UNION CARBIDE

Messrs. F. H. Larrison
P. W. McDaniel
E. A. Piersall

Messrs. J. V. Murray
H. B. Rhodes

May 20, 1974

King City
Dust Sampling

The attached memorandum from the Law Department indicates the desirability of correlating the results of personnel monitoring with particular employees.

I would request that you review our procedures and determine the simplest way in which we might achieve this objective on our air borne asbestos fiber dust counts at King City. It might also be desirable to identify with the individual employee results of the environmental monitoring as well.

I would hope that we might have such a plan in operation by July 1st.

W. C. Thurber

WCT:es
Attachment

PLAINTIFF'S EXHIBIT
tabbies
UC-1553

UNION CARBIDE CORPORATION
270 PARK AVENUE, NEW YORK, N.Y. 10017
LAW DEPARTMENT

May 13, 1974

To: Mr. W.C. Thurber
Mining and Metals Division
38th Floor

Dear Bill:

In response to your inquiry of May 7th, while the Federal OSHA Asbestos Standard does requireperiodic environmental and personal monitoring, it does not explicitly require that personal monitoring records be identifiable as to the employee monitored. Such a requirement is, however, implicit in Paragraph (i), Subparagraph (2) of the standard which requires that "every employee and former employee shall have reasonable access to any record required to be maintained by Subparagraph 1 of this paragraph which indicates the employees own exposure to Asbestos Fibers". (emphasis supplied). Compliance with this requirement would be most difficult if identifiable exposure records were not maintained upon each employee whose exposure to asbestos fibers we are required to monitor.

As you know, the U.S. Court of Appeals in I.U.D. v Hodgson, in reviewing the asbestos standards, expressed dismay at the 3 year retention period for monitoring records in contrast to the 20 year retention requirement for medical records. The court remanded the record keeping requirement to the Secretary of Labor for "such modification or clarification as may be necessary to insure that the statutory objectives will be fulfilled". The statutory objective to which the court refers is the Secretary of Labor's obligation under the Occupational Safety and Health Act to require retention of those records necessary to develop information concerning the causes of disease.

While noting that an adequate basis for research may possibly be established on the basis of exposure levels generally prevalent in the industry without linking each employee to the particular samples taken from his work place, the court concluded that the purposes of the record keeping requirements cannot be fulfilled

RECEIVED
MAY 14 1974

without providing some adequate means of relating health records to exposure levels.

Considering the above, I would expect that whatever ambiguity may exist in the standard with respect to requiring maintenance of personal monitoring records identifiable to the employee will be clarified in the near future and the presently implicit requirement made explicit.

Very truly yours,

J.V. Murray

JVM/ja

UNION CARBIDE

Mr. J. V. Murray
46th Floor

May 7, 1974

Enclosed for your information is the United States Court of Appeals decision regarding the suit of the IUD against the Department of Labor on the OSHA Asbestos Standard. I note that one of the matters which the Court remanded to the Department of Labor for further study or clarification dealt with the duration of retention on dust counts. One inference which could be drawn from this is that personnel monitoring dust counts as contrasted to environmental monitoring should be associated with specific employees so that correlations could be made between dust exposure and medical history. In our monitoring practices at King City we make no attempt to associate the results of personnel monitoring with specific employees and include this data in the employee's medical file. In my view such action is not required under the current regulations but I would ask your confirmation of this position.

W. C. Thurber

WCT:es
Attachment