

NO. 48-280262-99

JOSEPH SKELTON,
ET AL.

VS.

CROWN, CORK & SEAL,
COMPANY, ET AL.
COURT

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

48TH JUDICIAL DISTRICT

CERTIFICATE OF WRITTEN DISCOVERY**TO THE HONORABLE JUDGE OF SAID COURT:**

Defendant, The Dow Chemical Company certifies under the Texas Rules of Civil Procedure that the following documents have been served on plaintiffs on March 27, 2002:

1. Defendant The Dow Chemical Company's Objections And Responses To Plaintiff's First Set Of Interrogatories;
2. Defendant The Dow Chemical Company's Objections And Responses To Plaintiff's First Requests For Production Of Documents And First Requests For Admissions.

Respectfully submitted,

ABBOTT, SIMSES & KUCHLER

By: 

Lawrence E. Abbott (TX 00795846)*

ABBOTT, SIMSES & KUCHLER

400 Lafayette Street, Suite 200

New Orleans, Louisiana 70130

Phone: (504) 568-9393

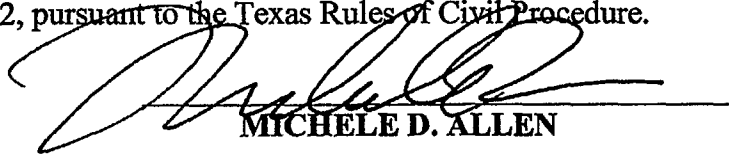
Facsimile: (504) 524-1933

**ATTORNEYS FOR DEFENDANT,
THE DOW CHEMICAL COMPANY**

Michele D. Allen (La. Bar No. 25332)
Abbott, Simses & Kuchler
Admitted Pro Hac Vice in this Action

CERTIFICATE OF SERVICE

This will certify that a copy of the foregoing document was furnished to all counsel of record on this the 27th day of March 2002, pursuant to the Texas Rules of Civil Procedure.


MICHELE D. ALLEN

JOSEPH SKELTON,
ET AL.

VS.

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NO. 48-280262-99

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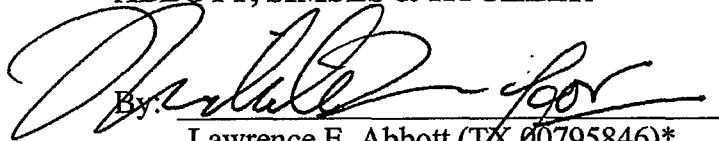
**DEFENDANT THE DOW CHEMICAL COMPANY'S OBJECTIONS AND
RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

TO: Plaintiff, Joseph Wayne Skelton, by and through their attorneys of record, Mr. David Ritter of Baron & Budd, The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219.

COMES NOW, Defendant, The Dow Chemical Company, and hereby serves its Objections and Responses to Plaintiff's First Set of Interrogatories pursuant to the Texas Rules of Civil Procedure.

Respectfully submitted,

ABBOTT, SIMSES & KUCHLER

By: 

Lawrence E. Abbott (TX 00795846)*
ABBOTT, SIMSES & KUCHLER
400 Lafayette Street, Suite 200
New Orleans, Louisiana 70130
Phone: (504) 568-9393
Facsimile: (504) 524-1933

**ATTORNEYS FOR DEFENDANT,
THE DOW CHEMICAL COMPANY**

*Signed by Permission
MICHELE D. ALLEN
Louisiana State Bar No. 25332
Admitted *Pro Hac Vice* in this Matter

PRELIMINARY STATEMENT

Dow Chemical Company was formed in the early 1900's and began construction of its first facilities in Texas in the late 1930's with the first unit starting up in 1940. In the following years, there have been over 100 production units constructed (many of which have subsequently been demolished). Each of these production units is basically a separate chemical plant producing its own product within the geographic boundaries of Dow Chemical's operations in the Freeport, Texas area. These production units cover over 5000 acres in areas that are broadly described as Plant A, Plant B and Oyster Creek. At times, there have been as many as 7500 employees and 3500 contractor employees working on the Texas facilities and there are currently around 5000 employees and 1000 contractor employees working on the premises. In answering this discovery, diligent effort has been made to obtain the information to answer the questions asked but it is impossible to gather every bit of information concerning an operation of this magnitude for a period of time of over 50 years. If further information is located, these answers will be supplemented and/or amended as required by the Texas Rules of Civil Procedure.

GENERAL RESPONSES, OBJECTIONS, AND ASSERTIONS OF PRIVILEGE

Dow makes the following general objections to Plaintiff's First Set of Interrogatories (hereinafter "First Set of Discovery") directed to it:

1. Dow objects to Plaintiffs' Instruction No. 1 in so far as it deviates from Rule 196 of the Texas Rules of Civil Procedure. This rule requires that the party receiving such a request for documents must produce relevant documents that are responsive to the

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant The Dow Chemical Company's Objections and Responses to Plaintiff's First Set of Interrogatories has been served upon all known counsel of record by certified mail, return receipt requested, regular mail, and/or facsimile on this 27th day of March, 2002.

A handwritten signature in cursive script, appearing to read "Michael J. [unclear]", is written over a horizontal line.

request and not subject to privilege. The rule also provides that the documents may be produced as they are kept in the ordinary course of business.

2. Dow objects to the First Set of Discovery to the extent that it seeks to compel the disclosure of information specifically exempted from discovery by Rule 192 of the Texas Rules of Civil Procedure (hereinafter "TRCP") and Article V of the Texas Rules of Evidence (hereinafter "TRE"), including but not limited to the attorney/client privilege, the joint defense privilege, the attorney work product doctrine, and/or the investigative privilege.

3. Dow objects to paragraph one (1) of the DEFINITIONS section regarding "Defendant," "You," "Your," and "Your Company," as well as paragraph three (3) regarding "persons." These terms are overly broad and unduly burdensome and pertain to corporations who are not parties to this action. Dow also objects to paragraphs one (1) and three (3) because those paragraphs include attorneys for Dow and their agents, whose communications are protected by the attorney/client privilege, work product doctrine, joint defense doctrine, and/or investigative privilege.

4. Dow objects to paragraph two (2) of the DEFINITIONS section regarding the definition of the word "document" and the instructions relating to "possession, custody or control," as those usages are overly broad and seek information specifically exempted from discovery by TRCP Rule 192.5 and TRE Rule 503, including the attorney work product doctrine and the attorney/client privilege. Throughout these responses, Dow will utilize and apply the commonly used meaning of the term "document," and will employ the guidance of TRCP Rule 192.3(b) in regards to this term.

5. Dow objects to the definitions of "identify" contained in paragraphs sixteen (16) and seventeen (17) of the DEFINITIONS section as those definitions are overly broad, unduly burdensome, and harassing. Dow will utilize and apply the commonly used meaning throughout its answers and responses.

6. Dow objects to paragraph twelve (12) of the DEFINITIONS section to the extent the information sought concerns asbestos in a non-friable form. Information relating to same is not at issue in this litigation.

7. Dow further objects to any discovery request seeking to charge it with knowledge or information held by its "predecessors or subsidiaries," or requiring it to provide information regarding sites or plants where the Plaintiff at issue did not work. As Plaintiff is aware, Dow had operated and operates multiple facilities and employs thousands of employees, not including the vast number of independent contractors that have worked at the various Dow facilities. The requested information is beyond the scope of proper discovery, totally irrelevant in relation to facilities where Plaintiff did not even work, and unduly burdensome to produce. The probative value of this information is clearly outweighed by the excessive expensive and waste of resources in requiring Dow to respond to it.

8. Dow objects to Plaintiffs' First Set of Discovery to the extent it is not limited in scope to a specific time period.

9. Dow objects to Plaintiffs' First Set of Discovery to the extent that it seeks disclosure of trade secrets, proprietary material, and other confidential information protected from discovery under Texas law.

10. Dow objects to any discovery request seeking information pertaining to any subsidiary and/or other business association, that was not a subsidiary and/or business association at the relevant time periods, and which continues to exist as a separate legal entity(ies).

11. Any objection to this First Set of Discovery made by Dow should not be interpreted to necessarily mean that Dow is in possession of non-privileged information responsive to a discovery request.

12. Each of the general responses, objections, and assertions of privilege set forth above are incorporated by reference in response to each of the Interrogatories set forth below.

13. Discovery is ongoing and Dow reserves the right, pursuant to the Texas Rules of Civil Procedure, to supplement the discovery responses set forth below.

OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

For each person who has supplied any information used in answering these interrogatories, or who assisted in identifying, locating or retrieving documents responsive to Plaintiff's Requests for Production, identify such person and include the length of time employed by Defendant or other employer, and a year-by-year list of all other positions, titles, or jobs held.

ANSWER:

Dow objects to providing identification of those sources on the grounds that this information is protected by the attorney work product doctrine and attorney-client privilege. Subject to the foregoing objection, Defendant's answers were prepared by counsel based upon the information provided by numerous individuals over an extended period of time. To the extent these interrogatories call for information concerning persons with knowledge of relevant, unprivileged information, they will be identified in answers to these interrogatories.

INTERROGATORY NO. 2:

As to each of the following, please state the first year you first became aware, what you learned, and how Defendant learned that humans who inhale asbestos fibers can contract

1. asbestosis
2. lung cancer
3. mesothelioma

ANSWER:

Dow objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory to the extent it calls for a medical opinion, and is also vague as it fails to identify the type of injury caused by an inhalation of asbestos, the type of asbestos fibers allegedly causing such an injury, the amount of exposure or the period of exposure required to cause such an injury. Defendant also objects to the extent Defendant corporation is made up of numerous employees, officers, directors, etc. to the point where it is unrealistic to be able to tell when Defendant first learned of any correlation between the inhalation of asbestos fibers and physical injury.

Subject to these objections, Dow asserts it is unable to pinpoint a precise date on which it, as a corporate entity, affirmatively knew of an association between asbestos exposure and disease as medical and scientific literature regarding asbestos related disease developed gradually over time. Further, it is impossible to comprehend the specific knowledge held by individual employees many years ago.

Further responding, Dow asserts that by the late 1940's, the scientific and medical literature showed that extensive, high-level exposure to asbestos fibers of sufficient duration and intensity had resulted in asbestos-related conditions and asbestosis in some individuals such as asbestos miners and other asbestos workers. (See Deposition of Harold Hoyle, taken in *Hebert, Sr., et al. v. Anco Insulations, Inc., et al.*, No. 51,180 in the 18th Judicial District Court, Parish of Iberville, Louisiana, on September 14, 1999, p. 272) Further responding, the alleged link between extensive exposure to asbestos fibers of sufficient duration and intensity and lung cancer or mesothelioma was questionable and not clearly supported in the scientific and medical literature up to and until the late 1960's to early 1970's. (See Deposition of Harold Hoyle, taken in *Hebert, Sr., et al. v. Anco Insulations, Inc., et al.*, No. 51,180 in the 18th Judicial District Court, Parish of Iberville, Louisiana, on September 14, 1999, pp. 61, 88 and 92) Dow was not aware of the association between exposures to asbestos and mesothelioma until the late 1960's to early 1970's, and at that time was only aware of such an association in heavily exposed asbestos workers.

INTERROGATORY NO. 3:

Please list all trade organizations, trade associations and any other industry-wide groups to which you belong(ed) (specifically including but not limited to the following groups: American Hygiene Foundation, Industrial Hygiene Foundation, Chemical Manufacturer's Association, American Chemical Council, American Petroleum Institute, Texas Chemical Council, Ohio Safety Congress, National Safety Council, Asbestos Information Association, Industrial Medical Association) in which information or documents relating to asbestos was discussed, disseminated, or published (including, but not limited to, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk). As to each such group, please state:

- a. The inclusive dates of your membership;
- b. Identify Defendant's employees or former employees or representatives who attended any of the meetings held by each organization;
- c. The meetings they attended;
- d. If any individuals employed by Defendant or representing Defendant were members of committees or subcommittees of any such organizations, (such as, e.g., a medical advisory committee or legal committee), identify the committee or subcommittee on which such individual served and the position occupied on the committee, if applicable.

ANSWER:

Dow objects to this interrogatory as overly-broad, unduly burdensome, and non-specific as to a time or place relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Further, this information is not reasonably calculated to lead to admissible evidence.

Subject to the foregoing objections, records on the associations to which Dow is a member have only been kept since 1986; the list is not retroactive, but is only current.

- a) American Petroleum Institute - Yes
- b) National Safety Counsel - Yes
- c) American Industrial Hygiene Association - Yes
- d) Industrial Medicine Association - No
- e) Industrial Hygiene Foundation (of America) - Yes
- f) Chemical Manufacturers Association - Yes
- g) Texas Chemical Counsel - Yes

Furthermore, see the Deposition of Harold Hoyle, taken in *Della Baker, et al v. Celotex Corporation*, Cause No. E-137,587 in the 172nd Judicial District Court of Jefferson County, Texas February 18, 19, 20, 1991, page 203, line 23 to page 205, line 15; page 206, line 16 to page 208, line 17; page 209, line 4 to page 211, line 5; page 212, lines 3-14; page

215, line 19 to page 216, line 5; page 299, line 12 to page 300, line 9; and page 470, line 5 to page 471, line 25.

INTERROGATORY NO. 4

Please identify Defendant's employees or former employees or representatives who attended any proceedings, symposia, or conferences of a scientific or medical or technical nature at which information or documents relating to asbestos was discussed, disseminated, or published, (including, by way of example, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk) and specifically including but not limited to the Seventh Saranac Symposium, 1952, and/or New York Academy of Sciences, October 1964, and for each such individual, state the proceedings, symposia, or conferences attended and to whom within your corporate organization information concerning attendance at such proceedings, symposia, or conferences were reported, either verbally or in documentary form.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. As written, this interrogatory requires Dow to search the employment and personnel records of all its employees on a global level to attempt to determine these facts. Further objecting, Dow states that the expense and resources necessary to provide this information is drastically outweighed by the probative value of this information.

