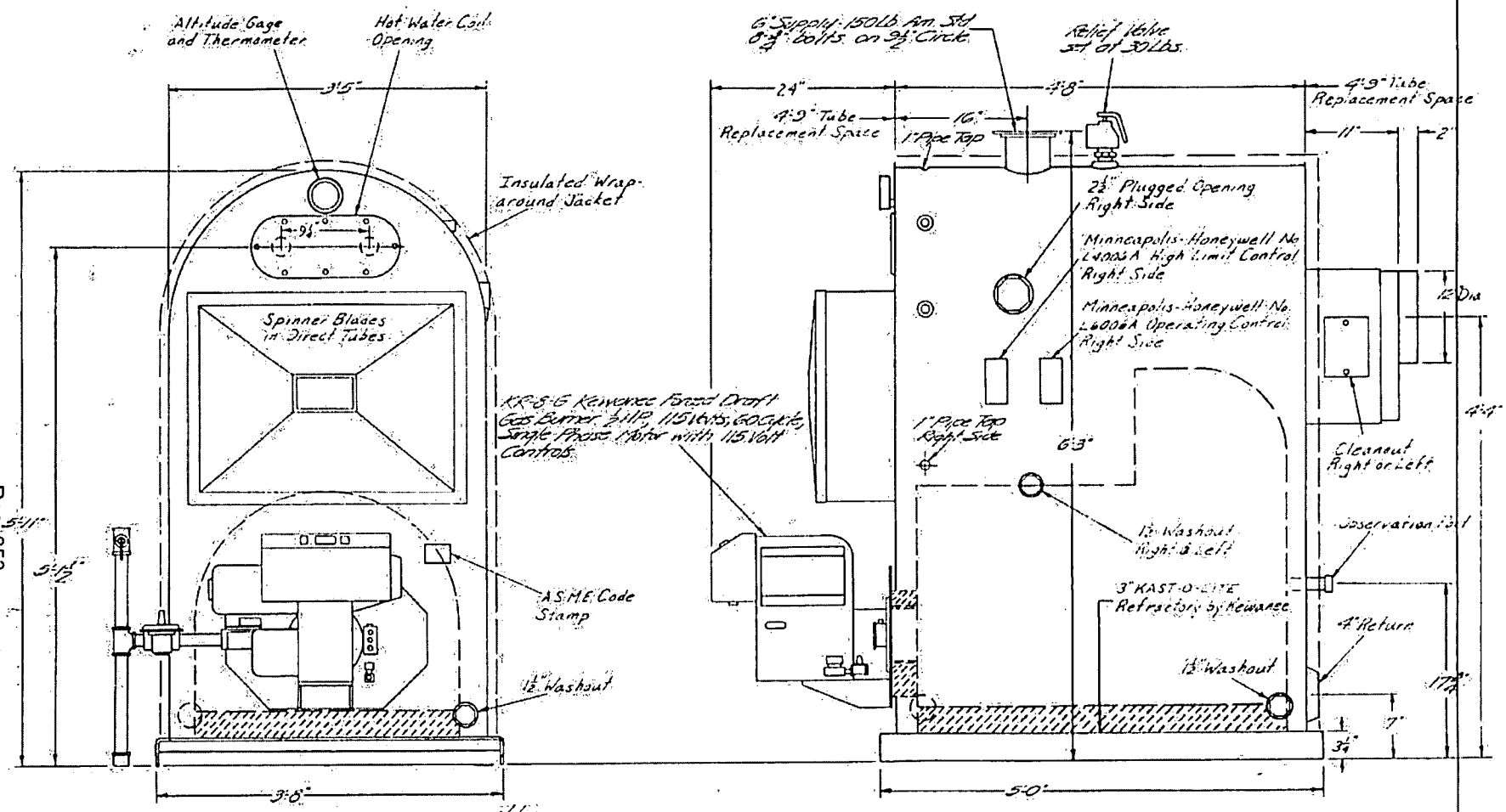
ITEM	QUANTITY	DESCRIPTION	PRICE AND DISCOUNT
		ADMINISTRATION BUILDING BOILER - M36-0001	
1	1	Kewanee Boiler-Burner Unit #3R9-F-G with standard catalog list of equipment and controls, Water trim, low water cut-off, Factory Mutual approved gas safety shut-off valve (automatic reset type). Burner to have capacity to burn 1,575,000 B.T.U.H. but adjusted to burn 800,000 B.T.U.H.	$2,310.00 ea. Firm Price
2		Preliminary and certified drawings, instruction manuals and stiff back parts books are to be furnished in accordance with attached ED-26.	No charge.
3		Drawing schedule ED-24 to be completed and returned immediately.	No charge.
4		A quotation on your recommendation of spare parts to be maintained in our storeroom is to be submitted within one month, per attached form letter.	No charge.
		Please note and reply promptly to attached form letter concerning shipping weights, etc.	
		Material required at Catawba, South Carolina, November 30, 1961.	

