VI. E. 9.

INTERNAL CORRESPONDENCE

METALS DIVISION

6625 ROYAL AVE., P.O. BOX 579, NIAGARA FALLS, NEW YORK 14302

Mr. W. C. Thurber
Metals Division
New York, NY

Date: May 30, 1975
"Calidria" Asbestos

Originating Dept. — TECHNOLOGY DEPARTMENT

Answering letter date

Messrs. R. E. Byrne
J. L. Myers

Subject: OSHA Regulations - Asbestos Use Warnings

This is in response to your request for comments on Marjorie Chamberlain's memorandum of May 5, 1975 on the above noted Subject. The suggestions made by the Law Department undoubtedly maximize protection against possible future product liability suits. On the other hand, cancer is a very emotional word and there is a strong possibility that people will react to it far beyond the real danger involved. This is particularly true when it appears on a label where the actual extent of the risk is not explained.

We cannot predict with certainty what effect the use of the proposed label will have on our business, but the general feeling here is that it is likely to vary somewhere between serious and fatal. RG-244 sales and the future of RG-600, where we have technical and economic advantages but also where substitutes are readily available, appear to be particularly vulnerable.

In view of this it is strongly recommended that the whole picture of business risks, medical risks and the potential liability risks be reviewed in detail and balanced against each other before we pioneer a new concept in asbestos warning labels.

In reality, the memorandum in question focuses on a problem that has been a major concern for the past several years; i.e., what is Union Carbide's basic position on the asbestos and health issue. In lieu of any specific definition of our own, we have been relying on the AIA/NA information which, as I understand it, can be summarized as follows:

1. The 2 fibers/cc limit is safe for chrysotile.

2. Increased incidence of lung cancer require both asbestos exposures sufficient to cause asbestosis and smoking. The effects of these two are synergistic, however.

3. Mesothelioma has only been clearly associated with crocidolite inhalation. There is a real doubt that it can be caused by inhalation of chrysotile fiber.

A08663

The toxicological picture was outlined orally in general terms to Mr. Stephenson at an Asbestos Review Meeting in early 1974 and he found it acceptable. He also made it clear that Union Carbide Corporation should not be in a business that caused undue risks to people. It was also stressed that if any new medical information became available that would change the picture, we should review our position promptly.

I know of no new medical evidence to change this basic view. The Borel Case, however, seems to have altered the concurrent legal situations. The recommendations in the Chamberlain memorandum place the people in the asbestos business in the ambivalent position of being charged with the responsibility of maximizing the use of asbestos (in applications where it can be used in compliance with OSHA regulations) and simultaneiously being obligated to inform the potential customer that he should really use something else because asbestos "can cause cancer."

Actually this problem is not unique to asbestos even within Union Carbide. Vinyl chloride is in a very similar situation and styrene, vinyl toluene, and phenol appear to be close behind. In fact, it is my understanding that almost any organic chemical based on the aromatic ring can be considered as a suspected cancer-causing agent. It is suggested that we need to look to broad corporate policy in the area of marketing of potentially hazardous materials for guidance in our particular problem.

In this connection it is relevant to mention that the Union Carbide Corporation vinyl latex marketing group has met their problem by reducing the VC monomer content in the latex to a level where there is little chance for the user's exposure to exceed the OSHA action level. They are not labeling. A competitor also lowered the monomer content to a comparable level but a corporate decision was made that they would also label to be on the safe side. The net result of this was a large "label removing ceremony" with pictures and union representatives participating at the customer's (PPG) plant.

Returning to the immediate question of the assessment of the various risks, Union Carbide does not appear to have "in-house" the specialized medical expertise on asbestos to judge the merits of the minority position on asbestos hazards as expounded by the Mt. Sinai group. It is to be expected, however, that all of the latest research results will be argued in great detail in the next few months during the hearings on the proposed amendments to the OSHA asbestos regulations. It is strongly recommended that we do not take any unilateral action until we have the benefit of this information and the decision of the U.S. Government on what they consider to be a safe level. If appropriate, an outside consultant such as Dr. Wright or Dr. Weill might be used at that time for a final review of our position.

We have been in the asbestos business about ten years, are complying with the OSHA regulations and urging our users to do so, and are looking at the possibility of medical problems which take 15-30 years to develop. A period of 3-6 months to study the very complex medical, legal and ethical problems in sufficient depth to reach a proper decision does not seem unreasonable. It is also possible that the labeling question will be taken out of our hands in this time period and be covered by government mandate for the entire asbestos industry. This may occur in the revised OSHA regulations or as a result of two current government studies on the labeling of hazardous materials.

A08664

To conclude these general comments, I would like to express two personal opinions which I am sure represent the attitude of the Asbestos Group at Niagara Falls:

1. If there is really an appreciable chance that the use of our product will result in serious injury to a substantial number of people we should not be supplying it for that end use.

2. If it should turn out that exposure to low levels of asbestos does cause serious injury to a substantial number of people, the courts will find a way to assign liability to the producer regardless of the type of warning labels and information dissemination that they may have used.

The first and most basic thing we need is our best assessment of the medical risk and our best judgment on the reliability of the assessment. When this is available, the legal and business problems can be examined in perspective and an objective decision made on the proper course of action.

The foregoing ideas have been used to prepare the attached commentary on Miss Chamberlain's letter. The comments are not intended to imply an adversary position with our Law Department at a time when communication and cooperation are urgently needed. It is my impression, however, that she was working without benefit of much information on the asbestos health controversy or on the nature of our business. One item not covered is our potential obligation to provide warning labels in the language of the countries to which we ship.

We must be sure that the conclusions drawn accurately represent our situation, so I suggest that we have a meeting with the Law Department soon after the new OSHA regulations are published.

H. B. Rhodes

H. B. Rhodes

Attachment
/ds

A08665