Eagle-Picher's immediate past diverges into two distinct histories. On one side is the continued evolution of the diversified firm, which differs little from the patterns of the previous two decades. Acquisitions, divestitures, and product development continued along established lines. Simultaneously, however, the darker story of asbestos litigation, which arose in dramatic fashion during the 1980s, has encroached upon the stream of corporate evolution. Coupled with a number of operational disappointments, Eagle-Picher during the 1980s lost much of the momentum of the previous two decades.

In the midst of operational adjustments and expanding asbestos litigation, the board elected Thomas E. Petry, forty-two, president and chief operating officer in March 1981 to ensure an orderly transition as Atteberry approached normal retirement age. In March 1982 Petry became chief executive officer, and Atteberry remained as chairman of the board until his retirement in 1985. A native Cincinnatian, Petry had graduated with a degree in mechanical engineering from the University of Cincinnati in 1962. After obtaining an M.B.A. from the Harvard Business School in 1964, he joined the Air Products and Chemicals Company of Allentown, Pennsylvania. In 1968 Petry accepted a position in Eagle-Picher's financial department. Elected assistant treasurer in 1971, he rose quickly through the managerial hierarchy. After serving as vice-president and treasurer, in 1977 Petry became president of the Akron Standard division. Returning to Cincinnati the following year, he served as group vice-president before assuming the presidency.

By 1984, it became apparent that asbestos litigation would be the most important issue facing the company in the foreseeable future. During that year plaintiffs filed over 19,000 asbestos injury claims
naming Eagle-Picher and a number of other companies that had manufactured asbestos-containing products. Although Eagle-Picher had been named in several asbestos personal injury suits since the early 1970s, not until the 1980s did the subject become a focus of concern and trepidation. Most of the company’s liability stemmed from the manufacture of asbestos-containing insulation products supplied under U.S. government specifications to shipyards during World War II and thereafter.

The history of asbestos litigation in the United States can be divided into three phases. From the early to mid-1970s plaintiffs established a foothold against manufacturers that had used asbestos in their products and set the pattern of using the tort system rather than traditional worker compensation systems to redress their grievances. From the mid-1970s to circa 1981 plaintiffs’ attorneys slowly expanded the types of workers who brought asbestos suits and built a series of legal theories to substantiate the expansion. During both phases the numbers of claims were relatively small and did not pose a serious threat to the financial health of the defendants or to the ability of the judicial system to accommodate asbestos litigation.¹

Motivated by a number of factors and encouraged by the financial incentives of successful litigation, plaintiffs’ attorneys won a succession of cases by developing an evidentiary connection between asbestos exposure and worker injury, and by convincing judges and juries that manufacturers possessed and withheld such knowledge from workers and the public. Expanding the concept of strict liability to latent injuries opened the tort system to a flood of asbestos suits during the 1980s. Consequently, thousands of workers in a number of industries filed suits against more than twenty manufacturers. This prompted several manufacturers, including Johns-Manville, a major asbestos producer and manufacturer of asbestos-containing products, to file for corporate reorganization in 1982 under chapter 11 of the Federal Bankruptcy Act.²

The mass filings that marked the third phase of the asbestos litigation caused great alarm at Eagle-Picher. As the price of common stock fell under the uncertainty of the company’s liability, corporate management explored a variety of strategies to cope with the crisis. One of the foremost legal issues facing defendants was the proper determination of product liability coverage. As the number of claims increased during the late 1970s, Eagle-Picher had filed suit against
its primary and excess insurance carriers to determine the proper theory of coverage with respect to asbestos liability.³

Because asbestos injury cases presented special problems for the tort system and because of the enormous financial stakes for manufacturers and their insurers, determination of proper coverage was essential. Asbestos claims differed from traditional injury claims since they were medically complex, often hard to detect, and could be brought about by a number of other causes. Additionally, in most cases, exposure occurred several decades prior to a claim. In 1983 Eagle-Picher obtained a favorable interpretation of its insurance coverage with respect to asbestos personal injury claims.⁴

The company advanced a fivefold strategy against the asbestos problem. To combat increasing costs per claim settled, the company joined discussions among plaintiff attorneys, insurance companies, and other manufacturers aimed at establishing a joint claims handling facility to provide equitable settlements outside the court system. A joint facility offered an alternative to costly litigation and promised to reduce administrative expenses. In June 1985 the Asbestos Claims Facility (ACF) was incorporated and began to handle claims for participants.⁵

Although the company obtained favorable decisions regarding the interpretation of insurance coverage, Eagle-Picher sought to apply the decisions to various secondary carriers. The continuing quest to expand its coverage was one of the more successful aspects of the company’s response to the asbestos problem.

Eagle-Picher attempted to include the U.S. government as a responsible party in asbestos litigation. The company also supported a legislative solution to the problem. Recognizing the political difficulties of this approach, Eagle-Picher nevertheless argued that “fairness and justice demand that the federal government accept its share of the liability.” Few legislators, it appeared, wanted to lend support to asbestos manufacturers, who appeared to the public as heartless purveyors of death and personal devastation.⁶

The least controversial remedy to asbestos litigation advanced by the company was simply to outgrow the problem through increased sales and earnings. As the company expanded, the costs of defending asbestos suits would have less impact on cash flow and enable Eagle-Picher to make large capital expenditures or acquire new businesses.

The results of Eagle-Picher’s strategy to deal with asbestos liti-
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gation have been mixed. Of the elements in its fivefold strategy, continued growth in an effort to diminish the impact of the problem seems the most promising, since it is unlikely that the federal government will assume any responsibility. In November 1987 Eagle-Picher announced its intention to withdraw from the ACF. Citing a number of shortcomings in the performance of the ACF, Petry informed shareholders that the company would deal directly with plaintiffs in hopes of reducing litigation costs. Furthermore, efforts to find a legislative solution to the problem, or to include the federal government in the process, face serious political and legal roadblocks.

Although asbestos litigation has cast a dark shadow across Eagle-Picher’s most recent past and remains a distinct part of the future, it represents only one facet of the company’s near-150 year history. The past thirty years have revealed an important lesson for mid-sized firms. The desire to focus growth in small, specialized markets to which Eagle-Picher can bring a particular skill or efficiency has been a vital component in its expansion strategy. Because such markets are often unattractive to large-scale firms, Eagle-Picher often competes with smaller companies and uses its financial flexibility and expertise in industrial marketing to achieve a competitive advantage. In its primary role as an industrial problem solver, the company strives to create a niche or productive efficiency to enable it to produce products at a lower cost than competitors or customers if they were to produce the product themselves.7

Structurally, Eagle-Picher has indicated in recent years that it may be moving away from a pure divisionalized form toward greater integration. The company’s grouping of its growing automotive product operations, a category that accounts for over one-third of sales, into a new management level between the divisions and the central office suggests the beginnings of a hybrid structure that may bring more operational focus. Henry Mintzberg has called the pure divisionalized-decentralized organization a “structure at the edge of a cliff.”8 If the asbestos crisis does not push Eagle-Picher off the cliff, the company will undoubtedly enter a new era with a greater focus around a more specifically defined core. Yet as the company increases its investment in automotive products the present generation of corporate management must remain mindful of the lessons learned by an earlier generation who found themselves too closely tied to the vagaries of one industry. The tumultuous times may still benefit the
company by providing the impetus for a redefinition of its organization and mission for the coming generation. Indeed, it is an opportune moment for the company again to ask Peter Drucker’s classic question: What is our business and what should it be? As Eagle-Picher’s history has well illustrated, survival in good times and bad requires constant innovation and adaptation.