RECEIVED VIA	FREIGHT BILL NO.	CAR NO.	COLLECT CHARGES	PREPAID CHARGES	DATE RECEIVED
	Accounts Catawba, S.C.		$		12/6/

(ABOVE MATERIAL RECEIVED IN GOOD CONDITION, EXCEPT AS NOTED HERE)

DISCREPANCY REPORT ATTACHED ☐
CLAIM FOR LOSS OR DAMAGE REPORT ATTACHED ☐

RECEIVED BY
C. L. Cobble



Note:- McDonnell & Miller No. 63-B Low Water Feed Cut-off and Alarm Switch furnished but not piped to boiler by Kewanee

Specifications

A.S.M.E. Code Construction	Welded
Maximum Working Pressure-Water	30 Psi
S.B.I. Net Rating-Water	345 MBH
Gross Output	1260 MBH
Heating Surface	206 Sq. Ft.
Furnace Volume	31.8 Cu. Ft.

SCALE None | B.J. NO | DRAWN L.L.C. | DATE 12-14-61 | CHKD [illegible] | APPD

ALL MACHINED DIMENSIONS TO HAVE A TOLERANCE OF ±.010 UNLESS OTHERWISE SPECIFIED

DO NOT USE FOR CONSTRUCTION UNLESS PRINT IS SIGNED - THIRD ANGLE PROJECTION - USE DIMENSIONS ONLY

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CHANGE | B.J. NO | DRAWN BY | CHKD BY | DATE | PRINT ISSUE CODE

AMERICAN-Standard
INDUSTRIAL DIVISION
KEWANEE BOILER PRODUCTS — KEWANEE, ILLINOIS

DRAWING NO. MB-2244A

DRAWING OF M-3R-G Kewanee Forced Draft Package Unit For Hot Water Gas Fired

Administration Building M-36002

Rec. 853

(SGB. File) File M036-0007-Laboh

FACTORY INSURANCE ASSOCIATION

HARTFORD · CHICAGO · SAN FRANCISCO

COPY

FIELD OFFICE
131 PROVIDENCE ROAD
CHARLOTTE, NORTH CAROLINA 28207
TEL. (704) ED 3-1108

ROWATERS CAROLINA CORPORATION
MAINTENANCE AND ENGINEERING DEPTS.
RECEIVED
MAR 22 1971

March 18, 1971

Gas Heat Engineering Corporation
2150 Hawkins Street
Charlotte, North Carolina 28203

Attention: Mr. Chandler Arndt, Vice President

Gentlemen:

BOWATERS CAROLINA CORPORATION
CATAWBA, SOUTH CAROLINA
FIA FILE NO. F-14788-W

I acknowledge receipt in this office of your Drawing 171-D showing the piping schematic and basic wiring layout for conversion of two boilers at Bowaters Carolina Corporation in Catawba, South Carolina. The boilers in question are:

1. A 30 HP Cleaver-Brooks gas-fired boiler in the Administration Building.

2. A 37.5 HP Kewanee gas-fired boiler in the new Office Building.

I understand you plan to use Minneapolis Honeywell R-4150 flame safeguards on each boiler. The drawings appear to be acceptable to us as shown and are approved without comment.

