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DOCUMENT DESCRIPTION: Letter to Donald Tulloch, Jr. RE Agreement with
Johns-Manville

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COPY

September 7, 1935

Mr. Donald Tulloch, Jr.,
16th floor, Inquirer Building,
Philadelphia.

FEDERAL TRADE COMMISSION
Docket No. 4613 COMMISSIONER'S EXHIBIT No. 6-A
PLAINT OF Acme Asbestos
DATE 5/5/42 WITNESS Tulloch
REPORTER Walsh

Dear Mr. Tulloch:

Yours of the 5th inst. received. Respecting the draft of September 4, 1935 Agreement between Johns-Manville Corporation and yourself, I suggest the following changes:

In the third clause of the first page, you apparently overlooked my suggestion of inserting after the word "sell" in the second line of that clause, the words -and the exclusive right to license others to make, use and sell- and the suggestion that in the fourth line the comma (,) after "Letters Patent" be changed to a period (.) and the balance of the paragraph deleted. This change will then make this Whereas clause harmonize with the exclusive license granted to you in Section I.

You will probably recall my calling the above changes to your attention after you had forwarded our proposed changes to New York.

Respecting Section X, I do not look with favor upon the provision that your license terminates in the event you have not been able to grant any sublicenses for any period of six months. It is conceivable that you might in the first six months license the entire industry and in the second six months, there being no one else to license, your agreement would terminate and the sublicenses would find their sublicenses terminated. Certainly this situation should not be permitted to arise.

Another objection to this six months period is that it frequently takes not only six months, but several periods of six months and then some, to negotiate a license with a single company. You can find yourself in a position where having spent six months time trying to grant a license, your right to grant a license at the end of the time was terminated. In my opinion, beginning with the words "or shall be" in line 2 of Section X, to and including the words "six months" including the comma (,) in line 4, should be deleted. If it is permitted to remain in, it will be an obstacle in any negotiations for sublicenses as anyone negotiating for a license certainly would want to have a license agreement that would give rights for more than a period of six months. No license issued with Section X in its present form would convey rights for more than a period of six months.

I have hastily examined this agreement in order to be able to have something in your hands Monday morning. I will examine it further and if I have any other suggestions or comments will wire you Monday. If you have no word from me by wire Monday, you may consider this as my approval of the proposed license between Johns-Manville Corporation and yourself, granting you the right to license others. This,

6-B

FEDERAL TRADE COMMISSION
Docket No. 4613 COMMISSION'S RESPONDENT'S Exhibit No. 6-B
IN THE MATTER OF _____
DATE _____ WITNESS _____
REPORTER _____

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Mr. Donald Tulloch, Jr. -- Page 2.

September 7, 1935

however, does not constitute my approval of the form of sublicense referred to as "Exhibit A" which is to be attached to this agreement as I have not as yet had an opportunity to examine same. As I advised you over the phone Thursday, I would try to approve the form of license between you and Johns-Manville, whereby you acquire the right to license others, so that you would have my approval or disapproval not later than sometime Monday, but I did not agree, as your letter suggests, to advise you by Monday whether the sublicense form Exhibit A met with my approval for the signature of the Philip Carey Company. That is a matter that requires not only my consideration but also conferences with our officials respecting the proposed schedules which you included in yours of August 30. I will, however, give the matter prompt attention and try to have something in your hands at a very early date. Mr. Steffens is out of town and will not be back until the first of the week, consequently, I will be unable to confer with him respecting these matters until then.

Very truly yours,

(S) Geo. W. Mills, Jr.,
J.W.

GKM:JW