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NICOLET, INC.
Executive Offices
25 Skippack Pike
(Broad Axe)
Ambler, Penna. 19002

GUY G. GABRIELSON, JR.
Chairman of the Board

December 20, 1976

H.D.S. Hardie
Turner & Newall Ltd.
77 Fountain St.
Manchester M2 2EA
England

Dear Harry:

I am quite certain that I have a very poor understanding, indeed, of the difficulties which you must have faced in preparing a submission to the Advisory Committee on Asbestos. The Terms of Reference of the Committee, I now see, were so broad and generalized that you have faced the same kinds of uncertainties which we now face in our effort to respond to an OSHA regulation of asbestos exposures in construction, when the text of that regulation has not yet been published.

Your ACA submission has been returned to the AIA files in Washington, so I do not have it before me for reference. I think that I might have felt more comfortable, however, if, in discussing the costs of establishing and maintaining an airborne fiber concentration of less than 2 per cc TWA, you had added some qualifying language such as "if such lesser concentration should prove to be feasible technologically". We still do not believe that we can achieve 2 fibers/ml. TWA at all work stations in any major asbestos manufacturing process, using best available technology. And when we discuss the cost of going to the proposed 0.5 fiber standard, we always stress our conviction that such a standard remains today infeasible. It is my concern that, without such a qualification in your discussion of the cost of achieving 1 fiber/ml. TWA, OSHA may read the T & N submission to constitute a tacit acknowledgement by a major manufacturer that a 1 fiber exposure level actually is achievable with current technology. Since I have not heard any of your people say that 1 fiber/ml. is feasible, I assume that you share our belief that the engineering technology for such a standard remains to be developed and that that development may be difficult and perhaps impossible.

I would consider myself presumptuous if I were to write to criticize your submission, so criticism is not my purpose. I know, however, that you share my conviction that developments in the politics

JHh
22400

H. D. S. Hardie
December 20, 1976
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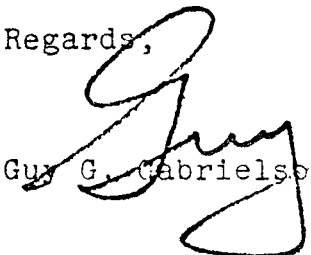
of the asbestos/health issue in one country inevitably have their repercussions in other countries. We in AIA intend to try to bear in mind, whenever we act, the effects that our activities in the USA may have upon the industry in other countries. Realistically, we must expect that there will be occasions when our individual national interests may have to take precedence over the interests of the industry in other countries, but we hope that those occasions will be few. I have no doubt that the AIC intends to conduct its affairs in similar fashion. Given a little good luck, a prudent coordination of the positions which we take in individual countries may yet turn the tide.

I am heartened to learn that you are endeavoring, in your discussions, to defend a 2 fiber criterion by limiting years of exposure. A concession of this kind would seem to be less inconsistent with the posture which we have assumed and therefore preferable from the AIA point of view.

I have just received a Christmas card from Al Fay, an ex-president of AIA who recently retired from National Gypsum Co.. On the bottom of the card Al wrote "Keep 'em flying!" I'm not sure whether he meant "keep the asbestos companies in existence and profitable" or "keep the enemies of the asbestos industry in flight"; but, in either or both senses, I repeat the exhortation,

"Keep 'em flying!"

Regards,


Guy G. Gabrielson, Jr.

GGG:ms

bc: Dougherty
Marsh

JHM 22401

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Mr. Guy G. Gabrielson, Jr.,
Nicolelet Inc.,;
25 Skippack Pike,
(Broad Axe),
Ambler,
Pennsylvania 19002,
United States of America..

13th December 1976

Dear Guy,

Thank you for your letter of 2nd December. I am sorry that you feel that T&N has made little effort to oppose a reduction of the UK exposure standard from 2 fibres/ml TWA. We thought we had made our position fairly clear at the bottom of page 3 and at the top of page 4 of the Introduction where we state that for a period of years there have been no asbestos-related disease in two departments which have worked consistently at or below the 2 fibres standard and we thereby came to the conclusion that it would be premature to depart from current standards.

