In The Matter Of:
IN RE: ASARCO LLC, ET AL v.

PERRELL, WILLIAM
November 19, 2012

MERRILL CORPORATION
LegaLink, Inc.
2100 Third Avenue North
Suite 960
Birmingham, AL 35203
Phone: 205.251.4200
Fax: 205.252.5644

IN THE UNITED STATES BANKRUPTCY COURT

OF THE SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

In re:	§	Case No. 05-21207
	§	
ASARCO LLC, et al.,	§	Chapter 11
	§	
Debtors	§	Jointly Administered
	§	

VIDEOTAPED DEPOSITION OF:

WILLIAM PERRELL

November 19, 2012

2:30 p.m.

Bradley, Arant, Boult & Cummings

1819 5th Avenue North

Birmingham, Alabama 35203

BEFORE:

LISA BAILEY, COMMISSIONER

ACCR # 289

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

ATTORNEYS FOR THE ASARCO ASBESTOS PERSONAL INJURY SETTLEMENT TRUST:

JACOB L. NEWTON
SANDER L. ESSERMAN (via telephone)
Attorneys at Law
Stutzman, Bromberg, Esserman & Plifka
2323 Bryan Street, Suite 2200
Dallas, Texas 75201-2689
newton@sbep-law.com

KENNETH R. MEYER
Attorney at Law
Porzio, Bromberg & Newman
100 Southgate Parkway
Morristown, New Jersey 07962-1997
krmeyer@pbnlaw.com

ALSO PRESENT:
TOM WODTKE, Videographer

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(Proceedings began, 02:32 p.m.)

(Deposition Exhibit Numbers 1-8 were marked for identification.)

THE VIDEOGRAPHER: This begins videotape number one in the deposition of William Perrell, in reference, ASARCO, LLC, et al., Case Number 05-21207.

We're on the record at 2:32 p.m. on November 19, 2012. The deposition is taking place at the offices of Bradley, Arant, 1819 Fifth Avenue North, Birmingham, Alabama. The videographer is Tom Wodtke.

Would counsel please introduce yourselves and state whom you represent.

MR. MEYER: Kenneth R. Meyer, from Porzio, Bromberg, and Newman in Morristown, New Jersey representing the trustees of the ASARCO Asbestos Personal Injury Settlement Trust.

MR. NEWTON: Jacob Newton, from Stutzman, Bromberg, Esserman & Plifka here on behalf of the trust.

Sandy Esserman on the phone also

representing the trust.

MR. MEYER: The witness' name is Bill Perrell.

THE VIDEOGRAPHER: I'm sorry. Would the reporter please swear in said witness.

WILLIAM PERRELL,

Being first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. MEYER:

Q. Hello, Bill.

A. Hi, Ken.

Q. Just as a matter of housekeeping we marked several exhibits, and I'm going to reference some of them now. Some we'll go over with Bill and some we will not. But Exhibit --

MR. MEYER: Sandy, is that you? Are you back?

MR. Esserman: Yeah, I got cut off.

BY MR. MEYER:

Q. Exhibit 1 is an affidavit from me dated November 16, 2012 which essentially describes the process through which our firm and Jake Newton's

firm Stutzman, Bromberg, Esserman, and Plifka, drafted and redrafted and revised the CAPCO Institutional Memory Project Memo which has been designated as Exhibit 2. There are numerous exhibits to my affidavit, which are numbered Exhibit 1A through 1G.

And just for the record I'll run through what those are. 1A is an exhibit which is an affidavit of my partner, Roy Cohen, who was involved, as was I, in representing CAPCO through the mid '80s and on in asbestos litigation. And that affidavit describes the original process by which the CAPCO Institutional Memory Project Memo was drafted. Exhibits 1B and 1C are CAPCO sales records that are summarized in binders. We'll talk about those in the deposition. Those summaries were taken from something called CAPCO customer cards. Examples of which have been marked Exhibits 9, 10, and 11.

Exhibits 1D and 1E are two large binders that contain printouts from a database that documents CAPCO sales by ship to, organized by the entity to which the sales were shipped. And that

database runs from 1987 through 1994. Exhibit 1F is a disk that contains the database of CAPCO sales, asbestos cement pipe sales from '87 through '94. And 1G is a list of fields that are contained in that database.

The rest of the exhibits I'll discuss as we go through the deposition.

So with that, Bill, let's just sort of go through the usual background type information that we do in these depositions. And fill us in, if you would, on your education and other professional background up until the time that you arrived at CAPCO.

A. I attended engineering school in Memphis, Tennessee at Christian Brothers College which is now Christian Brothers University. At the same time I was in flight school where I obtained a commercial pilot's license.

After joining CAPCO I attended several American Water Works schools, American Management schools which involved in sales management and selling and the law and the district sales managers. I attended various schools throughout

the time at CAPCO.

Q. So let's talk about your time at CAPCO. Can you just run through chronologically when you began and what various jobs you had and what responsibilities came with those jobs?

A. I joined CAPCO August 1st 1965 as a sales representative headquartered in Memphis, Tennessee. I was one of the original five salesmen that was hired by CAPCO when they established the company.

As our sales grew I became an area sales manager and hired salesmen to work the territory that I previously worked and expanded our territory into western. My first territory was west Tennessee, western Kentucky, and the state of Mississippi and the state of Arkansas. We had five salesmen that were scattered around the Southeast. I was the most western salesperson.

Then as we added salesmen, again, I said we were area sales managers. Then I was appointed assistant general sales manager. And then in 1974 when ASARCO took sole ownership of CAPCO, I was appointed general sales manager and then July of

'75 transferred to headquarters in Birmingham, Alabama.

I headed up the sales force from '75 to '80. In 1980 I was named vice president of sales and continued to manage all the sales in the United States for CAPCO. And we increased our sales from the five original salesmen to 18 sales representatives, plus we marketed our pipe through Water Works distribution houses that were scattered around the United States.

Q. When did you stop -- cease to be an employee of CAPCO? Which I know is kind of a loaded question because there's activity beyond that.

A. Yeah. Well, what happened CAPCO was sold to the Westlake Corporation August 23rd, 1994. I was asked at that time by ASARCO to stay and not go with the new company which I agreed to. At that time I established a one-man CAPCO office in Birmingham, Alabama. And for -- and from '94 to July of '95 I also consulted with the new company as their marketing manager to help them in the transition.

And I stayed with CAPCO until I retired February 28th of 1997 and at that point continued in a consulting capacity with CAPCO, slash, ASARCO. And I stayed in that capacity until 2009 when ASARCO came out of bankruptcy. And they were sold to Westlake.

But since then, I've been called on occasions like this to consult with the attorneys on matters involved in the asbestos cases.

Q. At the time -- as you testified CAPCO was sold to Westlake. Was CAPCO still in the asbestos cement pipe business?

A. No. CAPCO ceased production on asbestos cement pipe in September of 1993.

Q. I know I'm getting the cart a little bit before the horse. But I want to make sure this record is clear on this point. So would it be accurate then to state that at the time Westlake acquired CAPCO -- and I use that term not in the legal sense -- but really what happened was that Westlake acquired PVC assets of CAPCO?

A. They acquired just the PVC assets. The A/C production had been stopped.

Q. Would you tell us what the business of CAPCO was?

A. CAPCO manufactured asbestos cement pipe, which is a nonmetallic pipe used for distribution in the water works industry. And they also produced some sewer pipe. But it's a nonmetallic pipe which is the alternative to cast iron or ductal iron pipe for municipal and rural water systems. It became very popular during World War II with the shortage of metal pipe because of the war effort. And at that time there was Johns-Manville, CertainTeed and Flintkote, were in the business. And we were the fourth company that joined the industry.

Q. And that was in '65?

A. 1965.

Q. Did CAPCO expand its product line beyond A/C pipe?

A. No. We manufactured only asbestos cement pipe and asbestos cement sewer pipe.

Q. Did CAPCO also manufacture PVC pipe at a time?

A. Yes, we sold other people's PVC pipe in

our first years, '65 to '70. In 1970 we established a new plant in Van Buren, Arkansas which manufactured asbestos pipe and PVC pipe. This was our first entry into the CAPCO owned PVC pipe.

Q. And the initial plant was in Ragland, Alabama?

A. The initial A/C plant was in Ragland, Alabama, which is about 40 miles east of Birmingham.

Q. Did the Ragland plant ever make anything other than asbestos cement pipe?

A. No. They only made A/C pipe.

Q. Could you take us, if you would, Bill, through the corporate history of CAPCO?

A. CAPCO or Cement Asbestos Products Company was formed in -- incorporated in 1963. And they were a joint venture between Woodward Iron Company which was a big company here in Birmingham, had 23 divisions. They were a very big ductal and cast iron and soil pipe producers.

Mr. William Bond was the president of Woodward Iron Company. He also sat on the board of

directors for ASARCO. So in joint meetings with ASARCO, they decided to get into the distribution system which was gaining strength in the rural water markets and the municipal markets with asbestos cement pipe. So they formed a joint venture of 60 percent owned by Woodward Iron and 40 percent owned by ASARCO.

ASARCO's interest was that they owned the asbestos mines in Quebec, Canada. And Woodward Iron owned National Cement Company here in the Birmingham area. That's why the Ragland plant was built adjacent to National Cement Company in Ragland, Alabama. The thinking was that they could blow pipe -- blow the cement mix over to the plant. And that was the -- the history between CAPCO and Woodward, history with Woodward Iron and ASARCO.

