

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
Complainant, )  
vs ) PCB 07-45  
(Enforcement - Air)  
GENERAL WASTE SERVICES, )  
INC., )  
Respondent. )

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STATE OF ILLINOIS  
Pollution Control Board

Proceedings held on May 11, 2010, at 10:07 a.m., at the  
office of the Illinois Pollution Control Board, 1021  
North Grand Avenue East, Springfield, Illinois, before  
Carol Webb, Hearing Officer.

Reported By: Karen Waugh, CSR, RPR  
CSR License No: 084-003688  
KEEFE REPORTING COMPANY  
11 North 44th Street  
Belleville, IL 62226  
(618) 277-0190

APPEARANCES

OFFICE OF THE ATTORNEY GENERAL

BY: Mr. Michael D. Mankowski  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
On behalf of the Complainant

OFFICE OF THE ATTORNEY GENERAL

BY: Mr. Raymond J. Callery  
Assistant Attorney General  
Asbestos Litigation  
500 South Second Street  
Springfield, Illinois 62706  
On behalf of the Complainant

FELDMAN, WASSER, DRAPER & COX

BY: Mr. Thomas J. Immel  
Attorney at Law  
1307 South Seventh Street  
Springfield, Illinois 62705  
On behalf of the Respondent

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PROCEEDINGS

(May 11, 2010; 10:07 a.m.)

HEARING OFFICER WEBB: Good morning. My name is Carol Webb. I'm a hearing officer with the Pollution Control Board. This is the continued hearing for PCB 07-45, People versus General Waste Services, Inc. It is May 11 and we are beginning at 10 a.m.

This hearing began on October 29, 2009, in Belleville, St. Clair County. No members of the public were in attendance then and no members of the public are present today. Mr. Mankowski and Mr. Callery are here on behalf of the Attorney General's Office. Mr. Immel is here for the Respondent. On October 29, Mr. Zappa was questioned by both parties and all exhibits were admitted into the record, so today we will begin by asking the State if they have anything further to present.

MR. MANKOWSKI: No. No, Madam Hearing Officer.

HEARING OFFICER WEBB: Thank you. Mr. Immel, you may call your first witness.

MR. IMMEL: Madam Hearing Officer, if I recall correctly or do recall, what I recall, at the commencement of the proceeding, Mr. Mankowski made a brief opening statement, and when it came my turn, I

1 reserved my opening statement to the opening of my case.

2 HEARING OFFICER WEBB: Okay.

3 MR. IMMEL: So that if I may be permitted, I  
4 would do that briefly before I call my first witness, who  
5 will be Mr. Calvin Johnson.

6 HEARING OFFICER WEBB: Yes, go ahead.

7 MR. IMMEL: Okay. I will keep it short.  
8 We've had a considerable amount of testimony already from  
9 Mr. Zappa, and exhibits, which I will not be discussing  
10 at any length now, but I would just say on behalf of  
11 General Waste Services, an Illinois corporation in good  
12 standing since 1985, which is currently experiencing the  
13 first violation of any kind that's ever been lodged  
14 against them, that we contest the allegations of the  
15 complaint that was filed by the Agency on a date that I  
16 don't exactly recall at the present, but point out that  
17 there's in fact two particular regulatory items cited in  
18 the complaint at page 5, paragraph sub 6 toward the top  
19 of the page, which allege that my client did not  
20 adequately wet material that contained asbestos in the  
21 process of removing it and did not keep it in an  
22 adequately wet condition until it was packaged up for  
23 disposal. That is the gravamen of their complaint, that  
24 has been the subject of all of Mr. Zappa's testimony when

1 he testified in their case, and there are two points to  
2 be made about that at the present time.

3 First of all -- and Mr. Zappa acknowledged in his  
4 testimony what I think all of us necessarily have to  
5 confront as a fact, and that is, the concept of what is  
6 adequately wet is a subjective term, just as the term  
7 adequately in and of itself could be subject to differing  
8 opinions among us humans.

9 The second thing that comes up in this case and  
10 probably hasn't come up in any others that the Attorney  
11 General's elected to prosecute is the fact that specific  
12 testing -- laboratory testing of samples collected by  
13 Mr. Zappa and sent to the EPA's contract laboratory of  
14 material that was being removed in his presence, or at  
15 least upon his arrival at the site in question, that such  
16 testing showed that the material being removed was  
17 negative for the presence of asbestos-containing  
18 material, and that's what this case is about, was  
19 asbestos-containing material removed without being  
20 adequately wet. It is a foregone legal and factual  
21 conclusion that if the material is not asbestos, it's not  
22 even covered by that regulation. You don't have to  
23 adequately wet plywood or an automobile or anything else  
24 that's removed from the premises. This is simply not

1 regulated material, as verified by the Agency's own tests  
2 conducted on the material contemporaneously with its  
3 being removed.

4           The issue of adequacy will be covered by the  
5 witnesses. We believe that the material was wet enough  
6 for removal given the nature of the job that was to be  
7 conducted. The evidence is going to show that this was  
8 a -- this was not a pre-demolition removal of asbestos.  
9 This was asbestos being removed from a building that was  
10 going to be rehabilitated, that had intact  
11 tongue-and-groove wooden floors that were going to be  
12 returned to their original use, and that in such  
13 circumstances, one proceeds differently with their  
14 asbestos removal than they do in a building that's going  
15 to be demolished, and the amount of water one uses has to  
16 be adjusted to take into account the intended future use  
17 of the building. You can't simply destroy it. A fire  
18 hose, for example, would have been a thoroughly  
19 inappropriate way to apply water in a building like this  
20 because it would have destroyed or at least severely  
21 damaged flooring and walls that could not begin to be  
22 adequately protected with a layer of plastic.

23           So there are fine points that have to be  
24 considered in this. The evidence is going to show that



1 the rooms were fogged -- and I mean that term as it  
2 sounds, fogged -- with an airless sprayer and that the  
3 materials being removed were fogged with an airless  
4 sprayer with water in sufficient quantity to conduct safe  
5 removal. And I'm going to take this opportunity to  
6 emphasize what Mr. Zappa has already testified to, and  
7 that is that the containment that was erected to control  
8 emissions from this building itself were very, very good.  
9 Indeed, Mr. Zappa complimented Special Waste -- General  
10 Waste Services for the quality of the containment both in  
11 his testimony as a live witness and in his memoranda,  
12 which has been previously admitted into evidence as  
13 People's Exhibit No. 3.

14           So this was a tight, secure -- from an air  
15 standpoint -- building that was being evacuated with  
16 four -- I'm sorry -- eight air handling units, four on  
17 each floor. It was tight, sealed, and all the people  
18 involved in the building were adequately suited up with  
19 the protective clothing they're required to wear in the  
20 normal course of their business, as was Mr. Zappa when he  
21 entered the building. He found no fault with any of  
22 that. And we have come down to a judgment issue as to  
23 whether Mr. Zappa or the experienced workers who did this  
24 work is a better judge of whether or not the material

1 they were moving -- removing was adequately wet, and I'm  
2 going to again remind myself and all who would read this  
3 transcript that this -- one of the things Mr. Zappa  
4 testified to, that I agreed with, was that one of the  
5 reasons for this wetting process is to prevent asbestos  
6 fibers from escaping either from the building or into the  
7 containment area itself where they might create trouble,  
8 and remind everyone what Mr. Zappa has again testified to  
9 already on direct, in his direct testimony, that air  
10 sampling was conducted while this work was going on and  
11 that the air sampling results, which were on file with  
12 the Illinois Environmental Protection Agency, reflected  
13 that no asbestos fibers were found in the air inside the  
14 building, inside the containment, while the work was  
15 going on, thus suggesting that the degree of wetting was  
16 adequate to meet the regulatory goal that fibers not be  
17 released into the air.

18           So it's a pretty straightforward case involving  
19 no new or arcane legal principles, but rather some  
20 straightforward fact questions as to how the work was  
21 conducted and whether the material we were dealing with  
22 was, in the case of two out of the three samples that  
23 Mr. Zappa collected, asbestos at all, and the  
24 uncontroverted evidence that the State presented -- that

1 I don't disagree with -- that the material -- that two of  
2 the three samples he collected showed no asbestos  
3 whatsoever, which I would argue and will argue and have  
4 been arguing makes that whole wetting issue moot as to  
5 the areas that Mr. Zappa was testifying of the building  
6 where he collected these samples, because he was  
7 collecting the material that was being removed in a  
8 fashion he said was inadequately wet. What he didn't  
9 know was that it wasn't asbestos. He didn't find that  
10 out until later when his samples came back from the lab,  
11 but notwithstanding, this case went forward. That's not  
12 my call. I just take them the way I receive them.

13 Mr. Johnson will be called. He was the  
14 supervisor on the project. He will be called to describe  
15 the project and his role and his brief interaction with  
16 Mr. Zappa. And thereafter Mr. Stevens will be called as  
17 a witness. He was a laborer on the project on the day  
18 that Mr. Zappa conducted his inspection, which again was  
19 August 4 of 2005, and Mr. Stevens will testify about what  
20 he was doing, what his duties were and the interaction  
21 that he had with Mr. Zappa, and I expect their testimony,  
22 at least as far as direct testimony goes, to be  
23 relatively short.

24 At the conclusion of all this, we, I presume,

1 will address the issue of final arguments. I am content  
2 with the notion of making a final argument on the record,  
3 but I understand from talking to my colleague,  
4 Mr. Mankowski, that he may very well wish to file a  
5 written closing brief. If he chooses to do so, of course  
6 I would reserve the right to respond to that, but I'm not  
7 encouraging it. We'll see what they decide. And other  
8 than that, I'm ready to proceed with my first witness.  
9 Thank you very much.

10 HEARING OFFICER WEBB: Thank you. You may  
11 call your first witness.

12 MR. IMMEL: Mr. Calvin Johnson will be  
13 called to the stand, if someone can direct him where he's  
14 to go.

15 HEARING OFFICER WEBB: Could you sit right  
16 next to the court reporter, and if the court reporter  
17 would please swear in the witness?

18 (Witness sworn.)

19 CALVIN JOHNSON, produced, sworn and examined on  
20 behalf of the Respondent, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. IMMEL:

23 Q. Now, you've been identified for the record  
24 as Calvin Johnson. Does the reporter have the spelling

1 of his name and all that? Let's put that on the record.

2 A. It's C-A-L-V-I-N, then Johnson,

3 J-O-H-N-S-O-N.

4 Q. And, Calvin, are you an Illinois resident?

5 A. Yes.

6 Q. And do you work for General Waste Services?

7 A. Yes.

8 Q. How long have you been with the company,

9 roughly?

10 A. Oh, I started I think it was late '87, first

11 of '88.

12 Q. So the company was pretty new then.

13 A. Right.

14 Q. Just a couple years from the time it was

15 formed, right?

16 A. Yes.

17 Q. Have you -- You currently hold the position

18 of supervisor; is that right?

19 A. Yes.

20 Q. Did you have some previous positions with

21 the company, just laborer?

22 A. Yes. I pretty much -- There are some jobs

23 where I do just laborer and some jobs I'm supervisor, but

24 mostly supervisor here of late.

1 Q. Okay. You went through a training program  
2 as required by the State of Illinois to get a license  
3 first as a laborer --

4 A. Yes.

5 Q. -- and then later as a supervisor?

6 A. Yes, sir.

7 Q. And you successfully completed both of those  
8 programs, did you?

9 A. Yes.

10 Q. And you currently hold both licenses, right,  
11 as --

12 A. Yeah.

13 Q. One as laborer and one as a supervisor?

14 A. I think the supervisor license covers  
15 supervisor and laborer.

16 Q. Okay. So it's not two licenses.

17 A. Right.

18 Q. One includes the other.

19 A. Right.

20 Q. Okay. There has been a job that's the  
21 subject of this proceeding that Special -- that General  
22 Waste was contracted to perform at Belleville Memorial  
23 Hospital at 3701 Memorial Drive according to the  
24 notification that was filed and is in the record as

1     **People's Exhibit No. 2. Are you familiar with that job?**

2             A.     Yes.

3             Q.     Were you the supervisor on that job for  
4     **General Waste Services?**

5             A.     Yes.

6             MR. IMMEL: Henceforth, if it's okay, I'm  
7     just going to refer to General as being General Waste  
8     Services.

9             HEARING OFFICER WEBB: That's fine.

10            Q.     **(By Mr. Immel) You have a process that you**  
11     **go through as the supervisor of filling out daily log**  
12     **sheets for your work and everything. That's a normal**  
13     **process in your work, isn't it?**

14            A.     Yes.

15            Q.     Okay. And your company keeps daily records  
16     of who comes and goes from the building, from a building,  
17     and this one in particular; isn't that right?

18            A.     Yeah. Pretty much, yes.

19            Q.     That is, people who enter the containment  
20     area have to go through a decontamination procedure, and  
21     they --

22            A.     They're supposed to sign in.

23            Q.     And they're supposed to sign in. And your  
24     company maintains a sign-in, sign-out sheet and visitors'

1 log for that purposes, and that was done; is that right?

2 A. Yes.

3 Q. All of your daily logs and your sign-in  
4 sheets and licenses for all the people who worked there,  
5 the waste shipment records for the material that leaves  
6 the site and goes off site, the air sampling reports that  
7 are generated while the project is going on, all of that  
8 goes into a logbook, which is then submitted to the  
9 Illinois EPA at the conclusion of the project; is that  
10 right?

11 A. As far as I know, because that's the  
12 office's -- I turn in the paperwork I'm supposed to turn  
13 in and they take care of the rest.

14 Q. Okay. But you're familiar with the process  
15 of the air sampling and air clearances that --

16 A. Yeah.

17 Q. -- have been done at the site? You've seen  
18 the men there doing that work?

19 A. Yes.

20 Q. And you have your own paperwork to put  
21 together as the supervisor's paperwork, right?

22 A. Yes.

23 Q. The logs and the daily report that we were  
24 just --



1 A. Yes.

2 Q. And your understanding is then that the  
3 front office at the conclusion of the job assembles that  
4 into a book and submits it to the EPA; am I right?

5 A. Yes.

6 Q. Now, the job at Memorial Drive was a  
7 rehabilitation or a demolition job? Which kind?

8 A. It was a renovation job.

9 Q. Okay. So General's job was to get all the  
10 asbestos that had been identified by the architect or  
11 whoever out of the building per their specifications and  
12 then to return the premises to the owner ready to be  
13 rehabbed or remodeled; is that right?

14 A. Yes. We do the removal, then they run  
15 clearance tests on the building, then they -- after they  
16 pass, we tear down or take down our stuff, then they give  
17 it back to the owner.

18 Q. By your stuff, you're referring to the  
19 containment, all your equipment?

20 A. Right.

21 Q. It's all removed, all the plastic that  
22 you've been using?

23 A. Right.

24 Q. All that -- The plastic all gets bundled up

1 and disposed of as asbestos waste.

2 A. Yes.

3 Q. It goes out to the landfill along with all  
4 the asbestos that you've removed; is that right?

5 A. Yes.

6 Q. Okay. Now, in a rehab job like this one --  
7 I don't want to jump ahead of myself. We have all seen  
8 at various times in the proceeding photographs of the  
9 interior of the building while the work was going on, and  
10 a group of them have been admitted into evidence here as  
11 People's Exhibit No. 4, quite a number of pictures.  
12 You've seen those pictures from time to time, right?

13 A. Yes.

14 Q. Some of them depict what appears to be  
15 wooden floors in various rooms that have a layer of  
16 plastic over them. Is that --

17 A. Yes.

18 Q. Is that your recollection? Your  
19 understanding was that you were to protect the wooden  
20 floors because they would be used down the road --

21 A. Right.

22 Q. -- by the new -- in the new use of the  
23 building, right?

24 A. Yes.

1           **Q.    Would that knowledge have an impact on**  
2   **the -- on how you were going about removing the asbestos?**

3           A.    Well, we tried to be extremely careful with  
4   things like flooring.  We've had to do jobs before where,  
5   like, a computer system was inside the place, and with  
6   water, you got to be really careful.  You can't ruin  
7   that, because we're the ones that pays for it if you  
8   damage the owner's floors, anything of the owner's, so we  
9   try to, you know, common sense be a little bit more  
10  careful around them areas.