INTERROGATORY NO. 5:

Please identify each company from which you acquired asbestos-containing products used at Defendant's Premises At Issue during the years Plaintiff has indicated he worked at Defendant's Premises At Issue and include in your response.

- a. A description of each asbestos-containing product acquired; and
- b. The dates each asbestos-containing product was acquired.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not

limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Dow further objects to this Interrogatory because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law. Defendant further objects because the interrogatory fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, the Dow facility in Brazoria County was constructed in the late 1930's and began operations in 1941. During the years, the plant has expanded to encompass structures, pipeways, tanks, etc. which now cover almost 5,000 acres on three main sites which are not connected. Many facilities, pipeways, tanks, etc. constructed prior to the late 1960's could have contained asbestos in some form because asbestos was an acceptable material for thermal insulation as well as for structural uses in floor tiles, siding, etc. Defendant stopped using asbestos containing insulation products, except for limited applications where no substitute was available, beginning in 1969 through 1970.

INTERROGATORY NO. 6:

If any asbestos-containing materials located or formerly located at Defendant's Premises At Issue have been removed, encapsulated, or otherwise abated at any time:

- a. Identify each person or company that performed such abatement services
- b. State the dates and locations within Defendant's Premises At Issue of each abatement procedure;
- c. Describe what asbestos-containing materials were abated; and
- d. State how such asbestos-containing waste was stored at Defendant's Premises At Issue prior to disposal and how it was disposed of.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked.

Subject to the foregoing objections, the Dow facility in Brazoria County was constructed in the late 1930's and began operations in 1941. During the years, the plant has expanded to encompass structures, pipeways, tanks, etc. which now cover almost 5,000 acres on three main sites which are not connected. Many facilities, pipeways, tanks, etc. constructed prior to the late 1960's could have contained asbestos in some form because

asbestos was an acceptable material for thermal insulation as well as for structural uses in floor tiles, siding, etc. Defendant stopped using asbestos containing insulation products, except for limited applications where no substitute was available, beginning in 1969 through 1970. All maintenance and scheduled demolition events beginning in the late 1960's utilized safe-working procedures to prudently remove the existing asbestos in a specific area. Furthermore, if areas where asbestos-containing products were used or incorporated began to deteriorate, those materials would be removed under safe-working conditions and replaced with non-asbestos-containing materials.

INTERROGATORY NO. 7:

Please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as having knowledge of facts relevant to this case concerning Defendant's Premises At Issue during the Time Period At Issue, including but not limited to the identification or location in your premises of asbestos-containing products to which Plaintiff was exposed or facts disputing the identification or location of such product or type of products.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Dow further objects to this Interrogatory to the extent it places an unwarranted burden on Dow to detail all relevant knowledge and opinions of each potential witness, which is prohibited under the TRCP. *See Housing Authority of the City of El Paso v. Rodriguez-Yepes*, 828 S.W.2d 499 (Tex. Ct. App. – El Paso, 1992); *Tjernagel v. Robert*, 928 S.W. 297 (Tex. Ct. App. – Amarillo, 1996). Dow further objects to this Interrogatory because it seeks disclosure of trade secrets, proprietary material, and other confidential information protected from discovery under Texas law.

Subject to the foregoing objections, the following people may have relevant facts:

FACT WITNESSES

- (1) All plaintiffs named in this lawsuit.
- (2) All medical providers for the plaintiffs, including nurses, physicians, hospitals and custodians of medical records.
- (3) Any person or entity designated by any other party or any person deposed in this lawsuit.

- (4) Gary Truver
622 Commerce Street
Clute, Texas 77531
(409) 655-7451

Mr. Truver is employed by U. S. Contractors, and will testify concerning the relationship of U. S. Contractors and The Dow Chemical Company and U. S. Contractors' responsibility to its employees.

- (5) Ken McGowen
Post Office Drawer 66
Freeport, Texas 77541
(409) 239-2022

Mr. McGowen is employed by the successor to Winway Corporation and will testify concerning the relationship of Winway to The Dow Chemical Company and Winway's responsibility to its employees.

- (6) Bruce Horvath
1708 Avery Street
Parkersburg, West Virginia
(304) 428-7325

Mr. Horvath is a former industrial hygienist employed by The Dow Chemical Company at its Freeport facility and will testify concerning industrial hygiene issues including those touching on asbestos.

- (7) Robert Soule
360 Debbie Drive
Indiana, Pennsylvania
(412) 349-7702

Mr. Soule is a former industrial hygienist employed by The Dow Chemical Company at its Freeport facility and will testify concerning industrial hygiene issues including those touching on asbestos.

- (8) Roger L. Daniel
H.C.R. 5, Box 574-674
Kerrville, TX 78028
(830) 896-4513

Mr. Daniel is a former industrial hygienist employed by The Dow Chemical Company at its Freeport facility and will testify concerning industrial hygiene issues including those touching on asbestos.

- (9) Harold Hoyle
1360 Coronado Terrace
Daytona, Florida 32725**

Mr. Hoyle is a former industrial hygienist with The Dow Chemical Company in Midland, Michigan and will testify concerning the corporate knowledge of The Dow Chemical Company with regard to asbestos.

- (10) F. B. Crouch
2141 Riverside
West Columbia, Texas
(unlisted number, can be reached through counsel for defendant)**

Mr. Crouch may testify concerning the uses of asbestos in certain areas on the premises of The Dow Chemical Company in Freeport, Texas as it relates to maintenance activities in those areas. He may also provide information regarding Dow's safety practices and policies in general, as well as in relation to the uses and handling of asbestos-containing materials. Mr. Crouch may also testify to the practices adopted by Dow in relation to information received regarding alleged harmful effects of extreme exposure to asbestos. Mr. Crouch may also provide information regarding contractor and union relations in certain areas at Dow-Freeport, as well as the control that contractor employers maintained over contractor employees working at Dow.

- (11) M. Gerald Ott, Ph.D.
Director of Epidemiology
BASF Corporation
Parsippany, NJ**

Dr. Ott is a former Dow biostatistician and epidemiologist who undertook some early reviews of insulators employed by Dow at the Freeport facility comparing their health to a control group of employees. This work was done in the late 1960s and early 1970s.

- (12) **Tim Scott**
The Dow Chemical Company
2301 Brazosport Blvd.
APB Bldg.
Freeport, TX 77541
(409) 238-7815

Mr. Scott is the Head of Security and custodian of fingerprint data at Dow.

- (13) **Cheryl Sandlin**
The Dow Chemical Company
2301 Brazosport Blvd.
APB Bldg.
Freeport, TX 77541
(409) 238-7815

Ms. Sandlin can testify with respect to the asbestos abatement program at Dow, both historically and in general, up to the year 2000.

- (14) **Bob Abrahams**
1201 Main Street, Suite 2020
Houston, TX 77002
(713) 527-0379

Mr. Abrahams is a former employee of B & B Engineering who will testify concerning wages paid to employees including, but not limited to manner of payment and withholding of FICA taxes.

- (15) **Melvin P. Proctor**
7515 Rockhill
Houston, TX 77061
713-643-1309

Former employee of Thorpe Insulation and knowledgeable about their practices and history.

- (16) **Richard Nowland**
Tom Hopkins
6833 Kirbyville Street
Houston, TX 77033
713-644-1247

Mr. Nowland and/or Mr. Hopkins will testify concerning the records of J. T. Thorpe of Texas and the fact that employees were

paid by check and that FICA wages were reported to the federal government as required by law.

(17) Mr. Don Fillmore
Dow Center
Records Center
Midland, MI 48674
517-636-9431

Mr. Fillmore is the records custodian for The Dow Chemical Company and will testify to facts that will prove up Dow documents as business records.

Plaintiffs' claims are vague and ambiguous at this point and Defendant does not have enough information to determine all of the persons having knowledge of facts relevant to this case. Defendant reserves the right to supplement this response as discovery proceeds.

INTERROGATORY NO. 8:

With respect to Defendant's Premises At Issue during the Time Period At Issue, please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as being employed by you or having been employed by you whose duties and/or responsibilities included interface or liaison with Plaintiff's employer or other contractors who installed, removed, maintained, repaired or replaced asbestos-containing products (including foremen or supervisors of Plaintiff) on Defendant's Premises At Issue (regardless of job title, including but not limited to, "plant engineers," "project engineers," "company engineers," project superintendents," "purchasing agents" or job descriptions of a similar nature) and specifically include those whose duties and responsibilities included the following:

- a. Entering into contracts or purchase orders (including specifications) with such contractors;
- b. Allowing such contractors access to Defendant's Premises At Issue;
- c. Overseeing, supervising, observing or monitoring such contractor activities or addressing any contractor questions or concerns relating to the work being performed;
- d. Providing or approving asbestos-containing materials to be used by such contractors; and
- e. Inspecting or approving work done by such contractors or authorizing payment for work done by such contractors.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Dow also objects to this Interrogatory to the extent it places an extreme burden on Dow to detail all relevant knowledge and opinions of each potential witness, which is prohibited under the TRCP. *See Housing Authority of the City of El Paso v. Rodriguez-Yeppez*, 828 S.W.2d 499 (Tex. Ct. App. – El Paso, 1992); *Tjernagel v. Robert*, 928 S.W. 297 (Tex. Ct. App. – Amarillo, 1996).

The Dow facility covers thousands of acres, and includes hundreds of units, and there literally would have been hundreds of contractors and thousands of employees who were on the premises. Defendant further objects to this on the grounds of relevance, because the information on thousands of employees who have no possible connection with this lawsuit could have no possible relevance to this case.

INTERROGATORY NO. 9:

If you have or have had an industrial hygiene, safety or medical department, please state the following:

- a. The year such department was established, and whether it was established on the corporate level or at Defendant's Premises At Issue or both; and
- b. With respect to Defendant's Premises At Issue during the Time Period At Issue, please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as being or having acted in a medical, safety, or industrial hygiene advisory capacity (regardless of job title), specifically including, but not limited to, physicians, medical directors, medical personnel, nurses, safety engineers or managers and industrial hygienists. (You should include in your answer those persons on a corporate level, regardless of whether they worked directly on Defendants' Premises if they had such responsibilities for workers on Defendant's Premises At Issue, and identify such individuals as affiliated with the corporate headquarters of Defendant.)

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Dow further objects to this Interrogatory to the

extent it places an unwarranted burden on Dow to detail all relevant knowledge and opinions of each potential witness, which is prohibited under the TRCP. *See Housing Authority of the City of El Paso v. Rodriguez-Yepes*, 828 S.W.2d 499 (Tex. Ct. App. – El Paso, 1992); *Tjernagel v. Robert*, 928 S.W. 297 (Tex. Ct. App. – Amarillo, 1996).

Subject to these objections, Dow asserts that for many years it has had a Medical Department and an Industrial Hygiene program in existence, both at the corporate and facility-specific level. Dow started an Industrial Hygiene Department at the Midland, Michigan facility in the late 1940's, which served as a corporate-wide department until the implementation of facility-specific departments. Further responding, Harold Hoyle served as an Industrial Hygienist for Dow during the Time Period at Issue; however, prior to him taking that position, individuals in the company had been performing some of those duties. (See Deposition of Harold Hoyle, taken in *Hebert, Sr., et al. v. Anco Insulations, Inc., et al.*, No. 51,180 in the 18th Judicial District Court, Parish of Iberville, Louisiana, on September 14, 1999, p. 16) A formal Industrial Hygiene Department was also staffed and maintained at the Dow facility in Brazoria County, Texas sometime in the mid 1950's. Dow's Medical Department was established in Freeport in 1943. Moreover, each facility, including the Brazoria County facility, staffed and maintained a Medical Department to serve its employees and contractors. (See Deposition of Dr. Benjamin Holder, taken in *Hebert, Sr., et al. v. Anco Insulations, Inc., et al.*, No. 51,180 in the 18th Judicial District Court, Parish of Iberville, Louisiana, on September 16, 1999)

Also subject to the foregoing objections, See Exhibit "A" attached.

INTERROGATORY NO. 10:

Please identify all warnings given by Defendant, if any, to anyone at Defendant's Premises At Issue (including the Plaintiff) regarding the hazards of asbestos and the dangers inherent in the inhalation of asbestos fibers, and please include in your response the following:

- a. To whom these warnings were given (and specifically state if Plaintiff was among them);
- b. When they were given, if ever they were given;
- c. In what manner they were given (e.g. written pamphlets, signs posted, oral/group meeting, individual discussions, etc.);
- d. State whether you have ever published, written, edited, or distributed any other printed materials, including brochures, pamphlets, catalogs, packaging, advertising, signs, statements, or other materials containing any warnings of the possibility of injury from the use or exposure to asbestos or asbestos-containing products; and
- e. State whether any of the foregoing warnings were in Spanish or any other language besides English.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Dow further objects to this interrogatory as drafted. The hazards of asbestos are determined largely by the manner in which the material is being used and the type of exposure(s) experienced by the individual. In generic or general terms, no answer would be fitting or appropriate.

Moreover, the knowledge of asbestos hazards in the medical and scientific literature regarding asbestos related disease has developed gradually over time. This interrogatory fails to specify a time period targeted. Furthermore, the Dow facility in Freeport, Texas has been operating since 1941 and the provision of all warnings given to anyone at that facility, with its three plants covering thousands of acres, would be impossible. Moreover, safety recommendations and warnings were many times given in the immediate work atmosphere by word of mouth or other informal means. Therefore, evidence regarding the identification of such warnings or recommendations is not capable of production in written discovery.