Then as the market grew we would produce 35,000 tons of A/C pipe in the Ragland, Alabama plant. And the market grew and CAPCO grew with it. And the decision was made to build a plant west of the Mississippi River. At that time ASARCO was on board with that, but they wanted a little

more of the percentages so they increased the percent from 49 percent ASARCO to 51 percent Woodward Iron.

The plant then was built in Van Buren, Arkansas to expand our markets into the West as far as the West Coast. Our primary markets right in the early '70s were Texas and the Southwest. And we did progress further south into the Rocky Mountain area and into the West Coast market.

Then in 1974 CAPCO became a solely owned company of ASARCO, a division of ASARCO, subsidiary of ASARCO. And that was at the time that I transferred to Birmingham, Alabama. And ASARCO became our full ownership partner, parent company.

Q. Did the name of the company change over time?

A. Yes. We started out as Cement Asbestos Product Company. But right away we shortened it to CAPCO. It was just a mouthful. Just as Johns-Manville was called JM. We were referred to early on as CAPCO. And then in 1980 our name was changed from Cement Asbestos Products Company to CAPCO Pipe Company.

Q. Could you talk a little bit, if you would, about the PVC end of the business, what plants ASARCO had that made PVC?

A. Well, the reason we got into the PVC business was our competitors are CertainTeed produce A/C pipe and PVC pipe, packaged it. Johns-Manville produced A/C pipe and PVC pipe, and they packaged it.

We had to have the same package to offer to customers that JM and CertainTeed would have. So prior to owning our own we did market other companies' PVC pipe to package with our A/C pipe. Then when we built our own plant in Van Buren, we also acquired a plant in Evansville, Indiana, a PVC pipe plant, and also a PVC pipe plant in Litchfield, Illinois. So we ended up with the two A/C pipe plants and the three PVC pipe plants.

MR. NEWTON: Just to clarify, you said PVC plants that ASARCO had. You meant plants that CAPCO --

MR. MEYER: I'm sorry. I meant, CAPCO had, I apologize. Yes.

MR. NEWTON: I just wanted the record --

A. They were CAPCO owned PVC pipe plants.

Q. When the sales of PVC assets was made to Westlake in 1994, which plants were still in operation as part of that sale?

A. When the sale took place on August 23rd 1994, the Van Buren plant was producing PVC pipe, Evansville and Litchfield were producing PVC pipe. They wanted the three PVC plants. They had no interest in the asbestos cement pipe business. Westlake were a very large PVC pipe company in this country and also in Taiwan, and they were very big in raw material of PVC.

Q. When did CAPCO stop manufacturing asbestos cement pipe?

A. We produced our last asbestos cement pipe in September of 1993.

Q. And when did the last sales of asbestos cement pipe take place?

A. The last sales took place in 1993, and there could have been some small sales. They were out of inventory on into the first part of January, February '94. But the main shipments were shipped out in 1993.

Q. And while it's not our purpose to really ask questions about PVC, just sort of one little area of inquiry. Can you tell us about with respect to the three CAPCO plants that made PVC pipe, how far typically would the sales be made? What was the distribution -- the area of distribution for those three plants?

A. It was possibly that -- you could not ship PVC too far because it was freight sensitive. So 3 to 400 miles was maximum that you would market your pipe from a given plant.

Q. Over the course of the last couple of months we spent a fair amount of time talking back and forth between -- you and I and Jake and I, in an effort to finalize for the purposes of this proceeding, what we've called the CAPCO Institutional Memory Project Memo which we've marked as Exhibit 2. Is this a document that you've read, read more than once?

A. Yes, I've read it several times.

Q. And you were involved in editing and drafting, correcting, authenticating and validating that document?

A. Yes, I did. I edited it and returned it back to your office, and this is the final version here.

Q. And is that a document that you're satisfied is, in fact, authentic and accurate?

A. Yes.

Q. Is the information in that document based upon your personal knowledge and your review of documents and interactions between you and our firm with respect to documents that we have and reviewed?

A. Yes, it is.

Q. As part of that document then, an exhibit to that document, we have a number of different sales records. And I just want to get into more detail on these later. For example, 1B which says CAPCO Sales Volume One, is that a document with which you're familiar?

A. Yes, it is.

Q. And were you involved also in putting together the information in that document?

A. Yes, I am.

Q. What role did you play in that record?

A. I worked very closely with your office in reviewing documents that you sent -- sent documents back and forth and corrected and edited. But I'm very familiar with everything that we put in here.

Q. Are you satisfied that the contents of Exhibits 1B and 1C are true and accurate to the extent that the underlying records support them?

A. Yes, I am.

Q. And some of the information in that is also information that you put together by virtue of your personal knowledge too, correct?

A. Yes, it is.

Q. We'll get back to this later when we're talking more about sales.

Let's talk a little bit now, if you could, about -- let me ask you something first. Did CAPCO have registered trademarks?

A. Yes, they had -- the name Permaflex was one of them. Of course registered CAPCO, the logo CAPCO. But the Permaflex was the name of our gasket. Our gaskets were manufactured by a division of Woodward Iron Company called Murray

Rubber Company in Houston, Texas. And they're a synthetic rubber, SBR rubber, which is styrene butadiene rubber. And they were manufactured originally just by Murray. And then when Murray was sold, we went on the open market and bought from two or three other manufacturers, but they still used our molds and made the gaskets just for us.

Q. What function did the gasket serve?

A. Well, asbestos cement pipe is manufactured at a single length of 13 foot pipe. And couplings join it made out of the same material as the pipe, asbestos cement. And the coupling has two grooves for gaskets, and one coupling is installed at the factory. And the gasket for the other side of that coupling is shipped on to the job site with the pipe in burlap bags and also lubricant to lubricate the gasket when it's assembled in the field.

Q. Did the Permaflex gaskets contain asbestos?

A. No.

Q. CAPCO -- one of the products CAPCO

manufactured was asbestos cement underground water pressure pipe, correct?

A. Yes.

Q. Can you describe what that is and what the process was in manufacturing it?

A. Well, we manufactured three classes of asbestos cement water pipe; class 100, class 150, and class 200. And those are test pressures. The predominant pipe class that's used in the United States Municipal Water Systems was class 150. That means it would work with an operating pressure up to 150 psi. The pipe is tested at three and a half times its working pressure. So a class 150 pipe would be tested at 525 psi. Every single joint of pipe is tested before it leaves the factory.

The class 100 was for systems that might have a lower pressure system. The class 200 would be for systems where you get higher pressures which would be maybe in the mountainous areas where you would have a fluctuation of pressures from the terrain.

Q. How is that pressure testing done?

A. It would be by water pressure would be

pumped into the pipe and be sealed at both ends. And it would be taken to 525 psi, if that was the test pressure for 150, and held for three seconds. If it did not make that, the pipe would burst right there in the factory. So every single piece of pipe that was shipped out of the plant, Ragland and Van Buren, passed the required ASTM and AWWA pressure test.

Q. What use was the CAPCO underground water pressure pipe, A/C water pressure pipe, put to?

A. What use?

Q. Yes.

A. Mostly distribution systems in a city. But also in rural water systems, one reason that A/C became so popular is the Farmers' Home Administration decided that everyone should have good clean water throughout the country, not only the cities. So they instituted a loan program through the federal government where they finance county water systems there. It would be not unusual to have one hundred miles of A/C pipe in one order. It was a nice order. But it was a good order.

But the idea was to -- all the rural areas should have the same benefits of fresh water as their city cousins.

Q. Was that a government program?

A. Yes, it was Farmers Home Administration, financed by them, and they were loans to the different counties.

Q. Were there particular geographic areas where that was more common than others?

A. The Midwest -- the biggest areas that we sold in was Mississippi. And we sold up in the Dakotas, up in Nebraska. It was rural farm areas predominantly that benefited from the Farmers Home Program. But even a small -- a small community could apply for a Farmers Home Loan. Like, for instance, small cities throughout the South would be financed. Their water systems could be financed by the Farmers Home Administration. They would be distribution systems with fire protection.

Q. What different sizes did the CAPCO's A/C water pressure pipe come in?

A. At the Ragland facility we manufactured four inch, six inch, eight inch, ten inch, 12 inch,

16 inch. And at the Van Buren, Arkansas plant we added to those diameters. We added the 18, 20, and 24 inch distribution pipe.

Q. We hear about underground water pressure pipe that's transmission pipe and distribution pipe. What's the difference between those two?

A. Well, the difference, the distribution pipe as we talked about is for municipal water systems, cities such as Houston, San Antonio, various cities, Denver. But transmission pipe was a different kind of asbestos cement pipe. It's called "T pipe." And that's for the transmission. And that means to take water from point A to point B with no connections along the way. And this was used primarily by the Bureau of Reclamation in the West in the Indian reservations and to all the public lands in the West that they would put irrigation water to.

A lot of times these systems would be shut down during the winter. And the reason you would have the different classifications, we would go from a T-30, and again that would designate the test pressure, T-35, T-40, on up to a T-90, and it

would be not uncommon for one project of T pipe to have several classifications of T pipe going from A to B depending on the terrain.

So the Bureau of Reclamation designed their own projects. And they were very conscientious cost-wise. And if they could use a T-30 or a T-35 pipe, they would. But if they were going up hills or down hills in the mountains in Colorado, for instance, they could end up using T-60 or T-70, which would be higher pressures they would encounter in the valleys.