We are retaining our usual two (2) copies and returning the remaining three (3) to you marked with our stamp of approval subject, of course, to final inspection and tests by a representative of this Association.

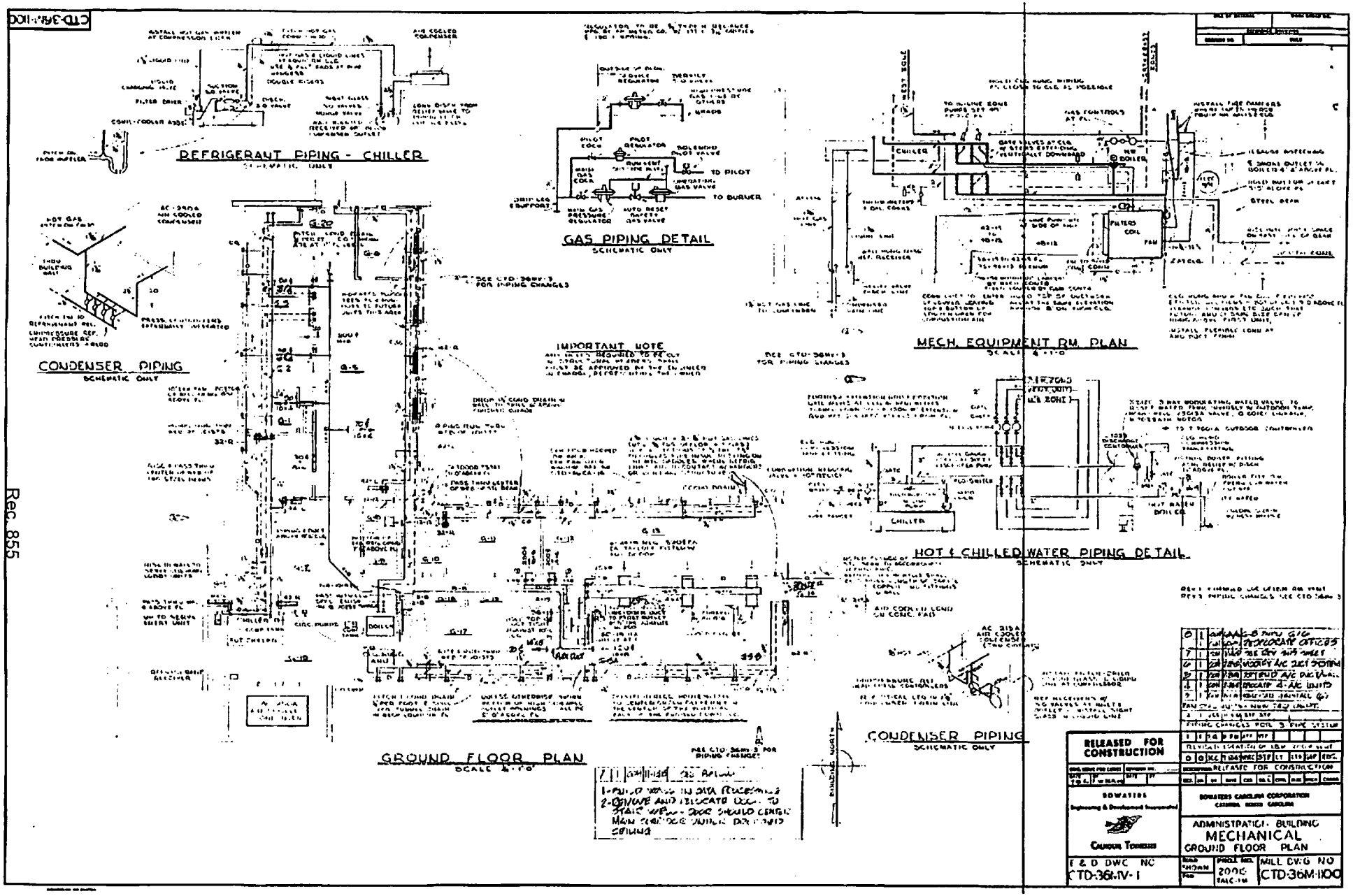
Sincerely,

Sammy G. Blackburn
Engineer

SGB/ja

cc: Irby-Adams-Cates Co., 125 Fulton Fed. Bldg., Atlanta, Ga. 30303
Mr. James G. Cate, Jr., Bowaters Southern Paper Corp. Calhoun, Tenn. 37309
Mr. M. W. Bates, Bowaters, Box 351, Catawba, S. C.