11          **Q.    Okay.  Would that -- Would the knowledge**  
12   **that the facility is being rehabilitated instead of being**  
13   **demolished have any impact on the way you would apply**  
14   **water to asbestos -- presumably asbestos-containing**  
15   **material prior to the time you removed it?**

16          A.    Probably so.  We probably would have used  
17   more like a garden hose in -- where we would use a lot  
18   more water, but still, the ceiling was not taking water  
19   because it was painted so many times.  It would have  
20   been -- have to have been still using airless, then wet  
21   more on the floor, because it was not soaking the water  
22   in because it was -- the paint was repelling it from  
23   soaking in.

24          **Q.    Now, what's an airless sprayer?**

1           A.    It's -- Some painters use it to paint with.  
2   We use it -- It's a -- It's got a hydraulic cylinder and  
3   it forces air, and it comes out into a fine mist instead  
4   of a straight line of water like out of a garden hose.  
5   It disperses air or water or paint, whatever you're  
6   spraying through it, more in a wider spray, puts out  
7   smaller particles of water so you're not using as much  
8   water and --

9           **Q.    Okay.  Well, in this instance, you were**  
10   **using this device to disperse water, not paint or**  
11   **anything else.**

12          A.    No.

13          **Q.    Just water.**

14          A.    Right.

15          **Q.    If -- Is it accurate to describe what comes**  
16   **out as a mist or a fog rather than a spray?**

17          A.    Yes.

18          **Q.    And is this the device, this airless**  
19   **sprayer, that you were using throughout this building?**

20          A.    Yes.

21          **Q.    And am I correct in assuming that it was**  
22   **being -- it was also being used on the day that Mr. Zappa**  
23   **came to visit you, on August 4 of 2005?**

24          A.    Yes.

1 Q. If your records have refreshed my  
2 recollection, August 4 would have been the second day  
3 that you were removing material from the inside of that  
4 building; am I right?

5 A. Yes.

6 Q. Now, let's go to the first day, which would  
7 have been August 3, the day prior to Mr. Zappa's visit.  
8 What part of the building -- well, let me stop. I don't  
9 know how many of these matters the Board has heard or how  
10 familiar they are with the process of getting a building  
11 ready to start removal, so I'm going to just back up a  
12 day or two. You and other people from General got the  
13 building ready to start the removal, which removal  
14 started on the 3rd of August, yes?

15 A. Yes.

16 Q. Do you recall when that preparation activity  
17 started?

18 A. I think it was August the 1st.

19 Q. Okay. Would that have involved the building  
20 of this containment that we have heard reference to  
21 before?

22 A. Yes.

23 Q. Can you describe very generally and not in  
24 enormous detail what it is that you do in putting up a

1     **containment to prepare a building for abatement to start?**

2             A.     Yeah.  You -- We put up criticals first over  
3     the windows and doorways that they're not being -- going  
4     to be used, even criticals on the door -- on the windows  
5     that we're going to vent our neg air systems out.  Then  
6     we put layers of poly on the walls and flooring, unless  
7     the flooring or the walls get removed.  Then you hook --  
8     set up your neg air units and your decon system and a  
9     loadout, and you just make sure you get your water set up  
10    and everything before starting.

11            **Q.     Okay.  Let's cover a couple of terms.  A**  
12    **critical, you said you put those over doorways and**  
13    **windows.  What's a critical?**

14            A.     It's a separate layer of plastic that you  
15    put over just the window or the doorway, anything that's  
16    leading outside or something else.  Like in here, they  
17    wanted to leave the pictures, you probably put one around  
18    them if you couldn't take the pictures off the wall.  
19    Just another way to keep from damaging something, trying  
20    to keep from damaging something.

21            **Q.     Am I correct in assuming that when you use**  
22    **the term neg air, you're referring to what's called a**  
23    **negative air machine?**

24            A.     Yes.

1           **Q.    What is the function of that machine?**

2           A.    It's to change the air, circulate it.  It  
3   draws -- supposed to draw air out of the containment at  
4   least four times an hour to make -- to try to drag  
5   filters -- or not filters -- asbestos particles or any  
6   other particles, dirt particles, whatever, into the  
7   filters to clean the air; scrub the air, they call it.

8           **Q.    Okay.  And these machines are located**  
9   **outside the building?**

10          A.    No.  They're inside and vented to the  
11   outside.

12          **Q.    Okay.  And how are -- then are they like a**  
13   **vacuum cleaner with a giant hose, more or less, to use**  
14   **one's imagination?**

15          A.    More or less, yeah.  They're -- But they got  
16   HEPA filters in them, which is supposed to -- I think  
17   it's 99.9 particles it's supposed to keep from going  
18   through the HEPA filter instead of a regular filter,  
19   and --

20          **Q.    And do you use more than one of these**  
21   **machines on this project?**

22          A.    Oh, we used eight.

23          **Q.    Eight.  And this building was two stories.**  
24   **How were those eight machines divided?**

1           A.    One in each apartment. Well, I'm sorry.  
2    It's every two apartments, I guess it was, four on  
3    upstairs and four downstairs.

4           Q.    So four on each floor.

5           A.    Yeah.

6           Q.    Okay. Of the two-story building. And then  
7    all of this containment that you build is meant to be  
8    airtight so that all of the air within the building stays  
9    within the building and goes through these negative air  
10   machines and is filtered while the work is going on; is  
11   that right?

12          A.    Yeah.

13          Q.    Okay. So the preparation of the building  
14   went on for two days. You also built something you  
15   referred to as a decon? Can you explain what the decon  
16   is?

17          A.    A decon is either a five -- well, it's a --  
18   either a three- or five-chambered shower system in the  
19   middle with flaps where you got to go through to take a  
20   shower coming out of the containment, so you're deconning  
21   yourself off. You take a shower to make sure you're not  
22   bringing anything to the outside.

23          Q.    So the ingress and egress to and from the  
24   building goes through this decon area?



1 A. Yes.

2 Q. And then you have referred to something  
3 called loadout area?

4 A. Yes.

5 Q. And what's -- can you describe what that is?

6 A. It's a two-stage area where you wipe down  
7 either your bags or barrels, whatever you're taking out  
8 to put in your Dumpster, your waste, distribute it  
9 through there to the outside.

10 Q. Okay. Now, what did you have to do to  
11 prepare -- what, if anything, did you have to do to  
12 prepare the rooms that you were going to use for decon,  
13 equipment storage and loadout before you could use them  
14 for that purpose?

15 A. Well, nothing, really. We prepped them just  
16 like the rest of the building, but then we did remove  
17 those areas first, the ceilings, so they could -- the  
18 ceiling would be out of their way and we wouldn't be --  
19 you know, they wouldn't be above our areas where we  
20 stored our drums and stuff.

21 Q. So you removed what was supposed to be  
22 asbestos-containing material from the ceilings of those  
23 rooms before you turned them into the decon room, the  
24 loadout room or your equipment storage room.

1           A.    No.  Actually, we -- you got to have your  
2   decon set up first.

3           Q.    Okay.

4           A.    Then we removed it.  See, we -- you don't do  
5   any removal till you get your decon set up.

6           Q.    Okay.

7           A.    Then after we had -- We had them finished,  
8   but we removed those areas first because we was going to  
9   store barrels in the one room and we didn't want -- they  
10   was going to be full of barrels and we wouldn't be able  
11   to get to the ceiling, wouldn't want to work over and get  
12   debris on the barrels, and also, you know, the shower, we  
13   didn't want to -- we did that first so we could make a  
14   little bit more room there.

15          Q.    Okay.  And then there -- was there a  
16   separate room that you would use to store equipment and  
17   supplies that you needed on the job, or was that part of  
18   your --

19          A.    Basically in the same room where the barrels  
20   were stored.

21          Q.    The loadout room?  Okay.  Now, just to  
22   understand the way you folks sequenced your work, if  
23   you're doing a multi-story building, in this case a  
24   two-story building, do you have a preference for which

1 **floor you start on?**

2 A. Yeah. Our preference is usually to work  
3 from top to bottom.

4 **Q. And that would be because?**

5 A. Because we don't -- you know, like anything  
6 else, you don't want to get something dirty if you're  
7 done cleaning.

8 **Q. All right.**

9 A. If you start on the bottom, which we have  
10 once in a while because there's things you got to do,  
11 but, you know, you don't want to get those areas dirty  
12 again, so if we don't have to start on the bottom, we  
13 start on the top and then work our way down.

14 **Q. Okay. But in this case, you had to do a**  
15 **little bit of removal on the first floor --**

16 A. Right.

17 **Q. -- before you could even start on the second**  
18 **floor; is that right?**

19 A. Right.

20 **Q. And that was because of this need to have**  
21 **your loadout room and your decon area and equipment**  
22 **storage --**

23 A. Right.

24 **Q. -- area all finished so you wouldn't have to**

1 back into it while it was full of waste or something.

2 A. Right.

3 Q. Okay. Now, we'll come back to this later,  
4 but this loadout room is where the waste material that's  
5 being removed from the building is stockpiled before it  
6 gets completely off the site; is that right?

7 A. Yes.

8 Q. Okay. In this instance -- we've all seen,  
9 again, the photographs that are in evidence -- there  
10 appear to be a substantial number of -- they're -- they  
11 look like 55-gallon in size but they appear to be  
12 cardboard or some kind of a fibreboard drum. Is that  
13 what you use to load the material off the site?

14 A. Yes. We -- All depends on what material.  
15 See, the drywall ceiling had some drywall screws and  
16 stuff like that in it, so as a precaution, we put them in  
17 lined fiber drums.

18 Q. Because if you just put them in plastic  
19 bags, they might get torn or damaged.

20 A. Yeah, sometimes, yeah, because it depends on  
21 the material. It had screws and stuff in it, so -- and  
22 screws -- you know, it's just plastic to where it could  
23 poke through the plastic.

24 Q. Okay. The -- Again, the -- referring to

1 pictures that are just generally scattered throughout  
2 People's Exhibit 4, the pictures suggest that there's --  
3 these drums have some kind of a lining material in them.  
4 Is that a bag?

5 A. Yes. It's a six-mil bag.

6 Q. So it's a bag that's inserted in the drum,  
7 folded over the sides while the drum is being filled, and  
8 when the drum is full, then what happens to it?

9 A. We -- Well, after it gets completely wetted  
10 down, then the bag is taped up and the top put on, and if  
11 we're finished with it, we tape it up and move it to the  
12 storage area near the loadout.

13 Q. How is the material inside the drums wetted  
14 down before it's sealed up for off-site disposal?

15 A. Well, on that job we was using finger  
16 wetters, which are --

17 Q. There will be subsequent testimony from  
18 Mr. Stevens, who was actually doing that work, but can  
19 you tell us quickly what a finger wetter is?

20 A. It's like a small garden hose, but it's got  
21 a small end on it. You break it over with your thumb to  
22 get the water to spray out it, then you let the pressure  
23 off of it with your finger and it won't spray.

24 Q. Okay. So the -- it's basically a function

1 of bending over the end of the hose with your finger to  
2 cause water to be released --

3 A. Right.

4 Q. -- and as soon as you release your finger,  
5 it shuts itself off automatically.

6 A. Right.

7 Q. Okay. And that's how you wet the material  
8 in the drum.

9 A. Yes.

10 Q. Okay. But on a job like this, you wouldn't  
11 use it to spray water on the floor or anything because  
12 you're trying to avoid wetting the floor, right?

13 A. Yeah. While we -- That's what we was using  
14 airless for, the air and the mist and the --

15 Q. Okay. Now, these drums get stockpiled in  
16 this loadout area, sealed up with tape; is that right?

17 A. Yes.

18 Q. But they seem to also have some kind of a  
19 metal retaining ring in the photographs that I've seen  
20 and that are part of Exhibit No. 4. Is that standard?

21 A. Yes. To hold the lid on, they come with a  
22 ring and a lid.

23 Q. And is it, like, a snap ring?

24 A. Yes.

1           Q.    Okay.  It snaps tight, and then looks like  
2   duct tape goes around that?

3           A.    Yes.

4           Q.    To cover the whole thing up?  And then that  
5   drum is now ready to go to the disposal site, landfill;  
6   is that right?

7           A.    Yeah, after it's loaded out.

8           Q.    Okay.  And when your people load it out of  
9   the building, where do they put it?

10          A.    It goes into a lined, enclosed Dumpster.

11          Q.    An enclosed Dumpster that's already been  
12   lined with the same kind of plastic material we've been  
13   hearing about?

14          A.    Yeah, a single layer of six-mil poly.

15          Q.    Okay.  And then a waste disposal company  
16   takes it away.

17          A.    Yes.

18          Q.    Okay.  I'm envisioning a Dumpster coming and  
19   going, then?  You're constantly putting material in a  
20   Dumpster and --

21          A.    Pretty much.

22          Q.    Does it take more than one?

23          A.    Till -- All depends on the size of the job.

24          Q.    Do you recall on this job whether or not it

1     **took more than one Dumpster to --**

2             **A.     I'd say it probably did, at least two.**

3             **Q.     Okay. And all of the waste material that**  
4     **you took out of the building was disposed of in this way,**  
5     **what you've just described.**

6             **A.     Yes.**

7             **Q.     Okay. Just out of curiosity, if you get a**  
8     **piece of material that's too big to readily fit in the**  
9     **Dumpster -- I mean in the drums, do you guys have to just**  
10    **cut it up to fit?**

11            **A.     We usually try to wrap it with poly if it**  
12    **can be handled by a man or two or on a cart. We wrap it**  
13    **in two layers of six-mil if it's something that we can't**  
14    **get in the -- put in the barrel.**

15            **Q.     Do you recall if you ran into any material**  
16    **like that on this job, or was everything drummed out?**

17            **A.     I don't recall, but I don't think so. I**  
18    **think everything was pretty much barreled.**

19            **Q.     Okay. So as I'm understanding it, the**  
20    **preparation for the site was done on the 1st and 2nd of**  
21    **August, to your recollection, and on the 3rd of August,**  
22    **the day prior to Mr. Zappa's visit, you did some partial**  
23    **removal of material thought to be asbestos from the first**  
24    **floor of the building in preparing these areas you're**



1 talking about, and then what did you do for the rest of  
2 the day? Move to the second floor?

3 A. We might have removed a small -- some small  
4 area upstairs too.

5 Q. But your idea was to get to the second floor  
6 because you --

7 A. Right.

8 Q. -- wanted to focus there --

9 A. Yes.

10 Q. -- in keeping with your practice of working  
11 from the top down.

12 A. Yes.

13 Q. Okay. So you might have done some of the  
14 second floor on August 3, the day prior to Mr. Zappa's  
15 visit.

16 A. Yes.

17 Q. On August 4, the day of his visit, were you  
18 working exclusively, then, on the second floor?

19 A. Yes.

20 Q. Okay. Now, you've already testified about  
21 this fogging or misting the room and the materials, the  
22 ceiling. You were pulling down the ceilings on the  
23 second floor. That's -- That was principally what you  
24 were trying to accomplish, taking down these ceilings

1     that had this sprayed coating on them?

2             A.     Yes.

3             Q.     Which coating had been painted throughout  
4     the building?

5             A.     Yes.

6             Q.     And as I'm understanding, then, what you're  
7     saying is that even when you mist it, you -- the water  
8     will not penetrate this material?

9             A.     No. It was running off. See, there's a  
10    thing called, like, end capping too. It's something like  
11    we have that's also a paint that you paint -- it was  
12    almost like it was end cap which had soaked into the  
13    material that was on the ceiling, and it was just running  
14    off of it.

15            Q.     So the surface of the ceilings was  
16    essentially impermeable for your purposes of spraying  
17    water, misting, fogging, whatever.

18            A.     Yes.

19            Q.     Is there -- Have you ever encountered a  
20    situation where you could get above the ceiling through  
21    an access way of some kind and spray it on the back side?

22            A.     Yeah. That's a pretty common practice with  
23    our work.

24            Q.     Okay. Is it something you could do at this

1     **site?**

2             A.     No.

3             **Q.     Why not?**

4             A.     It had the ceiling joists too close  
5 together, and the ceiling joists were filled with  
6 fiberglass material, so if you open the ceiling up, you  
7 still couldn't get to it because all the fiberglass that  
8 was above the ceiling.

