

Ex. 18
ACCSH1996-1

**MSD WORKGROUP
CHAIRMAN'S REPORT
TO FULL ACCSH COMMITTEE
OCTOBER 24/25, 1995**

MR. CHAIRMAN AND MEMBERS OF THE
ACCSH COMMITTEE, I AM REPORTING
TODAY AS TO WHERE WE CURRENTLY
STAND, REGARDING MSD, AFTER OUR LAST
MEETING. AS EACH OF YOU REMEMBER,
SEVERAL REPRESENTATIVES OF INDUSTRY
ASSOCIATIONS CAME BEFORE US TO MAKE
PRESENTATIONS REGARDING THEIR VIEWS
ON THE MSD WORKGROUP'S DRAFT
REPORT. BASICALLY, THE THEME OF THE

ELEVEN SPEAKERS CENTERED AROUND
THREE ISSUES:

THE FIRST ISSUE WAS COMPLAINING
ABOUT THE PROCESS, THAT ACCSH, AND I
AS CHAIRMAN, WENT THROUGH TO SELECT
MEMBERS OF THE WORKGROUP.

SENTIMENT WAS THAT IT WAS A CLOSED
GROUP AND THE INDUSTRY WASN'T
ALLOWED TO PARTICIPATE FULLY. AS
ACCSH COMMITTEE MEMBERS, YOU ARE
AWARE OF THE WORKGROUP SELECTION
PROCESS. THE ACCSH CHAIRMAN ASKS FOR
VOLUNTEERS FROM THE FULL COMMITTEE

AND THEN SELECTS THE WORKGROUP
CHAIRMAN. THE WORKGROUP CHAIRMAN
SELECTS OTHERS TO PARTICIPATE AS
DEEMED NECESSARY. ALL THOSE WHO
ASKED OR VOLUNTEERED TO BE ON THE
WORKGROUP WERE ACCEPTED AND
INCLUDED IN ALL WORKGROUP MATTERS.
IT IS IMPORTANT TO NOTE HERE THAT **NO**
ONE WAS TURNED DOWN WHO ASKED TO
PARTICIPATE.

THE SECOND GENERAL ISSUE FROM THE PRESENTERS WAS BASICALLY, "WHY DO WE NEED THIS - THERE IS NO EVIDENCE TO SHOW THAT MSD IS A PROBLEM IN THE CONSTRUCTION INDUSTRY". LET ME OFFER A PERSONAL OBSERVATION TO THOSE WHO SUGGEST THAT MSD IS NOT A PROBLEM IN THE CONSTRUCTION INDUSTRY. EVIDENTLY THEY HAVE NEVER WORKED IN THE SAFETY PROFESSION ON JOBSITES AND WITNESSED THE NUMBERS OF EMPLOYEES WHO COME INTO FIRST AID OFFICES OR GO TO

HOSPITALS OR DOCTORS WITH PULLED
MUSCLES, STRAINS, SPRAINS, BACK
INJURIES, ETC., THAT INVOLVE MSD. WE
DID A STUDY IN OUR COMPANY OF
INJURIES FROM 1983 THROUGH 1994. THIS
STUDY INDICATED THAT APPROXIMATELY
50% OR 1/2 OF ALL OUR INJURIES WERE
MSD RELATED. I AM NOT AT LIBERTY TO
SHARE THE STUDY WITH YOU DUE TO IT'S
COMPANY CONFIDENTIALITY; HOWEVER,
BACK INJURIES ALONE RESULTED IN 35%

OF OUR LOSS COSTS FOR THAT PERIOD OF TIME. IF A COMPANY LIKE OURS, WITH THE WORLD CLASS SAFETY AND HEALTH PROGRAM AND RECORD THAT WE HAVE, ALONG WITH THE INNOVATIVE CONCEPTS AND PROGRAMS THAT WE PUT FORTH, IS EXPERIENCING THOSE KINDS OF NUMBERS IN MSD, I'M QUITE SURE THAT OTHER CONTRACTORS ARE SHOWING THOSE NUMBERS OR WORSE.

THE THIRD GENERAL ISSUE WAS THAT
"THERE IS NOT ENOUGH SCIENTIFIC
EVIDENCE TO CONCLUDE THAT MSD IN THE
CONSTRUCTION INDUSTRY IS A PROBLEM."

MR CHAIRMAN, YOU ADDRESSED THIS
ISSUE IN A LETTER FROM THE CENTER TO
PROTECT WORKERS' RIGHTS TO A
SELECTED GROUP OF UNIVERSITY-BASED
SCIENTISTS AND PHYSICIANS, INCLUDING
THOSE SUGGESTED BY PETE CHANEY AND
THE AGC, ASKING THEM TO REVIEW THE
DATA AND SUBMIT THEIR FINDINGS.

