General Headquarters Box 91
July 28, 1948

W. E. Soutar, Asbestos, P.Q.

Quebec Workmen's Compensation

I received notice from Mr. Kayton that a premium payment is due Quebec Workmen's Compensation Commission on or before September 1 in the amount of $186,000. This is the 1948 provisional assessment.

I propose that, instead of making this payment in cash, we utilize the necessary amount of the reserve fund which we have recently set up, or are in the process of setting up, out of the back payments due us by the Commission. I am giving below my reasons for this proposal and I would appreciate your discussing it with George Foster and letting me have your opinion as soon as possible.

Our prior years' refunds were put in the reserve for the purpose of preventing them to come back into taxable income in years when the rate of corporate taxation was higher than now. As far as tax aspects are concerned, no further purpose is achieved by allowing the monies to stay in the fund unless lower corporate tax rates are expected in the foreseeable future.

Canadian Johns-Manville necessarily pays its entire net income to J-M Corporation in the form of a dividend which becomes taxable income in the U.S. J-M Corporation pays the U.S. corporate tax rate on this amount but deducts the Canadian taxes paid. Since the U.S. tax rates are higher than Canadian (taking depletion into account), the approximate net effect is that J-M Corporation and C. J-M combined pay total taxes on C. J-M's earnings at a rate equivalent to the U.S. corporate tax rate. While there may be some prospect of Canadian corporate taxes declining slightly next year, as an election is apparently coming up, well-informed people in the United States agree that it is extremely unlikely that U.S. corporate tax rates will decline next year. As a matter of fact, there is probably more chance of them going up than coming down. For the reasons above stated, the U.S. tax rate and not the Canadian is the controlling factor.

As far as the longer term future is concerned, the tax rate probabilities cannot be determined with enough degree of certainty to act upon.

Therefore, there appears to be no valid tax reason for postponing the taking of the Workmen's Compensation refund into income as rapidly as possible.

Alvin Brown and Jerry Wilson both believe that it is likely that our U.S. accountants - Lybrand, Ross Bros. - will insist upon making some entry upon our books to reflect the existence of any substantial amount held for us by the Workmen's Compensation Commission. It is felt that the accountants will deem us guilty of concealing an asset if we do not disclose it in this manner - even though it might, because of the restrictions that surround it, be offset by a 100% reserve. Our Canadian accountants, Sharp, Milne, feel that any entry upon our books in respect to the fund would very likely result in our having to pay income tax upon it - perhaps at the rates prevailing in the years when the payments were originally made to the Commission, thus defeating our whole purpose. If the fund were reduced to a small amount by making on September 1 a withdrawal of $186,000, it is unlikely that either accounting firm would feel the necessity of any book entries.

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W. E. Soutar, Asbestos, P.Q. July 28, 1948

We are now borrowing money at a cost of 2.7% per annum and may have to borrow an additional amount before the year is over. From our forecast, it is conceivable that the conservation of $166,000 of cash by means of using an equivalent amount of the fund to pay the present premium would not only save us interest on that amount but might possibly make further borrowing unnecessary.

While the fund, as set up, is safeguarded by a written agreement with the Commission, I have always felt that the Commission's authority to make this agreement might be questioned especially in case of any change in the make-up of the Commission or any attack upon its Act made for political reasons or otherwise. In such event, we might lose control over this sum of money. I have always, therefore, felt that we should use it at the first moment that further delay carried no prospect of further benefit.

I realise that you and George feel asbestosis claims may mount in the future and become a heavy burden. I have also had the impression that you feel there may be a year or a few years in the future when such costs bunch up due to an accumulation of cases that perhaps should have been taken care of in earlier years but were not because of uncertainties that still surrounded compensation for asbestosis. Feeling this way, you have both suggested that the Reserve not only remain intact for the present but, further, that it be built up to a higher level by putting into it any future merit rating refunds from the Commission. I believe your thought is to avoid abnormally high burden on future earnings. If this is correct, I believe that a more proper way of meeting the situation would be by means of a Bookkeeping Reserve rather than maintaining the cash fund with the Commission.

Future asbestosis costs could be anticipated and spread evenly by charging each year's earnings with an amount deemed sufficient to cover average losses. This charge could be credited to Bookkeeping Reserve and asbestosis costs charged against the Reserve. There is, as I see it, no need for maintaining a cash fund for the purpose, as we, from general sources, will be able to meet the actual cash needs when they arise. The latter is our problem. I believe that you are only interested in anticipating and spreading the costs.

May I hear from you and George as soon as possible on this and, in addition, will you let me know what mechanics are necessary to cause the Commission to charge the fund for the amount of our premium which is due September 1.

Roger Hackney

RH:M

cc: George K. Foster - Asbestos
Alvin Brown - N.Y.
[redacted]

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