9             **Q.     So the ceiling was literally right up  
10 against this fiberglass; is that right?**

11            A.     Yes, yes.

12            **Q.     And it was packed in between the floor  
13 joists --**

14            A.     Yes.

15            **Q.     -- for -- this is fiberglass insulation; am  
16 I right?**

17            A.     Yes.

18            **Q.     It appears to be what's in the pictures. So  
19 that you couldn't wet it from the back side because you  
20 couldn't get at it.**

21            A.     No.

22            **Q.     And the only way to get at it was to tear  
23 the ceiling down.**

24            A.     Right.

1 Q. Of the -- On the second floor of this  
2 building, were you just tearing down ceilings?

3 A. Yes.

4 Q. Walls were to be left intact?

5 A. Yes.

6 Q. And they were covered with the poly.

7 A. Yes.

8 Q. And it wasn't your job to remove windows, is  
9 that right, or had they been --

10 A. No.

11 Q. -- removed?

12 A. No, the windows were intact, as I remember.

13 Q. Okay. The floors, of course, were being  
14 left alone and were -- had been covered; is that right?

15 A. Yes.

16 Q. Now, there is some reference -- in the  
17 asbestos report that was filed prior to the project  
18 starting, as People's Exhibit No. 5, there's some  
19 reference to floor tile and the glue for floor tile, the  
20 mastic, that was going to be removed, but that floor tile  
21 was only found in, like, kitchens and things like that;  
22 is that right?

23 A. I believe so.

24 Q. It wasn't in the main rooms. Was it --

1 A. No.

2 Q. -- kitchens and bathrooms? Is that -- Does  
3 that refresh your recollection?

4 A. Not really.

5 Q. Or in hallways?

6 A. I remember, I think, down on the first floor  
7 in the hallway, maybe the steps. I can't -- or the --  
8 maybe there was carpet on the steps that got removed.

9 Q. Okay. In looking at Exhibit No. 5, which  
10 has been introduced into evidence, I'm seeing a reference  
11 to floor tile under carpet in various locations, so you  
12 may -- that may be what you encountered; is that right?

13 A. Probably.

14 Q. The carpeting would have been removed by  
15 your people as well and treated as if it were asbestos --

16 A. Yeah.

17 Q. -- waste?

18 A. Yes.

19 Q. And it would go in these drums and out to  
20 the Dumpster, right?

21 A. Yes.

22 Q. Okay. But the work you were doing the day  
23 that Mr. Zappa came to visit, on the 4th of August, 2005,  
24 involved the removal of the ceilings in the second floor

1 of the building.

2 A. Yes.

3 Q. And you did not have a crew working in the  
4 first floor.

5 A. No.

6 Q. The work that had been done down there had  
7 been done the previous day.

8 A. Yes.

9 Q. Okay. So the airless sprayer putting out  
10 its mist or fog is used in each room as the ceilings are  
11 being pulled down?

12 A. Yes.

13 Q. Now, to your recollection, had some of those  
14 ceilings in any of those rooms on the second floor  
15 sustained prior damage that made them kind of unstable so  
16 that, like, when you pull on them, a big section of them  
17 would fall down?

18 A. As I recall, because there was some damaged  
19 ceiling from water damage in some of the rooms --

20 Q. Yeah.

21 A. -- but I don't remember which ones.

22 Q. Okay. When one encounters that in your  
23 business, a ceiling that's already been compromised by  
24 water or something, when you start pulling it down, does

1 it tend to come down somewhat all at once?

2 A. Probably pretty much, because the screws are  
3 loose in the drywall and it's not holding it very well  
4 anymore.

5 Q. Okay. So you've experienced that --

6 A. Yes.

7 Q. -- in various jobs that you've been on?

8 A. Yes.

9 Q. And do you recall that it happened on this  
10 job from -- in various places?

11 A. In various places.

12 Q. Okay. So now the material is on the floor.  
13 What would be done with respect to wetting it at that  
14 point, if anything?

15 A. We was wetting it with the airless sprayer,  
16 then putting it in the drum and wetting it with the  
17 finger wetters.

18 Q. Okay. When you use an airless sprayer on  
19 material that's already, say in this case, fallen from  
20 the ceiling down to the floor, does it leave a lot of  
21 water behind?

22 A. No.

23 Q. In fact, it's designed not to do that; isn't  
24 that right?

1 A. Yes.

2 Q. Okay.

3 A. It's designed to put a fog in the air more  
4 or less to catch fibers. I mean, it's not made for  
5 that -- you know, they didn't make an airless sprayer  
6 exactly for that, but when you put moisture in the air,  
7 you know, it drags fibers down.

8 Q. Okay. And then it lands on the material  
9 that's down on the floor and that's the end of it, and  
10 you don't want to overdo the water because you're trying  
11 not to damage this floor.

12 A. Yes.

13 Q. Okay. We've now reached the point where  
14 we've got material off the ceiling down on the floor,  
15 it's been hit with the airless sprayer twice, actually,  
16 once before it came down and once after it came down, and  
17 it now is -- can be loaded into these drums; isn't that  
18 right?

19 A. Yes.

20 Q. Now, once again, referring -- and I'm not  
21 going to burden the witness with this back and forth with  
22 the pictures, because he's seen them all, but there are  
23 pictures contained within Group Exhibit No. 4 that show  
24 what appears to be a line -- lines of drums in the



1 hallway up on the second floor of the building. Does  
2 that refresh your recollection as to what --

3 A. Yes.

4 Q. Those drums were put up there by your  
5 people?

6 A. Yes.

7 Q. They were put up there empty prior to the  
8 time you started tearing down the ceilings?

9 A. Yes.

10 Q. This is part of your preparation for doing  
11 the second floor, right?

12 A. Yes.

13 Q. And these drums then have to be filled with  
14 the material that's come down from the ceilings, right?

15 A. Yes.

16 Q. Now, would you work in more than one room at  
17 a time on -- for example, on the 4th day of August, when  
18 your logs indicate the presence of six workers, how many  
19 rooms at a time could they attack?

20 A. Probably the most, two.

21 Q. Okay. So they would knock the plaster  
22 material or the ceiling material down to the floor, and  
23 at that point it gets loaded into the drums.

24 A. Yes.

1           Q.   Manually with shovels, or how do they do  
2   that?

3           A.   They -- We was mostly using -- by hand, the  
4   bigger pieces, and when you get down to the smaller  
5   pieces, use a plastic shovel.

6           Q.   I saw a photograph in the Group Exhibit 4  
7   that depicted a broom, and I didn't know that brooms got  
8   used on jobs like this, but there was a broom. You saw  
9   the picture too, didn't you?

10          A.   Yes.

11          Q.   Any idea where that broom came from?

12          A.   That's -- There's a lot of jobs where they  
13   got old brooms and that that got left in the containment,  
14   but we was not using it.

15          Q.   Okay. But you don't use brooms.

16          A.   No.

17          Q.   Why not?

18          A.   We use usually squeegees, soft-headed  
19   squeegees.

20          Q.   Why don't you use brooms?

21          A.   Because it's not allowed by the regs.

22          Q.   Okay. And you use squeegees?

23          A.   Yes.

24          Q.   Because you're dealing with a

1 plastic-covered floor, right?

2 A. Yeah.

3 Q. And you're trying not to rip it or tear it.

4 A. True.

5 Q. So anyway, this stuff gets picked up and put  
6 in these drums, and then those drums have to be  
7 physically carried from the second floor down to the  
8 first floor. There's no working elevator in this  
9 building, is there?

10 A. No.

11 Q. Okay. So it's foot traffic down the  
12 stairway.

13 A. Yes.

14 Q. There's a picture of carpeting -- a carpeted  
15 stairway apparently covered with cardboard over the  
16 carpeting in one photograph in Exhibit No. 4. Is that a  
17 traffic area or traffic way for the drums to go down?

18 A. Yes.

19 Q. And what's the cardboard for?

20 A. To make it less so the -- To kind of keep  
21 the stairs clean and make it less of a hazard for the  
22 workers coming down the stairs.

23 Q. Because they could slip on --

24 A. Yes.

1 Q. -- on the stairs?

2 A. Yes.

3 Q. Okay. These drums pretty heavy when they're

4 filled up?

5 A. Sometimes. It depends on what's in them.

6 Q. Well, I mean, if it was a liquid, fifty-five

7 gallons times, what, eight pounds per gallon -- isn't

8 that right -- that would be one heavy drum. These don't

9 weigh that much.

10 A. No.

11 Q. But would it take one or two men to wrestle

12 them down the stairs?

13 A. Usually one man could do it.

14 Q. Okay. But it -- he's just dealing with a

15 drum. You're not using loading equipment or anything

16 like that, are you, or are you?

17 A. As far as what do you mean, loading

18 equipment?

19 Q. I mean, like, the hand --

20 A. Not down the stairs, because there's

21 nothing -- you know, they might have used one down the

22 stairs once it got to the bottom, used a hand cart.

23 Q. A hand truck to move it to the --

24 A. Right.

1           Q.    -- loadout room, but just wrestling it down  
2   the stairs is just man versus drum. Is that what you're  
3   saying?

4           A.    Yeah. Usually the drywall is not as heavy  
5   as when we fill them with floor tile and stuff.

6           Q.    Okay. These ceilings upstairs were in fact  
7   made of drywall.

8           A.    Yes.

9           Q.    And this material which was thought to  
10   contain asbestos was in fact a spray that had been  
11   sprayed onto the ceiling over the drywall after the  
12   drywall was up some years ago; is that right?

13          A.    Yes.

14          Q.    And then that in turn had been painted on  
15   one or more occasions for decorating purposes at a later  
16   time, right?

17          A.    Yes.

18          Q.    It was the -- And again, if I'm recalling  
19   what you're saying, it was the painting process that made  
20   it impermeable.

21          A.    Right.

22          Q.    Up until then, you could have saturated it  
23   with something, but once it got painted a couple of  
24   times, it was over.

1           A.    Yes.  Whenever we -- We've had ceilings  
2 before with it on there.  Usually if they're  
3 hard-to-reach ceilings, like in a big building or  
4 something, a lot of times they haven't been painted over  
5 once, and most of the time -- a lot of times none, and  
6 the water -- it soaks up the water, which this has been  
7 painted, I don't know, one or more times, because it  
8 was -- seemed really coated with paint.  In fact, it was  
9 peeling -- almost peeling off the drywall.  Whenever you  
10 would remove it, some of it would peel off.

11           Q.    Okay.  On the second day of your work, or  
12 August 4, the day of Mr. Zappa's visit, Mr. Kenneth  
13 Stevens will be testifying he was working the hallway  
14 drums and the finger hose.  Is that right?

15           A.    I was not inside whenever Mr. Zappa went in,  
16 so I can't say anything about that.

17           Q.    Fine.  We'll -- Just wanted to know what you  
18 knew.  Now, turning your attention to the arrival of  
19 Mr. Zappa, where were you when you first encountered him  
20 or when you first saw him?

21           A.    I had just deconned out, put my clothes on,  
22 because we've had some electrical breakers that went off  
23 that was controlling our airless sprayer and stuff, and I  
24 was heading out to that, and I do not recall what kind of

1 vehicle he was in, but he pulled up in the parking lot  
2 when I come out the door, and so I went over to see who  
3 it was, because that's kind of our territory since we're  
4 the only company working there, and I was just seeing  
5 what they was doing there, you know, because we have  
6 stuff outside that I don't -- the truck and stuff, and I  
7 didn't want, you know, nobody messing with anything.

8 Q. Okay. Well, so you were just taking a  
9 reasonable security precaution to see who it was who was  
10 pulling up.

11 A. Right, on my way to go throw the -- or trip  
12 the breakers back on.

13 Q. Okay. Let's talk about what you were doing  
14 there. I don't know the exact photograph in Exhibit  
15 No. 4, but it -- there's one photograph in particular,  
16 again that you've seen, that depicts a pickup truck with  
17 a large tank in the back that appears to be filled with  
18 water with some hoses leading out of it. Is that a piece  
19 of equipment that was brought to the site by General?

20 A. Yes.

21 Q. Okay. That was General's truck?

22 A. Yes.

23 Q. Okay. Could you just describe what the  
24 water supply for this project was given that you were

1 rehabbing a building that had -- was vacant, getting  
2 ready for rehab of a building that was vacant?

3 A. The building -- The water and electric had  
4 been shut off to the building, so we had no water system,  
5 so we had to bring our own and run a pump into the water  
6 to pump water in for us.

7 Q. Okay. And this is the water that you're  
8 using to -- for your finger hose in the drums and this is  
9 also the water that you're using for your airless  
10 sprayer; is that right?

11 A. Yes.

12 Q. Okay. Now, was one pump feeding water to  
13 both the finger hose and the airless sprayer or were  
14 there separate pumps?

15 A. They're -- It's the same pump, but the  
16 airless sprayer works out of a -- you set the end in a  
17 five-gallon bucket and fill the bucket up with water to  
18 spray. It draws its water out of the bucket.

19 Q. Okay. Whereas the finger hose is directly  
20 fed from the --

21 A. By the water hose.

22 Q. -- tank in the back of the truck.

23 A. Yes.

24 Q. Okay. And the airless sprayer bucket, it



1 was a five-gallon bucket, you said?

2 A. Yes.

3 Q. It gets its water from the finger hose as  
4 well?

5 A. Yes.

6 Q. Okay. So basically, there's one source of  
7 running water, shall we say, which is the finger hose,  
8 and it's serving two purposes. It's being used to wet  
9 down the material in the drums and to refill the  
10 five-gallon buckets as needed to run the airless sprayer.

11 A. Yeah. There's two or three finger hoses,  
12 not just one.

13 Q. All right. But all the finger hoses have  
14 one thing in common. They're getting their water  
15 directly from the pickup truck --

16 A. Yes.

17 Q. -- tank.

18 A. Yes.

19 Q. Whereas the airless sprayers are getting  
20 their water from five-gallon buckets within the  
21 containment that are being refilled by the use of a  
22 finger hose.

23 A. Yes.

24 Q. Okay. The airless sprayer, then, is an

1 entirely electric device which is just sucking water out  
2 of a bucket.

3 A. Yes.

4 Q. And converting it into a mist or a fog, as  
5 you described it.

6 A. Yes.

7 Q. Did I understand you to say that you were  
8 having some difficulty with the electrical supply?

9 A. Yes.

10 Q. Now, describe this electrical supply. You  
11 said the building had no power of its own?

12 A. No.

13 Q. So where do you get power to run an airless  
14 sprayer?

15 A. We had an electric panel out of ours. We  
16 put it in a small trailer outside the building and they  
17 fed the electric, the electrician did, off the pole from  
18 the outside to our electric panel, and we ran our cords  
19 out the windows into this trailer and plugged them into  
20 the GFI electric panel.

21 Q. Okay. So basically, you became an  
22 independent power supply for the building with the use of  
23 your equipment, circuit breakers and whatnot, which are  
24 in turn fed from the power company's supply that an

1     **electrician hooked up for you; is that right?**

2             A.     Yes.

3             Q.     Okay. You didn't do the hookup to the power  
4     **company. That was done by somebody else.**

5             A.     Yes.

6             Q.     On August 4, what problems were you  
7     **encountering with your electrical panel, if you were?**

8             A.     Well, we had two or three drop cords trip a  
9     breaker inside the trailer, and the workers told me that  
10    the -- you know, about it, so I dress out and went to go  
11    retrip them back.

12            Q.     I'm thinking, like, if you look at one's  
13    **house panel, you've got multiple breakers that feed**  
14    **different parts of the house.**

15            A.     Yes.

16            Q.     Is your machine and breaker panel like that?

17            A.     Yes.

18            Q.     So you have multiple circuits, shall we say,  
19    **going into the building?**

20            A.     Yes.

21            Q.     Do you recall how many?

22            A.     Probably around ten.

23            Q.     Okay.

24            A.     Ten, twelve, something like that.

1           Q.    And some breakers would shut off or trip and  
2   have to be reset, but not others?

3           A.    Yes.

4           Q.    And I know this is five years ago almost,  
5   but do you recall if the breaker that was tripping or  
6   breakers that were tripping were the same ones over and  
7   over again, or was it different ones?

