PLAINTIFF'S EXHIBIT

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(B) Performing tests of the material containing PACM which demonstrate that no asbestos is present in the material. Such tests shall include analysis of 3 bulk samples of each homogeneous area of PACM collected in a randomly distributed manner. The tests, evaluation and sample collection shall be conducted by an accredited inspector or by a CIH. Analysis of samples shall be performed by persons or laboratories with proficiency demonstrated by current successful participation in a nationally recognized testing program such as the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute for Standards and Technology (NIST) of the Round Robin for bulk samples administered by the American Industrial Hygiene Association (AIHA) or an equivalent nationally-recognized round robin testing program.

(5) At the entrance to mechanical rooms/areas in which employees reasonably can be expected to enter and which contain thermal system insulation and surfacing ACM/PACM, the building owner shall post signs which identify the material which is present, its location, and appropriate work practices which, if followed, will ensure that ACM and/or PACM will not be disturbed.

(6) Signs. (i) Warning signs that demarcate the regulated area shall be provided and displayed at each location where a regulated area is required to be established by paragraph (e) of this section. Signs shall be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(ii) The warning signs required by (k)(6) of this section shall bear the following information.

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTION CLOTHING ARE REQUIRED IN THIS AREA

(7) Labels. (i) Labels shall be affixed to all products containing asbestos and to all containers containing such products, including waste containers. Where feasible, installed asbestos products shall contain a visible label.

(ii) Labels shall be printed in large, bold letters on a contrasting background.

(iii) Labels shall be used in accordance with the requirements of 29 CFR 1910.1200(f) of OSHA's Hazard Communication standard, and shall contain the following information:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

(iv) [Reserved]

(v) Labels shall contain a warning statement against breathing asbestos fibers.

(vi) The provisions for labels required by paragraphs (k)(2)(i) through (k)(2)(iii) do not apply where:

(A) Asbestos fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that, during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the permissible exposure limit and/or excursion limit will be released, or

(B) Asbestos is present in a product in concentrations less than 1.0 percent by weight.

(vii) When a building owner/or employer identifies previously installed PACM and/or ACM, labels or signs shall be affixed or posted so that employees will be notified of what materials contain PACM and/or ACM. The employer shall attach such labels in areas where they will clearly be noticed by employees who are likely to be exposed, such as at the entrance to mechanical room/areas. Signs required by paragraph (k)(5) of this section may be posted in lieu of labels so long as they contain information required for labelling.

(8) Employee information and training. (i) The employer shall, at no cost to the employee, institute a training program for all employees who install asbestos containing products and for all employees who perform Class I through IV asbestos operations, and shall ensure their participation in the program.

(ii) Training shall be provided prior to or at the time of initial assignment and at least annually thereafter.

(iii) Training for Class I and II operations shall be the equivalent in curriculum, training method and length to the EPA Model Accreditation Plan (MAP) asbestos abatement worker training (40 CFR Part 763, Subpart E, Appendix C.). For employers whose Class II work with asbestos-containing material involves only the removal and/or disturbance of one generic category of building material, such as roofing materials, flooring materials, siding materials or transite panels, instead, such employer is required to train employees who perform such work by providing a training course which includes as a minimum all the elements included in paragraph (k)(8)(vi) of this section and in addition, the specific work practices and engineering controls set forth in paragraph (g) which specifically relate to that category. Such course shall include "hands-on" training and shall take at least 8 hours.

(iv) Training for Class III employees shall be the equivalent in curriculum and training method to the 16-hour Operations and Maintenance course developed by EPA for maintenance and custodial workers who conduct activities that will result in the disturbance of ACM. [See 40 CFR 763.92(a)(2)]. Such course shall include "hands-on" training in the use of respiratory protection and work practices and shall take at least 16 hours.

(v) Training for employees performing Class IV operations shall be the equivalent in curriculum and training method to the awareness training course developed by EPA for maintenance and custodial workers who work in buildings containing asbestos-containing material. [See 40 CFR 763.92 (a)(1)]. Such course shall include available information concerning the locations of PACM and ACM, and asbestos-containing flooring material, or flooring material where the absence of asbestos has not been certified; and instruction in recognition of damage, deterioration, and delamination of asbestos containing building materials. Such a course shall take at least 2 hours.

(vi) The training program shall be conducted in a manner that the employee is able to understand. In addition to the content required by provisions in paragraph (k)(8)(iii) of this section, the employer shall ensure that each such employee is informed of the following:

(A) Methods of recognizing asbestos, including the requirement in paragraph (k)(1) of this section to presume that certain building materials contain asbestos;

(B) The health effects associated with asbestos exposure;

(C) The relationship between smoking and asbestos in producing lung cancer;

(D) The nature of operations that could result in exposure to asbestos, the importance of necessary protective controls to minimize exposure including, as applicable, engineering controls, work practices, respirators, housekeeping procedures, hygiene facilities, protective clothing, decontamination procedures, emergency procedures, and waste disposal procedures, and any necessary instruction in the use of these controls

(i) All Class II work shall be supervised by a competent person as defined in paragraph (b) of this section.