Q. What was the Bureau of Reclamation?

A. The Bureau of Reclamation is an agency of the federal government that furnished the water projects in the Western states; in Arizona, Colorado, Utah, where most -- their bigger projects. They would also be up in the Midwest. They would go up in Montana. They would go to Wyoming. But Denver and Arizona were probably the biggest Bureau of Reclamation markets.

Q. And CAPCO sold to those markets?

A. Yes. The Bureau was one of the largest A/C customers in the United States.

Q. And CAPCO made both transmission and distribution pipe?

A. Yes, we did.

Q. Did CAPCO make pipe that would run from a line in the street to a house?

A. No.

Q. Could you explain why CAPCO's pipe could not be used for that purpose?

A. That would be a house connection pipe. It would normally be a three-quarter inch. It could go up if it was an apartment complex to an inch and a half. It was usually a PVC or a polyethylene or a copper pipe. It would take off from the main line of the asbestos cement pipe through what's called a "corporation cock," which would tap into the pipe, and connect the service pipe. And that's what that pipe was called. It's called a service pipe because it serves the house. So we did not furnish that at all. We take the pipe through the street, and a plumbing contractor then would connect from our pipe to the house through the service pipe.

Q. We talked just a little bit about the

market share that CAPCO had in the underground water pressure pipe. And I think Exhibit 2 discusses that topic on pages, I think, six or seven. Could you either with the help of that or not give us an idea of what type of market share CAPCO had in the underground water pressure pipe?

A. Well, in the early years we had maybe 10, 12 percent of the market. Johns-Manville had the largest share. They had the most manufacturing facilities. They would maybe enjoy 60 percent of the market. We would enjoy maybe 10 or 11 percent of the market with our one plant in Alabama in our early years. There was another small manufacturer, Flintkote, that also shared about 10 percent of the market. They were a licensee of Johns-Manville.

Q. And when you say early years, what general time frame?

A. From '60 to '70 where we had just the one plant capacity which was just 35,000 ton max of A/C pipe production.

Q. And how did the market share just in general terms shift from that time forward?

A. Well, when we built the plant in Van

Buren, Arkansas we now had the capacity for 50,000 tons of pipe. And we expanded our market west. And the CAPCO name was getting more and more recognized throughout the market in the water works industry. We became an accepted supplier. And we through the first years we obtained all the required specifications and authorizations from the federal government. And so we were an equal as Johns-Manville would not like to say -- but we were an equal supplier to Johns-Manville and CertainTeed and Flintkote in the market, the water works market. We were members of the American Water Works Association which was referred to as AWWA. And we were members of the ASTM, American Testing of Standard Materials. [sic]

So we were a player in the market, and we made a very safe, very good product.

Q. I want to show you Exhibit 3, Bill, which is a document that appears to me anyway to be a CAPCO document and ask you if that's a document that you recognize.

A. Yes.

Q. And does that document discuss CAPCO's

percent of the pressure pipe market?

A. Yes. Yes, this is -- this was produced in-house by CAPCO. And it shows our production through the years from '68 through 1974. And of course in our very first years we started out 5 or 6 percent of the market. And by '74 we were 11 percent of the market, and I think later on in the '80s we ended up with 20 percent of the asbestos cement pipe market.

Q. There was a time when CAPCO was the sole manufacturer in the United States of asbestos cement pipe?

A. Yes.

Q. Can you just tell us sort of when the companies went out of business and CAPCO's shares, therefore, increased?

A. Sure. Flintkote was the first to shut down. Again, they were a licensee of Johns-Manville. And they were located in Raveena, Ohio. And they had one machine producing 13 foot asbestos cement pipe. They shut down, again, in '76.

Then as the market changed over the

years, the various plants were being encroached by PVC pipe, ductal iron pipe, produced a very thin wall ductal iron which became more competitive with our larger diameter asbestos cement pipe.

Long Beach, Johns-Manville closed their Long Beach, California plant in the early '80s. They closed their Stockton, California plant in the '80s. CertainTeed started closing plants. In Ambler, Pennsylvania they had a plant that closed. Johns-Manville closed Manville, New Jersey. And as these plants closed, we were determined to keep our A/C plants operating and keep our market alive. And we moved into these territories. And as a distributor who was solely a Johns-Manville distributor -- for instance, in New Jersey, Brent Material in East Orange [sic], New Jersey would contact us and say, hey, I have a market here for A/C pipe. And we would -- in fact, I hired a man just to market along the Eastern Seaboard. I hired John Precheck. And his territory was from New Jersey all the way up to Maine. And we picked up the slack in that market area with the Johns-Manville plant closed in Manville, New Jersey

and when CertainTeed closed their Ambler, Pennsylvania plant.

And we ended up with markets in Long Island which we had never had before, Boston along the Seaboard, sold a little bit of pipe in Connecticut and Maryland. And we keep that going for a few years.

Q. So the --

A. Our effort was to keep our plants operating.

Q. So the CAPCO market percentage increased, but the overall A/C market percentage of pressure pipe decreased?

A. It shrunk, yes, it did.

Q. Let me show you what we've marked as Exhibit 4, which is another CAPCO document that talks, again, about market share and ask if you could tell us what that is.

A. This is, again, in-house document that was prepared in 19 -- the end of 1980. It covered January through December 1980. And it reported pipe sales by the districts, and the districts are the areas that are designated by the United States

government which consist of what's the Northeast, the Mid-Atlantic, the East North Central, and the West North Central, the South Atlantic, East South Central, West South Central, Mountain and Pacific. And this report would show for the year of 1980 how many tons of CAPCO asbestos cement pipe was shipped to each region.

And we shipped 53,500 tons of A/C pipe during that year of 1980. The industry shipped 250,000 tons. It would depend on the areas where we were most active. South Atlantic we had 21 percent of the market. East South Central, 56 percent of the market. West South Central, 29 percent of the market. And the Northeast where there's not that large an asbestos cement pipe market, we ended up with about 7 percent, 6.8.

So '80, '80 was a good year for the industry. But in 1978 the industry sold one million tons of asbestos cement pipe in the United States. And then the market started going down as PVC was developing a municipal water pipe to compete in the municipal markets called C-900. Again, as I mentioned, ductal iron thinned down

their wall so they could compete in the 16 to 20 inch market. And they just hammered us from both ends, not to mention the federal government on the asbestos issue.

Q. So '78 was the --

A. '78.

Q. -- high mark for sales?

A. Yeah, it was a great year.

Q. Let's talk about irrigation pipe. Did CAPCO make irrigation pipe?

A. Yes, we made it for a few customers, the largest being a company in Arkansas, Stuttgart, Arkansas called Shirkey-Cox, was the name of the company. And it was a special pipe made just for the irrigation market. It was -- we would produce it as class 2400 sewer. That was the lightest pipe we would make in those diameters. It had to be light because they would move it -- they would move it from trench to trench from season to season. They could relocate the pipe. This pipe was laid in a shallow trench. And they would attach what they referred to in the industry as an alfalfa valve. And that alfalfa valve would sit on top of

the pipe at an intersection. And as the pipe would -- water would go through the pipe, the pipe would come up through the alfalfa valve and flood -- in Stuttgart it was rice paddies. That was their market. And they would get two crops a year. And it would be not unusual for Shirkey-Cox to salvage pipe from area A to go to area B. And they would be subsidized by the federal government on just how much they could spend per year on irrigation projects. But that was -- we sold some other areas, but Stuttgart in the rice fields were our big market for irrigation pipe.

Q. I'm sure you said this, but where was Stuttgart?

A. Arkansas.

Q. Arkansas. How much of CAPCO's asbestos cement pipe manufacturing was irrigation pipe?

A. That would be less than 1 percent.

Q. CAPCO also made underground sewer pipe?

A. Yes.

Q. What distinguished the sewer pipe from the pressure pipe and the irrigation pipe?

A. Well, the sewer pipe specifications were

different from pressure pipe. Sewer pipe would be tested only by crush strength, where pressure pipe we had the hydrostatic pressure on the water pipe. Sewer pipe was identified by the classifications 2400, 3300, 4,000 and 5,000. And that would mean that in a V block crush test, which you do in the plant, that they would take a sample of pipe, and they would crush a 12-inch section. And the initial crack had to occur above the test pressure you were testing. So if you had the initial crack at 2390 it failed.

We always made our pipe a little bit heavier because our manufacturing process we could not control the OD exactly with the two felt process as Johns-Manville could with one felt and roller. So our pipe would usually -- always -- for instance, our 2400, it would be not unusual for our 2400 to test at 3,000. But it was strictly a crush test. It was not an AWWA test. It was an ASTM test. American Water Works would have no interest in sewer pipe.

But, again, the sewer pipe market was not a very attractive market for us. We

manufactured sewer pipe for -- one, for instance, if we had a customer that bought a lot of water pipe and had to have sewer pipe, we would produce sewer pipe, or a distributor that had a market where he had sold -- had to sell A/C sewer pipe.

For instance, at Brent Material in Orange -- East Orange [sic], New Jersey. He had to have sewer pipe. He couldn't live without it. So he would buy a truckload of water, but he might buy four truckloads of sewer. It was just native to that portion of New Jersey and also Long Island. He would sell pipe on Long Island. And they used asbestos in that sewer pipe. But it was never a major part of our product mix.

Q. What percentage of your market, of the underground sewer pipe market, did CAPCO have?

A. Well, of the total market we probably had less than 3 percent.

Q. And were there -- and this is discussed in the memo, the memo here that's marked as Exhibit 2. But were there other areas of the country where CAPCO was really compelled to provide A/C sewer pipe in order to gain access to the pressure pipe

market?

