

NO. 00-08750-C

HENRY R. PENA, ET AL. § IN THE DISTRICT COURT OF
VS. § DALLAS COUNTY, TEXAS
GAF CORPORATION, ET AL. § 68th JUDICIAL DISTRICT

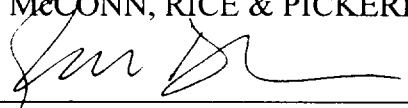
**DEFENDANT PHILLIPS PETROLEUM CO.'S OBJECTIONS AND
RESPONSES TO PLAINTIFF DALLAS EDISON RAY'S
FIRST SET OF INTERROGATORIES, FIRST REQUEST FOR PRODUCTION,
FIRST REQUEST FOR ADMISSIONS AND FURTHER
REQUESTS FOR PRODUCTION**

TO: Plaintiff DALLAS EDISON RAY, by and through his attorneys of record, Elizabeth R. Schick, Lou Thompson and Stephanie Finch of BARON & BUDD, The Centrum, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219

Pursuant to TEXAS RULES OF CIVIL PROCEDURE Defendant PHILLIPS PETROLEUM COMPANY serves the following Objections, Answers and Responses to Plaintiff's Interrogatories, Requests for Production and Requests for Admissions.

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

By: 

B. STEPHEN RICE

TSB No. 16838000

STEVEN M. DUBLE

TSB No. 06144550

1200 Smith Street, Suite 400

Houston, Texas 77002

Telephone: (713) 654-1111

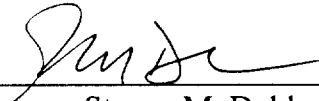
Facsimile : (713) 655-9212

Attorneys for Defendant

PHILLIPS PETROLEUM COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to counsel for Plaintiffs by facsimile and by certified mail, return receipt requested, and to all other counsel of record by facsimile, on this 10th day of _____, 2001.



Steven M. Duple

OBJECTIONS TO DEFINITIONS

Defendant objects to the stated definition #1 of the terms "Defendant," "You," "Your" and "Your Company" because the definition is overly broad, vague and ambiguous and amounts to a fishing expedition. As stated, the definition seeks responses of entities not parties to this cause and for which this Defendant would have no legal liability. Further, the definition seeks to require responses on behalf of entities at which the Plaintiffs are not alleged to have worked and, therefore, the definition and request for information concerning said entities is not relevant to the issues inquired of herein nor is the information likely to lead to the discovery of admissible evidence. Under Texas Jurisprudence, a corporate defendant is liable only for its torts; it is not liable for any alleged torts of a subsidiary. Thus, to the extent that a subsidiary is not sued, the named defendant would have no responsibility and no duty to respond on behalf of any such entity. *Lucas v. Texas Industries, Inc.*, 696 S.W.2d 372 (Tex. 1984); *Seminole Pipeline v. Broad Leaf Partners*, 9795 S.W.2d 730 (Tex. App. — Houston [14th Dist.] 1998, no pet.

Defendant objects to the stated definition #2 of the terms "Document," "Documents," "Written Materials" and "Printed Materials" on the grounds it is overly broad, vague and clearly outside the scope of permissible discovery under the Texas Rules of Civil Procedure. This Defendant would specifically object to the attempt to extend the definition of these terms as requiring the responding party to make a determination of what documents may be responsive to these Interrogatories and Requests for Production "regardless of who now has or formerly had custody, possession or control" on the ground that is clearly outside the scope of permissible discovery and could be construed as seeking disclosure of information that would be protected from discovery by virtue of the attorney work product exemption afforded by the Texas Rules of Civil Procedure and the Texas Rules of Civil Evidence.

Defendant would further object to the stated definition #4 of the terms "Meeting" or "Meetings" on the grounds it is so overly broad and vague and renders each discovery request to which it may apply incapable of being answered; and therefore, improper under the Texas Rules of Civil Procedure.

Defendant objects to the stated definition #6 of the terms "products containing asbestos fiber," "asbestos containing products" and "asbestos products" on the grounds it is overly broad, vague and not limited to the matters made the basis of this lawsuit and therefore, seeks disclosure of information and/or the production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant objects to the definition #16 of "identify" with regard to a document as overly broad and requiring more than the Rules of Procedure require.

Defendant objects to the definition #18 of "Defendant's Premises at Issue" as overly broad, vague and ambiguous and seeks to require this Defendant to identify premises outside of the four corners of the discovery and to speculate on what Plaintiff considers to be the premises at issue. Defendant will assume that the premises at issue is its facility where Plaintiff alleges to have worked.

Defendant objects to the definition #19 of "workers" to include any employee of Defendant or employee of a contractor as being overly broad.

Defendant objects to the definition #20 of the term "abate" or "abatement" as overly broad as defined.

Defendant objects to the definition #21 of the term "Time Period at Issue" as overly broad, vague and ambiguous and because it seeks to require this Defendant to make a determination of relevant time periods by seeking to require this Defendant to determine when the Plaintiff was allegedly on Defendant's premises by reference to other discovery or pleadings outside of the four corners of the discovery request. Defendant further objects to the effort to assume a time period of 1945 - 1989 when there is no showing that Plaintiff was on the premises of Defendant during all those time periods, and the request is overly broad for that reason as well. Defendant will generally provide information for the time period up to 1985.

OBJECTIONS APPLICABLE TO EACH DISCOVERY REQUEST

Defendant objects to each discovery request which is unlimited in time as to the information sought. Many of the discovery requests are unlimited in time and have no relationship to the alleged time period when a plaintiff may have worked on Defendant's premises, nor to the premises at issue. Accordingly, these discovery requests are overly broad and seek documents and information not relevant to the issues regarding this case. Defendant will provide information concerning asbestos for the time period to 1985, as contained in its corporate records and those pertaining to its facility where Plaintiff alleges to have worked.