Subject to the foregoing objections, Dow states that safety meetings and communications were offered at Dow in the hopes of making all employees and contractors aware of the hazards generally associated with the industrial setting, as well as particularly providing safe operating habits in relation to each worker or group of workers. Dow's corporate policy in the safety, medical, research, and industrial hygiene departments, among others, was to answer all questions relating to health and safety and provide guidance in regards to same when it was requested, no matter who the requesting party was.

Further subject to objections, Dow made the conscious decision to hire construction contractors because they provided expertise in a specific trade, craft, work area or specialty. Dow asserts that the provision of warnings, safety discussions, and other protections was clearly the duty of the Plaintiff's employer - the independent contractor - as that company had a duty to protect and warn its workers of hazards in the workplace of which it was aware.

Further responding, the Dow Freeport facility also utilized the Texas labor unions in certain capacities. These unions had an on-going duty and responsibility to inform their members of certain safety and health issues that may be encountered on the job, including the hazards associated with asbestos exposure.

Further responding, Dow relied upon the manufacturers of asbestos products used at Dow to provide adequate and sufficient warnings to persons coming in contact with their products. The manufacturers would have superior expertise in protecting against any

hazards associated with the products and therefore were in a much better position with respect to notifying and warning the public and ultimate users of the product.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

INTERROGATORY NO. 11:

If Defendant has or had or maintained in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings, please identify:

- a. The individuals who received, maintained, reviewed, and disseminated the information contained in such written materials;
- b. The written materials received; and
- c. State how and why these materials came into Defendant's possession.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Dow further objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

INTERROGATORY NO. 12:

Please describe in detail your manufacturing or industrial use of any asbestos or asbestos-containing products at Defendant's Premises At Issue. Please include in your response the following:

- a. The type of asbestos fiber used;
- b. From whom you purchased the asbestos fiber used; and
- c. A description of the process in which the asbestos was used.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Dow further objects to this Interrogatory because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law.

Subject to these objections, during the Time Period at Issue, Dow, as well as the medical, scientific, and technological community, were only learning of the disease mechanisms regulating to asbestos exposure. Therefore, during the Time Period at Issue, the state of the art was not at a level where adequate substitutes for asbestos-containing materials were necessary, much less readily available or practical.

Also subject to the foregoing objections, the Dow facility in Brazoria County was constructed in the late 1930's and began operations in 1941. During the years, the plant has expanded to encompass structures, pipeways, tanks, etc. which now cover almost 5,000 acres on three main sites which are not connected. Many facilities, pipeways, tanks, etc. constructed prior to the late 1960's could have contained asbestos in some form because asbestos was an acceptable material for thermal insulation as well as for structural uses in floor tiles, siding, etc. Defendant stopped using asbestos containing insulation products, except for limited applications where no substitute was available, beginning in 1969 through 1970.

INTERROGATORY NO. 13:

Identify by name and location each plant, facility, location, or premises owned, operated, or controlled by you in which asbestos-containing products were assembled, stored, used, prepared for use, installed, or fabricated during the Time Period At Issue. For each plant, facility, location, or premises listed as responsive to the above request, please specify the following:

- a. The functional dates for each plant, facility, location, or premises; and
- b. The period during which asbestos-containing materials were stored, used, prepared for use, installed or fabricated.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant further objects to this interrogatory because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence

Subject to the foregoing objections, the Dow facility in Brazoria County was constructed in the late 1930's and began operations in 1941. During the years, the plant has expanded to encompass structures, pipeways, tanks, etc. which now cover almost 5,000 acres on three main sites which are not connected. Many facilities, pipeways, tanks, etc. constructed prior to the late 1960's could have contained asbestos in some form because asbestos was an acceptable material for thermal insulation as well as for structural uses in floor tiles, siding, etc. Defendant stopped using asbestos containing insulation products, except for limited applications where no substitute was available, beginning in 1969 through 1970.

INTERROGATORY NO. 14

For any of Defendant's Premises At Issue, during the Time Period At Issue, if you, your affiliates, subsidiaries, or predecessor(s), arranged for any of your employees, labor inspectors, insurance company inspectors, industrial hygienists, or any other party, whether directly employed by you or otherwise, to count or measure quantity, quality or threshold limit values or concentrations of asbestos dust or particles or other dust at any of your plants, facilities, locations, or premises where asbestos or asbestos-containing products were used, assembled, installed, or removed, please describe such tests and indicate the following:

- a. The results obtained;
- b. By whom such tests were performed; and
- c. Identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as the person most knowledgeable concerning such tests and their results.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re*

American Optical Corp., 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. In addition, Defendant objects to this interrogatory to the extent it seeks information regarding any current business association or subsidiary which was not a business association or subsidiary at the relevant time and that continues to exist as a separate legal entity(ies).

Subject to the foregoing objections, Harold Hoyle, the former Head of Industrial Hygiene for the company, testified that dust level counts had been taken by him in the late 1950s in the Michigan facility on some occasions, and certainly, there are other records of dust counts from this facility available beginning in the 1960s and going forward in time. (See Deposition of Harold Hoyle, taken in *Hebert, Sr., et al. v. Anco Insulations, Inc., et al.*, No. 51,180 in the 18th Judicial District Court, Parish of Iberville, Louisiana, on September 14, 1999) Furthermore, dust counts were made in the Freeport, Texas facility beginning in the 1970's. The results of all of these dust counts are quite voluminous, but those records are contained in the document depository in Midland, Michigan.

INTERROGATORY NO. 15:

For the Time Period At Issue, if you provided or caused to be provided any safety equipment or medical programs (including, but not limited to, masks, respirators, other breathing devices, protective clothing, protective gloves, area air filtration systems, and area exhaust systems or barriers or enclosures or medical monitoring program, medical examination program, or other medical or safety program) to employees, contractors, or invitees at any of your plants, facilities, locations, or premises where asbestos and asbestos-containing products were manufactured, used, assembled, installed, or removed, please indicate the following:

- a. When such was first provided to your employees, contractors, and/or invitees and to whom;
- b. Under what circumstances such were provided;
- c. State whether you conducted safety meetings discussing the hazards of asbestos with employees, contractors, or invitees at any of Defendant's Premises At Issue during the Time Period At Issue, and if so, when and what was discussed, and
- d. Identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as the person most knowledgeable concerning such equipment and programs and their provision.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. See *In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in

the plant where plaintiff allegedly worked or the events in the plant which allegedly caused plaintiffs' injuries. This interrogatory also seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Further responding, Dow asserts that during Time Period At Issue, Dow, as well as the medical, scientific, and technological community, was only learning of the disease mechanisms relating to asbestos exposure. Therefore, during the Time Period at Issue, the state of the art was not at a level where protective equipment was seen as necessary or practical, nor where there adequate substitutes for asbestos-containing materials.

Further responding, any duty to provide protective equipment to the Plaintiff was the responsibility of his employer or union. Dow made the conscious decision to hire construction contractors because they provided expertise in a specific trade, craft, work area or specialty. Dow asserts that the provision of warnings, safety discussions, and other protections were the responsibility of the independent contractor, who had the duty to protect and warn its employees from certain hazards in the workplace over which it was aware. Dow was not under a duty, legal or equitable, to provide such protective equipment; however, it did embrace the policy that the safety, medical, research, and industrial hygiene departments, among others, were to answer all questions relating to health and safety and to provide guidance in regards to same, no matter who the requesting party was.

Subject to the foregoing objections, Dow cannot name each type of respiratory equipment which was available since the 1940's, but some of the types of respiratory equipment used at Dow are:

- 1) MSA Fasfoe mouthbit respirator
- 2) Acme Duo Seal
- 3) Welsh with dust pad
- 4) Dustfoe 77
- 5) Nose & mouth OVAG
- 6) Dust respirators

Dow cannot give an answer as to when each of these was used by specific years because there is little documentation available. It has always been part of the contractual obligation of contractor employers to require the contractor employees to follow all safety rules, guidelines and provisions required by Dow. It was, and is, the contractor employer's responsibility to provide the appropriate safety equipment needed for the area in which their employees were working, which was, and is, part of the compliance with Dow's safety policy. It has been a Dow policy for many years to inform each and every person who will be in any block area of all known hazards and the appropriate protective equipment that is required for that area. Dow had implemented safe handling procedures for asbestos, and it published a Handbook for Handling Asbestos Materials which was specific regarding the type of respiratory equipment that was required when handling asbestos.

INTERROGATORY NO. 16:

Please state for each of Defendant's Premises At Issue, all relevant State and Federal regulations, laws, statutes, mandates, or other authority pertaining to industrial hygiene, safety, and health of which you were aware during the Time Period At Issue that governed, controlled, or applied to exposure to asbestos or asbestos-containing products, abatement or removal of asbestos-containing products, and transportation of asbestos containing waste from such removal or abatement activities.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Further objecting, Dow states that this information is in the public domain and Plaintiffs maintain the capability of obtaining these documents on their own.

Subject to the foregoing objections, Dow was aware of the threshold limit values or maximum allowable concentrations that were in effect shortly after the American Conference of the Government Industrial Hygienist adopted those standards. Generally, the individual who would be responsible for receiving such information was Harold Hoyle, the Corporate Head of Industrial Hygiene.

INTERROGATORY NO. 17

For any of Defendant's Premises At Issue, detail every occasion during the Time Period At Issue when any State, Federal, or local regulatory agency, commission, or other examiner inspected or visited any of your plants, facilities, locations, or premises where asbestos and asbestos-containing products were used, manufactured, assembled, installed, or removed to ascertain whether you were in compliance with relevant State, Federal, or local health and safety regulations.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Dow further objects to this Interrogatory because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law. This Interrogatory further seeks

matters that are totally irrelevant to the subject matter of this lawsuit and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff fails to even state that the information requested relate to the use or abatement of asbestos materials.

INTERROGATORY NO. 18:

If, before 1980, you had received notice that any individual or individuals had claimed for injury against you resulting from exposure to asbestos, state for each:

- a. The name and address of the claimant;
- b. A description of the claim; and
- c. The name and address of the attorney representing such claimant.

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Further, this interrogatory seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Information regarding thousands of employees and individuals who have absolutely no connection to this lawsuit is irrelevant.

Defendant further objects to this interrogatory because it is overly broad, unduly burdensome, harassing and the information sought by plaintiff could contain confidential medical information concerning employees of Dow or information protected by the physician patient privilege. Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiffs allegedly worked at the plant, the locations in the plant where plaintiffs allegedly worked or the events in the plant which allegedly caused plaintiffs' injuries. *See Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995).

Subject to the foregoing objections, Defendant states that the first worker's compensation suit based upon the inhalation of asbestos by an employee of the Dow plant in Freeport, Texas was in 1974.

INTERROGATORY NO. 19:

If you contend that you did not own, operate or control the Defendants Premises during the Time Period At Issue, or if you contend you are not liable in the capacity alleged in the most recent petition, describe in detail the facts supporting your contention and include a detailed corporate history of Defendant and its ownership, sale, acquisition, or divestiture or any of Defendant's Premises At Issue and any relevant mergers, acquisitions, consolidation, or other

events of similar nature that you believe bear on the issue of ownership, control, or assumption of liabilities for acts occurring on Defendant's Premises At Issue during the Time Period At Issue and identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as having knowledge of facts relevant to this issue.

ANSWER:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

INTERROGATORY NO. 20:

If you contend that venue is not proper, identify by municipality and county the location you contend is your principal place of business within this state for purposes of venue, as well as your next three most significant business locations within this state. If you do not contend that any of your locations are a principal place of business, identify up to four of your places of business where your highest level decision makers within this state work.

ANSWER:

The Dow Chemical Company's principal place of business in Texas is Brazoria County for venue purposes. Dow also does business in Harris County, as it has a manufacturing facility in LaPorte and offices in Houston.

INTERROGATORY NO. 21:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessors or subsidiary companies manufactured, marketed or sold from 1969 to 1998.

ANSWER:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiffs allegedly worked at the plant or the asbestos-containing products allegedly exposed to plaintiffs. In addition, Defendant objects to this interrogatory to the extent it requests information relating to a subsidiary and/or business association that was not a subsidiary and/or

business association during the relevant time period and that continues to exist as a separate legal entity(ies).

Subject to the foregoing objections, The Dow Chemical Company states that it has never manufactured, assembled, or sold any asbestos-containing products, with one minor exception. Dow manufactured Styrofoam panels under the trade name of Deraspan®. This occurred during the late 1960s. As an option to the Deraspan® panels, there were several types of facings that could be placed on those panels. The facings included aluminum, wood and others. One of the optional facings was a one-eighth inch cement board that contained asbestos. This was not a board that was manufactured by Dow, but was one that was acquired from another company by Dow. To the best of the records Dow has been able to locate, there were no more than six sales of these insulated panels, which are used in freezer applications containing the option of the cement asbestos board.

INTERROGATORY NO. 22:

If Defendant from 1969 to 1998 manufactured, marketed or sold a product that contained asbestos fibers, state as to each product the following:

- a) As to each product, state whether your product was manufactured, marketed, and/or sold.
- b) The trade or brand name of each of those products manufactured, marketed and/or sold.
- c) The date of each of the named products, if any, was placed on the market.
- d) A description of the physical (chemical) composition of each of the named products, if any, including the type of asbestos contained in the product and the percentage of asbestos put in each product.
- e) The date Defendant stopped manufacturing such asbestos-containing product.
- f) The date each of the products was removed from the market and no longer sold or distributed and the reason or reasons therefore.
- g) The date asbestos was removed for such product, if ever, and the reasons for removing it.