A. Yeah. For instance, Detroit wanted to use asbestos cement sewer pipe. So in these areas -- and Austin, Texas would be one. Again, I mentioned New Jersey. There were some areas where -- and this was when we were working through distributors. Say, look, I'm losing water pipe business if I don't have some sewer pipe to go with it. So we would make it.

Now, the one thing that would control how much sewer pipe we would make would be how many fittings were involved in it. Because fittings were very difficult and time consuming to make. They were cut by hand and they were glued. We were not equipped like a Johns-Manville plant would be that specialized in that. But we would make them. But, again, we would make them just for certain customers that had to have the sewer pipe or customers that sold a lot of our water pipe that we catered to, and we'd make sewer and even make the fittings for them.

Q. There are also uses for asbestos cement pipe that are, I guess what I'll call indoor uses,

flue pipe, vent pipe, electrical conduit, that type of thing. Did CAPCO make asbestos cement pipe for those type uses?

A. No. No, we never made pipe for those uses for two reasons. Those pipes were a very thin wall asbestos cement pipe. Our equipment could not manufacture that type of pipe. And the specifications, our pipe would not be approved. Those were Underwriter Laboratory specifications for an in-house use for electrical duct, pipes like that that a company like Johns-Manville would specialize in. And they had the equipment that would make it. And we could not produce that.

And if we did and a contractor tried to put our pipe on one of those projects, he would be rejected by the inspector because we did not meet the specifications. And a contractor would not want to use ours because it would be twice as heavy as what he could buy from someone else.

So we never, never were in that market.

Q. What does the term "Transite" pipe mean?

A. Transite is what Johns-Manville called their asbestos cement pipe, and it was derived from

the very first product Johns-Manville made was the floorboards for streetcars. And that's where the transit came from and turned into Transite. And that was -- just as we were CAPCO, they were Transite. And everyone in the market in the United States referred to A/C pipe as Transite. We would get a call, hey, do you guys sell Transite pipe? Yeah, ours is called CAPCO. But it's -- it is the plain vanilla name for A/C pipe in the industry.

Q. Did CAPCO ever manufacture pipe that could be used at nuclear power plants?

A. No. And, again, the reason was it had to be special pipe. But along with selling the pipe -- and in one of those cooling towers there would be as much as 30,000 feet of pipe in one cooling tower. But, also, you had to sell the four-by-eight asbestos cement sheets that would go along that they would have to hang from the pipes in the cooling towers. And Johns-Manville was the only company that made the sheets.

So it was something we were locked out of. We bid on one or two and were never successful. And we bid just the pipe. And of

course, we'd lose out because we didn't offer the sheets.

Q. Is it your understanding that the nuclear power plant market was exclusively that of Johns-Manville?

A. Yes, it is, because of the combination of the sheets and the pipe.

Q. And in terms of the other indoor pipe uses, Johns-Manville you said made that type of pipe. Did any other companies make that type pipe?

A. CertainTeed may have made some of the duct work, smaller duct work, thin wall pipe. But they would have the same problem we would because our process was the same. Two felt process would not make the thin wall, thin wall pipe.

Q. What were the components of CAPCO's asbestos cement pipe?

A. You had Portland cement. You had silica -- some refer to it as silica flour because it has the consistency of baking flour -- and asbestos fibers. You have chrysotile and crocidolite, two types of fiber that would be used in the blend. And it would depend on the

classification of pipe you were making as to what recipe you might -- what recipe you would use to build that particular class of pipe.

Q. What length pipe did CAPCO make?

A. CAPCO made 13 foot pipe. And it's because all of the machines are European design and that's four meter pipe. So our machine was a four meter pipe machine. And that's 13 foot. And that was standard in the industry.

Q. So all of CAPCO's -- all of the pipe -- strike that.

All of the asbestos cement pipe that CAPCO manufactured was 13 foot length?

A. Yes.

Q. Did other companies make different lengths?

A. Johns-Manville made 13 foot length pipe and ten foot length pipe.

Q. And what was the purpose for the ten foot length pipe?

A. Well, they had ten foot machines, and they would have a market that they would promote the ten foot as being superior to 13 foot as far as

beam strength. It was just a marketing tool. Again, they were three meter machines. Again, all the machines, even our latest machine that was built in Van Buren, Arkansas was from Europe. They were all built on a metric scale.

Q. Let's talk about shipping of CAPCO pipe. In general terms how did CAPCO ship its asbestos cement pipe?

A. Well, most all of our pipe was shipped by common carrier truck. At times we would utilized rail shipments. We shipped some rail pipe from both plants, but we found out that the term they used in the railroad industry is "humping cars." And we would find out that if we're shipping from Ragland to the West Coast, they're going through El Paso. And we get 20 percent or more breakage. It was early on that we decided we would pay a little bit more freight and ship common carrier truck. And they would be shipped on flatbed trucks. And they would be shipped on pallets. And they would be strapped down with the wire strapping. And later on the trucking companies used a belt type strap. But they were

shipped palletized and locked with wood and shipped common carrier.

Q. And how much -- and obviously this would vary by the different size pipe. But how much in general terms from different pipe to different pipe could fit on a truck?

A. For instance, six inch A/C pipe you would get 3,000 feet of pipe on a truckload on a 40-foot flatbed. Eight inch, you get 2,000 feet. And ten inch you get about 1,400 feet. And then it would thin down the bigger the diameters you get. If you ship the 24 inch, you might only get 400 feet of pipe on a flatbed.

Q. Again, I know there's no definitive answer, but what were the general markets for A/C pipe for the Van Buren plant and for the Ragland plant?

A. Well, the general market would be municipal water systems and rural water systems. And the predominant size for those areas would be six and eight inch pipe.

Q. Where typically would the shipments from Van Buren go and where typically would they go from

Ragland?

A. Well, Ragland we would keep our pipe in the Southeast and Northeast. We would keep -- try to keep it this side of the Mississippi River. Again, this is after 1970 when we had our Arkansas plant in operation. We would ship the Van Buren, Arkansas plant all the way to the West Coast.

Q. Did CAPCO use any type of storage yards or what we might think of as distributorship to stockpile pipe from which sales could be made?

A. There were storage yards. For instance, Houston, Texas is one of the largest users of asbestos cement pipe in the United States. It would be not unusual to have a 10 million or 12 million dollar market, total market in Houston, Texas. Well, CertainTeed had a plant in Hillsboro, Texas. Johns-Manville had a plant in Denison, Texas, overnight delivery. In order to compete with that we established a storage yard in Atlas Truck Company's yard in Houston where we could stockpile X number of truckloads of pipe and have a half a day delivery if necessary right in the city. To compete and make our -- we sold through

distribution, and to make our distributor equally competitive with the Johns-Manville and CertainTeed distributor, we had that yard.

We also had yards on the West Coast, and they were run by trucking companies just as the one in Houston, Texas. They would inventory the pipe, and the only storage yard we had run by a distributor was the Groeniger Company in Fruitridge, California. They were able to manage it. They had it across the street, and they managed that shipping yard.

But, again, it was to compete with the overnight delivery that the west Coast producers could offer, and we were a two to three-day run from Van Buren. And if you had a trucking problem or a driver decided to take a day off, your contractors sat there with an open ditch. So we established these yards and we kept them right up until we shut down.

Q. You talked about California and you talked about Texas. Were there others?

A. We had northern California and southern California, and we had Houston, Texas. But those

were the main yards. Just so, again, where we had to compete with local manufacturers to compete with their delivery time.

Q. So what kind of customers would CAPCO sell its asbestos cement pipe to?

A. Well, we had really three categories. There are specialty contractors that work only installing pipe. They might install water pipe, sewer pipe, gas pipe. But they had trenching equipment that was just geared for digging a hole in the ground and putting pipe in it. They're pipeline contractors. We would sell directly to pipeline contractors.

We would also sell -- we sold through distribution. We were limited with our sales staff of at the most 18 men, where Johns-Manville could have as many as 150 to 200 salesmen. They sold mostly on a direct basis. We sold through distribution. So we would sell through distributors and pay them a commission.

And then there were also direct sales that we would -- for instance, the City of San Antonio would take annual bids of 6 or 700,000 feet

of pipe. We would turn in a direct bid to that. A lot of cities would take direct bids. So we had direct sales to end users. And we had sales to distributors, and we had sales to pipeline contractors.

Q. Let me follow up on this in just a second. But just to go back for a second to the storage yards. When pipe was in a storage yard and a sale was made from there, how did that process work?

A. It would originate in the sales office in Birmingham. And we would fax an order to the storage yard of what the customer required and when the delivery time was. And he in turn would ship the pipe out and send information back to us that it had shipped and arrived as scheduled. And these trucking companies were -- they liked the shipping business. They got the -- not only pay for storing the pipe, but they also got the freight out of it. So they did a very good job for us. And they kept -- they inventoried it and sent us an inventory once a month.

Q. So by looking at CAPCO sales records --

I'm going to get into that in a minute -- but by looking at CAPCO sales records, could you necessarily tell whether a shipment of pipe had left, say, Van Buren as opposed to one of the stockyards in California?

A. Yes, they would be identified by a code, whether it was outlying inventory or Van Buren or Ragland.

Q. But ultimately the sales were all made through the Birmingham sales office, correct?

A. Yes. And there were a few years where we had a separate sales office in Van Buren, Arkansas, which we later moved across the river to Fort Smith that handled just the West Coast. But it would be the same procedure coming out of the Fort Smith or Van Buren office as it would out of the Birmingham headquarters.