Defendant also objects to each discovery request which is prefaced by words to the effect of "for any location where Plaintiff alleges, in his discovery response and/or deposition, working or asbestos exposure". Defendant objects to such language because as

stated the discovery request would require this Defendant to review other materials outside of the discovery directed to this Defendant in order to make a determination as to an appropriate response and require the Defendant to interpret Plaintiffs' responses to discovery.

Defendant further objects to Plaintiff's overly broad designation of time periods in discovery requests which do not have any relationship to the alleged period of time in which the Plaintiff was allegedly present on this Defendant's premises.

Defendant further objects to each discovery request to the extent such request seeks discovery regarding any plant or facility other than its facility where Plaintiff alleges to have worked and to the extent discovery requests may be construed to include any other plant, Defendant objects to each request as overly broad and because the request seeks information or documents not relevant to the inquiries herein nor likely to lead to the discovery of admissible evidence.

Defendant has objected to certain of the discovery requests in responding to Plaintiffs' set of discovery on the basis that the discovery requests are overly broad and fail to specify the documents or information sought and amount to "fishing expedition".

Many of the requests seek all information or documents which "refer to" and/or "relate to" or similar language, of a particular issue. As worded, this document request could reach information which is confidential and/or proprietary business information. Defendant objects to production of such documents or information.

Defendant objects to those requests which as worded could invade the personal privacy rights of Defendant's present and former employees.

LEGAL AUTHORITIES FOR OBJECTIONS MADE HEREIN

Many of the requests are unlimited in time and further seek discovery pertaining to locations or facilities not identified by any Plaintiff as a work site where a Plaintiff may have worked and therefore these discovery requests seek information which is not relevant to the issues in this litigation nor likely to lead to the discovery of admissible evidence. The Texas Supreme Court has held that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

PLAINTIFF'S 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 Plaintiffs' 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:

Objection. Answers to these Interrogatories are being made by Phillips Petroleum Company, a corporation. The scope of Plaintiffs' Interrogatories calls for extensive and massive inquiry, seeking information from innumerable individuals in various locations spanning many years; hence, providing such information would be enormously burdensome. Lastly, such information is protected from disclosure pursuant to the attorney-client privilege and work product exemption.

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

- a. asbestosis
- b. lung cancer
- c. mesothelioma

ANSWER:

Defendant objects to this Interrogatory because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Defendant Phillips Petroleum Company would respond by stating that it has not been able to determine the precise year or the specific means by which

it first became aware of any causal relationship between certain exposures to the various types of asbestos fibers and the occurrence of any health problems in human beings. At some point prior to the early '70s, Phillips was aware that among asbestos miners, millers, and textile workers working in conditions that did not exist in oil refineries or petrochemical plants, there was alleged to be a connection between prolonged asbestos exposure and lung problems. During the 1970s, additional information on the hazards of asbestos became available and OSHA regulations came out regarding asbestos exposure. In the 1970s, insulators with prolonged exposure were believed to be the craft at potential risk for asbestos disease.

Without waiving this objection, and subject thereto, Phillips would further respond by stating that it may be in possession of certain documents which may be responsive to this interrogatory. Further Defendant states that pursuant to Rule 197.2(c) the answer to this interrogatory may be derived or ascertained from Phillips' business records. The records from which the answer may be derived will be made available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

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 and
- b. identify Defendant's employees or former employees or representatives who attended any of the meetings held by each organization, and

- c. the meetings they attended, and
- 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:

Defendant objects to this interrogatory to the extent it is overly broad, vague and constitutes nothing more than a "fishing expedition" which is specifically prohibited under Texas law as it relates to discovery. Further this interrogatory is objectionable because it would require this Defendant to speculate on whether an organization disseminated information concerning asbestos.

Subject to and without waiving the foregoing objections, Defendant would respond as follows:

Defendant objects to this interrogatory to the extent it is overly broad, vague and constitutes nothing more than a "fishing expedition" which is specifically prohibited under Texas law as it relates to discovery. Further this interrogatory is objectionable because it would require this Defendant to speculate on whether an organization disseminated information concerning asbestos.

Subject to and without waiving the foregoing objections, Defendant or its employees are or have been members of the following organizations.

The records of this Defendant reflect membership with the following associations listed by Plaintiff. Defendant cannot verify that each organization disseminated information on asbestos:

Texas Safety Association
Industrial Medical Association (individual - since 1947)
American Medical Association
(Occupational Health Section) (individual - since 1947)
Chemical Manufacturers Ass'n.

Texas Chemical Council
National Petroleum Refiners Ass'n.
ACGIH (American Conference of
of Governmental Industrial Hygienist) (individual)
National Safety Council (since 1925)
API (American Petroleum Institute) (since 1935)
American Academy of Occupational Medicine (since 1963 - individual)

Defendant is unable to specify the name of each individual who may have attended a meeting over a 45-year time frame. Generally industrial hygienists may have attended meetings relating to industrial hygiene organizations and medical doctors may have attended meetings of medical organizations. Further, Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at 6330 W. Loop South, Bellaire, Texas 77401, or where those records are kept in the ordinary course of business.

