

CAUSE NO. 98-1338

MARY HERMOSILLO, Individually and
as Personal Representative of the
Heirs and Estate of EDMUNDO I.
HERMOSILLO, Deceased

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IN THE COUNTY COURT OF

VS.

EL PASO COUNTY, TEXAS

OWENS CORNING, ET AL

COUNTY COURT AT LAW
NO. 2

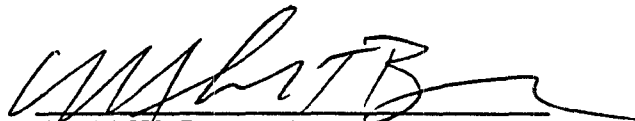
**CHEVRON U.S.A. INC.'S SECOND SUPPLEMENTAL RESPONSE
TO PLAINTIFFS' REQUEST FOR PRODUCTION**

TO: MARY HERMOSILLO, by and through her attorney of record, Ms. Alicia J. Haff,
BARON & BUDD, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

NOW COMES CHEVRON U.S.A. INC., Defendant herein, and makes and files this its
Second Supplemental Response to Plaintiff's First Request for Production.

Respectfully submitted,

STRONG, PIPKIN, NELSON,
BISSELL & LEDYARD, L.L.P.



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ATTORNEYS FOR DEFENDANT,
CHEVRON U.S.A. INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Chevron U.S.A. Inc.'s Supplemental Responses to Plaintiff's First Request for Production is being furnished to Plaintiffs' counsel by Federal Express, and to all other counsel of record by regular mail, on this the 16 day of October, 1998.



Michael T. Bridwell

NOTICE REGARDING APPLICABILITY OF OBJECTIONS

The following objections apply to each and every interrogatory and request for production which includes or utilizes any term, definition, phrase or instruction to which any objection is made.

Any response to any request for production or interrogatory is made subject to each and every applicable objection and without waiving any such objection. Any responses likewise and made subject to and without waiving any individual objection made specifically to the interrogatory or request for production for which the response is offered.

OBJECTIONS

A. OBJECTIONS TO DISCOVERY

1. Defendant objects to Plaintiff's First Set of Interrogatories and Request for Production in their entirety because they were served at a time in direct contravention of Standing Order No. 1 for asbestos litigation in the District Courts and County Courts at Law of El Paso County, Texas. Plaintiff served the subject discovery on or about June 30, 1998 at a time when Standing Order No. 1 prohibited such interrogatories being served and responses being required without leave of court after hearing. See Paragraph No. 14 of Standing Order No. 1.
2. Defendant objects to Plaintiff's Interrogatories and Request for Production as they are overly broad, over burdensome and harassing given that Plaintiff's have not yet adequately specified the work history of Edmundo Hermosillo. Specifically, Defendants would show that Standing Order No. 1 includes master discovery propounded to the plaintiff which provide that the Plaintiff is to detail the applicable employment history including, the dates when the decedent worked for each employer, the location and description of each job site where the decedent was employed, the dates the decedent worked at each such job site, the wage rate for each job site where asbestos exposure is claimed, each job site where the Plaintiff claims the decedent was exposed to asbestos, the dates when it is claimed decedent was exposed to asbestos and the name, business address, home address, relationship to Plaintiff and present occupation of each and every witness that has knowledge of fact relevant to any time that Plaintiff claims that the decedent was exposed to asbestos containing products. The information provided by Plaintiffs did not (and still does not) comport with the requirements of Standing Order No. 1 and accordingly, Plaintiffs have not provided sufficient information to establish presence of the decedents on Defendant's premises such that discovery to Defendant is justified.
3. Defendant objects to Plaintiff's interrogatories and document requests to the extent that they seek documents or information protected by the attorney work product privilege, the attorney/client privilege, the investigative privilege, the party communication privilege, the witness statement privilege, or any other applicable privilege or immunity from discovery provided by Texas Rule of Civil Procedure 166b(3), the Texas Rules of Civil Evidence, and/or the common law. At the appropriate time, Defendant will satisfy its burden of establishing the privileged status of any information, document, or category of documents withheld on grounds of privilege, including, if necessary, by producing such documents for

in camera inspection by the Court.

