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TREASURY DEPARTMENT

BUREAU OF
THE PUBLIC HEALTH SERVICE

WASHINGTON, D. C.

OFFICE OF
INDUSTRIAL HYGIENE
AND SANITATION

January 27,1933.

Dr. A.J.Lanza,
Metropolitan Life Insurance Co.,
New York,N.Y.

Dear Dr. Lanza:

I have had no word from Don Cummings but I have heard from Mr. Harbaugh and the operators feel very keenly that the report should not be published at this time. In justice to them, I would say that the bad picture is somewhat over-emphasized by Don due to the fact that he has not lived or been in close contact with mining camps. It would,therefore,seem much worse to him than to the mining man. I should think, as they do, that he would find it inadvisable to publish the report if he expects to continue as a consultant to industry. His present employers are also in close contact with the Picher group and I believe they have mining interests in that field.

I think the report contains much information of interest and I sympathize with Don in his disappointment.

Cordially yours,

R.R.Sayers

(R.R.Sayers)
Surgeon in Charge.

RRS/LLG

January 30, 1953

Dr. R. Sayers
Office of Industrial Hygiene and Sanitation
United States Public Health Service
Washington, D. C.

Dear Doctor Sayers:

Your letter came this morning with one from Dan Cummings which I am forwarding to you. Maybe this will be a way out. Let me know what you think, or write directly to him, if you prefer.

Very truly yours,

Assistant Medical Director

Gauley Bridge

March 10, 1932

Mr. Philip Drinker
53 Van Dyke Street
Boston, Mass.

Dear Phil:

I have your letter of March 9. Mr. Davis came to see me, accompanied by Mr. Winans, Personnel Manager of the Union Carbon and Carbide Company. Mr. Davis is the head of the department dealing with power development for this Company and struck me as being a very decent citizen and seemed to be quite well informed on the whole subject of silicosis.

I have heard from a number of sources about the high mortality that has been attendant upon the construction of this tunnel. The suits are being brought against the contractor and the insurance company and Union Carbon and Carbide is apparently not liable. However, they have decided to look into the matter thoroughly and be of such assistance as circumstances may warrant to the contractor in defending these suits.

I pointed out to Mr. Davis, and as far as I could make out, he got the same advice from Sayres, that the thing to do was to establish first of all whether these sick men had silicosis and for that purpose, I suggested that he consult Dr. Peacock. My own opinion is that if these men were found to have silicosis and they had worked under conditions exposing them to silicosis, the suits had better be settled. Of course, there is a strong probability that many of these men were old hard-rock workers who may have had silicosis when they went to work for the contractor. Mr. Davis was anxious to establish the status of respirators and I advised him to get in touch with you, both as to type and as to the time when various types appeared on the market.

I imagine that there are probably some genuine cases of silicosis mixed up with a number of more or less fraudulent suits. The majority of these people bringing suits are negroes and naturally the whole think has been engineered by some clever lawyer. I do not know who the contractor is but I expect they have got him across a barrel. A number of suits have been filed on behalf of persons now dead and I believe their lungs have been secured. I advised Mr. Davis to consult Mr. Gardner for this phase of the job. I shall be glad to give you any further dope if I have any.

Sincerely yours,

A. J. Lanza, M.D.
Assistant Medical Director

Date: 1/27/33
Title: Letter
Author: Lanza
Receiver: Higinbotham, President W.A. Case & Son Mfg. Co.
Comments:
"I am very glad to learn that you were successful in this suit. The silicosis damage suit situation is getting more serious daily and it is a matter of tremedous importance to have a jury recognize the value of a film, backed by really first class expert testimony."

A meeting was held on Tuesday, November 28, 1933 in Mr. Seigle's office at which the following were present:- Dr. Lanza of the Metropolitan Life Insurance Company, Mr. W. R. Seigle, Mr. E. M. Voorhees, Mr. S.A. Williams and Mr. Vandiver Brown.

The purpose of the meeting was to discuss the suggestion made by Mr. Simpson, President of Raybestos-Manhattan, Inc., in his letter to Mr. Seigle of November 17, 1933 regarding joint action by members of the textile group of the Asbestos Institute looking toward standardized methods of dust control.

After considerable discussion it was decided that Johns-Manville Corporation indicate to Mr. Simpson its willingness to go along with his suggestion; that Mr. Simpson should be allowed to arrange for a meeting of the representatives of the textile group and that Mr. S. A. Williams, assisted by Mr. Vandiver Brown, would represent Johns-Manville Corporation in any discussions.