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 because it is overly broad, vague and ambiguous, and not limited to the facilities where Plaintiff claims

exposure, nor is it limited to the relevant time periods. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

Subject to the foregoing and without waiver of same, Defendant has employed well over 100,000 people and is unable to identify each seminar, symposium, conference or other gathering that any officer, agent or representative of Defendant has attended concerning the subject of asbestos. Generally industrial hygienists would have attended local and national meetings on occasion of the American Industrial Hygienist Association, and physicians would have attended local meetings of Medical Society as well as national meetings. Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at 6330 W. Loop South, Bellaire, Texas 77401.

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 on the grounds it is overly broad, vague, ambiguous and lacking in specificity. Defendant does

not know the years in which Plaintiff has indicated he worked at Defendant's premises. Subject to the foregoing objection, Defendant is unable to list each company from which it may have received asbestos containing products used at its facilities. Generally, asbestos containing products were used for insulation, packing, gasketing, and related uses. Defendant ceased purchasing asbestos containing insulation products in the early 1970's. Thereafter, asbestos free products were utilized for other purposes as those products became practicable and available. There are some applications for which no adequate substitute has been found. Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c), any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at 6330 W. Loop South, Bellaire, Texas 77401.

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; and
- c. Describe what asbestos-containing materials were abated
- 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:

See objection to the definition of "abated" herein above. Defendant further objects to this interrogatory on the grounds that it is overly broad, vague, lacking in specificity, and not limited to the time period relevant in this case and, therefore, seeks disclosure of information wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence. Defendant further objects because the Plaintiff was not involved with asbestos

abatement or storage, and this interrogatory is also not relevant for that reason.

Subject to the foregoing objection, Defendant states that it is unable to identify each person who may have "abated" asbestos products. Generally until the early 1970s products were replaced as needed based on their condition. Beginning in the early 1970s, asbestos-free pipe covering was utilized to replace existing insulation. Storage was as per OSHA regulations. Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at 6330 W. Loop South, Bellaire, Texas 77401.

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 the interrogatory to the extent it is overly broad, vague, lacks specificity, and is unduly burdensome. This request seeks to require this Defendant to provide information broader than that required by the Texas Rules of Civil Procedure which only requires parties to provide the name, address and telephone number of persons with knowledge of relevant facts and their connection to the case. Defendant is unable to identify every person over a 50-year time frame who may have knowledge as specified by Plaintiff.

Subject to the foregoing, Defendant adopts by reference as though fully set forth herein the persons named in its response to Request for Disclosure as having knowledge of relevant facts and any supplements thereto. Furthermore, subject to and without waiver of the foregoing

objections, Defendant states that it has in its possession of documents which may be responsive to this interrogatory. Pursuant to Rule 197.2(c), the documents will be made available for inspection and copying at a mutually agreeable time at 6330 W. Loop South, Bellaire, Texas 77401.

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 Plaintiffs employer or other contractors who installed, removed, maintained, repaired or replaced asbestos-containing products (including foremen or supervisors or 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 or supervising or 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
- e. inspecting or approving work done by such contractors or authorizing payment for work done by such contractors.

ANSWER:

Defendant objects to this Interrogatory because it is overly broad, lacks specificity and is unduly burdensome. Further, the Interrogatory is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Interrogatory is not reasonably calculated to lead to

the discovery of admissible evidence. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

Without waiving the objection, pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at 6330 W. Loop South, Bellaire, Texas 77401.

INTERROGATORY NO. 9:

If you have or have had an industrial hygiene or safety or medical department, please

- a. state 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 being overly broad and not limited to the facility made the basis of this suit nor to the time periods involved in this suit. Subject to the foregoing objections, Defendant

identifies the following persons who may have had industrial hygiene responsibility at the corporate or facility level:

<u>Name</u>	<u>Last Known Address</u>	<u>Dates</u>
Lucien E. Renes	2303 Primrose Dr., Richardson, T 75082	1953-76
R.W. Veit	R.R.2, Box 2693, Bartlesville, OK 74006	1972-93
W.J. Brown, Jr.	12 A2 PB, Bartlesville, OK 74006	1974-99
W.S. Irving, Jr.	P.O. Box 780681, Dallas, TX 75378	1981-86
W.A. Waugh	253 Turkey Creek Rd., Bartlesville, OK	1981-85
A.L. Hayes (Baker)	3508 Colony Crossing Dr., Charlotte, NC	1980-81

Also, outside contractor, Clayton & Associates, consulted on asbestos matters from time to time. Depending on which facility is at issue, other employees may have been involved in industrial hygiene asbestos matters.

Defendant lists the following physicians who worked for Defendant:

<u>Name</u>	<u>Last Known Address</u>	<u>Dates</u>
Dr. O.S. Somerville	No Record	1922-47
Dr. M.C. Kimball	No Record	1942-46
*Dr. Kieffer Davis	Deceased	1947-76
Dr. C.S. Huntington	1572 Pecan Place, Bartlesville, OK 74003	1959-68
Dr. Albert Mery	809 Cambridge Drive, Altus, OK 73521	1953-72
Dr. Robert D. Allbaugh	Deceased	1970-76
Dr. J.R. Drumwright	Address Unknown	1972-77
*Dr. Joseph LeBlanc	1315 Quail Drive, Bartlesville, OK 74006	1974-92
Dr. P.K. Dobbins	P.O. Box 40005, Jacksonville, FL 32203	1977-93
Dr. L.M. Lister	Deceased	1978-92
Dr. R.L. McLaury	15818 Fleetwood Oaks, Houston, TX 77019	1983-86
Dr. Russell L. Kurtz	No Record	1942-47
Dr. P.R. Gottschalk	No Record	1948-52
Dr. Earle T. Norman	1804 B Eagle Drive, Temple, TX 76502	1952-70

*Corporate Medical Director

If Plaintiff would adequately identify the Premises At Issue, Defendant may be able to provide a list of persons in the safety department. Pursuant to Rule 197.2(c), further answer to this

Interrogatory which may be ascertained from Defendant's business records will be made available for inspection and copying at a mutually agreeable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, Texas 77401.

