Merriss's proposal
Nice try - No cigar!
dlw

March 22, 1984

PLAINTIFF'S
EXHIBIT
DUP-986

TO: J. E. MURPHY, JR.

FROM: L. B. ROGERS, JR.

ASBESTOS SURVEILLANCE PROGRAM

Ref.: W. D. Merriss Ltr., same subject, dated March 7, 1984

Subject letter has been reviewed by our consultants and discussed in our last staff notes meeting. Concerns/questions fall into several categories:

- Current Compensation Law - Since Joe Crunk was also commenting on the suggestion, I feel sure he will comment on the proposal versus current workers' compensation laws. The proposal is to eliminate increased workers' compensation when an affected Du Pont person has been asked to stop smoking, has refused, and his medical condition deteriorates (i.e., lung cancer develops). Our feeling is that current workers' compensation laws would have to be revised to permit this. In other words, Du Pont couldn't take this proposed position without changes in current law. We seriously question whether Du Pont would lobby for such a law change.

- Monitoring - How would we monitor whether someone who tells us they have quit smoking, has done so? To what steps do we go to insure this is done? This is particularly true of pensioners. How stringent would we be in our statement of "stop smoking"? Suppose someone smoked one (1) cigarette after each meal but no others, would this be considered failure to "stop smoking"? We can envision difficulty from a practical view of monitoring compliance with our desire, and perhaps the employee's agreement to "stop smoking."

- Potential Employee Relations Impact - We raise concerns about how this proposal, put into action, would be viewed by affected persons and other Du Pont people. We would expect a reaction of concern that Du Pont is meddling in an individual's lifestyle. Whether we like it or not, even with package warnings, cigarettes are not "outlawed." Why wouldn't we perhaps go the next step, e.g., no disability pay or life insurance payout when injury/death results from an automobile accident to an employee when seat belts are not worn. Other examples could probably be developed.

DUP 09377284

In summary, the NERS consultants have concerns about implementing the proposal. We understand the frustration of the Seaford Medical Supervisor. However, if someone receiving asbestosis-related workers' compensation payments continued to smoke, and later developed lung cancer, we doubt medical evidence could conclusively prove that this was directly attributable to cigarette smoking.

Certainly, affected persons should be made aware of the increased risks of lung cancer from continued smoking.

LBR:bpb

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