ANSWER:

See Objections and Responses to Interrogatory No. 21.

INTERROGATORY NO. 23:

Before manufacturing, selling or placing the products listed in Defendant's response to interrogatory No. 21 into the stream of commerce, were any tests conducted to determine the potential health hazards involved in the use of, or exposure to, the asbestos materials contained in that product or products?

ANSWER:

Defendant objects to this interrogatory as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiff allegedly worked at the plant, the locations in the plant where plaintiff allegedly worked, or the asbestos-containing products allegedly exposed to plaintiffs.

Defendant further objects to this interrogatory because it is overly broad, unduly burdensome, harassing and the information sought by plaintiff could contain confidential medical information concerning employees of Dow or information protected by the physician patient privilege.

Subject to the foregoing objections, Defendant states this interrogatory is not applicable.

INTERROGATORY NO. 24:

If the answer to interrogatory No. 22 is in the affirmative, state:

- a) The names of the products tested and the dates of such tests;
- b) The name, address and job title of each person who conducted those tests;
- c) The results or conclusions for those tests.
- d) Whether any products were removed from the market as a result of those tests.
- e) The name of all products removed from the market as a result of these tests.

ANSWER:

See Objections and Responses to Interrogatory No. 23.

INTERROGATORY NO. 25:

Identify by name and location each plant or manufacturing facility in which the products listed in Defendant's answer to interrogatory No. 21 were manufactured, assembled, or prepared for sale or marketing from 1969 to 1998, specifying which plants produced each item, the dates each plant is or was in operation, and the time span during which each named item was produced or manufactured.

ANSWER:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See*

***Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this interrogatory because it is not limited to the time periods that plaintiffs allegedly worked at the plant or the asbestos-containing products allegedly exposed to plaintiffs.**

Subject to the foregoing objections, Defendant states that all Deraspan® panels were assembled at a plant located in Cape Girardeau, Missouri.

Exhibit "A"

Physicians

NAME	YEARS IN POSITION
R. C. Miller	1942-1977
R. E. Gray	1946-1958
J. A. Stewart	1947-1957
J. R. Venable	1948-1980
D. J. Kilian	1950-1979
E. Heimbigner	1952-1979
Fred Turner, Sr.	1953-1955
Raymond Flake	1955-1984
Peter Gay	1967-1982
D. G. Paff	1968-1970
G. E. Moffitt	1970-1971
William Fishbeck	1980-1985
Ansel McDowell	1976-1992
James H. Saunders	1985-1991
Carole Browdy	1978-1997
William Cushman	1985-1988

Industrial Hygienists.**Texas**

NAME	ADDRESS	YEARS IN POSITION	TITLE
Ralph R. Langer	Deceased	1956-1960	Industrial Hygienist
Larry G. Silverstein	790 A. Indian Trails Carmel, IN 46032	1961-1962	Industrial Hygienist
Donald L. Hide	1310 Haley Street Midland, MI (517) 632-2988	1961-1966	Industrial Hygienist
Dowis Atkins	Counsel for Dow	1965-1967	Industrial Hygienist
Jack H. Fontaine	Counsel for Dow	1967-1968	Industrial Hygienist
Jack A. Barton	1127 ½ W. Broad Freeport, TX (409) 663-5835	1967-1968	Industrial Hygienist
Robert D. Soule	360 Debbie Dr. Indiana, PA 15701 (412) 349-7702	1969-1970	Industrial Hygienist
Bruce S. Horvath	1708 Avery Street Parkersburg, WV 26101	1970-1975	Industrial Hygienist
Robert Silverthorne	731 Hollyhock Street Clute, TX 77531	1972-1977	Industrial Hygienist
Roger L. Daniel	Counsel for Dow	1973-1986	Industrial Hygienist

Corporate

NAME	ADDRESS	YEARS IN POSITION	TITLE
D. Irish	Deceased	1934-1935	Industrial Hygienist
E. M. Adams	Deceased	1946-1963	Industrial Hygienist
V. K. Rowe	Counsel for Dow	1964-1972	Industrial Hygienist
H. R. Hoyle	Counsel for Dow	1973-1975	Industrial Hygienist
R. R. Langner	Deceased	1975-1978	Industrial Hygienist
L. W. Rampy	Counsel for Dow	1978-1985	Industrial Hygienist

Medical Directors

NAME	ADDRESS	YEARS IN POSITION	TITLE
H. H. Gay, M.D.	Deceased	1938-1965	Corporate Medical Director
H. L. Gordon, M.D.	Counsel for Dow	1965-1976	Corporate Medical Director
H. C. Scharnweber, M.D.	Counsel for Dow	1976-1982	Corporate Medical Director
B. B. Holder, M.D.	Counsel for Dow	1982-1985	Corporate Medical Director
W. A. Fishbeck, M.D.	Counsel for Dow	1985-1986	Corporate Medical Director

NAME	ADDRESS	YEARS IN POSITION	TITLE
B. B. Holder, M.D.	Counsel for Dow	1977-1980	U. S. Area Medical Director
J. R. Venable, M.D.	Counsel for Dow	1980-1986	U. S. Area Medical Director

NAME	ADDRESS	YEARS IN POSITION	TITLE
R. C. Miller, M.D.	Deceased	1942-1977	Texas Facilities Physician
R. E. Gray, M.D.	Counsel for Dow	1946-1958	Texas Facilities Physician
J. A. Stewart, M.D.	Counsel for Dow	1947-1957	Texas Facilities Physician
J. R. Venable, M.D.	Counsel for Dow	1948-1980	Texas Facilities Physician
D. J. Kilian, M.D.	Deceased	1950-1979	Texas Facilities Physician
E. Heimbigner, M.D.	Deceased	1952-1979	Texas Facilities Physician
Fred Turner, Sr., M.D.	Counsel for Dow	1953-1955	Texas Facilities Physician
Raymond Flake, M.D.	Counsel for Dow	1955-1984	Texas Facilities Physician
Peter Gay, M.D.	Counsel for Dow	1967-1982	Texas Facilities Physician
D. G. Paff, M.D.	Counsel for Dow	1968-1970	Texas Facilities Physician
G. E. Moffitt, M.D.	Counsel for Dow	1970-1971	Texas Facilities Physician
William Fishbeck, M.D.	Counsel for Dow	1980-1985	Texas Facilities Physician
Ansel McDowell, M.D.	Counsel for Dow	1976-1992	Texas Facilities Physician
James H. Saunders, M.D.	Counsel for Dow	1985-1991	Texas Facilities Physician
Carole Browdy, M.D.	Counsel for Dow	1978-Current	Texas Facilities Physician
William Cushman, M.D.	Counsel for Dow	1985-1988	Texas Facilities Physician

NO. 48-280262-99

JOSEPH SKELTON,
ET AL.

VS.

CROWN, CORK & SEAL,
COMPANY, ET AL.

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

48TH JUDICIAL DISTRICT COURT

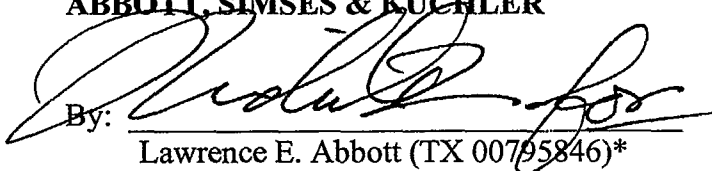
**DEFENDANT THE DOW CHEMICAL COMPANY'S OBJECTIONS AND RESPONSES
TO PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS AND
FIRST REQUESTS FOR ADMISSIONS**

TO: Plaintiff, Joseph Wayne Skelton, by and through his attorney of record, Scott L. Frost,
Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.

COMES NOW, Defendant, The Dow Chemical Company, and hereby serves its
Objections and Responses to Plaintiff's First Requests for Production of Documents and First
Requests for Admissions pursuant to the Texas Rules of Civil Procedure.

Respectfully submitted,

ABBOTT, SIMSES & KUCHLER

By: 

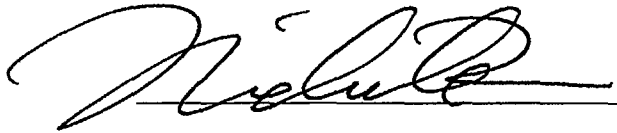
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**ATTORNEYS FOR DEFENDANT,
THE DOW CHEMICAL COMPANY**

*Signed by Permission
MICHELE D. ALLEN
Louisiana State Bar No. 25332
Admitted *Pro Hac Vice* in this Matter

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant The Dow Chemical Company's Objections and Responses to Plaintiff's First Requests for Production of Documents, and First Requests for Admissions has been served upon all known counsel of record by certified mail, return receipt requested, regular mail, and/or facsimile on this 27th day of March, 2002.



PRELIMINARY STATEMENT

Dow Chemical Company was formed in the early 1900's and began construction of its first facilities in Texas in the late 1930's with the first unit starting up in 1940. In the following years, there have been over 100 production units constructed (many of which have subsequently been demolished). Each of these production units is basically a separate chemical plant producing its own product within the geographic boundaries of Dow Chemical's operations in the Freeport, Texas area. These production units cover over 5000 acres in areas that are broadly described as Plant A, Plant B and Oyster Creek. At times, there have been as many as 7500 employees and 3500 contractor employees working on the Texas facilities and there are currently around 5000 employees and 1000 contractor employees working on the premises. In answering this discovery, diligent effort has been made to obtain the information to answer the questions asked but it is impossible to gather every bit of information concerning an operation of this magnitude for a period of time of over 50 years. If further information is located, these answers will be supplemented and/or amended as required by the Texas Rules of Civil Procedure.

GENERAL RESPONSES, OBJECTIONS, AND ASSERTIONS OF PRIVILEGE

Dow makes the following general objections to Plaintiff's First Requests for Production of Documents and First Requests for Admissions (hereinafter "First Set of Discovery") directed to it:

1. Dow objects to Plaintiffs' Instruction No. 1 in so far as it deviates from Rule 196 of the Texas Rules of Civil Procedure. This rule requires that the party receiving such a request for documents must produce relevant documents that are responsive to the

request and not subject to privilege. The rule also provides that the documents may be produced as they are kept in the ordinary course of business.

2. Dow objects to the First Set of Discovery to the extent that it seeks to compel the disclosure of information specifically exempted from discovery by Rule 192 of the Texas Rules of Civil Procedure (hereinafter "TRCP") and Article V of the Texas Rules of Evidence (hereinafter "TRE"), including but not limited to the attorney/client privilege, the joint defense privilege, the attorney work product doctrine, and/or the investigative privilege.

3. Dow objects to paragraph one (1) of the DEFINITIONS section regarding "Defendant," "You," "Your," and "Your Company," as well as paragraph three (3) regarding "persons." These terms are overly broad and unduly burdensome and pertain to corporations who are not parties to this action. Dow also objects to paragraphs one (1) and three (3) because those paragraphs include attorneys for Dow and their agents, whose communications are protected by the attorney/client privilege, work product doctrine, joint defense doctrine, and/or investigative privilege.

4. Dow objects to paragraph two (2) of the DEFINITIONS section regarding the definition of the word "document" and the instructions relating to "possession, custody or control," as those usages are overly broad and seek information specifically exempted from discovery by TRCP Rule 192.5 and TRE Rule 503, including the attorney work product doctrine and the attorney/client privilege. Throughout these responses, Dow will utilize and apply the commonly used meaning of the term "document," and will employ the guidance of TRCP Rule 192.3(b) in regards to this term.

5. Dow objects to the definitions of "identify" contained in paragraphs sixteen (16) and seventeen (17) of the DEFINITIONS section as those definitions are overly broad, unduly burdensome, and harassing. Dow will utilize and apply the commonly used meaning throughout its answers and responses.

6. Dow objects to paragraph twelve (12) of the DEFINITIONS section to the extent the information sought concerns asbestos in a non-friable form. Information relating to same is not at issue in this litigation.

7. Dow further objects to any discovery request seeking to charge it with knowledge or information held by its "predecessors or subsidiaries," or requiring it to provide information regarding sites or plants where the Plaintiff at issue did not work. As Plaintiff is aware, Dow had operated and operates multiple facilities and employs thousands of employees, not including the vast number of independent contractors that have worked at the various Dow facilities. The requested information is beyond the scope of proper discovery, totally irrelevant in relation to facilities where Plaintiff did not even work, and unduly burdensome to produce. The probative value of this information is clearly outweighed by the excessive expensive and waste of resources in requiring Dow to respond to it.

8. Dow objects to Plaintiffs' First Set of Discovery to the extent it is not limited in scope to a specific time period.

9. Dow objects to Plaintiffs' First Set of Discovery to the extent that it seeks disclosure of trade secrets, proprietary material, and other confidential information protected from discovery under Texas law.

10. Dow objects to any discovery request seeking information pertaining to any subsidiary and/or other business association, that was not a subsidiary and/or business association at the relevant time periods, and which continues to exist as a separate legal entity(ies).

11. Any objection to this First Set of Discovery made by Dow should not be interpreted to necessarily mean that Dow is in possession of non-privileged information responsive to a discovery request.

12. Each of the general responses, objections, and assertions of privilege set forth above are incorporated by reference in response to each of the Requests for Production of documents, and Requests for Admission set forth below.

13. Discovery is ongoing and Dow reserves the right, pursuant to the Texas Rules of Civil Procedure, to supplement the discovery responses set forth below.

**OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR
PRODUCTION OF DOCUMENTS AND FIRST REQUESTS FOR ADMISSIONS**

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Please produce all ordering, sales, and shipping documents pertaining to the purchase or acquisition of asbestos-containing products for use at Defendant's Premises At Issue at any time.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks

matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

The Freeport facility has been in operation since 1941 and incorporates hundreds of production units covering thousands of acres. Provision of every document relating to the acquisition of any type of material having a remote relation to asbestos would be impossible, much less lead to the production of admissible evidence. The expense and resources necessary to provide this information is drastically outweighed by the probative value of this information.

Subject to and without waiving this objection, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 2:

Please produce all documents that relate to abatement of asbestos or asbestos-containing materials at Defendant's Premises At Issue and transportation of asbestos-containing waste.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Further objecting, the Dow-Freeport facility covers thousands of acres and includes hundreds of units. Moreover, abatement or removal of asbestos-containing materials has continued at the Dow-Freeport facility for over thirty years. Any maintenance or scheduled demolition from the late 1960's was used as an opportunity to remove the existing asbestos in that specific area safely. Through the years, if the asbestos began to deteriorate, it was removed and replaced and will continue to be replaced.

Subject to and without waiving these objections, Defendant has created a document depository in which it has placed historical documents from the company concerning

asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 3:

Please produce all records identifying contractors and/or the employees of contractors who were on Defendant's Premises At Issue during the Time Period At Issue, including but not limited to gate records, sign-in logs, visitor's logs, identification badge or "brassing" procedures, fingerprinting, or other documents of a similar nature.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Further objecting, the Dow facility covers thousands of acres, and includes hundreds of units, and there literally would have been hundreds of contractors and thousands of employees who were on the premises. Defendant further objects to this on the grounds of relevance, because the information on thousands of employees who have no possible connection with this lawsuit could have no possible relevance to this case.

Subject to and without waiving the foregoing objections, Dow has created a document repository located in Midland, Michigan, where responsive, unprivileged historical documents regarding this issue may be located. Upon reasonable notice, Plaintiffs' Counsel may inspect the documents, as they are kept in the ordinary course of Dow's business, in the repository. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 4:

Please produce all records pertaining to the methods and manner of identification of individuals entering and/or leaving Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked.

REQUEST FOR PRODUCTION NO. 5:

Please produce the contract and work progress documents pertaining to the contractors who performed services at Defendant's Premises At Issue during the Time Period At Issue including, but not limited to, invitations to bid, requests for proposals, bids, proposals, statements of scope of work, work orders, specifications, blueprints, plans, acceptances, contracts, amendments, addenda, change orders, inspection reports, work logs or contractor logs, including but not limited to, all of the contractor documents referring to work to be done, underway, or completed by Plaintiff's employer at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Further objecting, the production of the requested documents is unnecessarily overbroad and would summons the production of a multitude of documents addressing issues that have no conceivable bearing on this case. The Dow-Freeport facility covers thousands of acres, and includes hundreds of units, where a multitude of contractors have worked. Information on areas of the plant where plaintiff did not work would have no possible bearing on this case, and is not likely to lead to the discovery of admissible evidence. Plaintiff fails to even attempt to fashion his request to target areas or facilities where asbestos materials might have been used.

Dow further objects to this request to the extent that it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law. Any such information still in existence is contained in literally millions of

pages of documents that contain proprietary information concerning the design and construction of the facility in question and its many chemical units.

Subject to and without waiving the foregoing objections, Dow has created a document repository located in Midland, Michigan, where responsive, unprivileged historical documents regarding this issue may be located. Upon reasonable notice, Plaintiffs' Counsel may inspect the documents, as they are kept in the ordinary course of Dow's business, in the repository. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 6:

Please produce all documents reflecting payments made to Plaintiff's employer for work contracted to do at Defendant's Premises At Issue during the Time Period At Issue, including but not limited to, authorizations for payment, invoices, bills, check requests, requisitions, canceled checks, or other documents of a similar nature reflecting payment for services rendered by Plaintiffs employer.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Further objecting, since there were literally hundreds and perhaps thousands of contractors in place, this production would include a tremendous number of documents. This request is not calculated to lead to the discovery of admissible evidence, and therefore is immaterial and irrelevant to any matter in this case because the production would include thousands of contracts that have no relationship whatsoever to Plaintiff's claims.

Subject to and without waiving the foregoing objections, Dow has created a document repository located in Midland, Michigan, where responsive, unprivileged historical documents regarding this issue may be located. Upon reasonable notice, Plaintiffs' Counsel may inspect the documents, as they are kept in the ordinary course of Dow's business, in the repository. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 7:

Please produce all photographs or videographic depictions or films depicting the use of any safety precautions (such as containment areas, warning signs, etc.) taken to protect bystanders from the hazards of airborne asbestos resulting from the use of asbestos-containing products at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 8:

Please produce all documents containing any warnings concerning the possibility of injury resulting, from the use of asbestos-containing products or exposure to asbestos.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place, facility or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably

calculated to lead to the discovery of admissible evidence. *See also* Dow's Response to Interrogatory No. 10.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 9:

Please produce all photographs of warning signs or warning statements which are or have been in place at Defendant's Premises At Issue in the vicinity of asbestos-containing products.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. *See also* Dow's Response to Interrogatory No. 10.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 10:

Please produce all documents that relate to any inspections by any regulatory agency for the purpose of ascertaining whether health or safety regulations were being followed or adhered to at any of your plants. This request specifically seeks any and all such documentation referring to dust hazards, including but not limited to asbestos in your plants.

RESPONSE

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. *See also* Dow's Response to Interrogatory No. 17.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 11:

In the event that Defendant performed or had performed any dust level counts or measurements of any of its plants or industrial facilities with respect to asbestos dust, please produce any documents, memoranda, or other writings that in anyway reflect the results of such studies or counts and actions taken as a result of such counts or studies.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. *See also* Dow's Response to Interrogatory No. 14.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 12:

Please produce all documents relating to inspections by labor inspectors, insurance company inspectors or anyone from your company or hired by your company, that included the taking or measuring of "dust counts".

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. *See also* Dow's Response to Interrogatory No. 14.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 13:

Please produce all documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE:

Dow objects to this request as vague, ambiguous, overly broad, and unduly burdensome as to a time, place, facility or event relevant to this action. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Defendant further objects to this request as it is drafted. The hazards of asbestos are determined largely by the manner in which it is being used and the types of exposure that the individual has. Moreover, the knowledge of asbestos hazards has evolved over the years, however this question is not specific as to the time frame of reference. For these reasons, it is impossible to answer this question as drafted in generic terms.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 14:

Please produce all documents supporting the legal theories and factual bases of your defenses set forth in your response to Plaintiffs Request for Disclosure under Texas Rules of Civil Procedure 194.2, subparagraph (c).

RESPONSE:

Dow objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place, or event relevant to this lawsuit. *See e In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Further, Dow objects to providing information that

would violate any individual's privacy rights or that is protected from disclosure by the attorney client privilege, work product privilege, or any medical privilege.

Subject to and without waiving this objection, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 15:

If you contend that Plaintiff was not exposed to asbestos dust at Defendant's Premises at issue, please produce the documents supporting your contention.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 16:

Please produce all documents used, referred to or relied upon in answering any Interrogatories.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request to the extent that it might require the production of attorney work product and attorney-client privileged documents. Further responding, Dow asserts that the deposition of Harold Hoyle, taken on September 14, 1999, in *Hebert, Sr., et al. v. Anco Insulations, Inc., et al.*, No. 51,180 in the 18th Judicial District Court, Parish of Iberville, Louisiana, and the deposition of Dr. Benjamin Holder, taken on September 16, 1999, in *Hebert, Sr., et al. v. Anco Insulations, Inc., et al.*, No. 51,180 in the 18th Judicial District Court, Parish of Iberville, Louisiana, were used to draft certain answers and/or responses.

Subject to and without waiving the foregoing objections, Dow has created a document repository located in Midland, Michigan, where responsive, unprivileged historical documents regarding this issue may be located. Upon reasonable notice, Plaintiffs' Counsel may inspect the documents, as they are kept in the ordinary course of Dow's business, in the repository. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 17:

Please produce any and all documents and other tangible things which refer to the document retention (and/or destruction) policy of Defendant, including the following:

- a. Any document retention and/or destruction policies for Defendant that pertain to documents and records including, but not limited to, supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.
- b. Any record retention and/or destruction, dumping, or purging policies for Defendant that pertain to documents and records created, maintained or stored by electronic and/or magnetic means, including but not limited to, records that have been microfilmed, microfiched, imaged, scanned, or stored on tapes, disks, diskettes, CD-Rom, databases, etc. or on or within any computer hardware, backup system, download system, file dumping or other system of information management, whether on-site or off-site, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding

instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to request to the extent that it might require the production of attorney work product and attorney-client privileged documents.

REQUEST FOR PRODUCTION NO. 18:

Please produce all documents, including but not limited to lists, inventories, indices, databases or printouts thereof, archives, storage inventories, logs, or other search aids that refer or relate to the existence, extent, type, organization, filing system, method of access or retrieval, and/or location of Defendant's documents (maintained or stored on-site or off-site) pertaining to any of the subject matter areas of Plaintiffs' Interrogatories.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to request to the extent that it might require the production of attorney work product and attorney-client privileged documents. Dow also objects to this request to the extent that it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law.

REQUEST FOR PRODUCTION NO. 19:

Please produce all books, pamphlets, memoranda, or written materials of any kind or character that were received by you and that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. *See also* Dow's Response to Interrogatory No. 11.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 20:

Please produce all documents that reflect, indicate or in anyway relate to communications between you and any manufacturer of asbestos-containing products concerning or related to the asbestos contained in such products.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks

matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 21:

Please produce all documents in your possession disseminated or published by any trade association that contain information relating to the hazards of asbestos and all documents which refer to such documents and any documents pertaining to meetings of such trade associations that were attended by any of your employees or representatives.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 22:

Please produce all of Defendant's safety meeting minutes that refer to the dangers of asbestos.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Further objecting, many of the safety meetings held at the Dow-Freeport facility were in informal settings on the job site where the provision of documents and materials would have been impractical; therefore, the production of same is not possible.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 23:

Please produce all documents related to the installation of asbestos-containing materials at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. The Dow-Freeport facility covers thousands of acres and includes hundreds of production units. The production of the requested records and documents is pointlessly overly-broad and would summons the production of a multitude of documents that have no conceivable bearing on this case.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 24:

Please produce all documents related to the medical condition of Plaintiff at anytime during his work at Defendant's Premises At Issue. This request specifically includes any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, annual physical forms, and any records relating to Plaintiff's health.

RESPONSE:

Dow does not have in its possession the health or medical records of the plaintiff because he was never an employee at Dow. Dow was not under a duty to maintain or retain records of this type in regards to the Plaintiff. Dow refers the plaintiff to his former employer(s) for the production of these records. Further objecting, the requested information is in the possession, care, and/or control of the plaintiff.

Subject to and without waiving the foregoing objections, medical records of the plaintiff are being gathered for the purposes of litigation in this matter. These records, if any are obtained, will be made available upon request. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 25:

Please produce all documents related to Plaintiff, including but not limited to Plaintiffs work performance and/or personnel records at Defendant's Premises At Issue.

RESPONSE:

Dow does not have in its possession the performance or personnel records of the plaintiff because he was never an employee at Dow. Dow did not and was not under a duty to maintain or retain records of this type. Dow refers plaintiff to his employer(s) for the production of these records. Further objecting, the requested information is in the possession of the plaintiff.

Subject to and without waiving the foregoing objections, the personnel and employment records of the plaintiff are being gathered for the purposes of litigation in this

matter. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information. Further, the fingerprint records of the plaintiff are attached as Exhibit B.

REQUEST FOR PRODUCTION NO. 26:

Please produce all documents that reflect or depict in any way the layout of Defendant's Premises At Issue, including the location and dimensions of buildings and the location and placement of asbestos-containing products, and specifically including all photographs, plats, maps, diagrams, blueprints, drawings, specifications or other architectural renderings.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. The production of the requested documents is unnecessarily overbroad and would summons the production of a multitude of documents addressing issues that have no conceivable bearing on this case. The Dow-Freeport facility covers thousands of acres, and includes hundreds of units.

Dow further objects to this request to the extent that it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law.

REQUEST FOR PRODUCTION NO. 27:

Please produce all demonstrative aids Defendant plan to use at trial in this matter.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Dow further objects to this request as the requested materials may be protected from production by the attorney/client privilege or the work product doctrine. Moreover, Defendant also objects to this request since it requires that privileged information, namely trial strategy, be shared.

Subject to this objection, discovery is continuing and Dow will supplement this response at the time required by the TRCP under Level 3 Discovery, and any relevant Standing Order or local rule of the court.

REQUEST FOR PRODUCTION NO. 28:

Please produce all photographs of asbestos products in place or asbestos-containing materials being installed, maintained, removed, replaced, repaired, or manipulated in any way at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Dow further objects to this request to the extent that it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 29:

Please produce all documents relating to any individuals' claimed injury as a result of exposure to asbestos at any facility of Defendant, including, but not limited to, workers' compensation claims and any documentation going to or received from any insurance carrier pertaining to such claims, and any documentation pertaining to the disposition of such claims.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Further objecting, the information sought on thousands of employees and individuals who have absolutely no connection to this lawsuit is irrelevant to this action. Dow also objects as this request seeks documents that are protected against dissemination pursuant to individual privacy rights and medical privilege. Dow is not able to release these records without a signed medical release by the subject individuals.

REQUEST FOR PRODUCTION NO. 30:

Please produce all documents that in any way reflect corporate minutes, corporate records, departmental meetings or discussions, or meetings with agents or contractors that in anyway discuss, note, or table a discussion of the hazards of asbestos or potential health hazards of asbestos. The documents sought in this request include those produced and/or maintained at a corporate level by those responsible for supervising or advising personnel at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Dow further objects to this request to the extent that it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law.