Rec. 854


REFRIGERANT PIPING - CHILLER
SCHEMATIC ONLY
GAS PIPING DETAIL
SCHEMATIC ONLY
MECH. EQUIPMENT RM. PLAN
SCALE 1/4"=1'-0"
CONDENSER PIPING
SCHEMATIC ONLY
IMPORTANT NOTE
HOT & CHILLED WATER PIPING DETAIL
SCHEMATIC ONLY
GROUND FLOOR PLAN
SCALE 1/8"=1'-0"
CONDENSER PIPING
SCHEMATIC ONLY
RELEASED FOR CONSTRUCTION
SOWATEE
Engineering & Development Incorporated
CAUDILL TOWELL
SOWATEE CAROLINA CORPORATION
ADMINISTRATION BUILDING
MECHANICAL
GROUND FLOOR PLAN
F & D DWG NO
CTD-36M-IV-1
MILL DWG NO
CTD-36M-1100

Rec. 855

Couch, Ashley L.

From: Theile McVey <TMcVey@kassellaw.com>
Sent: Thursday, March 15, 2018 9:43 PM
To: Steve Pugh
Cc: O'Neill, Elizabeth; Jessica Dean; Jonathan Holder; Ryan Travis

EXTERNAL EMAIL: Open Attachments and Links With Caution.

If you have any documents that show what was or was not at the Bowater location, please confirm that we already have them and that they have been bates numbered.

Joe previously confirmed that, but with all the craziness of the Bowater production, I want to make sure we have everything. Please confirm. Thanks.

Theile McVey
Kassel McVey
Post Office Box 1476
1330 Laurel Street
Columbia, South Carolina 29202
803.256.4242
tmcvey@kassellaw.com
www.kasselmcvey.com

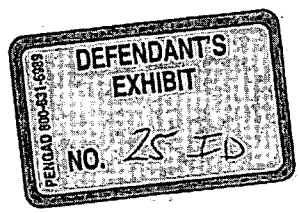
From: Steve Pugh <SPugh@RichardsonPlowden.com>
Sent: Thursday, March 15, 2018 8:21 PM
To: Theile McVey <TMcVey@kassellaw.com>
Cc: O'Neill, Elizabeth (Elizabeth.ONeill@wbd-us.com) <Elizabeth.ONeill@wbd-us.com>; Jessica Dean <jdean@dobllp.com>; Jonathan Holder <jholder@dobllp.com>; Ryan Travis <rtravis@thetrialgroup.com>
Subject: Re: Wayne Grant Page Lines

I don't have the video, so I guess we'll read him in. I'll have updated excerpts in a few minutes. Probably some duplication of yours. I'll make sure what we put together is clean and easy to follow.

HOME VCARD BIO LOCATION

Steven J. Pugh
Attorney at Law
SPugh@RichardsonPlowden.com

Richardson, Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, SC 29201
Tel: 803.576.3721 Fax: 803.779.0016
www.RichardsonPlowden.com



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On Mar 15, 2018, at 8:00 PM, Theile McVey <TMcVey@kassellaw.com> wrote:

> I am going ahead and sending you the page line designations of Wayne Grant. Since he is video, I thought you may want to use him tomorrow.
>
> Pg 89 ln 19 to pg 90 ln 4
> Pg 97 ln 10 to pg 98 ln 23
> Pg 99 ln 5 to pg 100 ln 6
> Pg 105 ln 12 to ln 25
> Pg 109 ln 6 to ln 14
> Pg 118 ln 12 to pg 122 ln 7
> Pg 246 ln 17 to pg 247 ln 21
> Pg 251 ln 8 to pg 252 ln5
> Pg 255 ln 20 to pg 256 ln 9
> Pg 267 ln 23 to pg 268 ln 13
> Pg 353 ln 17 to pg 354 ln 20
>
> Theile McVey
> Kassel McVey
> Post Office Box 1476
> 1330 Laurel Street
> Columbia, South Carolina 29202
> 803.256.4242
> tmcvey@kassellaw.com
> www.kasselmcvey.com

Couch, Ashley L.