Our difficulty in framing a submission for consideration by the Advisory Committee on Asbestos was the fact that the Committee's Terms of Reference were wide open, there being no draft revised standard on the table for consideration and in this respect the ACA's Terms of Reference are very different from those of OSHA. The actual Terms of Reference are:

"To review the risks to health arising from exposure to asbestos or products containing asbestos including:

- persons exposed at work;
- members of the public exposed to asbestos generated from work activities;
- members of the public exposed to asbestos from consumer products and from asbestos waste;

To make recommendations as to whether any further protection is required."

JHM

22402

We felt that we ought to bring to the attention of the Committee some of the cost implications of operating to a 2 fibre standard (p. 68) and of lowering the standard to some other figure. For this purpose, we decided on a totally arbitrary basis to use ... (p. 69). Power costs are a very

Mr. Guy G. Gabrielson, Jr.

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sensitive item in UK economic thinking today and an operating cost which goes up by over a million pounds purely on account of dust control was, we thought, a point worth making. The projected capital expenditure of virtually £4m, which does nothing to productivity, plus the additional £1m on operating costs, has clear price implications. The selling prices of our products are controlled by Government and, again, we thought that the inclusion of these figures would have an impact.

I think that our task would have been significantly easier if we had had in front of us a specific proposal to argue against.

As you know, the proceedings of the ACA are confidential until such time as the Committee decides to release information to the public. I am therefore circumscribed in what I say regarding our proceedings. However, there has been so much talk about standards that I think it is fair to record that current medical opinion amongst those who are members of the Advisory Committee and those close to Sir Richard Doll in Oxford and the MRC Pneumoconiosis Unit at Penarth suggests that the re-examination of the TBA data will establish a 75 fibre year threshold in place of the 100 fibre year threshold on which we have been working for the past six or seven years. Mathematically, of course, this would work out at a TLV of 1.5 fibres/ml. However, it is a threshold for asbestosis only and does not encompass carcinogenic risks. My fear is that if a 1.5 fibre figure is promulgated for asbestosis the pundits would say that as there is no quantitative dose response relationship for mesothelioma the TLV should be something lower than 1.5, perhaps 1.00 or 0.5 or even 0.2, which is likely to be the political figure if lay decision takers are impressed by the argument that the dangers from all types of asbestos are precisely the same. We are trying to influence opinion here on the basis that even if BOHS does revise the exposure basis to 75 fibre years, this should be achieved by retaining the 2 fibre standard for control purposes with the concomitant obligation on employers to ensure that employment in asbestos dust exposure conditions be limited to 35 years.

The British Trades Union Congress have adopted the thesis which Selikoff put forward in Oslo and have proposed an immediate reduction in the standard to 0.2 fibres/ml. They have also recommended that Government insist that asbestos will be replaced in all products over the next ten years. The TUC is meant to be very close to the Labour Government. We have therefore a major problem on our hands in trying to win the minds of our opponents and it seems likely that in the coming weeks we will need to concentrate on the potential threat to jobs which is implicit in trade union arguments.

JHM 22403

Mr. Guy G. Gabrielson, Jr.

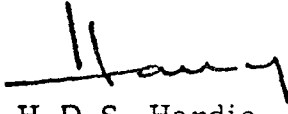
13th December 1976

As I have said above, we did not read page 69 of our submission as implying that a one fibre standard was desirable or even workable. In retrospect, I can see that an outside reader might make such an inference and I am sorry that we did not express ourselves with greater clarity.

I also enjoyed meeting you in Hamburg. If there is to be a meeting of the Managing Board of the LAIC in April and you are coming across for it, I hope that you will also have time to visit us in Manchester, as we would very much like to see you here.

With best wishes,

Yours sincerely,


H. D. S. Hardie

HDSH/AW

JHM 22404

NICOLET INDUSTRIES, INC.

EXECUTIVE OFFICES
WISSAHICKON AVENUE
AMBLER, PENNSYLVANIA 19002
215-646-4000
TELEX 246-406

July 19, 1974

Raybestos-Manhattan
205 Middle Street
Bridgeport, Connecticut 06603

Attention: Mr. William Simpson, President

Dear Bill:

As you may know, the Asbestos Textile Institute has been named a defendant in two suits against Pittsburgh Corning Corp. for damages to the health of employees allegedly suffered while they were working in a Tyler, Texas plant. Although counsel for ATI believes that a motion to dismiss the ATI as a defendant may be granted, the Tyler, Texas cases could have far-reaching effects, touching all manufacturers in the asbestos industry as well as manufacturers who may not use asbestos at all. If not properly defended, the decisions in these cases might hold:

(1) that the reputed health hazards involved in the use of asbestos were known long before that actually could have been the case.