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:

- a. to whom these warnings were given (and specifically state if Plaintiff was among them),
- b. when they were given, if ever, and
- c. in what manner they were given (e.g. written pamphlets, signs posted, oral/group meeting, individual discussions, etc.) and
- 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 because it is overly broad and vague and not limited to the time period relevant in this case. Without waiving the objection, Defendant states that it was the responsibility of the Plaintiff's employer to protect the Plaintiff from excessive exposure to asbestos consistent with the knowledge and judgment as it may have existed from time to time concerning the hazards of asbestos. Pursuant to Rule 197.2(c), further answer to this Interrogatory which may be ascertained from Defendant's business records will be made available for inspection and copying at a mutually agreeable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, Texas 77401.

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. identify the written materials received, and
- c. state how and why these materials came into Defendant's possession.

ANSWER:

Defendant objects to this Interrogatory because it is overly broad, not limited to relevant time periods in the case and, therefore, not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving this objection, and subject thereto, see persons listed in answer to Interrogatory No. 9 above. Further Defendant states that pursuant to Rule 197.2(c) the answer to this interrogatory may be derived or ascertained from Phillips' business records. The records from which the answer may be derived will be made available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

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

- a. the type of asbestos fiber used,
- b. from whom you purchased the asbestos fiber used,
- c. a description of the process in which the asbestos was used.

ANSWER:

Defendant objects to this interrogatory on the grounds that it is overly broad, not limited to the time period relevant, and therefore seeks disclosure of information wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing objections, Defendant is unable to specify from whom each product was purchased, to the extent this Defendant may have purchased the product. Generally, asbestos-containing products were used for insulation, packing, gasketing, and related uses. Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at 6330 W. Loop South, Bellaire, Texas 77401.

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, specify

- 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 on the grounds that it is overly broad, vague, ambiguous, unspecific, and not limited to the premises relevant to this case nor to the relevant time period. Subject to and without waiver of the foregoing objections (for time periods see Answer to Interrogatory No. 5), Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at 6330 W. Loop South, Bellaire, Texas.

INTERROGATORY NO. 14

For any of Defendant's Premises At Issue, during the 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

- 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 on the basis that the same is overly broad, vague, ambiguous and lacking in specificity. The results obtained may be ascertained from the documents made available. Generally the results show levels within accepted standards. The names of the persons performing the monitoring may be ascertained from the records made available. See list of Industrial Hygiene people in answer to Interrogatory No. 9 above. Bob Veit is among those knowledgeable concerning the results of monitoring. Further answer to this Interrogatory may be ascertained from Defendant's records and pursuant to Rule 197.2(c) any further answer may be derived from Defendant's business records which will be made available at 6330 W. Loop South, Bellaire, Texas 77401.

INTERROGATORY NO. 15:

For the Time Period At Issue, if you provided or caused to be provided any safety equipment or medical program (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

- a. when such was first provided to your employees, contractors, and/or invitees and to whom,

- b. under what circumstances such were provided, and
- 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 because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, and without waiving same, it was the responsibility of contractors to provide safety equipment for their employees. Phillips may have in its possession certain documents which contain information responsive to this Interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Phillips which may be examined at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401

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 because it is overly broad and vague as to "mandates, or other authority." Further, Plaintiff has failed

to adequately define what premises are at issue and the time period at issue.

Without waiving the objections, Defendant states it was generally aware of applicable state and federal regulations, laws and statutes pertaining to asbestos. There were Texas regulations, the Walsh Healy Act, OSHA and EPA regulations in effect during various periods of time. Phillips may have in its possession certain documents which contain information responsive to this Interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Phillips which may be examined at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401

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 because it is overly broad, not limited to the time periods and corresponding worksites relevant in this case and, therefore, seeks information irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory as overly broad and vague insofar as any undefined "regulatory agency or other governing body."

Subject to and without waiving the objections, Defendant may have in its possession certain documents which contain information further responsive to this interrogatory. Defendant states that pursuant to Rule 197.2(c) any further answer to this interrogatory may be derived or ascertained from business records of Defendant which may be examined at a reasonable time at 6330 W. Loop South, Bellaire, Texas.

INTERROGATORY NO. 18:

If, before 1980, you had received notice that any individual or individuals had claimed for alleged 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.
- c. The name and address of the attorney representing such claimant.

ANSWER:

Not Applicable.

INTERROGATORY NO. 19

If you contend that you did not own or 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 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:

Defendant objects to this interrogatory because "Defendant's Premises" and "Time Period at Issue" have not been adequately defined.

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:

Defendant Phillips Petroleum Company's principal place of business within Texas is in Houston, Harris County, Texas. Defendant also has significant business locations in Borger, Texas. Defendant objects to providing further information because the request is overly broad, harassing and is not reasonably calculated to lead to the discovery of admissible evidence.

PLAINTIFF'S 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 because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections and without waiving same, Defendant will make available for inspection documents which may be responsive to this request at Phillips Petroleum Company at 6330 W. Loop South, Bellaire, Texas 77401, or where the documents are kept in the ordinary course of business.

