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January 18, 1982

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LEGAL DEPARTMENT

Mr. Robert Batson
Johns-Manville Corp.
Ken-Caryl Ranch
Denver, CO 80217

Re: William [illegible] (deceased) v. Johns-Manville

Dear Bob:

I recently read a November 1979 discovery deposition of Hugh Jackson that was taken by Tom Henderson in Denver.

In the course of that deposition Jackson relates the fact that in 1957 Johns-Manville began labeling its "Cellite" diatomaceous earth produced at Lompoc, California with a warning to the effect that the product could cause health consequences unless proper precautionary measures were taken. Jackson further states in the deposition that he had seen copies of the warning that was placed on bags of Cellite.

As you know, a number of plaintiffs here in the Bloomington litigation have alleged that they suffered injuries, namely fibrosis of the lung, as a result of their exposure to diatomaceous earth sold by Johns-Manville to Union Asbestos and Rubber Company/Unarco without any warnings. Therefore, although we have been focusing on asbestos in this litigation, diatomaceous earth certainly plays a role. I would appreciate receiving a copy of the warning that was placed on the bag and any information that you might have as to when the warning was affixed. During the course of Jackson's deposition, Henderson questioned him about a letter that was sent to Dr. Lanz in 1952 which seemed to imply that the warning label was affixed in 1952 rather than 1957. Jackson denied that it was affixed in 1952 and said affirmatively that he recalls it was put on in 1957. For the Bloomington litigation, it would be more advantageous to us if, in fact, the label was affixed in 1952 since this plant did not commence operations until that year.

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Also in both the deposition of Hugh Jackson and in the deposition of Dr. Edward Merrill that was taken in June of 1981, reference was made to the 1947-49 report of Dr. Kenneth Smith after his survey of the Jeffrey mine. Particular attention was focused on the fact that Smith indicated it was JM corporate policy not to inform employees that they had asbestosis until they were actually physically disabled so that the company could have the benefit of their "many years of experience". Jackson stated in his deposition that he was aware of Smith's report when he went to New York in 1947. I would appreciate it if a copy of this report could be sent to us as soon as possible.

Thanks for your cooperation.

Very truly yours,

ROBERT W. NEIRYNCK

RWN:id
cc: Lively Wilson

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