Dr. Lanza advised the meeting that he was very much interested in completing the study of the asbestos industry initiated by Metropolitan Life Insurance Company approximately three years ago. The completion of this study would involve a re-examination of the plants covered by the original reports as well as a re-examination of certain employees who had been X-rayed at that time. He thought that it was very probable that Metropolitan could, by extending somewhat the scope of its survey in completing this examination, very readily co-operate with the industry in carrying out the suggestions made by Mr. Simpson. Dr. Lanza was advised that the contemplated program on the part of the industry would involve Johns-Manville Corporation plants at Waukegan, Illinois; Gretna, Louisiana; Pittsburg, California and Redwood City, California, in addition to the plant at Manville, New Jersey and the mines at Asbestos, Quebec, which had been covered by the original Metropolitan report.

Dr. Lanza stated that he would prepare a report for Mr. Ecker, President of Metropolitan, recommending the completion of the survey of the asbestos industry and indicating the extent to which it had been enlarged in scope and the probable expense involved. It was thought it might be helpful if Mr. Wardwell would communicate with Mr. Ecker about the time Dr. Lanza's report would be submitted to him, with the view of informing him of the importance to the industry and to Johns-Manville Corporation of the contemplated survey. It was decided that nothing would be done towards having Mr. Wardwell communicate with Mr. Ecker until we should be advised by Dr. Lanza that such action was desirable and timely.

Dr. Lanza indicated that if the survey should be approved, the Metropolitan Life Insurance Company could be counted upon for the following:

(1) Taking of dust counts at the various plants.

(2) X-ray examination of employees.

RM 154-pd, 4-29-77 GR

(3) Recommendations as to (a) where it was desirable that steps be taken to eliminate dust and (b) as to equipment which might be useful in eliminating the dust.

(4) The training of one of our employees in the technique of the taking of dust counts.

It was suggested that Dr. Miller be trained in this line.

Dr. Lanza pointed out that the industry would be expected to pay the traveling expenses of the Metropolitan employees although the persons engaged in this work would still be employees of Metropolitan and on its payroll so that no charge for their services as such would have to be paid.

In regard to (3) (b) above it was thought that it might be desirable to have some dust engineer collaborate with the representative of the Metropolitan and this point was left for the decision of the representatives of the textile group of the Asbestos Institute which would be convened by Mr. Simpson. It was also decided that Mr. Williams would advise the first meeting of this group as to the extent it might rely upon the co-operation of Metropolitan.

Mr. Voorhees asked Dr. Lanza if he thought the Metropolitan Life Insurance Company would be willing to make dust counts at the various plants once or twice a year at such places and under such conditions as they might see fit for the purpose of determining progress made in improving dust conditions, Mr. Voorhees' idea being that unbiased reports of this character would be helpful to us, if favorable, in the event we should ever be involved in litigation. Dr. Lanza, however, was apparently of the opinion that such periodical reports would not quite come within the province of the Metropolitan Life Insurance Company and were matters for which we should preferably engage consultant engineers such as Saranac Laboratories. No final decision was made on this point but toward the end of the discussion it was the consensus that perhaps we would be better off if we had some expert in our own organization capable of taking dust counts at any time we thought it desirable and it was suggested that Dr. Miller be trained in this capacity.

PLAINTIFF'S EXHIBIT 4172

PLAINTIFF'S EXHIBIT ML-4172

Pursuant to the procedure outlined at the meeting held in Mr. Seigle's office on December 29, 1933 a meeting of the Raybestos - Johns-Manville Committee for coordinating and standardizing ways and means of eliminating dust and protecting the health of employees engaged in manufacturing operations was held in the office of Mr. S. A. Williams at 2:00 o'clock on Thursday, the 4th day of January, 1934.

The following were present at the meeting:

Dr. A. J. Lanza of Metropolitan Life Insurance Co.

Mr. M. F. Judd)
Mr. A. F. Heinsohn)
Mr. O. H. Gilley) Raybestos-Manhattan, Inc.
Mr. George Pope)
Mr. B. W. Luttenberger)

Mr. S. A. Williams)
Mr. A. R. Fisher) Johns-Manville Corporation.
Mr. Vandiver Brown)

Dr. Lanza was advised of the decision of Raybestos-Manhattan, Inc. and Johns-Manville Corporation to cooperate in the devising of ways and means of reducing or eliminating dust in various manufacturing operations common to both Corporations and for the protection of the health of the employees engaged in such operations. He was advised that both Corporations had agreed to avail themselves of the generous assistance offered by Metropolitan Life Insurance Company in solving their problems and had agreed, as an initial step in the program, to permit Metropolitan to complete the investigation and survey instituted by them in 1929. Dr. Lanza was also advised that the present program contemplated not only the completion of this survey but its extension to cover all of the various plants of the two Companies which comprised certain plants that had not been covered by the earlier survey.