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 on the ground that it is overly broad, vague, ambiguous and not limited to the time period relevant to this case and therefore seeks documents wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence. Defendant would show that any systematic abatement of asbestos at Defendant's premises after the time period during which the Plaintiff stated that he worked at Defendant's

premises can have no relevance to this case, and Plaintiff was not involved in the transportation of waste.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

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 because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

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, worklogs or contractor logs, including but not limited to all of the contractor documents referring to work to be done, underway, or completed by Plaintiffs employer at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

Defendant objects to this Request because it is overly broad, lacks specificity and is unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, not limited to the contractors for whom the Plaintiff worked, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects because, as phrased, the request seeks proprietary information relating to its processes.

REQUEST FOR PRODUCTION NO. 6:

Please produce all documents reflecting payments made to Plaintiffs 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 on the ground that it is unduly burdensome, overly broad, lacking in specificity and not reasonably calculated to lead to the discovery of admissible evidence. Further, the Request fails to specify relevant time periods, worksites, or contractors which employed Plaintiff.

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 because it is overly broad, vague and ambiguous, nor is it limited to the relevant time periods. Subject to the foregoing objection, Defendant will make available for inspection documents, if any, responsive to this request at 6330 W. Loop South, Bellaire, Texas 77401.

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 on the grounds that it is overly broad, vague, not limited to the time period or premises relevant in this case, and not limited to the matter made the basis of this suit, specifically, asbestos-containing thermal insulation products.

Subject to the foregoing objections, Defendant will make available for inspection documents, if any, responsive to this request at 6330 W. Loop South, Bellaire, Texas 77401.

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 on the grounds that it is overly broad, vague, not limited to the time period relevant in this case, not limited to the matter made the basis of this suit, specifically, asbestos-containing thermal insulation products.

Subject to the foregoing objections, Defendant will make available for inspection documents, if any, responsive to this request at 6330 W. Loop South, Bellaire, Texas 77401.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in the case, nor is it limited to matters made the basis of this lawsuit, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, Defendant will make available for inspection documents, if any, responsive to this request at 6330 W. Loop South, Bellaire, Texas 77401.

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 any way 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 on the grounds that it is overly broad, vague, lacking in specificity, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence.

Subject to and without waiving the foregoing objections, and further assuming that this Request is limited to the time period relevant in this case, this Defendant would respond by stating that documentation which may be responsive in whole or in part to this Request can be made available for inspection and copying at a mutually agreeable time at 6330 W. Loop South, Bellaire Texas 77401, and those maintained in its corporate headquarters.

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:

Objection. Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, Defendant will make available for inspection documents, if any, responsive to this request at 6330 W. Loop South, Bellaire, Texas 77401.

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:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a request to marshal its evidence, which is specifically prohibited by the rules of discovery.

Without waiving the objections, Phillips Petroleum Company may have in its possession certain documents which contain information responsive to this which may be examined at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

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 Plaintiff's Request for Disclosure under Texas Rules of Civil Procedure 194.2, subparagraph (c).

RESPONSE:

Defendant objects to this Request because it is overly broad, vague, ambiguous, fails to specify the documents sought with reasonable particularity and amounts to a "fishing expedition." Defendant additionally objects because this Request seeks to require this Defendant to marshal its evidence, which is specifically prohibited by Rule 194.2(c). The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

REQUEST FOR PRODUCTION NO. 16:

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

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department*

Stores, Inc. v. Hall, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

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 the same is overly broad, unlimited in time, not limited to the relevant areas of inquiry in this case, and not reasonably calculated to lead to the discovery of admissible evidence. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department*

Stores, Inc. v. Hall, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

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 the same is overly broad, vague, unlimited in time, not limited to the relevant areas of inquiry in this case, and not reasonably calculated to lead to the discovery of admissible evidence. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects because this request seeks to require production of documents protected by the attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 19:

Please produce all books, pamphlets, memoranda, or written materials of any kind or character that that [*sic*] 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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts

to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject to the objections, Defendant will make records which may be responsive available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

REQUEST FOR PRODUCTION NO. 20:

Please produce all documents that reflect, indicate or in any way 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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving this objection, and subject thereto, Phillips may be in possession of documents which may be responsive to this Request which will be made available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

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 because it is overly broad, not limited to the relevant time periods or facility in this case. Further, as worded, the Request includes documents protected by the attorney-client, party communications and attorney work product privileges.

Without waiving this objection, and subject thereto, Phillips may be in possession of documents which may be responsive to this Request which will be made available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

REQUEST FOR PRODUCTION NO. 22:

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

RESPONSE:

Defendant further objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters presumably made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections, Phillips may be in possession of documents which may be responsive to this Request which will be made available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

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 because it is overly broad, vague, ambiguous, not limited in time nor to the premises at issue, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Departments Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Subject thereto, Defendant will make available for inspection at a mutually agreeable time at documents potentially responsive to this Request at 6330 W. Loop South, Bellaire, Texas 77401.

REQUEST FOR PRODUCTION NO. 24:

Please produce all documents related to the medical condition of Plaintiff at any time 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 Plaintiffs health.

RESPONSE:

Defendant has no documents relating to the medical condition of Plaintiff other than documents produced in discovery in this cause. Defendant will produce any defense medical examinations as they become available.

REQUEST FOR PRODUCTION NO. 25:

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

RESPONSE:

Defendant objects to this request as overly broad, vague, lacking in specificity, and ambiguous insofar as it seeks "all documents relating to Plaintiff." Furthermore, this request is objectionable because it seeks to require Defendant to marshal its evidence as to Plaintiff. Subject thereto, Plaintiff was not Defendant's employee, and Defendant would have no documents relating to Plaintiff's work performance and/or personnel records other than those which may be obtained in discovery from Plaintiff's employer, if any.