(ii) For all indoor Class II jobs, where the employer has not produced a negative exposure assessment pursuant to paragraph (f)(4)(iii) of this section, or where during the job changed conditions indicate there may be exposure above the PEL or where the employer does not remove the ACM in a substantially intact state, the employer shall use one of the following methods to ensure that airborne asbestos does not migrate from the regulated area:

(A) Critical barriers shall be placed over all openings to the regulated area; or,

(B) The employer shall use another barrier or isolation method which prevents the migration of airborne asbestos from the regulated area, as verified by perimeter area monitoring or clearance monitoring which meets the criteria set out in paragraph (g)(4)(i)(B)(2) of this section.

(iii) Impermeable dropcloths shall be placed on surfaces beneath all removal activity;

(iv) All Class II asbestos work shall be performed using the work practices and requirements set out above in paragraph (g)(3) (i) through (v) of this section.

(8) Additional Controls for Class II work. Class II asbestos work shall also be performed by complying with the work practices and controls designated for each type of asbestos work to be performed, set out in this paragraph. Where more than one control method may be used for a type of asbestos work, the employer may choose one or a combination of designated control methods. Class II work also may be performed using a method allowed for Class I work, except that glove bags and glove boxes are allowed if they fully enclose the Class II material to be removed.

(i) For removing vinyl and asphalt flooring materials which contain ACM or for which in buildings constructed no later than 1980, the employer has not verified the absence of ACM pursuant to paragraph (g)(8)(i)(I) of this section. The employer shall ensure that employees comply with the following work practices and that employees are trained in these practices pursuant to paragraph (k)(8):

(A) Flooring or its backing shall not be sanded.

(B) Vacuums equipped with HEPA filter, disposable dust bag, and metal floor tool (no brush) shall be used to clean floors.

(C) Resilient sheeting shall be removed by cutting with wetting of the snip point and wetting during delamination. Rip-up of resilient sheet floor material is prohibited.

(D) All scraping of residual adhesive and/or backing shall be performed using wet methods.

(E) Dry sweeping is prohibited.

(F) Mechanical chipping is prohibited unless performed in a negative pressure enclosure which meets the requirements of paragraph (g)(5)(iv) of this section.

(G) Tiles shall be removed intact, unless the employer demonstrates that intact removal is not possible.

(H) When tiles are heated and can be removed intact, wetting may be omitted.

(I) Resilient flooring material including associated mastic and backing shall be assumed to be asbestos-containing unless an industrial hygienist determines that it is asbestos-free using recognized analytical techniques.

(ii) For removing roofing material which contains ACM the employer shall ensure that the following work practices are followed:

(A) Roofing material shall be removed in an intact state to the extent feasible.

(B) Wet methods shall be used where feasible.

(C) Cutting machines shall be continuously misted during use, unless a competent person determines that misting substantially decreases worker safety.

(D) All loose dust left by the sawing operation must be HEPA vacuumed immediately.

(E) Unwrapped or unbagged roofing material shall be immediately lowered to the ground via covered, dust-tight chute, crane or hoist, or placed in an impermeable waste bag or wrapped in plastic sheeting and lowered to ground no later than the end of the work shift.

(F) Upon being lowered, unwrapped material shall be transferred to a closed receptacle in such manner so as to preclude the dispersion of dust.

(G) Roof level heating and ventilation air intake sources shall be isolated or the ventilation system shall be shut down.

(iii) When removing cementitious asbestos-containing siding and shingles or transite panels containing ACM, the employer shall ensure that the following work practices are followed:

(A) Cutting, abrading or breaking siding, shingles, or transite panels, shall be prohibited unless the employer can demonstrate that methods less likely to result in asbestos fiber release cannot be used.

(B) Each panel or shingle shall be sprayed with amended water prior to removal.

(C) Unwrapped or unbagged panels or shingles shall be immediately lowered to the ground via covered dust-tight chute, crane or hoist, or placed in an impervious waste bag or wrapped in plastic sheeting and lowered to the ground no later than the end of the work shift.

(D) Nails shall be cut with flat, sharp instruments.

(iv) When removing gaskets containing ACM, the employer shall ensure that the following work practices are followed:

(A) If a gasket is visibly deteriorated and unlikely to be removed intact, removal shall be undertaken within a glovebag as described in paragraph (g)(5)(ii) of this section.

(B) The gasket shall be thoroughly wetted with amended water prior to its removal.

(C) The wet gasket shall be immediately placed in a disposal container.

(D) Any scraping to remove residue must be performed wet.

(v) When performing any other Class II removal of asbestos containing material for which specific controls have not been listed in paragraph (g)(8)(iv) (A) through (D) of this section, the employer shall ensure that the following work practices are complied with.

(A) The material shall be thoroughly wetted with amended water prior and during its removal.

(B) The material shall be removed in an intact state unless the employer demonstrates that intact removal is not possible.