8           A.    It was usually -- What I remember -- Well,  
9   it was the rooms where we was working in, because it  
10   wasn't the neg air. It was the -- usually the -- We had  
11   two or three spare cords that we plugged in our airless,  
12   and it was those drop cords that was throwing the  
13   breaker, and that was the rooms that, you know -- where  
14   we was spraying the water --

15          Q.    Yeah.

16          A.    -- and that's a common thing if you get  
17   cords wet. They'll throw breakers.

18          Q.    So then you would go outside and turn them  
19   back on.

20          A.    Yes. I went -- I had to do it I think once  
21   or twice that day, once when Mr. Zappa showed up, and I  
22   don't know if I had to do it again or not.

23          Q.    How long an interruption of power did you  
24   have while you corrected this problem, in minutes?

1           A.    Maybe ten, something like that, because  
2   when I -- I had to shower out and get redressed, then  
3   when I come out, I talked to Mr. Zappa before I went to  
4   the -- to our -- the board to reflip it, and whenever he  
5   finished talking with me, I went and hit them.

6           Q.    Okay.

7           A.    Retripped them.

8           Q.    So -- But by and large, your recollection is  
9   that maybe ten minutes? Took you about ten minutes or  
10 so?

11          A.    Approximately, yes.

12          Q.    Okay. And once you trip the breaker, it's  
13 back on and everybody's back in business.

14          A.    Right.

15          Q.    Okay. Now, let's turn your attention to  
16 Mr. Zappa. You're outside, you're getting ready to go  
17 back inside but you haven't yet, and you encounter him,  
18 and does he identify himself?

19          A.    No, I just come out the door --

20          Q.    Oh, okay.

21          A.    -- then I seen him pull up and I went over  
22 and talked to him. Then I reset the breakers, then I  
23 never went back in with him.

24          Q.    Okay.

1           A.    He went in himself. He asked where the  
2   decon was and he made a beeline -- after he showed me his  
3   credentials, he made a beeline that way, and I think he  
4   come back and got a suit of his own. I'm not sure if he  
5   didn't like our suits or what, but I remember him coming  
6   back out then going back in, I'm pretty sure, and that's  
7   all I know. I didn't go into the decon area with him.

8           Q.    Okay. You remained outside and took care of  
9   the breaker problem --

10          A.    Yes.

11          Q.    -- and did other chores; is that right?

12          A.    Yes.

13          Q.    Okay.

14          A.    Called my company and let them know that he  
15   was on site.

16          Q.    Okay. So the -- any interaction that  
17   Mr. Zappa would have had with your people inside the  
18   building while you were outside you obviously didn't see  
19   or hear. You weren't there.

20          A.    No.

21          Q.    You were outside. Did you go back into the  
22   building to be with Mr. Zappa then when you were finished  
23   doing your chores or --

24          A.    No.

1 Q. Did he come back out?

2 A. He came back out -- I don't know what the  
3 time period was -- and I talked to him then and asked him  
4 what he wanted me to do, and he asked me if it was close  
5 to our lunch or something like that, into that effect,  
6 and he asked me to get the workers -- get in touch with  
7 the workers and have them come out and we'd have a talk.

8 Q. Okay. So how did you communicate with the  
9 workers from outside?

10 A. To be honest, I don't remember if I went  
11 in -- dressed down, went in and got them or I hollered at  
12 them through the decon.

13 Q. Okay. But one way or another, the rest of  
14 your men who were inside and who had -- who Mr. Zappa had  
15 seen outside of your presence, they eventually came out;  
16 is that right?

17 A. Yes.

18 Q. Now, did Mr. Zappa tell you or your group of  
19 people -- there were six of you, I believe, there that  
20 day, including yourself, according to the log sheet?

21 A. I think so.

22 Q. Did he want to have a meeting or did he just  
23 want to chat with the group as a whole or with  
24 individuals? What did he do?

1           A.    As I can remember, I think he just wanted to  
2 talk to us all together. I did not know what about, but  
3 he wanted to talk to us all together.

4           Q.    Okay. Were you in attendance then when he  
5 talked to you -- Did that happen?

6           A.    Yes.

7           Q.    And what did he want to say?

8           A.    Kind of out of memory, but basically, I  
9 think he just -- he kept telling us, you guys know better  
10 than that, it's not wet enough, and I don't remember the  
11 conversation altogether, you know, every word he said,  
12 but I remember asking him after he got done talking  
13 whether -- what he wanted me to do, did he want me to  
14 shut it down or what, and he said, no, you're fine, just,  
15 you know, get better work practices.

16          Q.    Now, Mr. Zappa prepared a memo, which has  
17 been introduced into exhibit as People's Exhibit No. 3 --  
18 and you've read this, you've seen this document --  
19 wherein he quotes you and says that you told him that  
20 you, Calvin Johnson, had -- his term is "messed up," in  
21 quoting from his report. Did you ever tell him anything  
22 like that?

23          A.    No, sir.

24          Q.    What did Mr. Zappa do after he had his



1     **little discussion with your assembled group?**

2             A.     Well, we took lunch, and he said something  
3     about gathering samples and he walked towards the decon.  
4     I did not follow him and see what he was doing, but he  
5     was there for a while. I don't know if he went inside.  
6     I don't know if he had his samples already in the clean  
7     room and he was just getting them together, but that's  
8     what he did. He went there and he was gone for 15  
9     minutes or so then come back, and he left.

10            **Q.     And so he went back to his vehicle. Did he**  
11     **say goodbye or tell you that he was leaving or --**  
12     **officially so you'd know that he was no longer on**  
13     **premises?**

14            A.     I was there whenever he -- I think I was  
15     outside. I don't know if he said bye or not, but -- I  
16     really don't remember what he said when he left.

17            **Q.     But you do recall that he got in his vehicle**  
18     **and departed?**

19            A.     Yes, because I was on site.

20            **Q.     All right. Did you -- Upon hearing him tell**  
21     **your assembled group that they needed to have more water**  
22     **on the material, did you -- was it your opinion at the**  
23     **time that there had been enough wetting of the material**  
24     **to meet your -- the needs of the regulations and the**

1 environment?

2 A. Well, as -- airless is a good progress -- or  
3 what we use to do our work, to keep the fibers down and  
4 all, and the way that the spray-on was painted so  
5 thoroughly and stuff, plus not wanting to ruin the floors  
6 and all, we wet it down more as we put it in the drums.  
7 Yeah, it -- I think it was.

8 Q. Okay. And you've been a supervisor for --  
9 how long since you got your supervisor --

10 A. Been running jobs -- Somewhere around '89.

11 Q. So you've been running these jobs for about  
12 16 years and have been working at it for about 20.

13 A. Yeah.

14 Q. Including your time as a laborer.

15 A. Right.

16 Q. And based on that time and experience, you  
17 felt that this material was adequately wet for the  
18 purposes of disposal if it were in fact asbestos.

19 A. Yeah.

20 Q. Now, later on you found out that -- and this  
21 is already in evidence -- that Mr. Zappa had his samples  
22 analyzed and that the material that he collected up from  
23 the work area on the second floor and from the floor of  
24 the first floor, that those had come back negative for

1     **asbestos; isn't that right?**

2             A.     Yes.

3             Q.     You're aware of the fact that he also  
4     collected a sample from a drum -- he opened up a drum  
5     that had been filled the day before, on August 3, with  
6     material that you had gathered up while getting the first  
7     floor decon area and whatnot ready, and he'd opened up a  
8     drum and taken a sample from there. Are you aware of  
9     that?

10            A.     I did not know where he took his samples  
11    besides the reports.

12            Q.     Okay. From what you -- the report and the  
13    pictures you saw --

14            A.     Right.

15            Q.     -- he collected it from a drum and said the  
16    material in there wasn't wet enough to suit him, but you  
17    didn't see that at the time he collected his sample; is  
18    that right?

19            A.     No, I did not see that.

20            Q.     When the drums were assembled and packaged  
21    up on August 3, the day before, had finger wetting hoses  
22    been used to put water in all those drums?

23            A.     Yes.

24            Q.     But no one from General was present when

1 Mr. Zappa went into that drum and collected his sample,  
2 was there?

3 A. I was not inside the containment. I don't  
4 know if one of the workers were near him or not, but I  
5 doubt it.

6 Q. Okay. Let me just ask a wrap-up question.

7 Mr. Zappa shows up at -- before the noon hour, late  
8 morning on the 4th of August. You've been working there  
9 that day and you've been doing some removal work the day  
10 before. Addressing the first floor, how much of the  
11 first floor as a percentage or fraction still had to be  
12 done by you folks as of the morning of the 4th?

13 A. Probably half of it or maybe a little bit  
14 more.

15 Q. Okay. And with regard to the second floor  
16 where your folks were working when Mr. Zappa arrived on  
17 the 4th, how much of the second floor had been done by  
18 your people when he arrived?

19 A. Again, probably over half to three-quarters.

20 Q. Half to three-quarters had been completed or  
21 still was --

22 A. Oh, it wasn't completed, no. By the end of  
23 the day.

24 Q. Okay. So by the time -- when he got there,

1     **about how much was still to be done on the second floor?**

2             A.     Probably half or a little over still left to  
3     be done.

4             Q.     **So basically, between the first floor and**  
5     **the second floor, considerably more than half the**  
6     **building still had to be done.**

7             A.     Right.

8             MR. IMMEL:   Okay.   I don't have anything  
9     further, and I would request a short break for both the  
10    witness and I before we resume.

11            HEARING OFFICER WEBB:   All right.   We'll  
12    take a short break.

13            MR. IMMEL:   Thank you.

14            (Brief recess taken.)

15            HEARING OFFICER WEBB:   We're back on the  
16    record with the People's cross examination of  
17    Mr. Johnson.

18                               CROSS EXAMINATION

19    BY MR. MANKOWSKI:

20            Q.     **You said that you started the removal on**  
21    **August 3.**

22            A.     Yes.

23            Q.     **And Mr. Zappa showed up on August 4.**

24            A.     Yes.

1           Q.    Okay.  On August 4 you were only working on  
2   the second floor?

3           A.    Yes.

4           Q.    There was -- No one was working on the first  
5   floor.

6           A.    No.

7           Q.    And just want to clear up, how many airless  
8   sprayers did you guys have on the site?

9           A.    One.

10          Q.    Just the one?  And --

11          A.    Well, we had one that day.  We had two the  
12   day before when we had more people.

13          Q.    Okay.  So on the 4th, you only had one  
14   airless sprayer.

15          A.    Yeah.

16          Q.    Now, in your direct testimony a couple  
17   minutes ago, you said that the workers were sometimes  
18   working in two rooms at once; is that --

19          A.    No, I said depends on how many workers we  
20   had.  I said that in that day, we loaded barrels, drums  
21   in the first thing that morning, then we started removal,  
22   and everybody was in the same area.

23          Q.    Okay.  So when you were working on the  
24   second floor, no one was down on the first floor?

1 A. No.

2 Q. Okay. Now, we talked some about the  
3 procedure for removing this ceiling material. When you  
4 remove it, the proper procedure is to try and bring it  
5 down in as good of a piece as you can; is that correct?

6 A. I guess. Usually you try to pull it down  
7 the best you can. It's hard. You don't -- You try not  
8 to cut into it or nothing. You try to pull it down by  
9 hand.

10 Q. Try and bring it down by hand --

11 A. Right.

12 Q. -- carefully.

13 A. Right.

14 Q. Because you don't want to dislodge any more  
15 fibers than you need to; is that correct?

16 A. Right. That's -- I mean, yeah.

17 Q. You're supposed to bring it down and then  
18 put it into the containers.

19 A. Well, a lot of times it don't automatically  
20 get put into the containers because it goes -- it'll fall  
21 onto the ground. I mean, in the perfect world, every  
22 hand by hand would be, you know, set there in the drum,  
23 but it's not the perfect world. Things don't get put in  
24 the drum right away, so, no, it never got -- some of it

1 didn't get put into the drum right away, right, you know,  
2 as soon as it got pulled down, you know.

3 Q. Now, when you're bringing it down, when is  
4 the material supposed to be wet?

5 A. Well, you're supposed to -- you try to wet  
6 it as it's sitting, then you -- well, we use an airless  
7 sprayer, which is a good practice that a lot of companies  
8 use to fog the air to keep the fibers down, you know,  
9 during the removal.

10 Q. Okay. So yes or no, do you wet it when it's  
11 on the ceiling?

12 A. Yeah, you -- right.

13 Q. When -- Yes or no, when it's coming down,  
14 you wet it as it's coming down?

15 A. Yeah, with the airless sprayer. You can't  
16 hit it with the garden hose, you know, as it's coming  
17 down.

18 Q. And then another yes or no question. You  
19 wet it in this case when it's on the floor.

20 A. Yes.

21 Q. And then, yes or no question, you wet it  
22 when it's in the barrel.

23 A. Yes.

24 Q. And you're supposed to keep it wet until



1     **it's disposed of at the landfill.**

2             A.     Well, once you put it in your containers,  
3     you can't open your containers back up and wet it down  
4     again.

5             **Q.     The material's supposed to be wet enough**  
6     **inside the container so that it doesn't dry out --**

7             A.     Right.

8             **Q.     -- before it makes it to the landfill.**

9             A.     Right, but it's not going to get out of the  
10    container.

11            **Q.     But you have to make sure that it's wet**  
12    **enough inside the container.**

13            A.     Right.    Yes.

14            **Q.     So that when it gets to the landfill, if one**  
15    **of those containers breaks open, the material's still**  
16    **wet.**

17            A.     Yes, sir.

18            **Q.     Okay.    So you have to make sure there's**  
19    **enough water inside the container.**

20            A.     Yes, sir.

21            **Q.     And you said the water can't get out of that**  
22    **container.**

23            A.     Yes, sir.

24            **Q.     It's an airtight container.**

1 A. Yes, sir.

2 Q. So if you -- say you remove material the day  
3 before, that the next day, that material should still be  
4 wet inside of that container.

5 A. I guess it should be. I've never opened one  
6 back up to look at it.

7 Q. If the material had dried out overnight  
8 inside of an airtight container, would you have -- would  
9 you say that that material was adequately wet before it  
10 went in -- or when it first went in the container?

11 A. Well, as we go again for adequately wet,  
12 everybody's got their own version of adequately wet.

13 Q. Well, what is your version of adequately  
14 wet?

15 A. Well, my version of adequately wet is it  
16 being wet, not swimming. You know what I'm -- Not  
17 floating in water. You just wet down and then put in  
18 containers.

19 Q. But how wet? Do you have any way of  
20 describing how wet that should be?

21 A. There's no measurements to show how wet.

22 Q. Is there -- Like, can you test it by feeling  
23 the material?

24 A. Well, you can usually feel if it's wet, yes.

1           Q.   If you, like, grabbed it and crushed it in  
2   your hand and it was still dry and brittle, would that be  
3   wet enough?

4           A.   Well, I don't know what dry and brittle with  
5   the ceiling -- I really don't know what you mean by --

6           Q.   If the material was dry and brittle in your  
7   hand, would you say that's adequately wet?

8           A.   It depends on if it's -- I'm trying to run  
9   it through my mind here -- I'm sorry -- how it would --  
10   because I've never put it in my hand and, you know, did  
11   that before to see. If it's dry -- If you know it's dry  
12   and brittle, then, no, it's probably not wet enough.

13          Q.   Now, you spoke a little bit about wetting  
14   the back of the drywall.

15          A.   Yes.

16          Q.   You couldn't do that in this instance.

17          A.   No.

18          Q.   Why would you normally wet the back of the  
19   drywall?

20          A.   Because the material on the bottom will not  
21   soak the water up.

22          Q.   So you would want the drywall to soak the  
23   water up to keep --

24          A.   Right.

1 Q. -- the facing material wet.

2 A. Yeah, so it would soak down through the  
3 drywall, yes.

4 Q. Drywall, is that pretty absorbent?

5 A. Pretty much, yeah, drywall is.

6 Q. It soaks up the water?

7 A. Yeah, if it's not coated with anything.

8 Q. So the backs of this drywall would readily  
9 accept water?

10 A. Pretty much.

11 Q. Okay. Now, have you ever worked on any  
12 other jobs where water wouldn't stick to the material you  
13 were wetting?

14 A. Yes.

15 Q. Is there anything you can do to -- in that  
16 situation?

17 A. Well, like I said, we try to do the back,  
18 you know, get to the back side of it and wet it down  
19 through that way, soak it down.

20 Q. Is there anything else that you can do to  
21 make it -- make the material wetter?

22 A. I don't know about making the material  
23 wetter. Just spraying it more.

24 Q. In any of the jobs you've worked, have you

1 ever used -- or are you familiar with the term amended  
2 water?