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 all 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 on the grounds it is overly broad, vague, not limited to the time period or specific premises sites relevant in this case and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to the discovery of admissible evidence. Further, to the extent necessary, this Defendant objects to this request to the extent it could be construed as seeking production of documentation that this Defendant considers to be proprietary in nature, and therefore would be protected from discovery by virtue of the trade secret privilege afforded by the Texas Rules of Civil Procedure and the Texas Rules of Civil Evidence.

REQUEST FOR PRODUCTION NO. 27:

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

RESPONSE:

Defendant objects to this Request because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts

to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant objects to the extent this Request seeks information protected from discovery by virtue of the attorney work product exemption.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objections, if any such photographs are located for the relevant time period, they will be made available at 6330 W. Loop South, Bellaire, Texas 77401.

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 claim.

RESPONSE:

Defendant Phillips Petroleum Company objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, unduly burdensome, not limited to the time period relevant in this case nor is

it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence. Defendant further objects because the Request as phrased could include documents which would violate the personal privacy privilege of Defendant's employees, and could include documents protected by the attorney-client and attorney work product privileges.

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 any way 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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the objections, documents which may be responsive will be made available for inspection and copying at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, Texas 77401.

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 because it is overly broad, unduly burdensome, fails to specify the documents sought with reasonable particularity and amounts to a "fishing expedition." Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Further, this is a request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Without waiving the objections, documents which may be responsive will be made available for inspection and copying at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, Texas 77401.

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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Defendant objects to the extent this Request seeks information protected from discovery by virtue of the attorney work product exemption.

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 Phillips Petroleum Company objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence. Further, this Defendant objects to this Request on the grounds that as phrased, it would necessarily violate the personal privacy rights of the non-parties who may be involved. Defendant further objects to the extent that this Request may seek to discover documents which were created regarding litigation as being in violation of the attorney work product and attorney client privileges.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

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 Phillips Petroleum Company objects to this Request on the grounds that it is overly broad, vague, lacking in specificity, not limited to the time period relevant in this case nor is it limited to a facility where it is alleged the Plaintiff worked and therefore seeks production of documentation wholly irrelevant to any material issue in this case and not reasonably calculated to lead to discovery of admissible evidence.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and it amounts to a "fishing expedition."

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the

Request is not reasonably calculated to lead to the discovery of admissible evidence and it amounts to a "fishing expedition."

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products. Further, the Request is not reasonably calculated to lead to the discovery of admissible evidence and amounts to a "fishing expedition." Defendant further objects as this is a request to marshal its evidence, which is specifically prohibited by the rules of discovery.

REQUEST FOR PRODUCTION NO. 39:

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

RESPONSE:

Defendant objects to this Request because it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, copies of the Defendant's annual reports have previously been provided to Plaintiff's counsel.

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 Phillips Petroleum Company objects to this request on the grounds it is overly broad, vague and ambiguous, and is lacking in specificity and constitutes a "fishing expedition." Defendant further objects as this is a request to marshal its evidence, which is specifically prohibited by the rules of discovery.

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 because it is overly broad, vague, ambiguous and unspecific and multifarious and seeks to require this Defendant to marshal its evidence. Defendant objects to this Request because it fails to specify the document sought with reasonable particularity and amounts to a "fishing expedition." The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant denies that it is liable for a dangerous condition or activity created by a contractor.

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, 10-K 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 because it is overly broad, vague, ambiguous and unspecific and multifarious and seeks to require this Defendant to marshal its evidence. Defendant objects to this Request because it fails to specify the document sought with reasonable particularity and amounts to a "fishing expedition." The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. See *In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant generally controlled its premises (although some premises in Borger were controlled by the U.S. government at one time). Defendant did not control the details of the work of its contractors.

REQUEST FOR PRODUCTION NO. 43:

If you contend that you have not been sued in the proper capacity as set forth in Plaintiffs 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, by way of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10-K 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 because it is overly broad, vague, ambiguous and unspecific and multifarious and seeks to require this Defendant to marshal its evidence. Defendant objects to this Request because it fails to specify the document sought with reasonable particularity and amounts to a "fishing expedition." The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant generally controlled its premises (although some premises in Borger were controlled by the U.S. government at one time). Defendant did not control the details of the work of its contractors.

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 because it is overly broad, vague, unduly burdensome, fails to specify the documents sought with reasonable particularity and amounts to a "fishing expedition." Further, the request is not reasonably calculated to lead to the discovery of admissible evidence.

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:

Because Plaintiff has failed to adequately define the Premises At Issue and the Time Period At Issue, Defendant is unable to respond to this Request.

REQUEST FOR PRODUCTION NO. 46:

If you contend that some or all of 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:

Because Plaintiff has failed to adequately define the Premises At Issue and the Time Period At Issue, Defendant is unable to respond to this Request. Without waiving the objection, Defendant will make potentially responsive documents available for inspection and copying at 6330 W. Loop South, Bellaire, Texas 77401.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, Defendant did not manufacture any asbestos-containing product.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, Defendant will produce documents which may be responsive to this request at 6330 W. Loop South, Bellaire, Texas 77401.

REQUEST FOR PRODUCTION NO. 49:

Please produce all 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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the objections, documents which may be responsive to this Request are available for inspection and copying at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, Texas 77401.

REQUEST FOR PRODUCTION NO. 50:

Please produce all marketing and advertising materials related in any way 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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, Defendant did not manufacturing any asbestos-containing products.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 52:

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

RESPONSE:

Defendant objects to this Request because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objections, documents which may be responsive to this request will be made available at 6330 W. Loop South, Bellaire, Texas 77401.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures

to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request to the extent the requested documents are public records.