Q. What type sales records did CAPCO maintain?

A. Well, we -- by customer it would be broken down by distributor or by contractor or direct sales, the pipe sold, how much it sold for, where it shipped to, what plant it came out of.

Q. I'm going to show you, Bill, what we've marked as Exhibits 9, 10 and 11 and ask if you could identify what those are for us.

A. Yeah, this was a sales card that was used in the Birmingham office. And it would identify the dollar amount of pipe that was shipped. In this particular case this went to a Duling Construction Company in Wichita, Kansas.

Q. And which one is that? That's 9?

A. 9, yes. It would show the date, the date it was shipped and billed, how much was billed. It would give a code, a reference number, and it would also show when a customer paid for that pipe. And this one here just goes from March of '83 on down to -- it's out of the page, but down to 1984. So it was called the sales card. And there's one for every customer.

Q. How long did CAPCO use the sales card system to track its sales?

A. We started this -- from 1965 we started using the sales cards until a point in the '70s where we transferred over to the computer.

Q. You said '70s. Would '87 be --

A. Yeah, I guess it was '87, yeah. I thought it was '78. But '87.

Q. Let's just -- how are we doing on time? Are you doing all right?

A. I'm fine.

Q. Let's just move forward for one minute. I've got to show you one of --

There's two volumes here that we marked as Exhibits 1D and 1E. And I'll represent that these are printouts of what was CAPCO's computerized sales database, which started at least in terms of being reliable in 1987. And the data in 1D and 1E are part of the data contained in the entire A/C sales database which we've marked as 1F.

Bill, this is a -- this particular binder here shows sales between '87 to '94 for all of the customers and is organized in terms of where the pipe was shipped to.

Can you verify that that's an accurate statement?

A. Yes, it would show -- it will show -- these were the local distributor here in Alabama. This is Alabama Water Works. And it shows shipped

to the City of Pelham, the invoice date, the weight, and the dollar amount.

Q. And roughly how do the dollar amounts correspond to quantity of pipe?

A. Well, these right here, these are all what would be referred to in the trucking industry as LTL, less than truckload. I noticed these dollar amounts are pretty small here. These had to be Water Works supply house, for instance, the City of Pelham is a few miles from Birmingham here. Looks like $525. They had to have maybe some gaskets or may have had to have some couplings for two or three joints of pipe. These are not typical -- this is not a typical example really because this just shows a few hundred dollars shipments to the City of Pelham.

Q. Could you just find a page someplace where --

A. Let's go to --

Q. -- there's maybe something other than LTL?

A. Yeah, let's go to Arkansas and see if we can find -- for instance, here is again LTL. This

is called customer pickup. So this is a customer in Arkansas that came by the plant because it would be less than a truckload. So he picked up this. Here is the town of Mulgo [sic], Arkansas, $7,000. That's a truckload of pipe.

Q. And about how much pipe would that $7,000 equate to?

A. Well, this particular -- it would be either one truckload of six inch or one truckload of eight inch.

Q. And the computerized database, you talked about the three categories of customers. By extracting data from the computerized database, is it accurate that we can tell if we sort it by "shipped to" address, we can essentially tell where the pipe went?

A. Yes.

Q. And there's other ways to sort this data as well, correct?

A. Yes.

Q. You can sort it by "sold to"?

A. Sold to.

Q. And if you sort it by sold to, does that

necessarily tell you where the pipe was used?

A. Not necessarily. For instance here, the Groeniger and Company. Groeniger was one of our large distributors in northern California, Hayward, California, just South of Oakland. Here is $12,000.

Now, this particular one, it went right to the job site. It went to Winter Estates in Menifee, California. The one above it went to the dealer's yard. So we would know whether it goes direct to the distributor's yard or direct to the job site.

Q. Okay. So when we sort it and this is sorted by state and then by shipped to address. When we sort it in this fashion we get a pretty good idea from most sales as to where the pipe was actually used; is that right?

A. That's right. Yes, that's right.

Q. And I'm going to show you Exhibit 1G. And this is the fields in the computerized database. Can you just confirm that those are the fields and there are different ways to sort the data and extract the data?

A. Yes, it shows the salesman, the identification of the salesman, freight rate, customer name, shipped to address, shipped to city, shipped to state.

Q. Is the computerized database that was in use from '87 to '94 an accurate reflection of where CAPCO pipe was sold and used?

A. Yes.

Q. And that's A/C pipe?

A. A/C pipe.

Q. And is that the best record there is that we know of as to where A/C pipe would have been sold and used?

A. Yeah, it would be where our pipe went.

Q. Now, in terms of the customer cards, by looking at the customer cards can one necessarily tell, as one can if you look at the database, where CAPCO's pipe was actually used?

A. Not necessarily. It would depend on, for instance, this one to Duling Construction Company, he's in Wichita. His project could have been somewhere else in Kansas.

Q. So the customer cards, if we compare it

to the database -- the customer cards which were used from '65 to '87, if we compare it to the database that was used from '87 to '94, the customer cards more closely equate to the "sold to" field in the database, correct?

A. Yes.

Q. So as part of the project that we did over the course of -- you and our firm did during the '90s and then completed over the last couple years, did we take information from the customer cards, put it into charts, and then make best efforts through your knowledge and looking at documents to sort from those customer cards whether they were -- which of the three categories of customers were involved in the sales?

A. Yeah. We identified every one of them. And you sent me those, and I identified whether they were a distributor, whether they were a contractor, or a direct sale. And it wasn't that difficult to do.

Q. Why is that?

A. Well, I would know. Most of them I recognize. But I would know if it's shipped to a

municipality it was a direct sale. If it's shipped to a contractor, it was a contractor sale. Or if I recognized the distributors, it was a distributor sale.

Q. So let's take a look. We're going to look at CAPCO Sales Volume One which is Exhibit 1B. And I've just opened it up to the first page of the Arkansas sales. CAPCO A/C sales to Arkansas. And this is for Jake's benefit being an Arkansas boy.

Can you tell us what's on this page, the different categories and columns?

A. All right. Well, it tells us just what we were talking about. For instance, this is CAPCO sales to Arkansas, the first sheet here. And you can go down -- you go right down the list here. Ace Supply Company, that's a distributor sale. City of Alma, bid directly to the City. Sold it right to the City of Alma, Arkansas. Arkansas Meter, distributor sale. Arkansas Water Utilities, distributor sales, a direct sale. So we would know by -- this is what -- when you sent me all this information, this is what I did. I went down

through every sheet and identified the customer by what type of customer they were.

Q. So if it's a direct sale, does that give us a good idea of where the pipe was used?

A. Yes.

Q. Why is that?

A. Because it would be delivered right to the job site. For instance, here the City of Alma bought pipe. It went to Alma, Arkansas. Arkansas Community Development, well, that's a resort community. They would take the pipe right to the resort community when they expanded into another area.

Q. And if it's a distributor, pick one out there. Would that necessarily tell us where the pipe was used?

A. Not necessarily. This one is Arkansas Water Utilities. All right. It shipped from Van Buren. It shipped at $135,000, the periods from '79 to '81. It may not tell us where that pipe went. And a lot of times these distributors are no longer around.

Q. Would you expect, even if it doesn't

tell us precisely where the pipe was used, that it would have been used somewhere in the near vicinity of that customer or not necessarily?

A. Yes, it would. For instance, where we would not tell the distributor his boundaries, but for instance, we would not let a distributor in Little Rock come up and sell a job in Fort Smith where we had a distributor. And in the same turn we would not let our Fort Smith distributor go to Little Rock. So they would stay in a two to four hundred mile radius.

We would not let the Tulsa contractor or distributor come over to Arkansas. But we would not let the Fort Smith guy go to Tulsa.

Q. The third category, the contractors, the pipeline contractors, if there's a sale to a contractor, would that necessarily tell you where the pipe was used?

A. Let's find one.

Yes. Benning Construction Company, he's in Sheridan, Arkansas. He -- again, a pipe contractor. He would stay in the vicinity of -- well, Sheridan is not that far. Benning lived in

Fort Smith. I know him. But it doesn't mean that pipe went to Sheridan.

MR. MEYER: Let's take a break for a moment.

THE VIDEOGRAPHER: This marks the end of tape number one in the deposition of Bill Perrell. We're off the record at 3:49 p.m.

(Off the record.)

THE VIDEOGRAPHER: This marks the beginning of videotape number two in the deposition of William Perrell. We're back on the record. The time is 4:07 p.m.

MR. NEWTON: Has anyone else joined on the call while we were on the break?

MR. Esserman: It's just me on the call. Thanks. No one else joined.

BY MR. MEYER:

Q. Okay. Bill, a couple housekeeping things I want to get back to in a minute.

But we were talking about Exhibits 1B and 1C, the CAPCO Sales Volumes. And I just wanted to sort of finish up on that front before I do housekeeping and move on.

This book, these two books, were compiled by our office with your help. We've talked about that already, correct?

A. Yes.

Q. And what we did was go through the customer cards of which we have what we believe to be virtually a complete set, which are -- of which we have examples here as Exhibits 9, 10, and 11. And we put down on a state-by-state basis, the customer name, where the customer is located, which we said may or may not be where the pipe was used, correct?

A. Yes.

Q. And the years of A/C sales, the dollar amount which is what's tracked on these customer cards, right?

A. Yes.

Q. Where the A/C product came from, if we knew, which was either Ragland or Van Buren. By the way, when did Ragland close?