From: O'Neill, Elizabeth
Sent: Thursday, March 15, 2018 11:35 PM
To: Jessica Dean; Theile McVey; Jonathan Holder
Cc: Spardone, Stephanie L.; Couch, Ashley L.
Attachments: 2094_001.pdf; 2093_001.pdf

Although we believe that we are not obligated to produce this given that it is evidence obtained directly in response to the arguments in court today regarding unit number 0-18344, Ashley will forward you a link to the documents shortly. They are too big to email.
We would likewise ask you, that if you have any documents that show what was or was not at the Bowater location, please produce them to us tonight.

Elizabeth O'Neill
Partner
Womble Bond Dickinson (US) LLP

d: 704-350-6310
e: Elizabeth.ONeill@wbd-us.com

One Wells Fargo Center
Suite 3500
301 South College Street
Charlotte, NC 28202-6037

WOMBLE BOND DICKINSON

womblebonddickinson.com



Name BOWATERS-CAROLINA CORPORATION

Street Address

City CATAWABA

State SOUTH CAROLINA

Model Number P-723-30S

Unit Number 0-18343

S. O. Number P-1170

C 10-889 A

Rec. 859

Name NATIONAL PROTEIN CORP.

Street Address

City CHAMPAIGN,

State IL.

Formerally:
American Milling & Refin'g.

Model Number CB223-80, 150#

Unit Number 0-18344

S. O. Number 5549 Nov.14,1957

C 10-689 A

Rec. 860

Couch, Ashley L.

From: Couch, Ashley L.
Sent: Thursday, March 15, 2018 11:49 PM
To: O'Neill, Elizabeth
Subject: Howe v. Cleaver Brooks

Hello,
This is a secure message sent to you from Womble Bond Dickinson (US), LLP. To access your secure message, please click the link below.

If this is the first time receiving a secure message from WBD (US),you will be asked to create a password to access this and future secure messages from WBD (US). Your user name will be your email address.

Please note that this secure message and any enclosed attachments will expire 30 days from the date this message is received. If this secure message contains attachments, you will want to download them promptly.

If you have any questions, please contact the sender of this message.

Thank you,

Womble Bond Dickinson (US), LLP

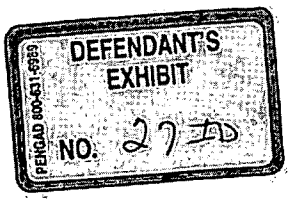
Sender : Ashley.Couch@wbd-us.com
Link : https://download.wbd-us.com/bds/Login.do?id=A0533333277&p1=naj27fcsbgeeeeediilcccjehj20

Sent To : elizabeth.oneill@wbd-us.com; jdean@dobllp.com; jholder@dobllp.com; Stephanie spardone; tmcvey@kassellaw.com Expires : 4/14/18 11:59:59 PM EDT

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Ashley Couch
Paralegal
Womble Bond Dickinson (US) LLP

550 South Main Street
Suite 400
Greenville, SC 29601
d: 864-255-5467
m: 864-906-5459



Couch, Ashley L.

From: O'Neill, Elizabeth
Sent: Thursday, March 15, 2018 11:57 PM
To: Jessica Dean; Theile McVey; Jonathan Holder
Cc: Couch, Ashley L.; Steve Pugh
Subject: RE:

Re-sending to include Pugh. Damn auto-fill.
Please confirm you have received the bizcom link.