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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request

that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Further, Plaintiff has failed to identify his employer or the time period at issue. Defendant does not know if Plaintiff ever worked on its premises for any employer.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving this objection, and subject thereto, Phillips may have documents which would be responsive to this requested which will be made available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

REQUEST FOR PRODUCTION NO. 58:

Please produce all documents that indicate or reference in any way any 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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts

to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject thereto, Defendant will make documents which may be responsive available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

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 because it is overly broad and unduly burdensome. Further, the Request is not limited to the time periods and corresponding specific premises sites relevant in this case, nor limited to the matters made the basis of this case, specifically alleged exposures to asbestos-containing thermal insulation products, and the Request is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objections, Defendant will produce documents which may be responsive at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, Texas 77401, or at other sites where kept in the ordinary course of business.

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 because it is overly broad, fails to specify the document sought with reasonable particularity, amounts to a "fishing expedition," and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects as this is

a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989).

**PLAINTIFF'S 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:

Defendant objects to this Request because it is vague and overly broad. This Request fails to define "utilized". Subject thereto, admitted.

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:

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR PRODUCTION NO. 61:

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 because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. Defendant further objects because

the request assumes that Plaintiff worked on Defendant's premises and Defendant cannot admit or deny same. Further, Defendant objects because the request seeks to reverse the burden of proof and seeks to require this Defendant to speculate as to when and where Plaintiff was supposedly on Defendant's premises and what craft he may have been performing and for what employer.

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

Denied.

REQUEST FOR PRODUCTION [sic] NO. 62:

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:

DENIED.

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 because it is overly broad, fails to specify the documents sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically

prohibited by the rules of discovery. Defendant further object because the request assumes that Plaintiff worked on Defendant's premises and Defendant cannot admit or deny same. Further, Defendant objects because the request seeks to reverse the burden of proof and seeks to require this Defendant to speculate as to when and where Plaintiff was supposedly on Defendant's premises and what craft he may have been performing and for what employer.

Subject to the foregoing, Defendant is not aware of monitoring of Plaintiff for asbestos at Defendant's premises and therefore is not aware of documents related to Plaintiff. Defendant will make available monitoring documents for the relevant time period and those maintained at its corporate headquarters at a mutually agreeable time at 6330 W. Loop South, Bellaire, Texas 77401.

REQUEST FOR ADMISSION NO. 4:

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

RESPONSE:

Defendant objects to this Request because it is overly broad and vague. Subject thereto, Defendant admits only that some of its employees worked with asbestos-containing products.

REQUEST FOR ADMISSION NO. 5:

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

RESPONSE:

Defendant objects to the this request because it is overly broad, vague, and lacks specificity. Subject thereto, Defendant admits that some contractors on its premises worked with asbestos containing materials.

REQUEST FOR ADMISSION NO. 6:

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:

Defendant admits that it has been aware of the presence of asbestos-containing products on Defendant's premises during the relevant time period.

REQUEST FOR ADMISSION NO. 7:

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:

Defendant admits that it has been aware of the use of asbestos-containing products on Defendant's premises during the relevant time period.

REQUEST FOR ADMISSION NO. 8:

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:

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request. Plaintiff has failed to adequately define the premises and time period at issue.

REQUEST FOR ADMISSION NO. 9:

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

RESPONSE:

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request. Plaintiff has failed to adequately define the premises and time period at issue.

REQUEST FOR ADMISSION NO. 10:

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 on the grounds that it is overly broad, vague, and lacks specificity. Subject thereto, Defendant admits that it utilized asbestos-containing materials during portions of the years at issue. Defendant relied on product manufacturers to provide insulation products meeting its specifications.

REQUEST FOR ADMISSION NO. 11:

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

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 12:

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

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 13.

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

RESPONSE:

Admitted that asbestos containing products were still in place. In the early to mid 1970s Defendant specified the use of asbestos-free insulation.

REQUEST FOR ADMISSION NO. 14:

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

RESPONSE:

Admitted that asbestos containing products were still in place. In the early to mid 1970s Defendant specified the use of asbestos-free insulation.

REQUEST FOR ADMISSION NO. 15:

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

RESPONSE:

Defendant objects to this Request as being outside of the relevant time period and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objections and subject thereto, see Response to Request for Admission No. 14 above.

REQUEST FOR ADMISSION NO. 16:

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.

to this case. Plaintiff has failed to adequately identify which premise(s) and specific time periods he allegedly worked at such premise(s).

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request as worded.

It was the responsibility of contractors to meet applicable guidelines and provide to their employees health and safety information concerning the use of asbestos. Defendant admits only that it provided information to persons on its premises during part of the relevant time period and in compliance with OSHA.

REQUEST FOR ADMISSION NO. 19:

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:

Defendant objects to this Request because it is overly broad, lacks specificity and is not limited to the premises and time periods relevant to this case. Plaintiff has failed to adequately identify which premise(s) and specific time periods he allegedly worked at such premise(s).

After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request as worded.

It was the responsibility of contractors to meet applicable guidelines and provide to their employees health and safety information concerning the use of asbestos, whether it was in English or Spanish. Defendant admits only that it provided information to persons on its premises during part of the relevant time period and in compliance with OSHA.

REQUEST FOR ADMISSION NO. 20:

RESPONSE:

Defendant objects to this Request as the same is overly broad, vague, and lacking in specificity. Subject thereto, Defendant admits that it was the responsibility of contractors to meet applicable guidelines and provide to their employees health and safety information concerning the use of asbestos.

Subject thereto, Defendant admits that it provided information to persons on its premises during part of the relevant time period and in compliance with OSHA.