Dr. Lanza stated that the Metropolitan Life Insurance Company would be in a position to commence the contemplated work some time after the first of March. Prior to that time both Companies should provide Dr. Lanza with the following information:

(1) The names and locations of the various plants that the Companies desire to have examined.

(2) The name of the person or persons at each plant with whom the Metropolitan representative should deal in making arrangements for the survey.

(3) Detailed instructions as to the best means for reaching plants.

(4) The type of electric current available at the plants - (a) whether alternating or direct current (b) number of cycles and (c) voltage.

(5) Whether or not compressed air is available at the plant.

(6) Size of plant, that is, (a) the number of employees to be examined and (b) the approximate amount of floor space

DEFENDANT'S EXHIBIT 4888

DEFENDANT'S EXHIBIT 4888

PCC EXHIBIT MET-098

involved in operations where dusty conditions might be encountered.

The meeting was advised by Dr. Lanza that the Corporations would be expected to pay or to reimburse Metropolitan for the following incidental expenses:

(1) Cost of transportation of the Metropolitan employees engaged upon the work and of their equipment.

(2) The subsistence of the employees in the field.

(3) The cost of the X-ray films (Dr. Lanza indicated that he might be able to obtain wholesale rates for us on this item and that in any event the cost would probably be less than a dollar per film.

Dr. Lanza stated that he was not certain at this time as to whether the manufacturers of X-ray machines could provide them with portable equipment that would be satisfactory for the taking of the pictures required for this survey. If it should develop that no satisfactory portable machine were available, it would be necessary either (a) that the Companies provide satisfactory equipment of their own at each plant location or (b) arrange to have the X-rays taken by suitable privately owned equipment in nearby towns. In any event it was essential that the same technique be used in making the X-rays and he thought it desirable that if possible all of the work be performed by Metropolitan employees although he realized that this would probably be impossible in all cases unless portable equipment were to be used.

Both Corporations believe it desirable that certain of their employees be trained in the technique of making dust counts. The Metropolitan Life Insurance Company will train employees designated by us in this technique. The training can be done here in New York and can be accomplished in from two to five weeks' time.

Mr. Williams indicated that Johns-Manville Corporation would like to have three men trained in this technique, one to be located at Manville, one at Waukegon and one on the Pacific Coast. Mr. Judd of Raybestos-Manhattan stated that they would desire to have two of their employees so trained. After Mr. Williams and Dr. Lanza had left the meeting Mr. Fisher suggested that it would be highly desirable to have our Manville representative trained immediately in order that they might ascertain as quickly as possible the efficiency of the equipment that has been installed by Johns-Manville during the past few years at considerable expense in the Manville factory for the purpose of ascertaining if this type of equipment should be employed at other plants of Johns-Manville Corporation or of Raybestos.

In this connection Dr. Lanza pointed out that there was still a good deal to be learned on the subject of asbestos dust including not only the harmful effects, if any, upon workers exposed to it but also as to the point at which the quantity of dust in the air became dangerous.

The meeting discussed at considerable length the advisability of engaging the services of a dust engineer to make specific recommendations as to the best means of eliminating or reducing the dust at those places where the dust

count should reveal its presence in quantities likely to be hazardous. Dr. Lanza pointed out that his survey would indicate with a fair degree of accuracy the spots where the dust should be reduced and that certain Metropolitan representatives could specify the type of equipment that should be used although none of them could qualify as dust engineers to the extent of being able to advise how the equipment should be constructed to meet the varying conditions which would be encountered. Mr. Fisher pointed out that it was quite likely that no individuals could be found who would know more on the particular subject of dust elimination or dust reduction under the conditions encountered in the asbestos industry than those employees of Johns-Manville and Raybestos who had, through a process of trial and error, devised certain equipment now being used and which it was thought was successfully coping with the problem. Moreover, these same individuals were from day to day becoming more and more qualified. The meeting was advised, however, as to the relatively better position in which the Companies would be placed in the event of litigation if they could avail themselves of the testimony of an outside expert of recognized reputation who would state that he had made certain recommendations that he considered best for the particular problem and that these recommendations had been followed. Dr. Lanza was not certain if there was anyone who could satisfactorily fill these qualifications but stated that he would interview a Dr. Phil Drinker of Harvard in the very near future and would present the prosition to him and see if he were qualfied and available. It was felt that this point was probably not of excessive importance inasmuch as the testimony either of an outside expert or of a trained expert on our regular payroll could be attacked as having been paid for by the Company.