From: O'Neill, Elizabeth
Sent: Thursday, March 15, 2018 11:35 PM
To: Jessica Dean; Theile McVey; Jonathan Holder
Cc: Spardone, Stephanie L.; Couch, Ashley L.
Subject:

Although we believe that we are not obligated to produce this given that it is evidence obtained directly in response to the arguments in court today regarding unit number 0-18344, Ashley will forward you a link to the documents shortly. They are too big to email.
We would likewise ask you, that if you have any documents that show what was or was not at the Bowater location, please produce them to us tonight.

Elizabeth O'Neill
Partner
Womble Bond Dickinson (US) LLP

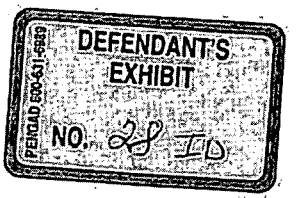
d: 704-350-6310
e: Elizabeth.ONeill@wbd-us.com

One Wells Fargo Center
Suite 3500
301 South College Street
Charlotte, NC 28202-6037

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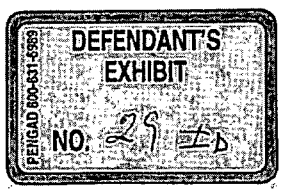
Couch, Ashley L.

From: noreply@wbd-us.com
Sent: Friday, March 16, 2018 12:07 AM
To: Couch, Ashley L.
Subject: tmcvey@kassellaw.com viewed delivery 'Howe v. Cleaver Brooks'

User tmcvey@kassellaw.com <tmcvey@kassellaw.com> performed the following actions:

Viewed delivery : Howe v. Cleaver Brooks
Viewed on : 3/16/18 12:06:44 AM EDT

Delivery sent on : 3/15/18 11:49:00 PM EDT
Package : Howe v. Cleaver Brooks
History : https://download.wbd-us.com/bds/Login.do?did=25700&p1=z9j18uudgibblcbeckkg20



Couch, Ashley L.

From: Jonathan Holder <jholder@dobllp.com>
Sent: Monday, March 19, 2018 2:32 AM
To: O'Neill, Elizabeth; Steve Pugh; Couch, Ashley L.; Gould, Winona
Cc: Theile McVey; Jessica Dean; Ryan Travis (rtravis@thetrialgroup.com); Alex Travis (atravis@thetrialgroup.com)
Subject: Re: Howe v. CB - Revised Howe Designations

EXTERNAL EMAIL: Open Attachments and Links With Caution.

Please find below Plaintiffs' Objections and Counter designations to Cleaver Brooks untimely Fourth Supplemental and Additional Page-Line Designations of **Wayne Howe, Vol. 1-3**:

VOL. 1 - OBJECTIONS:

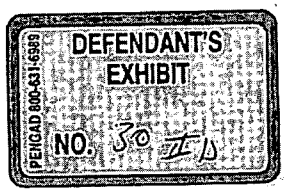
- 72:9-19: Misleading.

VOL. 1 - COUNTER DESIGNATIONS:

- 72:20 – 75:11;
- 75:14 – 16;
- 76:23 – 25;
- 81:02 – 04;

VOL. 2 – OBJECTIONS:

- 40:15 – Improper; designation should end at 40:14.



VOL. 2 – COUNTER DESIGNATIONS:

- 66:25 – 67:05

VOL. 3 – OBJECTIONS:

- None

VOL. 3 – COUNTER DESIGNATIONS:

- 33:17 – 35:07
- 36:05 – 24 (ending at " '57.")

From: Steve Pugh <SPugh@RichardsonPlowden.com>
Date: Sunday, March 18, 2018 at 7:53 PM
To: Jessica Dean <jdean@dobllp.com>
Cc: "Couch, Ashley L." <Ashley.Couch@wbd-us.com>, "O'Neill, Elizabeth" <Elizabeth.ONeill@wbd-us.com>, Theile McVey <TMcVey@kassellaw.com>, Jonathan Holder <jholder@dobllp.com>, Ryan Travis <rtravis@thetrialgroup.com>, Alex Travis <atravis@thetrialgroup.com>, "Gould, Winona" <Winona.Gould@wbd-us.com>
Subject: Re: Howe v. CB - Revised Howe Designations

I'm happy to meet and confer about these read-ins and video (Polk, Howe, Small and Grant) tonight, or, in the morning. Please advise if you want to do so. Thanks.