(C) Cutting, abrading or breaking the material shall be prohibited unless the employer can demonstrate that methods less likely to result in asbestos fiber release are not feasible.

(D) Asbestos-containing material removed, shall be immediately bagged or wrapped, or kept wetted until transferred to a closed receptacle, no later than the end of the work shift.

(vi) Alternative Work Practices and Controls. Instead of the work practices and controls listed in paragraph (g)(8) (i) through (v) of this section, the employer may use different or modified engineering and work practice controls if the following provisions are complied with.

(A) The employer shall demonstrate by data representing employee exposure during the use of such method under conditions which closely resemble the conditions under which the method is to be used, that employee exposure will not exceed the PELs under any anticipated circumstances.

(B) A competent person shall evaluate the work area, the projected work practices and the engineering controls,

2. If the potentially friable areas are inside a section of A/C pipe, wrap and seal the outside ends of the pipe with plastic and then handle the pipe as ACM. See Section 1.3.8, Handling and Disposal of Nonfriable ACM.

3. If portions of the facility component or A/C pipe are still potentially friable after taking steps 1 and 2, adequately wet the facility component or section of pipe, and if possible, store the wet pieces in 55-gallon drums, covered roll-off boxes, plastic lined boxes, or an equivalent leak-tight container until a third party can remove the RACM from the property. See Section 1.3.6, Handling and Disposal of Friable ACM / RACM.

Note: If the RACM created by or during an activity exceeds the threshold quantity, the NESHAP notification requirements apply. See Section 1.3.5, Threshold Quantities of RACM, and Section 1.4, NESHAP Notification.

1.3.8 Handling and Disposal of Nonfriable ACM

ACM shall be handled carefully to avoid disturbing or creating RACM. During renovation or demolition of a pipeline, care must be taken not to intentionally "stab" or crush sections of A/C pipe with equipment. The Arizona Department of Environmental Quality has determined these actions are likely to create RACM.

The moving or dislodging of a pipeline does not require a notice of renovation unless the Building Inspector determines a threshold quantity is affected.

The disposal of ACM is not regulated under NESHAP therefore the material may be treated as a solid waste and disposed of in on-site landfills. However, care must be taken not to crush ACM including A/C pipe during disposal. Obviously, the disposed ACM may crush when covered, but as long as it is not exposed to the air, this is acceptable.

In some cases, the Contractor / Supervisor or Building Inspector may determine that leaving an A/C pipeline buried is the most effective means of managing the ACM. This is acceptable provided the Contractor / Supervisor or Building Inspector contacts the Engineering / Planning Department and a determination is made that the burial site area will not be impacted in the foreseeable future.

Similarly, covering ACM floor and ceiling tiles may be preferable to replacement. In many cases, covering ACM will reduce potential asbestos exposure.

Installation of new or non-RACM A/C pipe does not require the presence of a certified Contractor / Supervisor. Nonetheless, necessary precautions shall be taken to prevent transite pipe from becoming RACM through improper handling procedures. Note: OSHA facilities require trained personnel for all ACM handling activies.

ACM shall not be disposed of in tailing, leach dump or waste dump facilities. Even though ACM is not regulated under NESHAP, it is still a solid waste and therefore prohibited in these facilities.

1.4 NESHAP NOTIFICATION

1.4.1 In General

Yes In addition to the legal notification requirements outlined below, the Environmental Department at the ASARCO complex or unit should be notified prior to any planned on-site renovation or demolition.

For activities at the Ray Complex (Pinal County), original notice must be sent to the Asbestos NESHAP Coordinator, Pinal County Air Quality Control District, P.O. Box 987, Florence, Arizona 85232, and a copy sent to the NESHAP Coordinator, ADEQ, 3033 N. Central Avenue, Phoenix, Arizona 85012.

For activities at the Mission Complex and Silver Bell Unit (Pima County), original notice must be sent to the Asbestos NESHAP Coordinator, Pima County Department of Environmental Quality (PDEQ), 130 W. Congress Street, 3rd Floor, Tucson, Arizona 86701, and a copy sent to the NESHAP Coordinator, ADEQ, 3033 N. Central Avenue, Phoenix, Arizona 85012.

For activities in Texas, original notice must be sent to TD.14

1.4.2 Requirements

If the Building Inspector determines the renovation activity will affect or has affected RACM in excess of the threshold quantity, or if the activity is a demolition, the following notification requirements apply:

1. Notice must be made on ADEQ's standardized NESHAP Notification of Demolition and Renovation form. See Attachment No. 1.

2. Notice must be postmarked or delivered:

   at least ten (10) working days before the activity begins, or

   by December 21 of the year preceding the year in which the combined amounts from nonscheduled operations are expected to exceed a threshold quantity (See Attachment No. 3, Draft Annual Renovation Notification letter), or

   no later than the following working day if an emergency renovation is required and the operation exceeds a threshold quantity.

3. Notice must be updated if the quantity of RACM affected increases by 20%, or if the date of the activity changes from that reported on the original notice.

Attachment #2

