CONFIDENTIAL

Johns-Manville

Internal Correspondence

To: W. B. Reitze

Date: December 11, 1980

From: M. A. Tappin

Copies: J. D. Anderson, J. W. Szcyqielski, W. R. Paul, N. J. Gray, L. Falter, J. H. Scott, File, Chrono

Subject: YOUR LETTER DECEMBER 8, 1980
OSHA - WORKERS' ACCESS TO EXPOSURE AND MEDICAL RECORDS

It is well established in labor and decisional law that a union does not represent retired employees for the simple reason that they are not employees within the meaning of labor law. It has been our consistent position that we will not bargain with any union over retired employees. To do so would, obviously, open up bargaining matters which would be extremely costly to the Corporation. The International Chemical Workers Union at Waukegan is fully aware of the Company's position in this matter.

While the recently issued OSHA regulations provide a union with access to a retired employee's medical records, it is our view that this was merely an attempt by OSHA to circumvent controlling labor law. We have discussed the issue of a union's access to retired employees' medical records with our Legal Department, and we are in agreement that if this issue is raised, we are quite willing to litigate because of the ramifications involved. Accordingly, no union should be given the medical records of any of our retired employees.

Recently, the union at Waukegan did request the medical records of one of our retired employees, but we were able to avoid a confrontation. In any event, because of the fundamental conflict between existing case law and OSHA's regulations, we believe that our position outlined in this letter would be sustained by the Federal Courts.

If you have any questions, please let me know.

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