Sjp

HOME VCARD BIO LOCATION

Steven J. Pugh
Attorney at Law
SPugh@RichardsonPlowden.com

Richardson, Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, SC 29201
Tel: 803.576.3721 Fax: 803.779.0016
www.RichardsonPlowden.com

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On Mar 18, 2018, at 7:49 PM, Jessica Dean <jdean@dobllp.com> wrote:

> Got it. Will try to digest and get objections and counters to you ASAP.
>
> Jessica M. Dean
>
> **Dean | Omar | Branham**
> 302 N. Market St., Suite 300
> Dallas TX 75202
> (214) 722.5994 (direct)
> (214) 476-5210 (cell)
> www.dobllp.com
>
> **From:** "Couch, Ashley L." <Ashley.Couch@wbd-us.com>
> **Date:** Sunday, March 18, 2018 at 7:40 PM
> **To:** Jessica Dean <jdean@dobllp.com>
> **Cc:** "O'Neill, Elizabeth" <Elizabeth.ONeill@wbd-us.com>, "Steve Pugh (SPugh@RichardsonPlowden.com)" <SPugh@RichardsonPlowden.com>, Jessica Dean <jdean@dobllp.com>, Theile McVey <TMcVey@kassellaw.com>, Jonathan Holder <jholder@dobllp.com>, "Ryan Travis (rtravis@thetrialgroup.com)" <rtravis@thetrialgroup.com>, Alex Travis <atravis@thetrialgroup.com>, "Gould, Winona" <Winona.Gould@wbd-us.com>
> **Subject:** Howe v. CB - Revised Howe Designations
>
> Counsel- see below Cleaver Brooks Revised Deposition Designations:
>
> VOLUME 1- JANUARY 20, 2016
>
> **7:22-24*-Re-read for context**

27:15-28:8
28:12-30:6
32:2-24
33: 14-34:4
34:18-25
37:21-39:25
42:15-43:8
72:9-19*
75:17-76:22
77:1-81:1

VOLUME 2 – FEBRUARY 2, 2016

8:3 – 17
16:2 -17:3
18:21 – 19:2*
19:20 – 20:5*
20:6 – 20:15**Plaintiff designation not read at trial
21:10 – 17**
21:18 – 22:2
22:3 – 17**
23:17 – 24**
24:2 – 10
25:24 – 26:4
31:15 – 22**
31:23 – 32:2
32:7 – 33:3
33:21 – 24**
34:9 – 22**
35:3 – 22**
36:11 – 37:5**
37:6 – 38:2
38:3 – 39:18**
40:8 – 15**
55:15 – 56:6**
56:23 – 57:4**
57:19 – 58:5**
58:10 – 23**
59:2 – 6
59:7 – 25*
60:1 – 16
60:17 – 61:4**
61:5 – 17
63:9 – 24
66:2-24**
68:4-9
68:10-15**
77:10 - 16**

VOLUME 3 – FEBRUARY 3, 2016

12:5 – 11

12:22 – 13:11
13:17 – 15:9
16:10 – 12
16:16 – 17:23
18:1 – 14
19:18 – 22:18
23:15 – 22
24:6 – 27:16
28:18 – 29:17
35:8 – 17*
35:18 – 21
36:1 – 4
38:11-16
42:16 – 43:3
43:19 – 31
63:1 – 65:2
65:16 - 66:4
67:13 – 68:23
82:8 – 14
83:10 – 21
87:3 – 11
89:12 – 90:12
93:13 – 94:10
99:11 – 100:4

Ashley Couch
Paralegal
Womble Bond Dickinson (US) LLP

d: 864-255-5467
m: 864-906-5459
e: Ashley.Couch@wbd-us.com

550 South Main Street
Suite 400
Greenville, SC 29601

<image001.png>

womblebonddickinson.com

<image002.png> <image003.png> <image004.png>

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