3 A. Yes.

4 Q. What is amended water?

5 A. It's a soap.

6 Q. And why is that used?

7 A. It makes the water stick to the outside.

8 Q. Did you guys use --

9 A. And supposedly, if it -- yeah, but it  
10 don't -- it didn't -- it was hard shell and it don't soak  
11 through paint.

12 Q. Did you try using amended water in this  
13 project?

14 A. Yeah.

15 Q. You did?

16 A. Yes.

17 Q. Okay. When was that used?

18 A. It's TSP, comes in a five-gallon bucket.

19 Q. Okay. And that was used on this project?

20 A. Yeah.

21 Q. Okay. Was that used both on the 3rd and the  
22 4th?

23 A. As far as I know, yes.

24 Q. Okay. How does that -- Do you have to mix

1     that in the bucket?

2             A.     You just pour it in the water in the airless  
3     sprayer bucket that we was using.

4             Q.     Okay. Now, typically, how long -- after you  
5     remove the material from the ceiling, how long would it  
6     stay on the floor?

7             A.     Oh, they might stay on there 15, 20 minutes.

8             Q.     Was any of the material left on the floor  
9     for longer than that?

10            A.     There might have been pieces here and there,  
11     yes.

12            Q.     Okay. Was any of that material -- or sorry.  
13     So you think just a few pieces here and there were left  
14     on the floor?

15            A.     Pretty much as -- yeah.

16            Q.     Will that material sitting on the floor --  
17     can it dry out?

18            A.     I'm sure it can, because the neg air is  
19     moving.

20            Q.     So if you leave it on the floor too long,  
21     it's going to dry out.

22            A.     Probably.

23            Q.     So the whole point of this operation is to  
24     get it in the barrels with water before it dries out.

1           A.    Yeah, or wetting it as you put it in the  
2   barrel.

3           Q.    Okay.  You don't want the material to dry  
4   out at all.

5           A.    Well, you really don't, no.

6           Q.    Okay.  Even though you're in negative air,  
7   you still have to wet the material.

8           A.    Yeah, you're supposed to wet the material.

9           Q.    That's what the regulations say.  It's got  
10   to stay wet.

11          A.    Yeah.

12          Q.    Okay.  So if you let it dry out, it's no  
13   longer adequately wet.

14          A.    If it's dried out, no, it's not.

15          Q.    Okay.  I'm going to move ahead and --  
16   Mr. Immel referred to a lot of the pictures just  
17   generally.  I'm going to go through the pictures -- some  
18   of these pictures individually, have you take a look at  
19   the pictures that were in Exhibit -- Plaintiff's -- or  
20   People's Exhibit No. 4.  Have you seen these pictures  
21   before?

22          A.    I've seen most of them, yes, I think.

23                MR. MANKOWSKI:  I've got an extra set that's  
24   not as clean, so can I use those for the witness?

1 HEARING OFFICER WEBB: Yes.

2 MR. MANKOWSKI: Okay. Just bear with me for  
3 one second so I have the right pictures. Permission to  
4 approach the witness?

5 HEARING OFFICER WEBB: Yes.

6 Q. (By Mr. Mankowski) I'm going to show you  
7 what's been marked as People's Exhibit No. 4A. Have you  
8 seen that picture before?

9 A. I probably have. Like I said, I've seen  
10 most of the pictures.

11 Q. Okay. Can you tell where -- or does that  
12 picture look like it was taken at 3701 Memorial Drive?

13 A. No idea. Couldn't --

14 Q. Okay. If I were to tell you that was from  
15 the first floor, is there any way -- can you tell from  
16 the pictures that that came from the first floor of --

17 A. No.

18 Q. Okay. Well, what do you see in that  
19 picture?

20 A. Well, looks like drywall ceiling.

21 Q. Okay. Is that the same material that you  
22 were removing at 3701 Memorial Drive?

23 A. Yes.

24 Q. Okay. What's the condition of that ceiling



1 **material?**

2 A. Well, it's broken up, looks like got mold  
3 all over the back side of it, or water. Can't tell  
4 which.

5 Q. Okay. Do you see any evidence of moisture  
6 in this picture?

7 A. I really can't tell. As I say, it looks  
8 like maybe a little bit moisture on some of it.

9 Q. Okay. Where in the picture --

10 A. The darker areas.

11 Q. Okay. Could you describe one of those for  
12 me, like, in relation to the picture, like to the left,  
13 right, top, bottom, something like that?

14 A. Well, center and the top and maybe a little  
15 bit to the left bottom. I really can't tell.

16 Q. Okay. You can't tell from this picture?  
17 I'm going to move on to what's been marked as People's  
18 Exhibit No. 4B.

19 MR. IMMEL: B as in boy?

20 MR. MANKOWSKI: Yes, B as in boy.

21 Q. (By Mr. Mankowski) What do you see in this  
22 picture?

23 A. Drywall ceiling.

24 Q. Okay. Can you tell at all if that's from

1     **3701 Memorial Drive?**

2             A.     No.

3             Q.     And what's the condition of this ceiling  
4     **material?**

5             A.     It's broken down in pieces.

6             Q.     The -- I see some, like, white stuff on the  
7     **drywall. What is that?**

8             A.     Some white stuff.

9             Q.     Like, white popcorn material.

10            A.     Oh. It's the ceiling spray-on.

11            Q.     Is that the material that you were removing  
12     **from 3701 Memorial Drive?**

13            A.     Yes.

14            Q.     Okay. And I'm looking at a large piece of  
15     **dry -- or drywall ceiling broken off on the left side of**  
16     **the picture.**

17            A.     Right.

18            Q.     Does that look dusty to you?

19            A.     I guess.

20            Q.     Does it look wet?

21            A.     I really can't tell.

22            Q.     There's a -- looks to be a ladder on the  
23     **right side of the photograph?**

24            A.     Yeah.

1 Q. Do you see material on the rungs of that  
2 ladder?

3 A. Yes.

4 Q. Does that look dry?

5 A. I'll say again, I really can't tell.

6 Q. Do you know if that's the ladder that you  
7 guys used on this project?

8 A. I'm sure it is. I guess, if it's our -- you  
9 know, again, at our project.

10 Q. I'm going to move on to what's been marked  
11 as People's 4C. Does that picture show a close-up of the  
12 ladder?

13 A. Yes.

14 Q. Do you see material on that ladder?

15 A. Yes.

16 Q. Does that material look dry or wet?

17 A. Cannot tell. Looks like maybe it's wet.  
18 Looks like there's some stains on the rung that's ran  
19 down.

20 Q. Okay. Does that look like wet stains or dry  
21 stains, like some type of --

22 A. I don't know.

23 Q. You can't tell?

24 A. No.

1           Q.    Okay.

2           A.    I don't know if dry stains -- how would dry

3 stains leave --

4           Q.    Well, if it's material left after the water

5 evaporates.

6           A.    Oh. I don't know.

7           Q.    Okay. Well, then we'll move on.

8           A.    I'm sorry. I just --

9           Q.    Oh, it's okay. You didn't -- That's okay.

10 We're going to move on to what's been marked as 4D. What

11 do you see in 4D?

12          A.    Looks like ceiling.

13          Q.    Okay. Does that look like it's in one of

14 the lined barrels?

15          A.    Really can't tell.

16          Q.    Okay. Now, this --

17          A.    Might be in the corner of the room. It

18 could be in a barrel.

19          Q.    Okay. Because there's the plastic behind

20 it?

21          A.    Looks like plastic.

22               MR. IMMEL: Excuse me, Mike. Are you

23 referring to Z as in --

24               MR. MANKOWSKI: D as in David.

1 MR. IMMEL: Give me a second, if you don't  
2 mind.

3 MR. MANKOWSKI: Okay. Oh, no problem.

4 MR. IMMEL: Okay. I'm with you now. Sorry.

5 MR. MANKOWSKI: Okay.

6 Q. (By Mr. Mankowski) But this is the ceiling  
7 material, again, in this picture, and is the -- there's a  
8 big piece of looks like cardboard in the middle of the  
9 picture?

10 A. Yes.

11 Q. Is that the backing of the drywall?

12 A. It looks like it, yes.

13 Q. And we spoke earlier and said that readily  
14 absorbs water.

15 A. Yes.

16 Q. Okay. Does this material look wet?

17 A. It looks kind of dry.

18 Q. Okay. Looks like maybe a couple of dots on  
19 it of water?

20 A. Maybe.

21 Q. And then there's some white drywall dust on  
22 it?

23 A. Again, the drywall was not the asbestos.

24 Q. Well, no, but if the asbestos -- if the

1 coating was wet, wouldn't the drywall get wet too?

2 A. Not on the back side.

3 Q. Okay. If you had added water with a finger

4 wetter, the back side wouldn't get wet if it was all in a

5 pile?

6 A. It should be.

7 Q. If it was in a pile and you sprayed it with

8 an airless sprayer, would it --

9 A. It should be.

10 Q. It should be wet? Okay. So this looks like

11 a dry pile of asbestos. Or a dry -- not -- sorry. Let

12 me rephrase it. I don't want to mischaracterize it.

13 This looks like a dry pile of ceiling material.

14 A. Maybe, yes.

15 Q. I'm going to move on to what's been marked

16 as 4E. In this picture, can you tell if that's in a

17 fiber drum?

18 A. It looks like it, maybe.

19 Q. Okay. You see the metal ring? Is that,

20 like, a metal lip around the top of the drum that --

21 A. Maybe, yes.

22 Q. Okay. And there's a plastic lining? Does

23 that look like a plastic lining inside?

24 A. It looks like it, yes, sir.

1           Q.    Okay.  And is this more ceiling material in  
2   here?

3           A.    Yes, it looks like it.

4           Q.    And then there's some of the fiberglass  
5   insulation that you spoke about earlier?

6           A.    It looks like it.

7           Q.    Okay.  Do you see any evidence of wetness in  
8   this picture?

9           A.    Can't really tell.

10          Q.    Okay.  You can't tell from this picture?

11          A.    No, I can't.

12          Q.    Okay.

13          A.    And plus it was open.  It might have been  
14   being wetted when he got there and he stopped them.

15          Q.    Okay.  But I thought the material was  
16   supposed to be wet when it goes into the drum.

17          A.    Well, it's -- yes, it's supposed to be wet,  
18   and we was re-wetting it as we was putting it in the drum  
19   to be careful with the flooring in the building.

20          Q.    Does the asbestos NESHAP say anything about  
21   flooring or anything in it?

22          A.    As far as?

23          Q.    Having to protect the flooring?

24          A.    No, but our company pays for the damages to

1 the building.

2 Q. I know, but the requirement is adequately  
3 wet so as not to release fibers.

4 A. It's adequately wet when it -- It's supposed  
5 to be adequately wet when it goes to landfill.

6 Q. It's not supposed to be adequately wet as  
7 it's removed?

8 A. Yeah, but that -- as again, we was using an  
9 airless sprayer.

10 Q. Going to now direct your attention to what  
11 has been marked as People's 4F. What do you see in that  
12 picture?

13 A. Looks like insulation and drywall ceiling.

14 Q. Okay. Do you see any evidence of water in  
15 this picture?

16 A. Again, I can't really tell by just looking  
17 at the picture.

18 Q. Do you see any water droplets on the  
19 plastic?

20 A. Big ones, no.

21 Q. Okay. Do you see -- Looks like middle  
22 top -- or middle bottom there's a small pile of material?  
23 Is that crumbled surfacing material, popcorn in it?

24 A. It may be.



1 Q. Okay.

2 A. I can't tell whether it's drywall or --

3 Q. And you don't see any water droplets. Does  
4 the drywall at all look wet?

5 A. I'd say it looks darker in some of the areas  
6 than the other.

7 Q. All right. But you can't tell if it's wet.

8 A. No.

9 Q. Okay. Now, from just -- if you saw material  
10 in this condition, would you say that that's adequately  
11 wet?

12 A. If I seen these -- well, I -- I'd have to be  
13 there. You know what I mean? I'm sorry to talk like  
14 that, but to see how it's being done and the -- and do  
15 like you did, maybe test the material.

16 Q. Okay. So if you walked into one of the  
17 rooms where you guys were doing a job and you saw  
18 material that looked like this, would you consider that  
19 adequately wet?

20 A. If that's dry, no.

21 Q. Okay. So if this material was dry, then you  
22 would make them wet it more.

23 A. Probably so.

24 Q. Okay. But you can't tell from this

1 particular picture if this material's wet or dry.

2 A. No.

3 Q. If on the job on August 3 -- in August of  
4 2005, if there was material left on the first floor and  
5 not disposed -- or not put into a container overnight,  
6 would that material have dried out?

7 A. Good possibility that it might.

8 Q. What did you -- What would you have done if  
9 you had walked in on August 4 and saw that material on  
10 the floor that was left overnight?

11 A. Well, if I'd seen it, we'd have probably  
12 cleaned it up and barreled it or drummed it.

13 Q. But to your knowledge, nothing was left on  
14 the floor overnight.

15 A. I'd say as far as I know, there might have  
16 been some, but I really don't know. I wasn't -- I didn't  
17 leave, you know, at the -- I wasn't the last person out,  
18 because I went out to do paperwork towards the end of the  
19 shift, so I didn't see then what was left.

20 Q. Okay. So you didn't check the building  
21 after everybody else left at the end of the night on  
22 August 3.

23 A. No, because it was in a full containment  
24 with neg airs going.

1 Q. Okay. You didn't inspect the building the  
2 morning of August 4 when you showed up.

3 A. Like I say, we was -- unloaded drums, then  
4 I -- we kind of looked at it whenever we got started and  
5 we started cleaning up, you know, what was removed.

6 Q. And you didn't see large piles of ceiling  
7 material on the floor on the first floor when you were  
8 loading out drums?

9 A. No, I didn't see it.

10 Q. Okay. I've got a question about that broom.  
11 I'm just kind of confused. So if the broom was in the  
12 building when -- before you guys put it all under  
13 containment, you would have left the -- that in there  
14 even though you have to put plastic on all the floors?

15 A. Well, it just got left in. It wasn't on  
16 purpose getting left in, and afterwards we disposed of it  
17 as asbestos waste.

18 Q. Okay. I'm -- So no one used that broom at  
19 all.

20 A. As far as I know, no.

21 MR. IMMEL: Are you referring to a specific  
22 picture, Mike?

23 MR. MANKOWSKI: I was going to, but I was  
24 talking about the broom.

1                   MR. IMMEL: Okay. Well, I'm just looking at  
2 a broom in picture 4M. Is that the -- That's the broom,  
3 yes?

4                   MR. MANKOWSKI: Yeah. We're -- We'll get  
5 there.

6                   Q.    (By Mr. Mankowski) Or actually, I'm not  
7 going to refer to that photo, because you said to your  
8 knowledge, no one used the broom.

9                   A.    No, to my knowledge, no. I never seen  
10 anyone use it.

11                  Q.    And just get your opinion on this. The --  
12 If material had been left overnight on the first floor,  
13 no one -- or do you think that would be against the  
14 NESHAP rules, to let that material dry out overnight?

15                  A.    Well, whenever -- it's not our practice to  
16 leave, you know, material. It's to bag it all up or  
17 barrel it, whatever you do, and like I say, it's not like  
18 it was one big area where you could see it, where it was  
19 different apartments or rooms or whatever, so we might  
20 have missed some laying down. I really didn't see it.

21                  Q.    Yeah, but my question was, would that be --  
22 do you think that would be -- after all your training,  
23 after all your experience, would that be a violation to  
24 leave that material to dry out overnight?

1           A.    Well, it's a practice, no, not to.  
2           Q.    You're not supposed to do that.  
3           A.    No.  
4           Q.    You're supposed to keep it wet.  
5           A.    No.   I mean yes.  
6           Q.    Okay.  
7           A.    I'm sorry.  
8           Q.    So if your guys did that, they'd be breaking  
9 your own work practices.  
10          A.    Yes.  
11          Q.    Okay.   And you weren't in the building at  
12 all when Mr. Zappa was inspecting.  
13          A.    No.   No, sir, I wasn't.  
14          Q.    Now, do you know, the material in the -- or  
15 you spoke about the loadout room.   Were all the drums  
16 stored in the loadout room or were they stored in the  
17 room next to it?  
18          A.    They were inside the loadout room and there  
19 were some upstairs that we were using to put material in.  
20          Q.    Okay.   So they were either -- the full drums  
21 were stored in the loadout --  
22          A.    Yeah, most of them was all in there, yes.  
23          Q.    Okay.   Do you know, at the time that  
24 Mr. Zappa arrived on August 4, were -- had -- at that

1 point had any of the drums from the second floor been  
2 brought down to the first floor?