A. Ragland closed in 1983.

Q. And between -- if CAPCO sold A/C pipe between 1965 and early 1970, is it accurate that it

had to have come from Ragland?

A. Yes, it had to come out of Ragland.

Q. And then we talked about these codes. And Exhibit 12 here is a list of the codes that are on the customer cards. Is it accurate that if we look here at Exhibit 9, which is the customer card for Duling, D-U-L-I-N-G, Construction Company under the column Reference Code, for instance, the first one we see, 48421. That's a reference code, correct?

A. Yes.

Q. And the important part of that code for source reasons anyway are the last two digits, 21?

A. Right.

Q. And if we look at Exhibit 12 which is the list of the customer codes that we've been able to identify, what does 21 show?

A. It would show it came out of Van Buren, Arkansas.

Q. Okay. So --

A. And that it was A/C pipe.

Q. Okay. So we know at least from that entry with the code of 21, it was A/C pipe from Van

Buren. So we've tracked those A/C sales also in this Exhibits 1B and 1C. And we've put where they came from if we could tell from the codes. But then there are certain codes that we just couldn't figure out, neither you when we worked on this project in the '90s or more recently when we -- at the request of the trustees completed this project. There were just some codes we couldn't figure out, correct?

A. Yes.

Q. And so we tracked those as just unknown sales. And we have -- the last three columns on these charts in Exhibits 1B and 1C are those unknown sales, which could be PVC or A/C. We just don't know; fair enough?

A. Chances are they're PVC.

Q. Okay. So that is the process and the explanation for the charts that are in Exhibits 1B and 1C. And then at the end of each state we also include printouts from the database, and these are organized by the "sold to" fields. So this is the company to which it was sold, which doesn't necessarily correlate to where it was used,

correct?

A. Right.

Q. Okay. So that's I think a pretty complete explanation of the CAPCO Sales Volumes 1 and 2, Exhibits 1B and 1C.

All right. So that was our project in terms of getting together sales information and making our best effort to identify where pipe was used when we could, correct?

A. Yes.

Q. Now, just to go back on a couple of things that I just want to make sure we covered. I think some we did and maybe some we didn't. But when you told us your background with CAPCO I think you failed to mention that you did hold board positions and director positions?

A. Yes. After retirement. When I retired -- well, let me set it back up. When I left -- when CAPCO sold -- let's start there. When CAPCO sold, I was asked to remain with ASARCO. And, again, I did that from '94 until February '97 when I retired. At that time they asked me to continue on in a consulting capacity with them to help on

the asbestos issues. And I was given a -- as the sole director of CAPCO, we had a one-man company and one man -- I was president. I was sole director and secretary all rolled into one from '94 when the company sold until '09, December '09, when ASARCO sold.

Q. So you were the sole board member and officer?

A. Yes.

Q. We also talked about storage yards and you talked about California, and you talked about --

MR. MEYER: Sandy, is that you joining us again?

MR. Esserman: Yes, sorry.

MR. MEYER: No problem.

BY MR. MEYER:

Q. We talked about the storage yards in California and Houston. What was in Phoenix, Arizona?

A. Phoenix, Arizona was a yard, storage yard, run by a man named Jim Dusanko. Jim Dusanko had a history of plumbing from the Crane Plumbing

Supply which took him out to Phoenix early on. And he established a water works supply house, later on sold that water works supply house, and at that time established a storage yard. And this is right when we were going into business expanding into the Arizona market. And we established Jim as a yard manager and he was not a distributor because he only sold pipe. He was a pipe man. And what Jim would do is a little different than our other storage yards. Jim would buy pipe from us for resale, but he would also manage the yard and ship pipe just like our other storage yards would do and then turn in the data to the Birmingham office once a month. But Jim did also buy and inventory his own CAPCO pipe.

Q. Okay. And do you recall when that facility was --

A. By the way, he was an exclusive. He's the only market outlet that we did have in Arizona.

Q. Do you recall the approximate years he was there?

A. Yes. It was in the 1970s when Van Buren really got kicked off, and we opened up that

market. And until -- until Jim -- we kept the yard operating until Jim passed away. But it was prior to our shutting the plant down. I'm going to say Jim may have died in '88 or '89. And at that time the operation shut down, and a local distributor took over the operation of selling our pipe until we closed the Van Buren plant.

Q. So let's talk a little bit -- we talked something about pipe length and the content of the pipe. What -- was the same process used at Van Buren as was used at Ragland to manufacture pipe?

A. Basically it was the same process as far as making the pipe. However, the difference was in Ragland we used what's called the wet process. And that would mean we would inject the water into the mixture of cement, fiber, and silica into a mixing basin. And then it would hold several hundred gallons of product mix. And then it would be transported from the mixing basin to the felt to the pipe machine. That's called the wet process.

The problem there was if you had a breakdown in the pipe machine, you had three or four hundred gallons of pipe mix that would be

wasted. So you had a problem there.

So when we built the Van Buren, Arkansas plant we used what was called the dry mix. And this is that the fiber and the silica and the cement were premixed in vats and introduced with water right at the pipe machine. So you would have probably zero loss if there was a failure or if felt tore or the pipe machine malfunctioned. So those were the two differences.

The same end product was the same. It was the same asbestos cement pipe product at the end, but it was just the mixing process at the start of the pipe machine that was different.

Q. Okay. And we talked about the fact that CAPCO pipe was made in 13 foot lengths. Could a customer buy shorter lengths?

A. Yes. With every shipment we would produce what was called "includes." And that would be a half length, which was six foot six inches, a quarter length, which was three foot three inches. And occasionally we would furnish what would be called a pup, which would be called 19 inches.

What would happen with every truckload

of pipe, we would offer up to three percent of the footage in includes. And that would be the six foot sixes and three foot threes. And if they wanted the shorter pup -- few people wanted it, but we would make it available. But a standard include would be one and a half percent of six sixes and one and a half percent of three foot three inches.

Now, that would go at the foot price the pipe was sold at. Now, if a customer wanted additional shorts -- and the contractors loved the shorts -- they wanted them all the time. With the solid good customer we would let them have up to five percent at the foot price of the pipe. Otherwise, we would charge a premium price for any extra short pieces or includes. But they were necessary on every job where you would make a turn, you could make a radius turn easier with short lengths. And you could come up to a particular site where you might want to set a fire hydrant that had to be on a property line. You could plan ahead and you could come up with shorts. And the more shorts that you could offer, the less field cutting that would have to take place.

Q. How were the shorts -- let's talk about all the pipes that were sold. How were they milled?

A. They were milled in the plant. And there was a three-step. We would call it a nose. There would be a one, two, three step. And the steps were to -- when you put the coupling on, the coupling gasket that we applied in the factory would hit the second shoulder. And the reason for that is when they established it in the field, when they assembled the pipe in the field, the pipe ends would remain about a quarter inch apart, so any deflection of the pipe ends would not touch each other and hit or chip.

Q. And what about the shorter lengths, how were they milled?

A. The short lengths, the six foot six machine each end and the three foot three machine each end were machined identical to the pipe end. We also furnished a six foot six and a three foot three MOA, which is called machined over-all, and that would be the end dimension. The D2 as we would call it, the end dimension that would go into

the gasket. So a contractor could use those in the field for making any particular size he wanted. If he wanted to -- if he needed an eight inch or 18 inch or 14 inch, he could cut it in the field and put a bevel on it and use it as a MOA.

Q. And what is MEE?

A. Machined each end. That would be -- it would be a short piece of pipe with the same pipe end but no coupling attached.

Q. We talked about the pipe diameters and I'm just not sure we covered all the diameters and in particular the largest and the smallest. So could you run through that again for us what the various pipe diameters were for both the pressure and the --

A. Okay. For the Ragland plant we manufactured four inch, six inch, eight inch, ten inch, 12 inch, 14 inch, and 16 inch, in class 100, 150, and 200 pressure pipe. And we manufactured the same sizes in class 2400, 3300, and 4,000 and 5,000 sewer pipe.

Now, in Van Buren we manufactured in pressure pipe those identical sizes, but we would

add the 18 inch, 20 inch, and 24 inch pressure pipe in the class 100, 150 and 200, as well as sewer pipe in the classes 2400, 3300, 4,000 and 5,000.

Now, in addition, when we produced T pipe, the T pipe specifications included in addition to those standard sizes there you would get a 20 inch size T pipe, but most of the T pipe would go in the 16, 18, 20 inch and maybe 24 inch dimensions. But they did have different diameters for the transmission pipe.

Q. So the maximum diameter was 24 inches?

A. Yes, that was the maximum we produced.

Q. Was there also a 21 inch pipe?

A. There was a 20-inch transmission pipe but not in -- not in a distribution pressure pipe. Only, only in transmission pipe, what we called T pipe.

MR. NEWTON: Bill, did CAPCO manufacture a 15 inch?

THE WITNESS: A 15 inch T pipe.

MR. NEWTON: And a 21 inch?

THE WITNESS: And a 21 inch. Just the odd sizes that were designed by the Bureau

Reclamation. And they did that just so they could take advantage of every particular size. They didn't want to waste any diameter. They didn't want to buy a 16 if they could get by with a 15, or a 24 if they could get by with a 21.

MR. NEWTON: The goverment is concerned with wasteful spending?

THE WITNESS: The Bureau of Reclamation was very concerned. I wish all the agencies would operate like that. They really were watching the dollar.

MR. NEWTON: I would expect no less.

THE WITNESS: That's right.