(2) that the technology required to control or eliminate factory asbestos dust was available to industry long before it actually was (if, indeed, it is available even today),

(3) that an employer has an affirmative duty to warn his employees of hazards inherent in the use of materials which they may handle, no matter how slight the hazard may be or how tenuous the evidence of danger, and

(4) that an employer is charged with knowledge of hazards involved in handling materials in his plant even though, in fact, he has no such knowledge and publication of the data and conclusions may have been confined to a select group of scientific specialists.

JHM

22435

July 19, 1974

It is my understanding that workmen's compensation laws in many states do not fully protect employers against individual or class actions for injuries to health suffered on the job. That being the case, it should be obvious that any decision in the Tyler cases which includes findings of the sort listed above may set judicial precedents which could expose asbestos (and other) manufacturers to summary judgments in future cases, judgments which might cost literally millions of dollars. The stakes are high.

As long as the ATI remains a defendant in the Tyler cases, it intends to make every effort, within the limitations of its budget, to see that the court record and the decisions are as favorable to manufacturers as possible. On the other hand, because of the risk of substantial liability to itself and its members (ATI is an unincorporated association), the ATI must make every effort to be dismissed from the action. And, if that should happen, there then will be no one a party to the proceedings who will have an incentive to advocate all those positions of fact and of law which may be of great importance to your company and mine. (For instance, the primary defendants, Pittsburgh Corning, PPG and Corning, may wish to argue that dust conditions at Tyler were not severe, whereas other asbestos manufacturers may wish the record to show, if such were the case, that the situation at Tyler was deplorable so that, in the future, conditions in their plants may be distinguished).

I am writing this letter to the chief executive officers of several companies which produce or use asbestos fiber to suggest that, if and when ATI is dismissed from the Tyler suits, a group of companies in the industry may wish to move quickly to form a special incorporated association to intervene in the Tyler cases as third party defendant or amicus curiae. Of course, our admission to the suit would be discretionary with the court, but I believe that, because of the potential impact on our business, we should have a reasonable chance of being admitted. It would be preferable to be admitted as a third party defendant so that we then may cross-examine, present evidence and otherwise endeavor to influence the findings of fact as well as of law; but we still, in my opinion, should seek to appear as amicus curiae to argue points of law only, if that is all that the court will permit. The corporate form of the special association should protect its members against potential liability; and, if enough companies participate, the cost to each one should be easily justifiable.

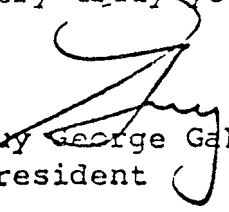
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22436

July 19, 1974

Please give this idea some thought and let me have your views; so that we may move promptly to form our association, if circumstances should indicate the desirability of taking that step. I also suggest that you have your counsel follow the progress of the Tyler cases so that he can advise you of their potential significance.

Very truly yours,


Guy George Gabrielson, Jr.
President

GGG/jed

JHM 22437

NICOLET, INC.
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GUY G. GABRIELSON, JR.
Chairman of the Board

February 9, 1977

Dr. Harrison B. Rhodes
Technology Manager
Union Carbide Corp.
Mining & Metals Division
P.O. Box 579
Niagra Falls, NY 14302

Dear Harry:

Here is our first run at the Ad Hoc Committee working document. We are in the process of making a new set with larger type in the "Rationale" column.

Some pertinent comments:

- (1) Cost of medical surveillance - delete Alt. #2 for Ad Hoc Committee discussion - AIA would have to agree to Alt. #2 before disclosure to contractors.
- (2) Add "Certified fabrication installation or removal methods" as an item to be encompassed by employee training.
- (3) I used AIA respirator table, believing that that had been our decision. Milt must have a different recollection - he used California table.
- (4) As you can see (and as we surmised) Mike Utijian and Clark Cooper would not go for no medical surveillance. Mike proposed an additional exam between 5 and 10 years and a bi-annual exam between 10 and 15 years. I adopted the latter but omitted the exam between 5 and 10 to be consistent with our last presentation.

Where do we go from here? Do we have a Committee meeting scheduled?

Regards,



JHM 22398

GGG:ms
Enc.