3 A. I really couldn't tell you.

4 Q. Okay. You weren't loading them out?

5 A. No.

6 Q. Okay.

7 A. Our Dumpster showed up when Mr. Zappa was  
8 there, but we done it -- nothing was loaded out of the  
9 building.

10 Q. Okay. So anything that had been removed  
11 before Mr. Zappa showed up would be in a drum either on  
12 the second floor or in the loadout room on the first  
13 floor.

14 A. Yes.

15 Q. Okay. And there -- to be clear, there  
16 weren't any drums from any other project or anything at  
17 this site.

18 A. No, no.

19 Q. It was just material that you removed from  
20 that ceiling.

21 A. Yes.

22 Q. Okay. Just to be clear, I know you've said  
23 that you didn't see any material left on the first floor  
24 when you came in on August 4.

1 A. Yes.

2 Q. But any material that would be on the floor  
3 from August 4, that would have been removed on August 3.

4 A. Probably, yes.

5 Q. You didn't do any removal of the first floor  
6 on August 4.

7 A. No.

8 MR. MANKOWSKI: Okay. I'm just going to  
9 double-check my notes.

10 HEARING OFFICER WEBB: Okay.

11 Q. (By Mr. Mankowski) I think you spoke a  
12 little bit about the project log early on. Have you seen  
13 the actual project log for this project?

14 A. The one I filled out?

15 Q. The whole -- Like, the whole packet that  
16 your company created with the air sampling data, your  
17 daily logs.

18 A. I've never seen the air sampling. I seen  
19 what I made, and that's probably it.

20 Q. Okay.

21 A. What I wrote.

22 Q. So that would be the -- like, the daily  
23 project logs for each day?

24 A. Yes, sir.

1 Q. Okay. You didn't have anything to do with  
2 the air sampling that's --

3 A. No, sir.

4 MR. MANKOWSKI: Okay. No further questions.

5 HEARING OFFICER WEBB: Thank you.

6 Mr. Immel, do you have any redirect?

7 MR. IMMEL: I'm thinking about that.

8 REDIRECT EXAMINATION

9 BY MR. IMMEL:

10 Q. Mr. Johnson, Counsel asked you about a  
11 number of photographs, specifically six, and in each  
12 instance he asked you if you could tell whether the  
13 material in the photograph was wet or it had been wetted,  
14 adequately wet, and in each instance you said it was  
15 really hard for you to tell just looking at a picture.  
16 Nobody from General took any of these pictures, right?  
17 These are all Mr. Zappa's pictures.

18 A. Yes.

19 Q. Do you know if anyone from General was even  
20 present when he took some of these pictures?

21 A. I don't know if anybody was around him or  
22 not.

23 Q. You weren't with him when he took these  
24 pictures, were you?



1 A. No.

2 Q. Nor were you with him when he collected his  
3 samples, correct?

4 A. Correct. I was not there.

5 Q. As I'm understanding your testimony in  
6 response to his -- to Mike's questions -- I'm sorry --  
7 Mr. Mankowski's questions, you're seeing dark spots in  
8 various places in the photographs as suggesting to you  
9 that there is water present. Did I understand that  
10 right?

11 A. I said that.

12 Q. Okay. If I may, for example, in that  
13 connection call your attention -- do you still have those  
14 pictures up there?

15 MR. MANKOWSKI: You want me to hand them to  
16 him?

17 MR. IMMEL: Yeah, if you wouldn't mind  
18 giving the witness back 4DD, 4DD as in dog.

19 MR. MANKOWSKI: I believe that's 4DD. Is  
20 that with the --

21 MR. IMMEL: Yes.

22 MR. MANKOWSKI: Okay.

23 Q. (By Mr. Immel) In Mr. Zappa's testimony, he  
24 identified this as a picture of a row of drums from the

1       upstairs hallway. Is that -- You agree with that?

2               A. I guess that's where they're from.

3               Q. It looks like a row of drums.

4               A. Yes.

5               Q. And that's -- And the first three that you  
6 see starting from the bottom of the picture and going up  
7 all appear to have water present in the picture,  
8 droplets? You can see it in the -- on the plastic?

9               A. Appears to be, I guess.

10              Q. And what you can see of the contents of  
11 these drums appears to be some dark staining in all three  
12 of the drums that are depicted in the foreground of the  
13 picture. Do you see that?

14              A. Yes.

15              Q. What do you take that staining to be from?

16              A. It's probably wetter than the rest.

17              Q. Okay. So that staining would be caused by  
18 water, right?

19              A. Yes.

20              Q. And so as you look at these other  
21 photographs that have been shown to you, in many  
22 instances where you're seeing dark staining, you're  
23 likewise concluding the same thing, that it's probably  
24 from water, right?

1 A. Probably, yes.

2 MR. IMMEL: That's all I have.

3 HEARING OFFICER WEBB: Mr. Mankowski, do you  
4 have anything further?

5 RE CROSS EXAMINATION

6 BY MR. MANKOWSKI:

7 Q. Just one quick question. If the material in  
8 the drums on the second floor was wet, does that excuse  
9 dry material on the first floor?

10 A. What do you mean, excuse?

11 Q. By adequately wetting material on the second  
12 floor, that doesn't fulfill the requirement of adequately  
13 wet for any material that was dry on the first floor?

14 A. No. If it wasn't adequately wet, no.

15 Q. Okay. So if the material on the first floor  
16 is adequately wet -- or is dry, it doesn't matter if  
17 material in drums on the second floor is adequately wet.

18 A. No.

19 MR. MANKOWSKI: Okay. No further questions.

20 MR. IMMEL: I haven't been objecting because  
21 I don't want to clutter things up, but I'd just like to  
22 make a general suggestion that the material on the first  
23 floor is what Mr. Zappa tested and it came back negative,  
24 so it might just as well be kleenex for legal purposes.

1 MR. MANKOWSKI: I object to that --

2 HEARING OFFICER WEBB: Well --

3 MR. MANKOWSKI: -- because the samples came  
4 from a drum on the first floor, and those drums were full  
5 of material that was either removed on the first or  
6 second floor, and that sample came up positive, so I  
7 think that's a mischaracterization of the evidence.

8 MR. IMMEL: Well, he testified that he  
9 collected his sample in the southwest room, and you've  
10 shown this man pictures of stuff from the southwest room  
11 where he took his sample, and the only sample on God's  
12 earth that anybody has that's specific to that room is  
13 the one that Joe Zappa collected and came back negative  
14 from the lab, and I can only go by that. I didn't choose  
15 to take samples --

16 HEARING OFFICER WEBB: Well, unless there  
17 are any more facts this witness can put in the record,  
18 that's probably better reserved for your post-hearing  
19 brief. I'm sorry. Are we finished with this witness?

20 MR. IMMEL: Yes, we are.

21 HEARING OFFICER WEBB: Okay. Thank you,  
22 Mr. Johnson.

23 MR. JOHNSON: Thank you, ma'am.

24 MR. IMMEL: You want to take our lunch break

1 now and then resume? This next witness will be  
2 considerably shorter, but --

3 MR. MANKOWSKI: It's up to you.

4 MR. IMMEL: -- but he does have --

5 HEARING OFFICER WEBB: Your witnesses are  
6 the ones traveling today, so I'll let -- if you want to  
7 take a lunch, we can. If you want to push through --

8 MR. IMMEL: Well, what do you think?

9 MR. MANKOWSKI: It's up to you. We can take  
10 a lunch now. I mean, that's --

11 HEARING OFFICER WEBB: Okay. We'll go off  
12 the record, and I guess we'll go ahead and take a lunch  
13 break, if that's consensus.

14 (Lunch recess taken.)

15 HEARING OFFICER WEBB: We are back on the  
16 record. Before we begin with the Respondent's second  
17 witness, I understand that the parties wish to move to  
18 enter another exhibit into the record. Mr. Mankowski,  
19 would you like to describe that?

20 MR. MANKOWSKI: Yes. The People would like  
21 to enter -- it's titled "The Asbestos Abatement,  
22 Belleville Memorial Hospital Apartments, 8-01 through  
23 8-17-05," and we want to enter that as People's Exhibit  
24 No. 6.

1 HEARING OFFICER WEBB: And the Respondents  
2 do not object?

3 MR. IMMEL: Do not object. I'd like to  
4 supplement what Mike said to this extent. I'm informed  
5 that the term of art for this kind of a document, which  
6 is generated in each project, is called a close-out  
7 report. It's generated by General Waste Services and it  
8 is supplied to the owner of the project, in this case  
9 Belleville hospital, but the relevance of this particular  
10 document for our respective purposes is that multiple  
11 witnesses have referred to it, and Mr. Johnson, who just  
12 left the stand a short time ago, was testifying to his  
13 logs, his daily logs and his -- the attendance reports.  
14 There was reference in his testimony and in Mr. Zappa's  
15 to air sampling analysis that was done on site during the  
16 project. All of those documents are contained within  
17 this report as well as other paperwork relevant to the  
18 project, and with this in hand, the Board has a little  
19 bit more complete record of the project.

20 HEARING OFFICER WEBB: Okay. And it's my  
21 understanding that you do not have a copy for me to file,  
22 but you will submit a copy directly to the Board's clerk?

23 MR. MANKOWSKI: Yes, Madam Hearing Officer.

24 HEARING OFFICER WEBB: Okay. Thank you.

1 Okay. Mr. Immel, you may call your second witness.

2 MR. IMMEL: Thank you. My next witness is  
3 Ken Stevens, who I refer to as Kenny.

4 HEARING OFFICER WEBB: Okay. Would the  
5 court reporter please swear in the witness?

6 (Witness sworn.)

7 KENNETH STEVENS, produced, sworn and examined on  
8 behalf of the Respondent, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. IMMEL:

11 Q. Would you please give the reporter your --  
12 the correct spelling of your first and last name, full  
13 name?

14 A. Kenneth, K-E-N-N-E-T-H; Stevens,  
15 S-T-E-V-E-N-S.

16 Q. Kenny, you've -- you're employed by General  
17 Waste Services; is that right?

18 A. Yes, sir.

19 Q. And how long have you been so employed?

20 A. Just a little over nine years, sir.

21 Q. Okay. You have a license from the Illinois  
22 Department of Public Health --

23 A. Yes, sir.

24 Q. -- in asbestos abatement?

1           A.    Yes, sir.

2           Q.    What license is it that you hold?   Laborer?

3           A.    Oh.   Supervisor.

4           Q.    You have a --

5           A.    Yes, sir.

6           Q.    -- supervisor's license.   Did you work on

7   the Belleville job that we've been hearing testimony

8   about?

9           A.    Yes, sir.

10          Q.    Did you work as a supervisor on that

11   particular job?

12          A.    No, sir.

13          Q.    Did you -- Were you limited to the position

14   of laborer on that particular job?

15          A.    Yes, sir.

16          Q.    Okay.   Were you on that job site on

17   August 4, 2005?

18          A.    Yes, sir.

19          Q.    And what was -- what labor were you

20   performing on that day?   Did you have an assigned task?

21          A.    Not necessarily an assigned task, but we

22   kind of work our way into a task, and I was helping with

23   the watering of the material in the barrels.

24          Q.    Okay.   Now, there's been previous testimony



1 about the fact that there were barrels that were lined up  
2 in the second-floor hallway of the facility, and I'm  
3 given to understand that you were taking care of those  
4 particular barrels and getting them filled, etc.?

5 A. Yes, sir.

6 Q. Okay. Tell us a little bit about the  
7 process that you went through. I know Calvin Johnson  
8 testified in general about it, but tell us about the  
9 barrels in the upstairs hallway, first of all starting  
10 with how they got there.

11 A. Well, first of all, the -- we brought in  
12 empty barrels and took some upstairs, and we would open  
13 them up and line them, and then as the material would  
14 come down, we would fill the barrels up and we'd bring  
15 them out so I could reach them with the hose and water  
16 the material that was inside.

17 Q. Okay. So let's start with -- the barrels  
18 are more or less stockpiled in the hallway for use on the  
19 second floor, correct?

20 A. Yes, sir.

21 Q. As material is being brought down from the  
22 ceiling, are the barrels taken into the room then to load  
23 them or is the material brought out to the hallway? How  
24 does that work?

1           A.    They're loading them in the room.

2           Q.    Okay.  Now, besides handling the barrels,  
3   you've done some of this removal work yourself that we're  
4   talking about.  You're fully licensed to do that, right?

5           A.    Yes, sir.

6           Q.    Has it ever been your practice or was it the  
7   practice on this job to have the barrel directly  
8   underneath the portion of the ceiling that was coming  
9   down, letting it just fall into the barrel, or is that  
10   something you want to avoid?

11          A.    No.  You -- Sometimes it falls on the floor.  
12   If it falls in the barrel, you're better off, you don't  
13   have to pick it up, but, yeah, it's -- when you're taking  
14   the ceiling down, it falls --

15          Q.    There's some risk, I suppose, if a  
16   particularly large piece of ceiling let loose, it could  
17   come down with enough weight and force to actually damage  
18   a barrel, couldn't it, or --

19          A.    It could, yes, sir.

20          Q.    That doesn't happen very often?

21          A.    Not very often, no, sir.

22          Q.    Did it happen on this job as far as you  
23   know?

24          A.    Not that I recall, sir.  No, sir.

1           Q.    So barrel was taken into the room, it's  
2   loaded up with material and then it's brought back out to  
3   the hallway.

4           A.    Yes, sir.

5           Q.    Now, specifically, while the removal's going  
6   on and the barrels are going in and out of rooms,  
7   returning always to the hallway where they started, what  
8   was your job -- what were you doing while this was going  
9   on? What was your specific role?

10          A.    Well, like I said, you kind of work your way  
11   into a job, I guess, sometimes, but I would help bring  
12   the barrels out or set a barrel into a room or something,  
13   but -- you know, just in and out like that, but mostly I  
14   was keeping the water bucket full for the airless sprayer  
15   and I was watering the barrels --

16          Q.    Okay. Well, first let's --

17          A.    -- after they were full of material.

18          Q.    Let's stick with the movement of the barrels  
19   before we move on to water.

20          A.    Okay.

21          Q.    Am I to assume that as an empty barrel with  
22   a liner in it, that's -- it's already been lined, it's  
23   ready to go, right?

24          A.    Yes, sir.

1 Q. At this point, one guy, you, can handle  
2 getting the barrel into the room. You can just --  
3 A. Yes, sir.  
4 Q. -- zip it right in there, empty barrel.  
5 Getting it out might involve more than one person, right?  
6 A. Possibly, but usually I did it by myself.  
7 Q. But at some point you probably -- the  
8 barrel's no longer handy to just pick it up off the  
9 floor.  
10 A. Oh, no, sir. You got to wrestle it out.  
11 Q. You have to sort of roll it out.  
12 A. Yes, sir.  
13 Q. Get it out on an edge and just sort of walk  
14 it out; is that right?  
15 A. Yes.  
16 Q. So now the barrel's been returned to the  
17 hallway with as much material that's going to be put in  
18 it, correct?  
19 A. Yes, sir.  
20 Q. And so there you are in the hallway, and  
21 you're kind of doing multiple jobs then. You're --  
22 Somebody yells, we need a barrel, you're moving a barrel  
23 in, then you're back out dealing with water --  
24 A. Yes, sir.

1 Q. -- is that right?

2 A. Yes, sir.

3 Q. Now, tell us about this finger hose that  
4 Mr. Johnson's already testified about. We know how it  
5 works. Is this a hose that's just laying out in the hall  
6 there ready to be used anywhere you can reach with it?

7 A. Yes, sir. It comes up the steps or to the  
8 side or whatever so we can reach the barrels upstairs,  
9 yes, sir.

10 Q. Okay. And you're looking at these different  
11 barrels, and if I may, could I call the witness'  
12 attention to People's Exhibit 4, photograph DD? There  
13 you go. Let the record reflect that the witness has been  
14 tendered a copy of a photograph marked 4DD. You've seen  
15 this picture before, haven't you, Mr. Stevens?