Q. So if someone were to say they were exposed to pipe, asbestos cement pipe, in some fashion that was -- had a diameter greater than 24 inches that would be some other than pipe manufactured by CAPCO?

A. It was someone else's pipe. We could not produce it.

MR. NEWTON: Along the same lines, Bill, the smaller pipe, CAPCO could make a four inch

pressure pipe; is that correct?

THE WITNESS: Yes.

MR. NEWTON: But not four inch sewer pipe?

THE WITNESS: We made four inch pressure pipe. We could not make four inch sewer pipe.

BY MR. MEYER:

Q. Let's talk about -- we covered this some already -- but the geographic markets to which CAPCO sold. And it seems from the 1B and 1C that CAPCO at least at one time or another had sales to all 50 states, correct?

A. Yes.

Q. But certainly some markets had -- were bigger markets for CAPCO than others?

A. Yes, they were.

Q. Can you give us an idea what the biggest CAPCO markets were?

A. Well, our biggest market was Texas. California was a very large market. Most of the Southwestern states. Colorado was a big market. Kansas was not a very big market for us. Mississippi early on in Ragland years was a big A/C

pipe market. Florida was a large A/C pipe market. North Carolina, some South Carolina, North Carolina was bigger than South Carolina. But it was mostly the -- the really big markets were west of the Mississippi River.

Q. What about Hawaii? Were there sales to Hawaii?

A. We had a few shipments to Hawaii. They would go by barge out of Oakland, California, maybe out of Long Beach. But most of them went out of Oakland. We had one distributor in Hawaii. And there were not that many sales over there. The freight -- it was just too high. The West Coast manufacturers had a -- really had a leg up on us where they could ship from California to Hawaii, and we had to start at Arkansas. It just wasn't that big a market for us.

Q. What were some of the other smaller markets?

A. Well, we shipped a little bit of pipe to Alaska. New England was a small market. New York was a small market. There were some markets around the Buffalo area that were predominantly A/C pipe,

but it was still the smaller market for us. Louisiana was a relatively small market because Johns-Manville had a plant in Marrero which is near New Orleans. Oklahoma was a pretty significant market for us. And all the records would reflect where our big sales were. But the Southwest and the West Coast were really where the A/C markets were.

Q. Were there certain cities to which CAPCO never had sales?

A. Yes.

Q. Could you give us some examples of those?

A. Yeah, we know those more than we know where we sold. For instance, we're sitting right here in Birmingham, Alabama. I could have never gotten in the front door of the Birmingham Water Works. There were seven cast iron pipe manufacturers sitting right here in the Birmingham area. And they naturally catered to the Alabama products, the Birmingham products.

Another such market, my hometown, Memphis, Tennessee, would not use A/C pipe.

Knoxville, Tennessee used A/C pipe. Nashville, Tennessee did not use A/C pipe. Paducah, Kentucky did. Louisville, Kentucky did not use A/C pipe. Jackson, Mississippi would not use A/C pipe. However, we surrounded Jackson with hundreds and hundreds of miles of A/C pipe all over Mississippi. New Orleans was -- again, it wasn't a big market for us because of the Johns-Manville Marrero plant, but New Orleans was a very big A/C pipe market. Monroe, Louisiana was an A/C pipe market.

But the ones -- San Francisco would not use A/C pipe. Oakland across the bay was a big A/C pipe user. So you get -- Dallas used a lot of A/C pipe. Fort Worth would not use A/C pipe. So it's where they -- I guess historically where their water superintendent -- how he grew up around the pipe or what iron company marketed their pipe in there years earlier. El Paso used a lot of A/C pipe. Albuquerque used a lot of A/C pipe.

Q. What about New York City?

A. New York City did not use A/C pipe. However, Long Island used A/C pipe.

Q. How about Atlanta?
A. Atlanta used only iron pipe, but surrounding areas of Georgia was A/C.
Q. Boston?
A. Boston was iron pipe. But, again, the surrounding bedroom communities of Boston would use A/C pipe. But it really went with your older bigger cities that grew up using the cast iron and later on the ductal iron that we were like a stepchild.
Q. How about Fayetteville, North Little Rock, and west Memphis?
A. Well, west Memphis followed the specifications of Memphis, and they did not use A/C pipe. However, you went ten miles in any direction out of west Memphis, either west or south or north, and you would sell A/C pipe. Forrest City, Arkansas, not far from there, A/C pipe.
Q. And Fayetteville and North Little Rock?
A. Fayetteville, Little Rock and North Little Rock would not use A/C pipe. But, again, you go 20 miles either way and the communities would use A/C pipe. Fayetteville was the same

way. In fact, Fort Smith did not use A/C pipe until we put a plant across the river. And then they opened up their specifications for us, as did Van Buren.

And by having a plant in the state you open up a lot of doors. We had an engineer that did most of the water works in Arkansas by the name of Pete Smith who would not approve our pipe. He approved JM. And he designed a lot of water systems. And it took us putting a plant in the state to break him, and we ended up putting pipe on his jobs.

Q. Did you over the years either as a CAPCO employee or as a CAPCO consultant assist our firm in defending CAPCO in an -- in asbestos-related product --

A. I missed a couple words there. Go ahead again.

Q. You bet. Did you either in your years as a CAPCO employee or subsequently as a CAPCO consultant assist our firm in obtaining information so that we could defend CAPCO in asbestos product liability suits?

A. Yes, both as a CAPCO employee and later on as a consultant.

Q. And from time to time did we call on you to try and determine whether someone's claim of exposure to dust from CAPCO pipe made sense or didn't make sense?

A. Yes.

Q. And did you from time to time complete affidavits on behalf of CAPCO which we then used in litigation in an effort to document that exposure of the claimed person couldn't possibly have happened?

A. I did a lot of affidavits for your firm.

Q. I'm going to show you what we've marked today as Exhibits 5, 6, and 7, I think. Am I right in the markings?

A. Yes.

Q. Are those examples of the types of affidavits that you signed from time to time?

A. Yes.

Q. And the first one, 5, which is a case called John Bink, B-I-N-K, versus Acme Insulation. Is that an affidavit that in essence the plaintiff

was claiming exposure to certain pipe related products but not asbestos cement pipe so you were able to conclude he couldn't have been exposed to any dust from CAPCO pipes?

A. Yes.

Q. And then the second one, Exhibit C, which is the Dennis Barr, B-A-R-R, case.

MR. NEWTON: Exhibit 6.

Q. I'm sorry. 6. Did I say 6?

A. 6.

Q. That's an affidavit where you were able to draw from your personal knowledge and review of CAPCO sales records to conclude that Mr. Barr could not have been exposed to the CAPCO pipe because of where he worked and the nature of the work that he did?

A. Yes.

Q. And, similarly, Exhibit 7 which is Hilsenbeck, H-I-L-S-E-N-B-E-C-K, Chris Hilsenbeck is the plaintiff. That too is an affidavit you signed which from your personal knowledge and review of records by counsel, that being our firm, we were jointly able to conclude that sales would

not have been made to the areas where Mr. Hilsenbeck claimed to have worked, correct?

A. Yes, that's right.

Q. And that's something you did from time to time and maybe more often than time to time?

A. Yeah, we did quite a few.

Q. Okay. Let's talk about -- along the same lines -- the types of work sites where CAPCO pipe would have been used. And we talked about that some in talking about the specialty pipeline contractors and stuff. Could you just elaborate on that? Where would CAPCO pipe have been used?

A. Well, it would be used in municipalities. For instance, San Antonio was a big user of A/C pipe and also Houston. And, in fact, they would argue back and forth who maybe had the largest system in the ground of A/C pipe. But you would have rural water areas. For instance, we would put a job in Nebraska where we may have put 50 miles of pipe in the ground on a project where these people never had water before. They all had wells. They had big expensive homes, but they had to have their own well, and they were having bad

water. So this is going back to the Farmers Home Administration. They would finance water systems, county-wide water systems. Sometimes there would be 100 or 200 miles of pipe in these, and these people welcomed you. And they would even let you cross their property. They weren't worried if you tore down a fence while you were laying pipe in the ground. They wanted fresh water.

But it was two markets, the rural water area and the municipal market. They were our primary market areas.

Q. And what types of companies or entities would have actually put that pipe in the ground?

A. Well, again, they would be pipeline contractors. They could be very large contractors that would be able to bid the 50 mile and 100 mile jobs. And they specialized, again, in just underground pipeline work. That's all their equipment were capable of doing. They weren't building skyscrapers or building homes. They were putting -- digging a hole and putting pipe in the ground. And also the -- you would have small contractors that would bid the little $50,000 job

where there would be 10,000 foot of pipe or 2,000 foot of pipe that they would -- that they would bid and they may be operating with one piece of equipment where your big contractors -- Jim Everly in Garden City, Kansas. He could bid multimillion dollar jobs. He would have maybe ten trenchers, where the guy down the road might have one backhoe and he bid a small job.

Q. So you anticipated my next question. But just for the sake of the record, what type of equipment would be used to lay the pipe?

A. Well, the -- I guess the best piece of equipment would be a wheel type trencher. That would be called a wheel pipe trencher, or a ladder type trencher which would be made by Vermeer Company. But, again, you would have different size backhoes that could be used. The trenchers would be more favorable because they would leave a very consistent level trench bottom where a backhoe you would have to be careful. You would have to get -- after you dig it you would have to put a crew down in there with shovels to level out where you want your pipes to lay on a flat surface.

Q. What types of workers would have worked with CAPCO pipe, in terms of trades or, you know, type of union and that kind of thing?