Subject to and without waiving the foregoing objections, Dow has created a document repository located in Midland, Michigan, where responsive, unprivileged

historical documents regarding this issue may be located. Upon reasonable notice, Plaintiffs' Counsel may inspect the documents, as they are kept in the ordinary course of Dow's business, in the repository. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 31:

Please produce all documents of corporate, board of directors, Defendant Premises representatives, departmental persons, task force, or other meetings of members of Defendant from 1940 until the last year of the Time Period At Issue that contain discussion or information concerning asbestos, asbestos-related health hazards, or asbestos-containing products.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Further objecting, during the Time Period at Issue, Dow had several large industrial production facilities around the county. The production of the requested information from facilities other than the Freeport facility would not reasonably lead to the production of admissible evidence. Dow further objects to this Request for Production because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law.

REQUEST FOR PRODUCTION NO. 32:

Please produce all documents which will be used at the time of trial, including all potential exhibits and those documents which may be used to cross-examine other witnesses or in rebuttal, and which you contend are relevant to any of Defendant's enumerated defenses in Defendant's most recently filed Answer.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d

813, 818 (Tex. 1995). Dow further objects to this request as those materials may be protected from production by the attorney/client privilege or the work product doctrine. Moreover, Defendant also objects to this request since it requires that privileged information, namely trial strategy, be shared.

Subject to this objection, discovery is continuing and Dow will supplement this response at the time required by the TRCP under Level 3 Discovery, and any relevant Standing Order or local rule of the court.

REQUEST FOR PRODUCTION NO. 33:

Please produce documents between Defendant and any of its worker's compensation insurance carriers or any other insurance carriers regarding the hazards of asbestos and asbestos-containing products.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Further objecting, this request seeks documents that are protected against dissemination pursuant to individual privacy rights and medical privilege.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 34:

Please produce documents between Defendant and any of its insurance carriers relating to any inspections carried out by the insurance carrier in which asbestos or dust in general was mentioned.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Further objecting, this request seeks documents that are protected against dissemination pursuant to individual privacy rights and medical privilege.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 35:

Please produce a copy of all regulations, orders, rules and/or policies which have been used relating to the safety of the Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Information regarding a multitude of health and safety issues existing in the hundreds of units at the Freeport facility over the entire duration of its operation has absolutely no connection to this lawsuit and is irrelevant. Plaintiff makes no effort to even limit this request to asbestos related topics.

REQUEST FOR PRODUCTION NO. 36:

Please produce all documents which contain complaints by employees of Defendant at the Defendant's Premises At Issue regarding safety conditions and work place conditions at the Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Information regarding thousands of employees and individuals who have absolutely no connection to this lawsuit is irrelevant to this action. Further, this request seeks documents that are protected against dissemination by individual privacy rights and the medical privilege. Plaintiff makes no effort to even limit the request to asbestos related topics.

REQUEST FOR PRODUCTION NO. 37:

Please produce all documents which contain complaints by Union representatives of Defendant's Premises At Issue regarding safety conditions and work place conditions at the Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Information regarding thousands of employees and individuals who have absolutely no connection to this lawsuit is irrelevant to this action. Further objecting, this request seeks documents that are protected against dissemination by individual privacy rights and the medical privilege. Plaintiff makes no effort to even limit the request to asbestos related topics.

REQUEST FOR PRODUCTION NO. 38:

Please produce all documents, organizational charts or rosters which identify the members of the management at the Defendant's Premises At Issue and their areas of responsibility during the Time Period At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. The request seeks information on employees who have absolutely no connection to this lawsuit.

REQUEST FOR PRODUCTION NO. 39:

Please produce all documents which evidence Defendant's net worth, including, but not limited to, "10-K" forms filed for the last five (5) years.

RESPONSE:

Dow objects to this request as overly broad and unduly burdensome because it is not limited to the time periods or locations at which the plaintiff allegedly worked at the Dow site. Subject to that objection, the 10K information can be found at:

<http://www.sec.gov/Archives/edgar/data/29915/0000912057-00-012919-index.html>

REQUEST FOR PRODUCTION NO. 40:

Please produce all documents which evidence Defendant's purchase, acquisition, sale, or transfer of ownership or of liabilities relating to Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re*

American Optical Corp., 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. The request is unnecessarily overbroad and summons the production of a multitude of documents addressing issues that have no conceivable bearing on this case. The Dow-Freeport facility covers thousands of acres, and includes hundreds of units.

REQUEST FOR PRODUCTION NO. 41:

If you contend that you are not liable for any dangerous condition or activity taking place at Defendant's Premises At Issue during the Time Period At Issue, please produce all title documents supporting this contention.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995).

Subject to and without waiving the foregoing objections, *see* Dow's response to Interrogatory No. 10 regarding the duties owed by contractors to their employees and the duties owed by unions to their members.

REQUEST FOR PRODUCTION NO. 42:

If you contend that you did not own or control the facility(ies) during any portion of the Time Period At Issue, please produce all documentation that supports your contention, including but not limited to documentation pertaining to the purchase, sale, acquisition, merger, or divestment of corporations, subsidiaries, divisions, or other corporate entities or assets that included the purchase, sale, acquisition, merger, or divestment of the facility(ies); such documentation to include, by way of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, *see* Dow 's response to Interrogatory No. 10 regarding the duties owed by contractors to their employees and the duties owed by unions to their members. The Dow Chemical Company operated the facility in Brazoria County, Texas (the Freeport facility) during the Time Period at Issue.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 43:

If you contend that you have not been sued in the proper capacity as set forth in Plaintiff's latest petition, produce all documentation that supports your contention, including but not limited to documentation pertaining to the history of Defendant and any relevant purchase, sale, acquisition, merger, or divestment of corporations, subsidiaries, divisions, or other corporate entities or assets that included the purchase, sale, acquisition, merger, or divestment of the facility(ies); such documentation to include, byway of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

RESPONSE:

This Request for Production is not applicable to Dow. *See* Dow's Response to Request for Production No. 42.

REQUEST FOR PRODUCTION NO. 44:

Please produce all indemnity agreements, assignments of liability, subrogation agreements and other similar documents relating to Defendant's Premises At Issue and liabilities arising from said ownership.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. The production of the requested documents is unnecessarily overbroad and would summons the production of a multitude of documents addressing issues that have no conceivable bearing on this case. Plaintiff does not even attempt to target the request at asbestos-related topics.

REQUEST FOR PRODUCTION NO. 45:

If you contend Defendant's Premises At Issue was asbestos-free during the Time Period At Issue, please produce all documents which support your contention.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and no n-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure. Dow further objects to this Request for Production because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law.

Further objecting, during the Time Period At Issue, Dow, as well as the medical, scientific and technological community, were only beginning to learn of the disease mechanisms related to asbestos exposure. Therefore, during the Time Period at Issue, the state of the art did not mandate the use of asbestos substitutes. Moreover, any substitute that might have been in existence was not readily available and/or was impractical.

Further responding, Dow phased out all use of asbestos containing insulation products in 1969 and 1970, except for limited applications where no substitute was available.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 46:

If you contend that some or all of the Defendant's Premises At Issue are asbestos-free, please produce all documents, including but not limited to, specifications, blue prints and drawings supporting your contention.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Dow further objects to this Request for Production because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law. *See also* Dow's Response for Request for Production No. 45.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 47:

Please produce all documents relating to your manufacturing of any asbestos or asbestos-containing products, or products to which any amount of asbestos was added, for use at any of Defendant's facilities or for sale to others.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Dow further objects to this Request for Production because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law.

Subject to and without waiving the foregoing objections, Defendant states that it has never manufactured, assembled, or sold any asbestos-containing products, with one minor exception. Dow manufactured Styrofoam panels under the trade name of Deraspan®. This occurred during the late 1960s. As an option to the Deraspan® panels, there were several types of facings that could be placed on those panels. The facings included aluminum, wood and others. One of the optional facings was a one-eighth inch cement board that contained asbestos. This was not a board that was manufactured by Dow, but was one that was acquired from another company by Dow. To the best of the records Dow has been able to locate, there were no more than six sales of these insulated panels, which are used in freezer applications containing the option of the cement asbestos board.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 48:

Please produce all documents relating to your use of any asbestos containing materials, asbestos containing products or tools with which asbestos is used, for any process taking place at any of Defendant's facilities.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Dow further objects to this request for production as written. The Dow Chemical Company phased out all use of asbestos containing insulation products in 1969 and 1970, except for limited applications where no substitute was available.

Further objecting, Dow further objects to this Request for Production because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law. Any information still in existence is contained in literally millions of pages of documents that contain proprietary information concerning the design and construction of the facility in question and its many chemical units. Information on areas of the plant where plaintiff did not work would have no possible bearing on this case, and is not likely to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 49:

Please produce documents relating to your use, manipulation or handling of asbestos in any industrial processes at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Further objecting, Dow further objects to this Request for Production because it seeks disclosure of trade secrets, proprietary material and other confidential information protected from discovery under Texas law. Any information still in existence is contained in literally millions of pages of documents that contain proprietary information concerning the design and construction of the facility in question and its many chemical units. Information on areas of the plant where plaintiff did not work would have no possible bearing on this case, and is not likely to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 50:

Please produce all marketing and advertising materials related in anyway to your manufacturing of asbestos or asbestos containing materials or your use of asbestos or asbestos-containing materials in your industrial processes.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, this request is not applicable to Dow since Defendant has previously stated that it has never manufactured, assembled, or sold any asbestos-containing products, with one minor exception as indicated in response to Request for Production No. 47.

REQUEST FOR PRODUCTION NO. 51:

Please produce all documents relating to boilers at Defendant's Premises At Issue. This request includes owner manuals, maintenance manuals, purchase orders, and invoices.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to

describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 52:

Please produce all documents relating to any audits you conducted or caused to be conducted Defendant's Premises At Issue in order to review some aspect of Defendant's safety program.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 53:

Please produce all documents provided by you to other plants or facilities relating to safety in the industry, audit procedures or means to eliminate dust exposure, including, but not limited to asbestos dust, at industrial facilities.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, this request is not applicable to Dow because Defendant has previously stated that it has never manufactured, assembled, or sold any asbestos-containing products, with one minor exception as indicated in response to Request for Production No. 47.

REQUEST FOR PRODUCTION NO. 54:

Please produce depositions and trial transcripts of your current or former employees or other corporate representatives taken in any matter involving an alleged injury or claimed property damage due to asbestos or insurance coverage for claims related to asbestos injury or property damage.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Discovery materials produced in other cases that have absolutely no connection to or bearing on the plaintiff at issue are in no way

relevant to this action. Further objecting, the requested documents may be protected from discovery by the attorney/client privilege or the work product doctrine.

REQUEST FOR PRODUCTION NO. 55:

Please produce exhibit lists produced to you by any other counsel for Plaintiff in other cases involving claim of injury or property damage alleged to have been caused by asbestos exposure.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Discovery materials produced by totally unrelated companies in other cases that have absolutely no connection to or bearing on the plaintiff at issue are in no way relevant to this action. Further objecting, the requested documents may be protected from discovery by the attorney/client privilege or the work product doctrine.

REQUEST FOR PRODUCTION NO. 56:

Please produce all correspondence from you to Plaintiff's employer and from Plaintiff's employer to you during the Time Period At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Plaintiff fails to even specify the topic or

relevancy of the requested documents and thereby calls for a fishing expedition into Dow's files.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 57:

Please produce all documents that indicate or reference in any way any decision or discussion related to the cessation of the use of asbestos or asbestos-containing products in any of your facilities.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Further objecting, the requested documents may be protected from discovery by the attorney/client privilege or the work product doctrine.

Subject to and without waiving the foregoing objections, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR PRODUCTION NO. 58:

Please produce all documents that indicate or reference in any way the catalog or index or subscriptions or holdings of any library or other research repository of Defendant containing

magazines, journals, books, publications or other documents relating to asbestos (including, but not limited to, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk, etc.).

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Dow further objects to this request to the extent that it requires the production of attorney work product and attorney-client privileged documents.

REQUEST FOR PRODUCTION NO. 59:

Please produce all inventory, stock-on-hand, warehouse or other documents pertaining to asbestos-containing products that were stored, maintained, stockpiled, or kept by Defendant for use at any facility of Defendant, including Defendant's Premises At Issue, at any time.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's request calls for a fishing expedition into Dow's files. Dow further objects to this request to the extent that it requires the production of attorney work product and attorney-client privileged documents.

REQUEST FOR PRODUCTION NO. 60:

Please produce any letters, affidavits, or stipulations concerning authenticity of any of Defendant's documents provided by you in any other case involving claim of injury or property damage alleged to have been caused by asbestos exposure.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Dow objects to this Request for Production to the extent that it asks for documents that are matters of public record and can be obtained just as easily by plaintiff. Materials produced in other cases that have absolutely no connection to or bearing on the plaintiff at issue are in no way relevant to this action. Further objecting, the requested documents may be protected from discovery by the attorney/client privilege or the work product doctrine.

REQUEST FOR PRODUCTION NO. 61:

Please produce all workers' compensation policies which were in effect during the years that Plaintiff claims to have been on your premises. Please be sure to include the information page of the policy which describes who is covered by the policy.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence.

Defendant further objects because the information sought by plaintiffs could contain confidential medical information concerning employees of Dow or information protected by the physician-patient privilege. Defendant further objects on the grounds that this inquiry invades the privacy rights of Dow employees.