16 A. Yes, sir.

17 Q. Does this photograph depict a row of barrels  
18 sitting out in the second floor?

19 A. Yes, sir.

20 Q. They stretch off into the distance beyond  
21 which I can see, but it looks like there's got to be six,  
22 seven of them. Is there that many of them lined up out  
23 there?

24 A. At least seven or eight, six or seven or

1 eight, something like that.

2 Q. And the three particular ones in the  
3 foreground that I want to call your attention to appear  
4 to be filled with material. This would be ceiling  
5 material that came down from one of the adjoining rooms;  
6 is that right?

7 A. Yes, sir.

8 Q. They appear to be -- That appears to be  
9 water drops in the first three barrels that I'm looking  
10 at; is that right?

11 A. Yes, sir.

12 Q. And the material inside the barrel, has that  
13 been wetted down already?

14 A. Obviously, yes. If the barrels have water  
15 on the plastic, then they've been sprayed with water,  
16 yes.

17 Q. Is one of the ways to tell whether or not --  
18 just from looking at a photograph whether or not the  
19 material has been wetted any change in the coloration of  
20 the material?

21 A. It -- Yes, you can tell that the backing of  
22 the Sheetrock is probably darker from the wetness.

23 Q. It does appear that some of this backing  
24 material, as you described it, is darker in these

1 pictures; is that right?

2 A. It appears that way, yes, sir.

3 Q. Now, you're the person who was actually  
4 putting the water in these barrels, right?

5 A. Yes, sir.

6 Q. It was you and no one else. That was what  
7 you were doing at that time, right?

8 A. Yes, sir.

9 Q. Now, there's been testimony about the  
10 function of the airless sprayer, and I believe you heard  
11 the testimony of Mr. Johnson. These sprayers are  
12 supplied with water by a five-gallon bucket.

13 A. Yes, sir.

14 Q. And, like, a little hose runs into there and  
15 sucks water out of the bucket up into the sprayer and  
16 goes into the air to make this mist or haze or whatever  
17 you want to call it.

18 A. Yes, sir.

19 Q. Fog. You're familiar with that operation?

20 A. Yes, sir.

21 Q. You've done that as a worker, correct?

22 A. Yes, sir.

23 Q. Was it being done in those rooms adjacent to  
24 the hallway the day you were there on the 4th?

1           A.    Yes, sir.

2           Q.    When someone ran low on water in their

3   bucket for the airless sprayer, what did they do?

4           A.    They didn't have to do anything. I was

5   available right there with the hose. The bucket was

6   close to the barrels. When the water would get down in

7   the bucket, I would just fill it --

8           Q.    Top it --

9           A.    -- top it off, fill it up and then do

10   whatever --

11          Q.    So basically, you were just keeping track of

12   that --

13          A.    Yes, sir.

14          Q.    -- and keeping track of getting water going

15   into these buckets -- these barrels in the hall --

16          A.    Yes, sir.

17          Q.    -- and, when needed, either zipping a

18   barrel, an empty, into a room or rolling a full one out

19   of a room.

20          A.    Yes, sir.

21          Q.    You were sort of the barrel guy that day,

22   then.

23          A.    Yes, sir. I guess that's what you'd call

24   me.



1           Q.    Okay.  And did you do that throughout your  
2   working day there on August the 4th?

3           A.    Pretty well, yes, sir.

4           Q.    Okay.  Now, at some point in the mid  
5   morning, shall we say, on that date, Inspector Joe Zappa  
6   of EPA came on the premises, according to his testimony.  
7   Were you there when that happened?

8           A.    I was inside, yes, sir, when he --

9           Q.    Inside.

10          A.    Yes, sir.

11          Q.    Now, in -- did you know who Mr. Zappa was  
12   prior to this all happening?

13          A.    No, sir.

14          Q.    You'd never seen him before?

15          A.    No, sir.

16          Q.    When did you first become aware of his  
17   presence in the building?

18          A.    He come up the steps and walked by me.  I  
19   was watering the barrels, and --

20          Q.    Did Mr. Zappa identify himself to you or  
21   show you an ID or say good morning or anything of that  
22   nature?

23          A.    He didn't identify himself, but he spoke to  
24   me.

1 Q. What words did he speak?

2 A. He said there -- something to the effect  
3 that it's a little late for that.

4 Q. Do you know what he was referring to?

5 A. I just -- I can't read his mind, but I  
6 assume he meant to water the barrels. That's all I know.

7 Q. Well, what had you been doing before he came  
8 up the stairs?

9 A. Watering the barrels.

10 Q. And what were you doing when he spoke those  
11 words to you?

12 A. Watering the barrels and filling the bucket,  
13 both.

14 Q. Okay.

15 A. Whatever it needed.

16 Q. And he said, to the best of your  
17 recollection, it's a little bit late for that.

18 A. Something to that effect, yes, sir.

19 Q. What did you say in response to that?

20 A. I just said, "What'd you say," and he walked  
21 on past me and went on into the rooms then.

22 Q. So he didn't respond to your question.

23 A. No, sir.

24 Q. And he still hadn't identified himself in

1     **any way to you.**

2             A.    No, sir, not to me.

3             Q.    How was he dressed?

4             A.    Had a suit on, respirator.

5             Q.    He had a face mask respirator?

6             A.    Yes, sir.

7             Q.    So his -- your view of his face was obscured

8     **by this respirator.**

9             A.    Yes, sir.

10            Q.    He didn't tell you he was from the EPA?

11            A.    No, sir.

12            Q.    And this is how he got up to the second

13     **floor, walked right up and past you.**

14            A.    Yes, sir.

15            Q.    And he'd not been up there before that day,

16     **because you were up there, right?**

17            A.    As far as I know, he'd never been in there.

18     I --

19            Q.    Well, the whole time you were working up

20     **there --**

21            A.    No.

22            Q.    -- which was the whole day --

23            A.    Yes.

24            Q.    -- he hadn't come up there.

1           A.    No, not on that morning.

2           Q.    Okay.  Now, I want to -- just for the  
3   benefit of everybody who's just reading a transcript  
4   here, I want to try and see if you can help us.  You're  
5   familiar with the inside of that building and, you know,  
6   its --

7           A.    To what I can remember.

8           Q.    Yeah.  It's a stairway --

9           A.    Yes.

10          Q.    -- that leads up to the second floor.

11          A.    Yes, sir.

12          Q.    And a person coming up that stairway, as  
13   they're going -- and you yourself went up and down that  
14   stairway many times, correct?

15          A.    Yes, sir.

16          Q.    As you go up and down the stairway -- let's  
17   stick with coming up the stairway.  Within your field of  
18   vision as you go up the stairway, you begin to see the  
19   hallway and then finally can see down the hallway the  
20   higher you get on the stairs; is that right?

21          A.    Yes, sir.

22          Q.    Can you see while on the stairway into the  
23   rooms that are off the hallway?

24          A.    I would say no because of the barrels

1 blocking the view partly, and there's doorways and walls  
2 and -- but I'd say no.

3 Q. So to get a look inside of a room and to see  
4 what people may or may not be doing in there, you needed  
5 to get up past the stairway but actually into the hallway  
6 so you can get adjacent to a room and look inside of the  
7 room, right?

8 A. Yes, sir.

9 Q. As Mr. Zappa would -- sharing that same  
10 vantage point coming up the stairs, what would have been  
11 the first thing he would have seen from that vantage  
12 point as he went up the stairs?

13 A. Well, it's hard to explain, but if you go up  
14 the steps, first thing you'd see is a wall, and to the  
15 left -- you'd have to turn to your left to go back down  
16 into the hall part, and then the rooms are on that side.

17 Q. Okay. Would he have been able to see you  
18 from the stairway?

19 A. Yes, I would think so. He could see me,  
20 because I was standing in the hall between the rail and  
21 the barrels, watering.

22 Q. All right. So he could see you and he could  
23 probably see some of the barrels; is that right?

24 A. Yes, sir.

1 Q. Would he be able to see any of the people  
2 who were working -- From his vantage point on the  
3 stairway, would he have been able to see any of the  
4 people working in any room up there?

5 A. I don't see how, because the stairs come up  
6 like -- I don't know if you can -- but, like, this is the  
7 hall here. The stairs come up like this and the rooms  
8 are over here.

9 Q. Okay. So you have to get up in the  
10 hallway --

11 A. Yes.

12 Q. -- to get a view of --

13 A. Yes.

14 Q. -- what's going on inside the rooms.

15 A. Yes, sir.

16 Q. And on the morning of August 4, when he went  
17 up the stairway, the first human being that he would have  
18 encountered would have been you standing there with the  
19 hose.

20 A. It's possible, unless there was somebody  
21 going up and down the steps, but, yes, upstairs, it would  
22 have been me, yes, sir.

23 Q. Did anybody go down the stairs --

24 A. I couldn't -- I'm just saying that --

1 Q. -- about the same time that you recall?

2 A. Yeah, I don't know. I'm just saying that  
3 I'm not sure I would be the first person he'd saw,  
4 because somebody might have been going up and down the  
5 steps, I don't know, for tools or whatever. I'm just  
6 saying that upstairs, I would have been the first person  
7 he would see, yes.

8 Q. Now, you -- each of these barrels that's in  
9 that hallway that was placed out there with material in  
10 it, you put water using the finger hose in each and every  
11 one of them; is that right?

12 A. Yes, sir.

13 Q. And of course you're familiar with the  
14 regulation about making the material adequately wet.

15 A. Yes, sir.

16 Q. Yes?

17 A. Yes, sir.

18 Q. You've been tested on all that when you got  
19 your license, right?

20 A. Yes, sir.

21 Q. And in your opinion, based on your, what,  
22 nine years of doing this work --

23 A. Yes, sir.

24 Q. -- did you believe -- do you believe that

1 the material in each of those barrels was adequately wet?

2 A. What I took care of was, yes, sir.

3 Q. Okay. Now, there were also some barrels  
4 down in what we've been referring to as the loadout area  
5 that had been placed there containing material that had  
6 been collected the previous day, the 3rd.

7 A. Yes, sir.

8 Q. And you've consulted the records of the  
9 company and -- to refresh your recollection and determine  
10 that you were there at least part of that day too,  
11 weren't you?

12 A. I found out that I was, yes, sir.

13 Q. Yeah. At the time you gave your deposition  
14 some months ago, you didn't recall being there that day.

15 A. No, sir, I did not.

16 Q. And your memory's now been refreshed, and  
17 you were there that day.

18 A. Yes, sir.

19 Q. The 3rd.

20 A. Yes, sir.

21 Q. Do you recall what your job was that day?

22 A. No, sir.

23 Q. Okay.

24 A. May I make a statement?



1           Q.   Is it responsive to the last question I was  
2   making or --

3           A.   Yes, yes.

4           Q.   What did you want to say?

5           A.   The only reason I remember about that day is  
6   because of when he walked by me and spoke to me, and it  
7   kind of --

8           Q.   So the date August 4 stands out -- his visit  
9   that workday stands out because an EPA inspector came up  
10   the stairs and said to you, it's a little late for that.

11          A.   Yeah, and then no response, and so it just  
12   kind of stuck in my craw, as the old saying goes, that I  
13   just, you know -- and that's why it stuck in my mind, and  
14   I hadn't thought any more about it until this come up,  
15   so --

16          Q.   Did it stick in your craw because you were a  
17   little bit miffed about what he'd said or maybe his tone  
18   of voice or something?

19          A.   It wasn't tone of voice. I mean, it was  
20   just -- I was standing there watering barrels. There was  
21   no reason to ask me a question like that, why did I start  
22   doing it now or something like that, there was no use  
23   doing it now or something, because I'd been doing it all  
24   morning --

1 Q. So it bothered you.

2 A. -- for the last -- yes, sir, and that's why  
3 I remembered it.

4 Q. Okay. And nobody made any remark like that  
5 to you the day before, so the day before doesn't stand  
6 out in your mind. This one does.

7 A. Well, I didn't -- as far as I know, I don't  
8 remember what I did the day before. I mean, jobs kind of  
9 run into each other and --

10 Q. Yeah.

11 A. -- you know, you don't remember, but that  
12 kind of stood out to me.

13 Q. Well, this was five years ago.

14 A. Yes, sir.

15 Q. And you've done a whole bunch of jobs before  
16 and since then.

17 A. Yes, sir.

18 Q. On this job, you were there as a laborer.

19 A. Yes, sir.

20 Q. Throughout, you never worked on the  
21 Belleville project as a supervisor on this job, right?

22 A. No, sir. No, sir.

23 Q. That's something that happens from time to  
24 time. One job you might be a supervisor, another job you

1 might be a laborer, just depending on what's --  
2 A. Yes, sir.  
3 Q. -- needed?  
4 A. Yes, sir.  
5 Q. Okay. Mr. Zappa had no other conversation  
6 with you that day; is that right?  
7 A. Well, other than, like --  
8 Q. I mean --  
9 A. Yeah, outside of -- inside, no, no.  
10 Q. Okay. Direct conversation --  
11 A. No, sir.  
12 Q. -- with you, one on one. He didn't ask you  
13 any questions.  
14 A. No, sir.  
15 Q. Did you observe him collect any samples?  
16 A. No, sir, I didn't.  
17 Q. Okay. Later that same morning, you were  
18 part of the assembled group that went outside.  
19 A. Yes, sir.  
20 Q. And Calvin Johnson asked that everybody be  
21 outside, right?  
22 A. Yes.  
23 Q. And at that point there was a discussion --  
24 Mr. Zappa had some words to say to the group; is that

1     **right?**

2             A.    Yes, sir.

3             Q.    And you were standing there.

4             A.    Yes, sir.

5             Q.    Okay. Do you have any particular

6     **recollection of what he said to the group?**

7             A.    No, sir.

8             Q.    And you didn't have -- you didn't say

9     **anything to him during that group discussion.**

10            A.    No, sir.

11            Q.    Okay. Do you have any recollection, when

12     **that group discussion broke up, did you all continue to**

13     **take, then, your lunch hour?**

14            A.    Yes, sir. The nearest I remember, we went

15     **over to lunch.**

16            Q.    Do you recall if at that time Mr. Zappa went

17     **back inside the building unaccompanied by anyone?**

18            A.    I didn't see him, sir.

19            Q.    Okay. Did you see him leave the area in his

20     **vehicle?**

21            A.    No, sir. I didn't -- We went to lunch,

22     **so --**

23            Q.    You just never -- okay.

24            I have no further questions.

1 HEARING OFFICER WEBB: Mr. Mankowski?

2 CROSS EXAMINATION

3 BY MR. MANKOWSKI:

4 Q. Mr. Stevens, your job was to add water to  
5 the bucket; is that correct?

6 A. Yes, sir.

7 Q. And you got that from a hose that was  
8 attached to a tank outside the building.

9 A. Yes.

10 Q. Did you add anything else to the bucket  
11 other than the water?

12 A. We added the amendance [phonetic], but not  
13 every time I filled the bucket.

14 Q. Okay. So when you say amendance, what is  
15 that?

16 A. The surfactant, the amended -- to make it  
17 amended water.

18 Q. Okay. And you said you didn't add that  
19 every time you --

20 A. No, because the bucket would get half full  
21 and I'd fill it up, or, you know, when I could I'd add  
22 it, because you just didn't need it every time. It was  
23 always available.

24 Q. And what do you believe is the purpose of

1 using water during an asbestos removal?

2 A. Keep the material wet.

3 Q. And when is the material supposed to be wet?

4 A. Before, during and after.

5 Q. Okay. So before, that would be -- like, in  
6 this case it was ceiling material, so before would be  
7 while it's on the ceiling?

8 A. Yes, sir.

9 Q. Okay. So you're supposed to wet it while  
10 it's on the ceiling.

11 A. Yes, sir.

12 Q. Then you're supposed to wet it while you're  
13 bringing it down.

14 A. Yes, sir.

15 Q. And then you're supposed to make sure it  
16 stays wet after you remove it.

17 A. Yes, sir.

18 Q. Okay. And that includes keeping it wet in  
19 the barrels.

20 A. Yes, sir.

21 Q. Okay. And if it's on the floor, you're  
22 supposed to keep it wet there too.

23 A. Yes, sir.

24 Q. And how long is it supposed to stay wet?

1           A.    Till somebody pops a barrel open and it  
2   dries up, which it probably never would in the ground.

3           Q.    Okay. Well, that's -- if I could be more  
4   specific, after it's removed at the site, where does that  
5   material go?

