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Hand written letter to Andrea Guyer from Ward Burleson

Document obtained in anticipation of litigation and in preparation for trial.

5 Chester Road
Darien, Conn. 06820
Dec. 12, 1974

Miss Andrea M. Guyer, Attorney
Johns-Manville Corp.
Greenwood Plaza
Denver, Colo. 80217

Dear Miss Guyer:

First, excuse the ruled paper, for I am sure this will be much easier to read than if I put it on bond paper.

As I mentioned on the telephone, the first asbestosis case among insulators, that I can remember, occurred in Newark about 1962. I have no direct information on any specific case, but since you are interested in what J-M people knew of the disease, I will outline in general what I can remember and some personal observations.

The first time I can recollect hearing the term asbestosis was sometime between 1946 and 1950. I was told that asbestos fibre could cause a fibrosis of the lungs which was really not harmful. At the time it was not associated with the insulators' trade. In the sales department we assumed it was something that factory workers who are continually exposed might develop, but even then was not serious. Our basic insulation products contained about 12% of asbestos by weight, other than so called mine cements which are 100% asbestos.

In approximately 1962, Arthur Fisk, one time associate counsel in J-M mentioned to me the Newark case which did involve an insulator. This was the first authenticated case in the trade that I can remember. This caused considerable thinking and I talked on several occassions with Dr. Ken Smith, then medical director of the Corp. It seemed that no one really knew what was happening among the men in the trade. We knew of no cancer link at the time, and as far as I know, did not until Dr. Selikoff brought it out.

Apparently some men in the trade knew there was a problem, but since it was not widespread they figured that it would not happen to them. This knowledge apparently was not widespread for three reasons:

1. Union opposed physical examination by employer
2. Most deaths probably improperly diagnosed
3. Claims, such as these were handled as workmen's compensation and did not come to the attention of the manufacturer.

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No Physical Exam by Employer

The union members had a belief that if they were examined and found to be physically defective, no one would hire them. Therefore there were no physical exams by employers or employers organizations. Also, Dr. Smith felt that the average M.D. was incapable of finding and identifying asbestosis. Furthermore, it seemed that some men were susceptible while others were not. It was my own personal impression that the insulators were a fairly long lived group.

Cause of Death Unually not Diagnosed as Asbestosis

It was Dr. Smith's opinion that if deaths were caused by asbestos, it was usually an indirect thing. More often than not the direct cause was heart trouble, emphezema, or something else contributed to by the asbestosis. Only the immediate cause of death seemed to have been reported in most cases.

Claims Apparently Handled Under Workmen's Compensation

Prior to the sixties there could not have been very many claims as, to my knowledge, thermal insulation contractors had no difficulty getting insurance and were not penalized in their rates. Such cases as these were, apparently, quickly settled out of court. I should think that Travelers would have considerable historical information.

There is another factor which may have contributed to the widespread increase in asbestosis claims. I refer to the so called Fab-Shop. The Fab-shop was a central location where insulation for fittings and other odd shaped equipment was pre-fabricated with power tools. These shops in some instances were very dusty. As I recall, many contractors made respirators available, but most of the time the men were not inclined to use them. The men certainly were not greatly concerned. Asbestos in insulation is not new, - 85% magnesia containing 12% to 15% of asbestos probably since 1900 and only after 1960 did this thing become a problem.

There was an insulation containing about 80% of amosite asbestos fibre used in ship work. It is my impression that when asbestosis began to show up, there was a lot of it among the ship yard insulators. They not only worked with a product containing 80% of asbestos, but did a great deal of tearing off and replacing in the confines of the engine rooms. J-M did not manufacture such a product.

It has always been my impression that the insulators as well as other construction workers are on an average, heavy smokers.

After many discussions with Arthur Fisk and Dr. Ken Smith the Industrial Insulations Division decided to put warning labels on the insulation cartons. We made the first move in the industry. What is probably just as dangerous a product is asbestos mine cement. We proposed that the bags be labeled at the mines as hazardous. This was resisted for some time by the Fibre Division, who felt there was no hazard. I do not remember the dates when the labeling of the various products became effective.

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I hope this is helpful, but probably is all old stuff to you. If you have not done so, you might wish to have R. A. Stapleton to arrange a tour of a construction site for you. I do not recall ever having seen the tabulation of cases attached to your letter.

Sincerely,

Ward Burleson

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