**REQUESTS FOR ADMISSION AND
FURTHER REQUESTS FOR PRODUCTION**

REQUEST FOR ADMISSION NO. 1:

Admit that asbestos-containing products, asbestos-containing friction products, and/or machinery requiring the use of asbestos or asbestos-containing products were utilized on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow admits this Request to the limited extent that certain products that contained asbestos were utilized at some locations at the Dow facilities in Freeport, Texas.

REQUEST FOR ADMISSION NO. 2:

Admit that Plaintiff was exposed to asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of proof in its defense of all negligence and failure to warn allegations. As such, the Request is "intended to be used as a demand to a party to admit that the party has no cause of action or ground for defense," which is strictly prohibited. *See Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996). Further objecting, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. *See Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Dow further objects to this request as written. During the relevant time period, Dow maintained compliance with the applicable government and/or industry standards. Further, mere exposure to asbestos, without any determination of the quantity, quality or duration of exposure, is not sufficient to indicate disease process or sickness.

Subject to the foregoing objections, Dow denies this Request.

REQUEST FOR PRODUCTION NO. 62:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *See Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's request calls for a fishing expedition into Dow's files.

Subject to this objection, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR ADMISSION NO. 3:

Admit that you have no air monitoring for asbestos taken on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE

Dow objects to this Request on the grounds that it is not known what the term "air monitoring" means, and therefore the Request is vague and ambiguous.

Subject to the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 4:

Admit that results of air monitoring for asbestos taken on Defendant's Premises At Issue during the Time Period At Issue indicate Plaintiff was exposed to asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this request for admission as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *See Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks information that is not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Further objecting, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. *See Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Dow further objects to this request as written. During all relevant times, Dow maintained asbestos air quality levels within governmental and/or industry standards. Exposure to asbestos, without any determination of the quantity, quality or duration of exposure, is not sufficient to indicate disease process or sickness.

Subject to the foregoing objections, Dow denies this Request.

REQUEST FOR PRODUCTION NO. 63:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, . 988 S.W.2d 711 (Tex. 1998); *See Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it

seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's request calls for a fishing expedition into Dow's files. Further objecting, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. *See Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Subject to and without waiving this objection, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR ADMISSION NO. 5:

Admit that Defendant's employees were working with asbestos-containing materials at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission because the term "working with" is vague and ambiguous. As such, a full response cannot be given until Plaintiffs amend their request. Further objecting, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. *See Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Subject to the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 6:

Admit that contractors were working with asbestos-containing materials at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of proof in its defense of all negligence and failure to warn allegations. As such, the Request is "intended to be used as a demand to a party to admit that the party has no cause of action or ground for defense," which is strictly prohibited. *See Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996). Further objection, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. *See Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Dow further objects to this Request for Admission because the term "working with" is vague and ambiguous. As such, a full response cannot be given until Plaintiffs amend their request. Further objecting, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. See *Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Subject to the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 7:

Admit that Defendant was aware of the presence of asbestos-containing products on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow admits this Request to the limited extent that certain products that contained asbestos were utilized at some locations at the Dow facilities in Freeport, Texas.

REQUEST FOR ADMISSION NO. 8:

Admit that Defendant was aware of the use of asbestos-containing products on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow admits this Request to the limited extent that certain products that contained asbestos were utilized at some locations at the Dow facilities in Freeport, Texas.

REQUEST FOR ADMISSION NO. 9:

Admit that you did not post a warning, caution, or hazard signs concerning asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that it makes the presumption that Dow was under a duty to post a warning, caution, or hazard sign concerning asbestos at the Premises At Issue during the Time Period At Issue.

Subject to the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 10:

Admit that you did not post a warning, caution or hazard signs in Spanish concerning asbestos, Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that it makes the presumption that Dow was under a duty to post a warning, caution, or hazard sign in Spanish concerning asbestos at the Premises At Issue during the Time Period At Issue.

Subject to the foregoing objections, Dow is unable to admit or deny at this time.

REQUEST FOR ADMISSION NO. 11:

Admit that you specified the use of asbestos-containing materials at Defendant's Premises At Issue prior to or during the Time Period At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked.

Subject to the foregoing objections, Dow admits only that it determined the general scope of work to be performed by independent contractors at the plant. Dow admits this request only insofar and to the limited extent that certain products that contained asbestos were utilized at some locations at the Dow facilities in Freeport, Texas during the Time Period at Issue.

REQUEST FOR ADMISSION NO. 12:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1950s.

RESPONSE:

Dow admits this Request to the limited extent that certain products that contained asbestos were utilized at some locations at the Dow facilities in Freeport, Texas.

REQUEST FOR ADMISSION NO. 13:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1960s.

RESPONSE:

Dow objects to this Request for Admissions as it is beyond the Time Period at Issue and, therefore, not the proper subject of a Request for Admission.

Subject to the foregoing objections, Dow admits this Request to the limited extent that certain products that contained asbestos were utilized at some locations at the Dow facilities in Freeport, Texas. The Dow Chemical Company phased out all use of asbestos materials in 1969 and 1970, except for limited applications where no substitute was available.

REQUEST FOR ADMISSION NO. 14:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1970s.

RESPONSE:

Dow objects to this Request for Admissions as it is beyond the Time Period at Issue and, therefore, not the proper subject of a Request for Admission. Subject to and without waiving said objection, The Dow Chemical Company phased out all use of asbestos containing materials in 1969 and 1970, except for limited applications where no substitute was available.

Subject to the foregoing objections, Dow admits this Request to the limited extent that certain products that contained asbestos were in place at some locations at the Dow facilities in Freeport, Texas.

REQUEST FOR ADMISSION NO. 15:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1980s.

RESPONSE:

Dow objects to this Request for Admissions as it is beyond the Time Period at Issue and, therefore, not the proper subject of a Request for Admission. Subject to and without waiving said objection, The Dow Chemical Company phased out all use of asbestos containing materials in 1969 and 1970, except for limited applications where no substitute

was available.

Subject to the foregoing objections, Dow admits this Request to the limited extent that certain products that contained asbestos were in place at some locations at the Dow facilities in Freeport, Texas.

REQUEST FOR ADMISSION NO. 16:

Admit that asbestos-containing materials were in use at Defendant's Premises At Issue in the 1990s.

RESPONSE:

Dow objects to this Request for Admissions as it is beyond the Time Period at Issue and, therefore, not the proper subject of a Request for Admission. Subject to and without waiving said objection, The Dow Chemical Company phased out all use of asbestos containing materials in 1969 and 1970, except for limited applications where no substitute was available.

Subject to the foregoing objections, Dow admits this request to the limited extent that certain products that contained asbestos were in place at some locations at the Dow facilities in Freeport, Texas.

REQUEST FOR ADMISSION NO. 17:

Admit that you did not provide to contractors working at Defendant's Premises At Issue health and safety procedures relating to the use of asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of duty in defense to all negligence and failure to warn allegations. It also makes the presumption that Dow had a legal duty to provide health and safety procedures relating to the use of asbestos to contractors working at Defendant's Premises At Issue. The contractor-employer actually retains this responsibility. As such, the Request is "intended to be used as a demand to a party to admit that the party has no cause of action or ground for defense," which is strictly prohibited. See *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996).

Subject to the foregoing objections, the Request is denied as drafted as it is unclear as to what is meant, since contractors were responsible for providing safety equipment to their employees.

REQUEST FOR ADMISSION NO. 18:

Admit that you did not provide to contractors working at Defendant's Premises At Issue health and safety procedures in Spanish relating to the use of asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of duty in defense to all negligence and failure to warn allegations. This request makes the presumption that Dow had a legal duty to provide health and safety procedures relating to the use of asbestos in Spanish to contractors working at Defendant's Premises At Issue. The contractor-employer actually retains this responsibility. As such, the Request is "intended to be used as a demand to a party to admit that the party has no cause of action or ground for defense," which is strictly prohibited. See *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996).

Subject to the foregoing objections, Dow denies this Request as drafted as it is unclear as to what is meant, since contractors were responsible for providing safety equipment to their employees.

REQUEST FOR ADMISSION NO. 19:

Admit that you did not conduct with contractors health and safety meetings relating to the asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of duty in defense to all negligence and failure to warn allegations. It also makes the presumption that Dow had a legal duty to conduct health and safety meetings relating to the asbestos with contractors. As such, the Request is "intended to be used as a demand to a party to admit that the party has no cause of action or ground for defense," which is strictly prohibited. See *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996).

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 20:

Admit that you did not conduct with contractors health and safety meetings in Spanish relating to the use of asbestos at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of duty in defense to all negligence and failure to warn allegations. It also makes the presumption that Dow had a legal duty to conduct in Spanish health and safety meetings relating to the asbestos with contractors. As such, the Request is "intended to be used as a demand to a party to admit that the party has no cause of action or ground for defense," which is strictly prohibited. See *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996).

Subject to and without waiving the foregoing objections, Dow is unable to admit or deny this Request at this time.

REQUEST FOR ADMISSION NO. 21:

Admit that you did not take any steps to protect contractor employees from exposure to asbestos on Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission because the clause "take any steps" is vague and ambiguous. Dow further objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of duty in defense to all negligence and failure to warn allegations. It makes the presumption that Dow had a legal duty to protect contractor employees when the contractor-employer actually retains this responsibility. As such, the Request is "intended to be used as a demand to a party to admit that the party has no cause of action or ground for defense," which is strictly prohibited. See *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996).

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR PRODUCTION NO. 64:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *See Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's request calls for a fishing expedition into Dow's files. Further objecting, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. *See Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Subject to this objection, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR ADMISSION NO. 22:

Admit that asbestos is still in use at Defendant's Premises At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that the term "in use" is vague and ambiguous and on the grounds that it calls for an admission beyond the Time Period At Issue. Accordingly, Dow will provide a response when Plaintiff amends this Request for Admission. Subject to and notwithstanding the foregoing, The Dow Chemical Company phased out all use of asbestos containing insulation products in 1969 and 1970, except for limited applications where no substitute was available.

Subject to the foregoing objections, Dow admits this Request to the extent that some asbestos products were in place at some locations at the Dow facilities in Freeport, Texas.

REQUEST FOR ADMISSION NO. 23:

Admit that asbestos is still in place at Defendant's Premises At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that it calls for an admission beyond the Time Period At Issue.

Subject to and without waiving the foregoing objection, Dow admits this Request to the limited extent that some such products were in place at some locations at the Dow facilities in Freeport, Texas. The Dow Chemical Company phased out all use of asbestos containing insulation products in 1969 and 1970, except for limited applications where no substitute was available. However, state of the art procedures and precautions were and have been taken to reduce any process by which the asbestos fibers might become friable and thereby pose a danger to contractors or employees at Dow Freeport.

REQUEST FOR ADMISSION NO. 24:

Admit that the United States government has contracted with Defendant for work at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, and non-specific as time, place, or event relevant to this lawsuit. *See Texaco v. Sanderson*, 898 S.W.2d 813,818 (Tex. 1995).

Subject to the foregoing objections, Dow admits that portions of Dow's Freeport facility conducted work contracted by the United States.

REQUEST FOR ADMISSION NO. 25:

Admit that the United States government paid Defendant more than \$10,000 for the work it contracted with Defendant for work at Defendant's Premises At Issue.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, and non-specific as time, place, or event relevant to this lawsuit. *See Texaco v. Sanderson*, 898 S.W.2d 813,818 (Tex. 1995).

Subject to the foregoing objections, Dow admits that portions of Dow's Freeport facility conducted work contracted by the United States, but is unable to admit or deny as to the amount at this time.

REQUEST FOR ADMISSION NO. 26:

Admit that Defendant owned Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow admits this Request.

REQUEST FOR ADMISSION NO. 27:

Admit that Defendant operated Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that "operated" is vague and ambiguous. Subject to and without waiving the foregoing objection, Dow admits only that it owned the Premises at Issue and that it controlled its own employees' operations at Freeport, including Plant A, Plant B, and Oyster Creek, controlled access of independent contractor and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 28:

Admit that you did not conduct air monitoring for the presence of asbestos dust during the time period in question.

RESPONSE:

Dow denies this Request.

REQUEST FOR ADMISSION NO. 29:

Admit that during the Time Period At Issue, you did not conduct air monitoring tests for levels of asbestos at Defendant's Premises At Issue.

RESPONSE:

Dow denies this Request.

REQUEST FOR ADMISSION NO. 30:

Admit that you were aware that business invitees at Defendant's Premises At Issue did not understand English.

RESPONSE:

Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. There is no way for Dow as a corporation to determine whether invitees at the Premises At Issue did or did not understand English.

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 31:

Admit that you did not take any steps to ascertain whether business invitees at Defendant's Premises At Issue understood English.

RESPONSE:

Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Requests makes the presumption that Dow had a legal duty to ascertain whether business invitees at Defendant's Premises at Issue understood English. There is no way for Dow as a corporation to determine whether invitees at the Premises At Issue did or did not understand English.

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 32:

Admit that you did not to provide safety orientations to contractor employees prior to their commencing work at Defendant's Premises At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that "safety orientations" is vague and ambiguous. Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of duty in defense to all negligence and failure to warn allegations. The Request also makes the presumption that Dow had a legal duty to provide safety orientations to contractor employees prior to their commencing work at Defendant's Premises At Issue. As such, the Request is "intended to be used as a demand to a party to

admit that the party has no cause of action or ground for defense," which is strictly prohibited. See *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996). Further objecting, the provision of safety and health recommendations and advice to contract employees is the duty of the contractor/employer or union representative.

