Johns-Manville

Internal Correspondence

To: G. C. Eggleston, WHQ 3-08 Date: January 5, 1981

From: J. A. Lawrence, Denison

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Subject: UPDATE ON ASBESTOS-RELATED LAWSUITS

Attached is an article from the Denison Herald issue of Sunday, December 28, 1980. As stated in the headlines, this is the sixth lawsuit filed in the past two months. In addition, there are two older suits which were filed after the deaths of former employees.

It is necessary that you see the total situation as it exists prior to understanding the importance of our search for guidance. Following are the cases involved today:

Glen Gage - Employed 9/1/66. Died 12/11/75 from lung cancer. Suit filed in December of 1976 on behalf of widow and 3 children in amount of $250,000. Suit filed in Federal District Court in Sherman. Expect trial to be held sometime in 1981. Suit filed against J-M and its asbestos suppliers.

Charles Downs - Employed 8/4/58 - 5/25/59 and 10/19/59 - 1/12/60. Died 2-18-79. Diagnosed mesothelioma. Class action suit for $2.5 million filed in Federal Court (Tyler) by Downs in November of 1978. Case continued by his widow subsequent to his death. Suit is against J-M and cites negligence in handling of asbestos.

James Wilford Lockhart - Never a J-M employee. Worked as insulator throughout Texas. Suit filed in Federal Court claims asbestos-related jobs damaged health. Suit is for $1 million. Filed against J-M and 21 suppliers and producers of asbestos.

James Ayres, Joe Beard and John Englutt - Past employees filed $1 million suit each. Claim is asbestos-related work damaged health. Suits are against J-M and 10 other companies supplying fiber to Denison plant. Suits filed in Federal Court.

PLAINTIFF'S EXHIBIT JMMC-153

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Jimmy D. Humphries - Current employee who has had a lot of medical/emotional problems. Humphries suit is for $1 million and is against 10 producers and suppliers of asbestos, but does not include J-M. He has been in and out of several hospitals in the past year. The problems are varied; from chest pains to "epileptic type" seizures. He has not worked since October 23, 1980. His last report on December 3, 1980, was that he continued to have chest pains and was spitting up "blood with traces of asbestosis". We do not know what his plans are concerning return to work.

Robert Ritchie - One of our original employees who resigned earlier this year to go to work for L-O-F. Suit was filed last week in Federal District Court. The suit is for $1 million and is against J-M and 10 other producers and suppliers of asbestos. Ritchie claims he has contacted asbestosis due to 21 year's exposure.

That, in short summary, is the legal actions pending as of December 30, 1980. Eight suits are involved, with a financial exposure of $8.75 million dollars. All cases are being handled by an attorney in Sherman by the name of Larry Cain.

The other asbestosis case is Larry Badgett. Badgett is a current employee working in the Shipping Department. He has not filed for any compensation. In contrast to the above six asbestosis cases, Company appointed doctors have diagnosed asbestosis with an apparent loss of 50% lung capacity. Badgett continues to work; however, he has been advised by the doctor to avoid any kind of dust, and that he will be susceptible to colds, flu, etc. He has been contacted by Larry Cain and encouraged to file a civil suit against J-M. Badgett would like to know J-M's position.

From a plant standpoint, there are several areas of concern. Following is a discussion of each:

1. In my letter of 11-21-80, to you, concerning Medical Program procedures, there was an attachment of a letter from Dr. Paul to Dr. W. H. Brown. That letter required that employees with suspicious x-rays be asked to have oblique x-rays made. Current employees are to be x-rayed by a local radiologist and the findings discussed with the employee by Dr. Brown. For past employees with suspicious x-rays, the employee's medical files were sent to Dr. Paul. Transfer was made in November and returned in December. Our question concerns who has the responsibility to contact past employees. The question is particularly relevant as Robert Ritchie was one of those employees with a questionable x-ray. We did not contact him and do not know if he was contacted from WHQ. Perhaps there was no need for contact. Other past employees may present similar situations.

2. As stated above, Jimmy Humphries contends he has asbestosis and has filed suit against other suppliers. Because of other medical problems he may not return to work; however, if he does, do we return him to his previous work assignment as Radial Drill Operator? Of secondary importance is our posture toward an employee who may ultimately include J-M in a $1 million suit. Do we continue to let him work, providing opportunity for him to gather facts and solicit support for his "cause"?

3. What is the recommended procedure for handling the Badgett, and subsequent similar cases. These employees are obviously impressed by some of the large awards granted plantiffs around the country. As an alternate, we can only recommend they pursue Workman's Compensation rights. Workman's Comp and Disability Retirement benefits do not provide sufficient future earnings to interest any employee. Therefore, we have nothing of substance to offer locally in the form of compensation. If an employee's health requires that he abandon his assigned job (or trade) should we ignore qualifications and create jobs. Larry Badgett's situation is our only example at this time. His current job in the Shipping Department can expose him to dusty conditions (windy days, truck traffic, etc.) . Working outside exposes him to cold and wet conditions at times. Because of his susceptibility to colds and flu, should he remain in the job? Should we establish salaried clerical jobs for employees without qualifications?

I'm sure these questions have been posed at other locations (i.e., Manville, Long Beach, Waukegan) over the past few years. Who can guide us in establishing the correct procedures? Your help will be appreciated.

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