6           A.    To the dump.

7           Q.    And is that material supposed to stay wet  
8   until it gets to the dump?

9           A.    Yes.

10          Q.    So you have to make sure that --

11               MR. IMMEL: Not to be an obstructionist, but  
12   he's going very, very far afield from my direct. This is  
13   not within the scope of direct. Cross examination is  
14   about the matters that I asked him on direct, and I  
15   certainly didn't ask him any of this stuff, so I wish  
16   he'd stick with the rules on that one.

17               HEARING OFFICER WEBB: I don't think it's  
18   that far beyond the scope. I mean, I'm going to let you  
19   go ahead.

20               MR. MANKOWSKI: Mr. Stevens was asked if he  
21   knows what adequately wet means, if he was familiar with  
22   those regulations, and it was also his job to make sure  
23   that the material in these barrels were adequately wet,  
24   so I think this is well within the scope.

1 HEARING OFFICER WEBB: Go ahead.

2 MR. MANKOWSKI: Thank you.

3 Q. (By Mr. Mankowski) Okay. So the material  
4 is supposed to stay wet until it makes it to the  
5 landfill.

6 A. Yes.

7 Q. You have to make sure there's enough  
8 water -- or your job was to make sure there's enough  
9 water in that barrel to keep the material wet until it's  
10 disposed of at the landfill.

11 A. Here's the whole idea of keeping it wet.  
12 When you spray it coming down, or before, during and  
13 after, it -- if it was wet enough to begin with, when you  
14 sprayed it the first time, there would be no reason to do  
15 the during and after, so you keep doing it to make sure  
16 that it's wet enough when you close the barrel.

17 Q. Okay. Technically, it should be wet enough  
18 while it's on the ceiling that you don't have to add  
19 water to the barrel.

20 A. Not necessarily, no.

21 Q. I believe that's what you just said.

22 A. No, I said if it was wet enough to begin  
23 with, then you wouldn't have to keep spraying it, so --  
24 and the regs say before, during and after, so in our



1 case, well, we couldn't damage the floor. You can't soak  
2 it where it's going to run off into the floor, so we got  
3 to keep adding water to it as we go through the steps.  
4 It's not necessarily a soaking the first time. If it was  
5 soaked the first time, we wouldn't have to keep adding  
6 water to it, so that's why we were doing it in that  
7 process.

8 Q. Okay. Now, if that material was left out to  
9 dry out, is that an improper practice?

10 A. I suppose so.

11 Q. So it should be in the barrel before it  
12 dries out.

13 A. Yes.

14 Q. You shouldn't leave it laying around to dry  
15 out.

16 A. No.

17 Q. Okay. And that's even if the building's  
18 under negative air.

19 A. That's what I'm not so sure about, because  
20 regs vary. Well, should I put it this way. The regs  
21 don't vary, but some of the people that interpret the  
22 regs vary, so it's possible to let it sit for a little  
23 while before you put it in a barrel, you know. It don't  
24 always go directly into the barrel is the whole point, so

1     anyway --

2             **Q.     Now, you said that you were a laborer on**  
3     **this project.**

4             A.     Yes, sir.

5             **Q.     You weren't a supervisor?**

6             A.     No, sir.

7             **Q.     So if somebody happened to visit the site,**  
8     **they didn't have to report to you.**

9             A.     No, sir.

10            **Q.     Okay.    So when Mr. Zappa showed up on site,**  
11    **he didn't have to stop with you first.**

12            A.     No, sir.

13            **Q.     And you weren't doing any removal in the**  
14    **hallway.**

15            A.     No.

16            **Q.     You were adding water to barrels.**

17            A.     Right.   Yes, sir.

18            **Q.     So if Mr. Zappa wanted to see removal, he**  
19    **didn't have to spend any time -- he wouldn't spend any**  
20    **time in the hallway.**

21            A.     No, sir, unless he stood outside and looked  
22    into the doorway, but he went on into the rooms, yes.

23            **Q.     And that's where people were actually --**

24            A.     Yes.

1           Q.    -- removing material.  Just to be clear, on  
2   August 4, you worked upstairs; is that correct?

3           A.    Yes, sir.

4           Q.    Did you work on the first floor at all?

5           A.    Like I said, I can't -- I'm sure I did.  If  
6   I was there two or three days, I'm sure I did at one  
7   time.

8           Q.    But just specifically on August 4, was there  
9   any removal done on the first floor?

10          A.    Oh, on that day.  Not that I recall,  
11   because -- no.  We were always upstairs, I'm sure.

12          Q.    The airless sprayer was never used on the  
13   first floor that day?

14          A.    Not that day, sir.

15          Q.    Okay.

16          A.    Not that I know of.

17          Q.    Okay.  The airless sprayer was only --

18          A.    Because I kept the bucket up there so they  
19   could have it in the rooms they were tearing down.

20          Q.    Okay.  And you were there from seven o'clock  
21   to three o'clock that day?

22          A.    Yes, sir.

23          Q.    Okay.  And you never used the finger wetter  
24   on the first floor at all that day.

1           A.    Well, I can't swear to that, but as Calvin  
2   pointed out, there was other finger wetters.  There's,  
3   like, a manifold where you can plug this hose in and this  
4   hose in, and I had one upstairs.  There could have been  
5   one downstairs.  I don't know.  I'm just saying I don't  
6   know if it was -- if there was any used down there or  
7   not.

8           Q.    Okay.  Did you personally --

9           A.    I didn't, no.

10          Q.    Okay.  You personally did not use --

11          A.    No, sir.

12          Q.    -- any finger wetter on the first floor?

13          A.    No, sir.

14          Q.    Now, you spoke earlier about -- well, you  
15   looked at a picture that was Exhibit 4DD.

16          A.    With the barrels?

17          Q.    Yes.  And that you said from that picture  
18   you could see that the material in those barrels -- that  
19   there was moisture.

20          A.    It looks that way, yes, sir.

21          Q.    Okay.  And that was because there's water  
22   droplets on the plastic?

23          A.    Yes, sir.

24          Q.    And the darker color of the backing?

1           A.    That's the way it looks, yes, sir.

2           Q.    So to you, that one looks like it was wet.

3           A.    Yes, sir.

4           Q.    I'm going to direct your attention to

5 another photo, which is People's Exhibit 4D. What do you

6 see in that photo?

7           A.    Torn-up ceiling.

8           Q.    And can you see where that material is?

9           A.    No, sir.

10          Q.    It doesn't look like it's in a barrel?

11          A.    I can't tell that. I can see the plastic,

12 but I can't tell -- it don't look like it's in a barrel,

13 but I can't tell for sure.

14          Q.    You can tell that there's plastic behind it,

15 though.

16          A.    Yes.

17          Q.    Okay. And do you see any evidence of

18 moisture in that picture?

19          A.    Well, this -- to the right there is a little

20 darker and up to the top there, but that main piece there

21 in front doesn't look like it.

22          Q.    Do you see any water on the plastic?

23          A.    I can't tell if there is.

24          Q.    Okay. You don't see any in that picture?

1 A. I can't tell if there is.

2 Q. And if you were adding water to a barrel and  
3 the material looked like that, would you consider that to  
4 be adequately wet?

5 A. No. I would soak that piece. I mean, I'd  
6 wet it, yes.

7 Q. Okay. So that piece --

8 A. That's not.

9 Q. -- that piece doesn't look adequately wet to  
10 you.

11 A. No, but it's not determined if it was in a  
12 barrel or not, so --

13 Q. Okay. I'm going to direct your attention to  
14 another photo, and that is photo 4E. Could you describe  
15 that photo?

16 A. That looks like material, torn-up material,  
17 ceiling material, and it looks like it's in a barrel.

18 Q. Okay. You can tell that one's in a barrel.

19 A. Yes.

20 Q. And what's the condition of that material?

21 A. It don't look real wet, does it?

22 Q. Do you see any water on the plastic?

23 A. No, sir.

24 Q. So if that barrel had come in front of you,

1     **would you have added more water to it?**

2             A.     Yes.   And I may not have got to that barrel  
3     yet either, so --

4             Q.     Okay.   And that barrel -- So you wouldn't  
5     think that that material was adequately wet at that  
6     point.

7             A.     No, not for sealing up.

8             Q.     Direct your attention to 4Z as in zebra.  
9     Once again, could you describe that picture for us?

10            A.     Torn-up pieces of ceiling surrounded by  
11     plastic.

12            Q.     Can you tell if that one's in a barrel?

13            A.     No, sir, I can't.

14            Q.     What's the condition of that material?

15            A.     It's hard to say, because that stuff on top  
16     there is the part that we've been talking about that  
17     doesn't absorb the water, so it's hard to tell if it's  
18     wet or not.   Underneath, it's hard to tell.   Looks like  
19     it might be wet, but I don't see no reason to call it  
20     either way, so I don't know.

21            Q.     Do you see any water on the plastic at all?

22            A.     No, sir, I sure don't.

23            Q.     If you sealed up the -- If the material was  
24     wet inside one of these drums and you sealed up the

1 plastic, you open it up the next day, would you still see  
2 evidence of water in that barrel?

3 A. More than likely.

4 Q. Because this is supposed to be an airtight  
5 system.

6 A. Yeah. Well, it's supposed to be.

7 Q. But the water doesn't evaporate very quickly  
8 in there.

9 A. No, sir. No, sir, it does not.

10 Q. So if, say, in this picture in 4Z, if this  
11 material had been put in on August 3 -- if it was wet on  
12 August 3, it should still look wet on August 4.

13 A. Has it been determined that that is out of a  
14 barrel?

15 Q. Let's assume that it is.

16 A. I can't do that.

17 Q. Well, that's -- it's a hypothetical  
18 question. Let's say this was in a barrel. If this  
19 material was wet on August 3 --

20 A. It would be wet the next day, yes.

21 Q. Okay. It should be wet the next day. Okay.

22 A. If that was in a barrel.

23 Q. When Mr. Zappa entered the building, could  
24 he have searched the first floor before he met you on the



1     **staircase?**

2             A.     I'm sure he could have, because I have no  
3     idea of the time span between the time he came in and the  
4     time he come upstairs.

5             Q.     Okay.  So you don't know if he spoke with  
6     anybody before he walked by you?

7             A.     No, I don't know that, no, sir.

8             Q.     You don't know if he looked at the first  
9     floor?

10            A.     I have no idea.  I didn't even know he was  
11     here until he walked beside me.

12            Q.     So if he saw violations on the first  
13     floor --

14                   MR. IMMEL:  Objection.

15                   MR. MANKOWSKI:  Well, never mind.  I will  
16     withdraw that question.

17                   MR. IMMEL:  Thanks.

18            Q.     (By Mr. Mankowski)  Earlier you said that  
19     you were there on August 3, correct?

20            A.     According to the books, yes, sir.

21            Q.     You don't remember what you did on August 3?

22            A.     No, sir, I sure don't.

23            Q.     Do you remember if you moved any of the  
24     barrels from the second floor down to the first floor

1     **before Mr. Zappa arrived that morning?**

2             A.     I don't think so. I couldn't swear to it,  
3     but he probably didn't get there till I assume probably 9  
4     or 9:30 or something like that, and that's -- that time  
5     span is probably just about enough time to fill six or  
6     seven barrels or something like that, so I couldn't swear  
7     to it, but I don't know.

8             MR. MANKOWSKI:   Okay. No further questions.

9             HEARING OFFICER WEBB:   Okay. Mr. Immel?

10            REDIRECT EXAMINATION

11     BY MR. IMMEL:

12            Q.     Just a couple small quickies on redirect.  
13     **When Mr. Zappa came up on the second floor, after he made**  
14     **this unusual remark to you about a little late for that**  
15     **now, whatever he meant, did he thereafter ask that**  
16     **everyone stop using any water up on the second floor,**  
17     **stop spraying?**

18            A.     Yeah, I think he stopped us from working,  
19     so -- and something like that. Like I said, I --

20            Q.     He said he had something to do? He took  
21     **some pictures then; is that right?**

22            A.     I didn't see him take any pictures, but I  
23     assume he did --

24            Q.     And --

1 A. -- at that time.

2 Q. -- he said something about wanting to  
3 collect a sample? Did you hear him say that?

4 A. No, sir. I didn't hear him say anything.

5 Q. But he did ask the people to stop using the  
6 water they were using in the room and you.

7 A. He asked us to stop work, yes, sir.

8 Q. And then after he left the upstairs, did you  
9 then resume what you were doing?

10 A. Yes, sir. Well, I continued to water the  
11 barrels anyway.

12 Q. Anyway. Okay.

13 A. But, yes, he --

14 Q. The other guys stopped using their  
15 sprayer --

16 A. Yes, sir. Yes.

17 Q. -- at his request.

18 A. Yes.

19 MR. IMMEL: That's all.

20 HEARING OFFICER WEBB: Anything further,  
21 Mike?

22 MR. MANKOWSKI: No questions.

23 HEARING OFFICER WEBB: All right. Thank you  
24 very much, Mr. Stevens.

1 MR. STEVENS: Yes, ma'am.

2 HEARING OFFICER WEBB: We have already  
3 discussed off the record a schedule for post-hearing  
4 briefs. The transcript will be available from the court  
5 reporter by May 21, and we'll get that up on the Board's  
6 web site. The public comment deadline is May 25. Public  
7 comment must be filed in accordance with Section 101.628  
8 of the Board's procedural rules. Complainant's brief is  
9 due by August 2 and Respondent's brief is due by  
10 September 7, and Complainant's reply brief, if any, is  
11 due by September 21. Mr. Mankowski, would you care to  
12 make any closing arguments?

13 MR. MANKOWSKI: I'd like to save those for  
14 the closing brief.

15 HEARING OFFICER WEBB: Okay. Mr. Immel,  
16 would you care to make any closing statement?

17 MR. IMMEL: Only very briefly, that this  
18 case has not gone anywhere on the issue of adequate  
19 wetting of ACM material; that the uncontroverted proof  
20 already in the record, acknowledged by Mr. Zappa in his  
21 direct testimony and his cross examination at the last  
22 hearing, is that the sample he collected on the first  
23 floor in the area that's been shown in these photographs  
24 proved to be negative for asbestos and that the sample he

1 collected on the second floor in the area where the men  
2 were working on that day likewise proved to be negative  
3 for asbestos. This was covered in the motion for summary  
4 judgment that I previously filed. The Board noted in its  
5 order in that case that, well, there still seem to be  
6 some material issues of fact, but if the hearing  
7 discloses what General Waste is contending, then they  
8 seem to have the argument on that, and that's exactly  
9 what the hearing has disclosed. There's no asbestos in  
10 the samples that were collected on the first and second  
11 floor on August 4, and so therefore, on that day they  
12 were not inadequately wetting asbestos-laden material  
13 because it didn't have any asbestos in it. I'll go into  
14 the rest of it in the brief, but I think this hearing has  
15 turned out exactly as I thought it would, and I'm not  
16 surprised. Other than that --

17 HEARING OFFICER WEBB: Is that it?

18 MR. IMMEL: That's it. I said I'd keep it  
19 brief.

20 HEARING OFFICER WEBB: Well, if no one has  
21 anything further, we will go ahead and adjourn this  
22 hearing. We are adjourned. I thank all of you for your  
23 participation.

24 (Hearing adjourned at 2:17 p.m.)

1 STATE OF ILLINOIS )  
 ) SS  
2 COUNTY OF BOND )  
3

4 I, KAREN WAUGH, a Notary Public and Certified  
5 Shorthand Reporter in and for the County of Bond, State  
6 of Illinois, DO HEREBY CERTIFY that I was present at  
7 office of the Illinois Pollution Control Board,  
8 Springfield, Illinois, on May 11, 2010, and did record  
9 the aforesaid Hearing; that same was taken down in  
10 shorthand by me and afterwards transcribed, and that the  
11 above and foregoing is a true and correct transcript of  
12 said Hearing.

13 IN WITNESS WHEREOF I have hereunto set my hand  
14 and affixed my Notarial Seal this 18th day of May, 2010.  
15

16   
17

18 Notary Public--CSR

19 #084-003688  
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