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 33:

Admit that you did not to provide safety orientations in Spanish to contractor employees prior to their commencing work at Defendant's Premises At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that "safety orientations" is vague and ambiguous. Dow objects to this Request for Admission as its contents do not provide a proper basis for a Request for Admission. This Request seeks to force Dow to concede an important element of duty in defense to all negligence and failure to warn allegations. The Request makes the presumption that Dow had a legal duty to provide safety orientations in Spanish to contractor employees prior to their commencing work at Defendant's Premises At Issue. As such, the Request is "intended to be used as a demand to a party to admit that the party has no cause of action or ground for defense," which is strictly prohibited. See *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996). Further objecting, the provision of safety and health recommendations and advice to contract employees is the duty of the contractor/employer or union representative

Subject to and without waiving the foregoing objections, Dow is unable to admit or deny at this time.

REQUEST FOR ADMISSION NO. 34:

Admit that you hired or contracted with Plaintiff's employer to remove asbestos-containing materials from Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that "remove" is vague and ambiguous.

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 35:

Admit that you hired or contracted with Plaintiffs' employer to replace asbestos-containing materials at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that "replace" is vague and ambiguous.

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 36:

Admit that you hired or contracted with Plaintiff's employer to install asbestos-containing materials at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that "install" is vague and ambiguous.

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 37:

Admit that you hired or contracted with Plaintiff's employer to maintain asbestos-containing materials at Defendant's Premises At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that "maintain" is vague and ambiguous.

Subject to and without waiving the foregoing objections, Dow denies this Request.

REQUEST FOR ADMISSION NO. 38:

Admit that you hired or contracted with Plaintiff's employer to do new construction work at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that it is vague and ambiguous. Dow may have contracted with Plaintiff's alleged employer for the completion of numerous tasks and projects at the Freeport site. Subject to and without waiving these objections, Dow, after undertaking a reasonable inquiry into this issue, cannot admit or deny this request because the information known or easily obtainable by Dow in relation to the whether Plaintiff's employer was contracted to do new construction work during the time he worked at the Dow Freeport site is insufficient.

Discovery is still continuing and Dow asserts that if relevant, nonprivileged information regarding this Request for Admission is discovered, Dow will supplement its response to this Request.

REQUEST FOR ADMISSION NO. 39:

Admit that you hired Plaintiff's employer to do "turnaround" work at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Dow objects to this Request for Admission on the grounds that "turnaround work" is vague and ambiguous. Dow may have contracted with Plaintiff's alleged employer at Dow for the completion of numerous tasks and projects at the Freeport site. Subject to and without waiving these objections, Dow, after undertaking a reasonable inquiry into this issue, cannot admit or deny this request because the information known or easily obtainable by Dow in relation to the whether the Plaintiff's employer was hired to do turnaround work during the time he worked at the Dow Freeport site is insufficient.

Discovery is still continuing and Dow asserts that if relevant, nonprivileged information regarding this Request for Admission is discovered, Dow will supplement its response to this Request.

REQUEST FOR ADMISSION NO. 40:

Admit that you communicated with Plaintiff's employer concerning the work to be performed on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the

plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 41:

Admit that you instructed Plaintiff's employer concerning the work to be performed on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 42:

Admit that you instructed Plaintiff's employer concerning how the work was to be performed on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 43:

Admit that you showed Plaintiff's employer how the work was to be performed on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 44:

Admit that your specifications indicated to Plaintiff's employer how the work was to be performed Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR PRODUCTION NO. 65:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *See Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it

seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's request calls for a fishing expedition into Dow's files. Further objecting, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. *See Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Subject to this objection, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR ADMISSION NO. 45:

Admit that your specifications indicated to Plaintiff's employer what materials were to be used in performing the work on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR PRODUCTION NO. 66:

If your response to the foregoing request is anything other than "admit", produce all documents which support your response, including any documents which you believe support a denial of the foregoing admission or any documents showing what reasonable inquiry you undertook in connection with your inability to admit or deny the foregoing request.

RESPONSE:

Defendant objects to this request as vague, ambiguous, overly broad, unduly burdensome, and non-specific as to a time, place or event relevant to this lawsuit. *See In re American Optical Corp.*, 988 S.W.2d 711 (Tex. 1998); *See Texaco Inc. v. Sanderson*, 898 S.W.2d 813, 818 (Tex. 1995). Defendant further objects to this request because it is not limited to the time periods that plaintiff allegedly worked at the plant and the locations in

the plant where plaintiff allegedly worked. Defendant also objects to this request because it fails to describe with reasonable particularity the item or category of items sought to be inspected as required by Rule 196.1 of the Texas Rules of Civil Procedure, and because it seeks matters that are not relevant to the subject matter of this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's request calls for a fishing expedition into Dow's files. Further objecting, Dow states that this Request is sweepingly broad and not appropriate under the TRCP. *See Powell v. City of McKinney*, 711 S.W.2d 69, 71 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

Subject to this objection, Defendant has created a document depository in which it has placed historical documents from the company concerning asbestos and documents responsive to this request may be found in that repository. The pages of documents number into the millions, and are located in Midland, Michigan, and Defendant will allow Plaintiffs' Counsel to inspect those documents upon reasonable notice. Discovery is continuing and Dow will supplement this response in the future should it find relevant, unprivileged information.

REQUEST FOR ADMISSION NO. 46:

Admit that you told Plaintiff's employer or supervisor when to start work.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 47:

Admit that you told Plaintiffs employer or supervisor when to stop work.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained

control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 48:

Admit that you told Plaintiff's employer what materials to use when doing the work.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 49:

Admit that you told Plaintiff's employer in what order the work should be done.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 50:

Admit that you told Plaintiff's employer the deadline by which the work on Defendant's Premises At Issue was to be completed.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry,

determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 51:

Admit that you had the power to correct the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 52:

Admit that you had the power to require that the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue be redone to your satisfaction.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 53:

Admit that you had the power to stop the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 54:

Admit that you observed the work performed by the employees of Plaintiff's employer on Defendant Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 55:

Admit that you inspected the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 56:

Admit that you approved the work performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

REQUEST FOR ADMISSION NO. 57:

Admit that you retained the power to control all phases of the work being performed by the employees of Plaintiff's employer on Defendant's Premises At Issue.

RESPONSE:

Dow admits only that it controlled its own employees' operations at the Freeport location, including Plant A, Plant B, and Oyster Creek, controlled the access of independent contractors and other third-parties to the site and the terms of entry, determined the general scope of work to be performed by independent contractors at the plant, and retained the ultimate right to monitor, inspect, and approve work done by independent contractors at the facility. However, Dow denies that it exercised or retained control over the manner and method of work performed by independent contractors on the premises.

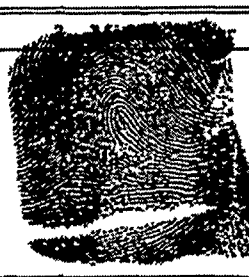
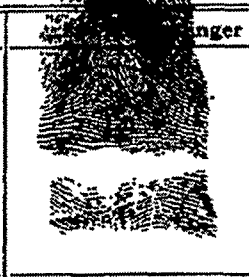
Exhibit “B”

NATIONAL DEFENSE PROGRAM

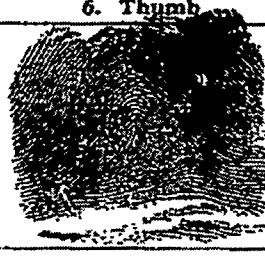
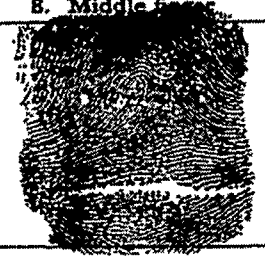
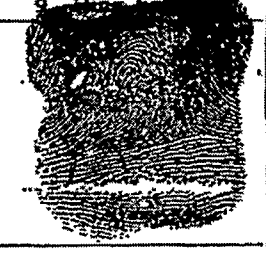
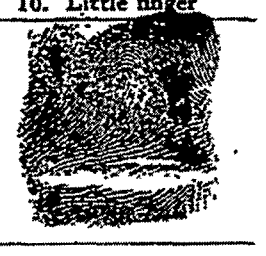
48843
LEAVE THIS SPACE BLANK

Name Skilton, Raymond, Earl Classification _____
(Surname) (First) (Middle)
 (PLEASE TYPE OR PRINT PLAINLY)
 No. 7A-3694 Color 24 Sex m Reference _____

RIGHT HAND

				
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LEFT HAND

6. Thumb 	7. Index finger 	8. Middle finger 	9. Ring finger 	10. Little finger 
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Impressions taken by: R. E. Skilton Jr. Note amputations _____
(Signature of official taking prints)
 Date impressions taken 3/27/42 R. E. Skilton Jr.
(Applicant's signature)

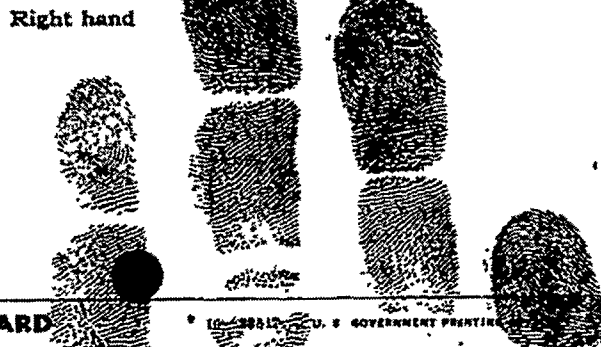
FOUR FINGERS TAKEN SIMULTANEOUSLY



Left thumb Right thumb



FOUR FINGERS TAKEN SIMULTANEOUSLY



PLEASE DO NOT FOLD THIS CARD

U. S. GOVERNMENT PRINTING

NATIONAL DEFENSE PROGRAM

FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

APPLICANT

Name of contributor _____ City _____ State _____
(State whether Police Department, Sheriff's Office, or other official designation)

Applicant for _____
(Specify position)

Name of company _____

Date 3-27-42

Address Houston, Tex. R.F. 2

Birthplace Jacksonville, TX Citizenship Amer

Age 18 Date of birth 1-12-24

Height 6' Weight 170

Hair brn Eyes brn

Complexion rddy Build slender

Scars and marks appendicitis scar

16-22517

IMPORTANT—PLEASE INCLUDE ALL REQUESTED DATA

JOSEPH SKELTON
ET AL.

VS.

CROWN, CORK & SEAL,
COMPANY, ET AL.

NO. 48-280262-99

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

48TH JUDICIAL DISTRICT COURT

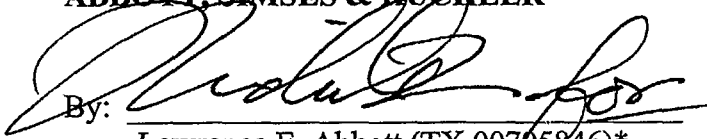
**DEFENDANT THE DOW CHEMICAL COMPANY'S OBJECTIONS AND RESPONSES
TO PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS AND
FIRST REQUESTS FOR ADMISSIONS**

TO: Plaintiff, Joseph Wayne Skelton, by and through his attorney of record, Scott L. Frost,
Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.

COMES NOW, Defendant, The Dow Chemical Company, and hereby serves its
Objections and Responses to Plaintiff's First Requests for Production of Documents and First
Requests for Admissions pursuant to the Texas Rules of Civil Procedure.

Respectfully submitted,

ABBOTT, SIMSES & KUCHLER

By: 

Lawrence E. Abbott (TX 00795846)*

ABBOTT, SIMSES & KUCHLER

400 Lafayette Street, Suite 200

New Orleans, Louisiana 70130

Phone: (504) 568-9393

Facsimile: (504) 524-1933

**ATTORNEYS FOR DEFENDANT,
THE DOW CHEMICAL COMPANY**

*Signed by Permission

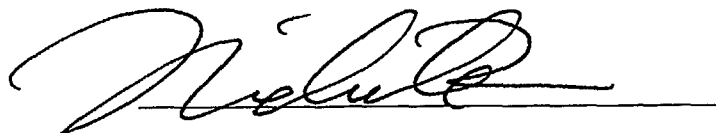
MICHELE D. ALLEN

Louisiana State Bar No. 25332

Admitted *Pro Hac Vice* in this Matter

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant The Dow Chemical Company's Objections and Responses to Plaintiff's First Requests for Production of Documents, and First Requests for Admissions has been served upon all known counsel of record by certified mail, return receipt requested, regular mail, and/or facsimile on this 27th day of March, 2002.



ABBOTT, SIMSES & KUCHLER

A Professional Law Corporation

APR 01 02 *054537

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SUITE 1700
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REPLY TO:
NEW ORLEANS OFFICE

ALICIA STOLTZ
LEGAL ASSISTANT

EMAIL:
AStoltz@abbott-simses.com

March 27, 2002

Via Certified Mail 70012510000102617780

Honorable Thomas A. Wilder
Clerk of Court
48th Judicial District Court
Tarrant County Justice Center
401 Belknap Street, 7th Floor
Fort Worth, Texas 76196

Re: Joseph Skelton, et al vs. Union Pacific Company, et al
Cause Number: 48-180262-99
48th Judicial District Court
Tarrant County, Texas
Our File Number: 0093-1-2862

Dear Mr. Wilder:

Please find enclosed an original and one (1) copy Certificate of Written Discovery.

Please file the above in your usual manner returning to us a file-stamped copy in the self-addressed, stamped envelope provided.

By copy of this letter, with enclosures, all counsel of record is notified of this filing.

Thank you for your assistance and cooperation in this matter.

Kind Regards,

Alicia Stoltz

Alicia Stoltz
Paralegal to Michele D. Allen, Esq.

/ars
Enclosures

cc: Mr. David Ritter, Esq.

Via Certified Mail
70012510000102617773

All Known Counsel of Record

Via First Class Mail