REQUEST FOR ADMISSION NO. 17:

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:

Defendant objects to this Request as the same is overly broad, vague, and lacking in specificity. Subject thereto, Defendant admits that it was the responsibility of contractors to meet applicable guidelines and provide to their employees health and safety information concerning the use of asbestos, whether such information was provided in English or Spanish. Further Defendant admits that it provided information to persons on its premises during part of the relevant time period and in compliance with OSHA.

REQUEST FOR ADMISSION NO. 18:

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

RESPONSE:

Defendant objects to this Request because it is overly broad, lacks specificity and is not limited to the premises and time periods relevant

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:

DENIED.

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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Without waiving the objections, documents which may be responsive to this Request are available for inspection and copying at Phillips Petroleum Company, 6330 West Loop South, Bellaire, Texas 77401.

REQUEST FOR ADMISSION NO. 21:

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

RESPONSE:

Plaintiff has failed to adequately define the premises and time period at issue. Further, Defendant objects to this Request as vague because "in use" is not defined. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 22:

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

RESPONSE:

Plaintiff has failed to adequately define the premises and time period at issue. After reasonable inquiry, the information known or easily obtained by this Defendant is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 23:

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

RESPONSE

Plaintiff has failed to identify the premises at issue. Some of Defendant's premises in Borger, Texas, were under U.S. Government control at one time. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 24:

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:

Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 25:

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

RESPONSE

Plaintiff has failed to identify the premises at issue and failed to identify specific time periods at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 26:

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

RESPONSE:

Plaintiff has failed to identify the premises at issue and failed to identify specific time periods at issue. Some of Defendant's premises in Borger, Texas, were under U.S. Government control during certain years. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 27:

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

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 28:

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:

Denied.

REQUEST FOR ADMISSION NO. 29:

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

RESPONSE:

Defendant objects to this request because it is overly broad, vague, and lacks specificity. There is no showing that any plaintiff did not understand English and the request is therefore not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Further the term "business invitees" is so broad as to include anyone who may have set foot on the premises.

REQUEST FOR ADMISSION NO. 30:

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

RESPONSE:

Defendant objects to this request because it is overly broad, vague, and lacks specificity. There is no showing that any plaintiff did not understand English and the request is therefore not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Further the term "business invitees" is so broad as to include anyone who may have set foot on the premises.

REQUEST FOR ADMISSION NO. 31:

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

RESPONSE:

Defendant objects to this request because it is overly broad, vague, lacking in specificity, not limited to relevant time periods nor to the issues in this case and is not reasonably calculated to lead to the discovery of admissible evidence. Subject thereto, Defendant states that it was the responsibility of contractors to provide the safety orientation to their employees.

REQUEST FOR ADMISSION NO. 32:

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

RESPONSE:

Defendant objects to this request because it is overly broad, vague, lacking in specificity, not limited to relevant time periods nor to the issues in this case and is not reasonable calculated to lead to the discovery of admissible evidence. Subject thereto, Defendant states that it was the responsibility of contractors to provide the safety orientation to their employees in English or Spanish as appropriate.

REQUEST FOR ADMISSION NO. 33:

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:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily

obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 34:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 35:

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:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 36:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily

obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 37:

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:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 38:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 39:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily

obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 40:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 41:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 42:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 43:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts to a "fishing expedition." Defendant further objects as this is a Request

that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

REQUEST FOR ADMISSION NO. 44:

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: —

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Subject to the objections, Defendant admits only that it sometimes provided specifications for materials or equivalents.

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 because it is overly broad, fails to specify the document sought with reasonable particularity, and amounts

to a "fishing expedition." Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery. The Texas Supreme Court has held in several cases over the last few years that discovery requests must be relevant to specific issues and reasonably tailored to include only matters relevant to the case. The request must be tied to the particular acts or products relating to the Plaintiff's claims in the suit and must be limited to the time periods which are relevant to the case. *See In Re American Optical Corporation, Relator*, 988 S.W.2d 711 (Tex.1998); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813 (Tex.1995); *Dillard Department Stores, Inc. v. Hall*, 909 S.W.2d 491 (Tex.1995); *Loftin v. Martin*, 776 S.W.2d 145 (Tex.1989). Defendant further objects as this is a Request that Defendant marshal its evidence, which is specifically prohibited by the rules of discovery.

Subject thereto, Defendant will make records from which the answer may be derived available for inspection at a reasonable time at Phillips Petroleum Company, 6330 W. Loop South, Bellaire, TX 77401.

REQUEST FOR ADMISSION NO. 45:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including completion dates for contracts, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 46:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including completion dates for contracts, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 47:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Subject to the objections, Defendant admits only that it sometimes provided specifications for materials or equivalents.

REQUEST FOR ADMISSION NO. 48:

Admit that you told Plaintiffs employer in what order the work should be done.

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 49:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including completion dates for contracts, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 50:

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:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request as worded. Defendant admits that it provided general instructions and specifications relating to work to be performed and exercised the right of general control over its premises, but denies that it controlled the details of the work of contractors or their employees.

REQUEST FOR ADMISSION NO. 51:

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:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including the rejection of defective work, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 52:

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:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant states that it did exercise general right of control over its premises, including the rejection of defective work, but Defendant did not control the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 53:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 54:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 55:

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

RESPONSE:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 56:

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:

Plaintiff has failed to identify his employer while allegedly working at Defendant's premises. Plaintiff has failed to identify the premises at issue. Defendant denies that it controlled the details of the work of contractors or their employees. After reasonable inquiry, the information known or easily obtainable is insufficient to enable Defendant to admit or deny this Request.