I WOULD AT THIS TIME LIKE TO SHARE
THEIR CONCLUSIONS WITH THE FULL
COMMITTEE?

(REVIEW CONCLUSIONS)

I THINK THAT PUTS TO REST ANY
SUGGESTION THAT THE DATA
REVIEWED BY THE MSD WORKGROUP WAS
IN ANY WAY NOT FACTUAL OR FLAWED. AS
EACH OF YOU WILL REMEMBER, AFTER
LISTENING TO THE PRESENTERS MAKE
THEIR CASE, I ASKED THEM TO PROVIDE

THE WORKGROUP WITH ANY DATA OR DOCUMENTATION TO DISPROVE THE WORKGROUP'S FINDINGS SO THE WORKGROUP COULD COME TO A CONCLUSION ON THIS ISSUE. THIS WAS FOLLOWED UP WITH AN AUGUST 9TH, 1995 LETTER FROM MYSELF TO THE PRESENTERS AND AN ADDITIONAL AUGUST 29TH, 1995 LETTER FROM THE CHAIRMAN ASKING FOR DATA AND PARTICIPATION. TODATE, I HAVE RECEIVED EIGHT LETTERS FROM THOSE WHO PRESENTED, ALL

DECLINING TO PARTICIPATE IN THE
WORKGROUP OR IN THE DEVELOPMENT OF
THE PRODUCT AND, WITH THE EXCEPTION
OF THE AGC RESPONDING TO THE
CHAIRMAN, NONE SENDING ANY VALID
MARK-UPS OR DATA TO SUPPORT OR DENY
THE WORKGROUP'S REPORT. AS A RESULT
OF THESE ACTIVITIES, OR LACK THEREOF, IT
HAS BECOME APPARENT TO THE
WORKGROUP CHAIRMAN THAT THE
WORKGROUP WILL BE UNABLE TO
GENERATE THE VOLUNTARY INDUSTRY

COOPERATION NEEDED TO ACHIEVE A
CONSENSUS VOTE AMONG THIS FULL
COMMITTEE. IF I WERE TO CALL FOR A
FULL COMMITTEE VOTE, I BELIEVE I WOULD
RECEIVE A MAJORITY VOTE BUT NOT A FULL
"YES" VOTE TO FORWARD THE WORKGROUP
REPORT ON TO OSHA FOR ACCEPTANCE.
BASED ON THIS, I HAVE COME TO THE
CONCLUSION THAT FURTHER DELIBERATION
OF THE MSD ISSUE BY THE WORKGROUP
AND THIS COMMITTEE WILL NOT YIELD

ADDITIONAL BENEFITS. THEREFORE, I MAKE
THE FOLLOWING RECOMMENDATIONS TO
THE FULL ACCSH COMMITTEE:

- THAT THE FULL ACCSH VOTE TO
REFER THE MSD MATTER BACK TO
OSHA.

- THAT OSHA USE FORMAL ADMINISTRATIVE PROCEDURES AVAILABLE TO THE AGENCY TO CONSIDER A CONSTRUCTION MSD STANDARD.

- THAT THE WORKGROUP FORWARD THE DOCUMENTATION IT HAS DEVELOPED TO DATE TO OSHA FOR THEIR USE.

- THAT OSHA, PERHAPS IN CONJUNCTION WITH NIOSH, CONDUCT DEMONSTRATION PROGRAMS TO DETERMINE IF THE WORKGROUP DRAFT HAS PRACTICAL APPLICABILITY IN THE CONSTRUCTION INDUSTRY, IS COST EFFECTIVE, AND HAS AN EFFECT ON REDUCING MSD IN THE CONSTRUCTION INDUSTRY.

I WOULD LIKE TO NOTE AT THIS
TIME THAT SOME OF THE INDUSTRY
PRESENTERS SUPPORTED A
DEMONSTRATION EFFORT AND
EVEN OFFERED TO PARTICIPATE IN
THAT EFFORT. I WOULD HOPE
THAT THEY WOULD STILL BE FORTH
COMING IN THEIR SUPPORT.

- THAT THE MSD IN CONSTRUCTION WORKGROUP BE PUT ON HOLD AT THIS TIME; BUT, BE AVAILABLE FOR ADVICE AND COUNCIL IN THE EVENT THAT OSHA WISHES TO CONTINUE IN THE DEVELOPMENT OF A STANDARD OR CONDUCT DEMONSTRATION PROGRAMS.

RESPECTIVELY SUBMITTED,

S. C. BURKHAMMER, CHAIRMAN

ACCSH MSD WORKGROUP