Dr. Lanza pointed out that the Metropolitan Representatives were as well qualified as any to advise the Companies as to the type of respirators to be provided employees engaged in dusty operations inasmuch as the Metropolitan Life Insurance Company had been making a study of this problem.

Dr. Lanza brought out that the earlier survey made by the Metropolitan had included one company in the United States besides Johns-Manville and Raybestos, namely, Thermoid. He desired to know if it would be satisfactory to seek the co-operation of this company in completing the Metropolitan survey. It was the consensus of opinion that there was probably no objection to the completion by Metropolitan of its survey in so far as it related to the Thermoid plants but that it would be desirable to, pospone any such action until after he had completed the contemplated survey of Raybestos and Johns-Manville. By that date it was considered at least possible that Thermoid would have joined with Raybestos and Johns-Manville in broadening the scope of the survey. Dr. Lanza will bring up this question again after completion of the survey for Raybestos and Johns-Manville.

EMERY R. HAYHURST M.D. PH.D.
CONSULTING PHYSICIST
COLUMBUS OHIO

...C NATIONAL DISEASE
...BLIC HEALTH PROBLEMS

925 ...COAL ROAD
... UNIVERSITY 6250

May 17, 1933

Dr. A. J. Lanza,
Assistant Medical Director,
Metropolitan Life Insurance Co.,
New York City, New York.

Dear Dr. Lanza:

Enclosed herewith please find a copy of the deposition of Dr. Clayton S. Smith and of my own evidence in the first of the series of legal cases resulting from the alleged silicosis developments at the New River power tunnel project. This case is that of Raymond W. Johnson (an employe) Vs. Rinehart & Dennis Co., et al (the contractors).

I have indicated certain corrections in red pencil where mistakes are obvious, either on my part or that of the stenographer. This copy of my testimony was transcribed by a stenographer for the Rinehart & Dennis Co., and I think he made a pretty good job of it. You will notice my attempt at simplified language, also many grammatical slips, etc. - the case being heard before a locally selected lay jury. Hence, please be gently critical of the phraseology and so on, but lay on heavily where you think I am in error and I shall appreciate it. You will find these two manuscripts most valuable for the direct evidence of the West Virginia situation rather than for the opinions contained regarding silicosis.

In this Raymond Johnson case, some 85 lay witnesses had already been heard before I arrived, while the plaintiff, Mr. Johnson, and his physician, Dr. L. R. Harless, preceded me on the witness stand. I waited there until the two X-ray specialists from Charleston, Dr. Hughey and Dr. Lambert, had given their testimonies, which corroborated mine, and then departed for Columbus.

I am informed that the next week Dr. Pancoast and Dr. James A. Britton appeared for the defense. Dr. Pancoast limited his testimony to the X-ray films of Mr. Johnson alone and stated that in his opinion they were tuberculosis and not silicosis, while Dr. Britton considered all the evidences, X-ray and otherwise, and declared the case was purely one of tuberculosis and not silicosis; thus, we obviously disagreed.

I think the trial must have covered between four and five weeks. Finally it resulted in a disagreement on the part of the jury. Dr. Harless wrote me under date of May 10th that seven of the jurors were in favor of finding for the plaintiff, Johnson, and five were for the defendant. "There is very strong suspicion that those five were corrupted by an agent for the defense. One of the five has been summoned before the Court and was fined for contempt on the evidence that he discussed the case during the progress of the trial. I think a second one will perhaps receive a summons to appear

before the Court to answer contempt charges. Of course it is very difficult to obtain evidence sufficient to establish charges of bribery, but there is no doubt in my mind as to what happened. The case was cleanly won for the plaintiff by overwhelming evidence. The same case, or another one will come to trial soon, perhaps in this month."

Judge Eary, who presided (Circuit Court, Fayetteville, W. Va.), I considered very fair indeed.

I am sending similar copies to Sayers and Russell. You may keep this material for your files.

With all best regards,

Sincerely yours,

Emely R. Haythurst.