A. Well, I'm sure some of them were union contractors. We didn't deal with many union contractors because they weren't interested in this pipeline contractor. But a lot of these were common labor. They didn't need a lot of skill. They would train -- they would train their men. Now, their backhoe operators and their machine operators were skilled people. But most of them would qualify as a common laborer that was able to handle a shovel and follow instructions and level the ditch bottom and get it flat. But it didn't take a lot of skill except for the machine operators and the foreman.

Q. So a truckload of pipe would pull up to a job site, correct? That's how the pipe would get to the job?

A. Yes.

Q. And then what would happen from the time the truck pulled up until the time the pipeline was finished? What steps would have to --

A. Well, there would --

Q. -- occur?

A. A couple ways. Usually, it would be unloaded by forklift and set on the trench bank. Now, every few hundred feet or 500 feet they would set a pallet or two. And then the men would take it. If it's six and eight inch pipe, they could manhandle it. Ten and above they would use a backhoe with a cable to lower it into the ditch. There would be two men in the ditch, one on one end and one on the other end to build the pipe up. And they would lubricate the gasket and push it home.

But there have been cases -- for instance, Lyles Construction Company in California, they would request that we stagger the trucks to come in at certain times. They were such a big pipeline contractor they knew exactly what they were doing. They would unload right off the truck right in the trench, clockwork. And they would put maybe a mile or two miles of pipe in the ground a day.

Q. Now, was the process of getting the pipe on to the job, unloading it from the truck either

on to the ground or into the ditch, was there anything about that that generated dust from the pipe itself?

A. No.

Q. Is A/C pipe a friable product?

A. No.

Q. Were there times when A/C pipe would have to be cut?

A. Yes.

Q. Was there a means of cutting that CAPCO recommended?

A. Well, there were a couple methods we recommended. One was a snap cutter or it could be referred to as a chain cutter. It would go around the pipe with the chain with small disks on it. And pressure would be applied and would just snap, it would snap the pipe. You would have machining tools that contractors could own, or we had machining tools that we furnished to the job site that would cut and machine a piece of pipe. I've even seen them try to use a handsaw on it. But mostly it was the snap cutters. Most contractors had a snap cutter. And the bigger ones would have

their own machine tooling. And, again, we would furnish machining tools on big jobs. And if they needed it, we would send a field serviceman of ours, an employee, to assist and guide them.

Q. The process of cutting CAPCO pipe with a snap cutter or chain cutter, was that a dusty process?

A. No. It would snap -- you would get chips but you would not get anything friable.

Q. Okay. Was the process of milling the pile or putting the pipe on a lathe on the site, was that a dusty process?

A. No, that was a very slow turning process that would not have any dust at all.

Q. Were there times, to your knowledge, when pipe would be cut in a way that would produce some dust?

A. Yes, there was a saw. We referred to it as a carborundum disk saw or a Skil saw, pipe saw. And contractors would use that to cut a piece of pipe in the field. We discouraged the use of these saws. Some contractors would use them, and they would apply water at the seam where they would be

cutting the pipe to eliminate any dust. But a Carborundum disk saw would create some dust if they used it. Like I said, we as an industry did everything we could to curtail the use of those saws.

Q. Would there -- was there a typical place where the pipe would be cut? In other words, would it be typically cut in the hole or on the side of the hole, on the truck, or could it be any place?

A. Most times it would be cut on the ditch bank right above where it's going to be installed.

Q. And would that cutting typically be done by a laborer or certain type trade?

A. It would be done by one of the contractor's employees.

Q. Would you expect pipefitters to be working with or around CAPCO pipe?

A. No.

Q. Why not?

A. Well, it would be -- they're more plumbers. There could be an occasion where a plumber might have bought pipe for a little project. But most of these people were geared just

to install pipe, the pipeline contractors.

Q. Would you expect, say, an electrician to be working with CAPCO pipe?

A. No.

Q. Reason?

A. Well, we didn't make the electrical duct. And that's the only way he would be involved in our pipe at all. I doubt an electrician ever touched a piece of CAPCO pipe.

Q. And typically plumbers would work either with the connection to a house or building or within the house or building, correct?

A. A plumber would take it from our pipe, from the corporation cock, to the house. And a plumber would -- they would plum the house. They do all the piping in the house.

Q. And so that --

A. That would be the small diameter copper plastic pipe.

Q. And that work would typically be done after the CAPCO pipe was laid and in place, correct?

A. Yes, even tested and in service.

Q. So would you expect then plumbers to have been exposed to CAPCO pipe when it was being cut?

A. No.

Q. Did CAPCO at some point in time design a product or come up with a product that was intended to reduce or eliminate the need for field cutting or machine piping -- piping, machine pipe?

A. Yes, it was called a "closure unit," and I developed it. It was our idea. CAPCO were the only people making it, and we offered it to the other pipe companies when cutting got so critical in the field. And we developed this where you could actually install a complete water system and never have to cut a piece of pipe in the field.

Q. So I'm going to show -- I'm showing you Exhibit 8 there. Could you tell us what that is, Bill?

A. Well, it's called a closure pipe, and we made it in three foot three lengths. We machined it back 12 inches on each end. And we furnished a 12-inch coupling that would telescope. So we would telescope it on to the closure unit, and then we

could pull it back and telescope it on to the pipe end which would reach up to the shoulder of the pipe. Or if it was MOA we would just split the difference and go six inches on our closure unit and six inches on the MOA. It was a perfect device. It just came too late in the industry.

Q. When did it come about?

A. It came about probably 1990 when we really were doing everything we could to save the industry and try to eliminate any field cutting, and this was our answer to that.

Q. Now, this new product bulletin, Exhibit 8, has this marking on the top --

A. 1987.

Q. '87, okay.

A. 1987. I said early '90s. But we tried -- and like I said, we developed this and sold quite a few of them and, like I said, offered it to the other companies.

Q. And this was an effort to eliminate the need to cut --

A. We tried to eliminate -- and you could. You could eliminate absolute total field cutting by

using this unit.

Q. And did it at least reduce -- I'm sure it probably didn't eliminate it, but did it at least reduce the need in practice?

A. It sure did on our jobs. Our jobs would be the only one I'm familiar with. But any time we sat in on a job we made sure our field service representatives were there and showed them how to use it. And once the contractor would get the hang of it, he loved it.

Q. In terms before this product was available, the CAPCO closure unit was available, how frequently on a job would it be necessary to cut a piece of pipe?

A. Oh, boy. Well, it would depend. Well, it would depend on the size of the job. But, again, an experienced pipeline contractor knowing he had all of these different MEEs and MOAs and PUPS available to him, he could install a system without cutting. But they may have to -- if they reached a -- the code dictated that fire hydrants be placed on a property line. And if you are laying it out fast and all of a sudden come us up

and say, oh my gosh, I'm at a property line, I've got to cut pipe. And they would cut pipe. But we would -- we would hold it to a minimum, and I know the contractors would too. But they did use -- they did cut in the field in order to accommodate a certain designated spot to install. Usually it's a fire hydrant that they had to install at a certain place.

But, again, a contractor, it would slow them down. And their bread and butter is put pipe in the ground as fast as they can. So they didn't want to cut anymore than they had to.

MR. MEYER: Let's go off the record for a minute.

THE VIDEOGRAPHER: Going off the record. The time, 4:53.

(Off the record.)

THE VIDEOGRAPHER: We're back on the record. The time is 5:01 p.m.

BY MR. MEYER:

Q. Bill, just one or two more things. I think you testified that typically A/C pipe would be purchased by a water works supply company?

A. Yes.
Q. What is that? What does that do?
A. They were specialty companies that catered to water works supply items. They would sell pipe, and they would sell maybe several kinds of pipe. They would sell cast iron pipe, asbestos cement pipe, PVC pipe. They would sell fire hydrants. They would sell water meters. They would sell valves. Anything it takes to build a water system, they would specialize in. They would not get into anything for mechanical contractors or building contractors. They would strictly be a water works supply house.
Q. And would you expect a plumbing supply house to sell asbestos cement pipe?
A. No.
Q. Just one last housekeeping thing. This is more on my end. But when we took information from the sales cards and put it into the CAPCO Sales notebooks, Volumes One and Two, which are Exhibits 1B and 1C, there were certain unknown codes that we talked about earlier in your testimony and we weren't able to track down. So we

created a document which is Exhibit 13 which just for each unknown code identifies the years in which those codes were found.

And primarily the primary years were '78, '79, and '80 because, as I understand it, during those years the reference codes didn't accurately reflect necessarily the plant where the pipe was made or where it was sold to, correct?

A. Right.

Q. Okay.

MR. MEYER: I think that's all I have. Jake? Anything?

MR. NEWTON: No. That's all I've got. Sandy, got anything to add?

MR. ESSERMAN: No, I think it was good.

THE VIDEOGRAPHER: This marks the end of tape number two and concludes the deposition of William Perrell. We are off the record at 5:03 p.m.

(End of deposition, 05:04 p.m.)

C E R T I F I C A T E

STATE OF ALABAMA)
JEFFERSON COUNTY)

I hereby certify that the above and foregoing deposition was taken down by me in stenotype, and the questions and answers thereto were reduced to computer print under my Supervision, and that the foregoing represents a true and correct transcript of the deposition given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

/s/Lisa Bailey
Lisa Bailey, CCR #289
CCR #289, Expires 9/30/13
Commissioner for the
State of Alabama at Large
My Commission Expires: 6/2014