4. Defendant objects to Plaintiff's interrogatories and document requests to the extent that they seek documents or information not in the possession, custody, or control of Defendant. Such requests seek documents or information (i) not relevant to the subject matter of this lawsuit and not reasonably calculated to lead to the discovery of admissible evidence and (ii) outside the scope of permissible discovery.
5. Defendant objects to Plaintiff's interrogatories and document requests to the extent that they seek information or documents outside the relevant time period. Plaintiff's requests and interrogatories span more than any possible period of time during which Mr. Hermosillo could have been employed at the facility in question and thus are overly broad, unduly burdensome, harassing, and call for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
6. Defendant objects to Plaintiff's interrogatories and document requests to the extent they seek information or documents pertaining to injuries or human health effects which are not reasonably similar to those alleged by Plaintiff in this lawsuit, and therefore not relevant to any issue in this lawsuit.
7. Defendant objects to Plaintiff's interrogatories and document requests to the extent that they seek to require production of information which is equally available to the Plaintiff as to Defendant.
8. Defendant objects to the whole of Plaintiff's discovery requests as so overly broad and overburdensome that Plaintiff's discovery constitutes harassment. This suit involves a person employed by a finite number of employers at a finite number of locations during specific years (albeit yet unidentified specifically by Plaintiffs). Plaintiff's claim is that decedent was exposed to asbestos containing produces on Defendant's premises during the course and scope of his employment with various known employers. Plaintiffs should be seeking production of records and information relevant to issues raised by that particular fact situation. Plaintiff's attempts to expand discovery to include information regarding irrelevant time periods and irrelevant materials produced at irrelevant locations by irrelevant persons or entities constitutes an impermissible abuse of the discovery rules and general misuse of the laws of the State of Texas.
9. Defendant objects to Plaintiff's interrogatories and document requests to the extent that they seek information regarding trade secrets, confidential data, or other proprietary information.
10. Defendant objects to Plaintiff's interrogatories and document requests to the extent that they seek information that is not within the known personal knowledge of Defendant or its current employees.
11. Defendant objects to any of Plaintiff's interrogatories and document requests which seek information regarding entities other than Defendant. Such interrogatories and requests

are overly broad, unduly burdensome and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

12. Defendant objects to any of Plaintiff's interrogatories or document requests which seek information on any facility than its El Paso, Texas facility. Such interrogatories and requests are overly broad, unduly burdensome, and seek information and documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

B. OBJECTIONS TO PLAINTIFF'S DEFINITIONS

1. Defendant objects to Plaintiff's definition of the terms "Defendant", "you", "your", and "your company". To the extent the terms can be read to refer to Defendant's attorneys, any interrogatory or request for production utilizing any of these terms necessarily invades the attorney work product privilege and attorney/client privilege in violation of Rule 166b(3) (a) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. To the extent the terms are intended to include predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates, as well as present and former officers, directors, agents, employees and other persons acting or purporting to act on behalf of the corporate defendant, any interrogatory or request for production utilizing these terms is so overly broad, and over burdensome as to make any request or interrogatory utilizing the term virtually impossible to answer. Further, to the extent the definition is intended to include any merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates, any interrogatory or request for production utilizing any of these terms is necessarily overly broad, over burdensome and calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Plaintiffs apparent attempt to place upon Defendant the burden to seek information from former officers, directors, agents and employees over whom Defendant no longer have dominion or control. Any interrogatory or request for production utilizing any of these terms is a "fishing expedition" in violation of Texas law as concerns discovery.
2. Defendant objects to Plaintiff's definition of the terms "document", "documents", "written materials", or "printed matters" as the definition of those terms renders any interrogatory or request for production utilizing any of these terms overly broad, over burdensome, harassing, and reduces any such interrogatory or request for production to a "fishing expedition" in violation of Texas law concerning discovery. Defendant further objects to the definition of these terms as calling for the production of material or information which is neither relevant nor reasonably calculated to the discovery of admissible evidence. Defendant further objects to the definition of these terms to the extent it purports to include an obligation to locate and produce information or documentation which is no longer in the possession or control of this Defendant or from entities who are not parties to this cause of action.
3. Defendant objects to Plaintiff's definition of the words "meeting" or "meetings" as any

interrogatory or request for production utilizing those terms is overly broad, and over burdensome in that it purports to require documentation or information concerning any casual or coincidental meeting.

4. Defendant objects to Plaintiff's definition of the terms "describe" or "description" as it is vague, ambiguous and requires Defendant to speculate on what identification rises to the level of sufficient particularity so as to enable one to "fully comprehend" or understand the place, thing or occurrence described.
5. Defendant objects to Plaintiff's definition of the term "medical advisory capacity" in that the definition renders any interrogatory or request for production utilizing the term overly broad, over burdensome, harassing and calling for information or material which is neither relevant or reasonably calculated to lead to the discovery of admissible evidence. The definition of the term utilizes the term "Defendant" which is, itself, defined in Plaintiff's definition No. 1. Please refer to Defendant's objection to Plaintiff's definition of the term "Defendant" which is incorporated herein the same as if fully set forth at length.
6. Defendant objects to Plaintiff's definition of the terms "medical department" and "safety department" in that the definition renders any interrogatory or request for production utilizing the term overly broad, over burdensome, harassing and calling for information or material which is neither relevant or reasonably calculated to lead to the discovery of admissible evidence. The definition of the term utilizes the term "Defendant" which is, itself, defined in Plaintiff's definition No. 1. Please refer to Defendant's objection to Plaintiff's definition of the term "Defendant" which is incorporated herein the same as if fully set forth at length.
7. Defendant objects to Plaintiff's definition of the terms "potential health hazards" or "health hazards" in that any interrogatory or request for production utilizing these terms is vague and ambiguous in that issues exists and minds differ with respect to impairments or disabilities and their associations with exposures to asbestos dust and fibers, if any.

**DEFENDANT'S SUPPLEMENTAL RESPONSES TO
PLAINTIFF'S REQUEST FOR PRODUCTION**

REQUEST FOR PRODUCTION NO. 1

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:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor scope.

Without waiving the foregoing, and in addition to documents previously produced, documents are available for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time. Plaintiff's copies are enclosed.

REQUEST FOR PRODUCTION NO. 2:

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

RESPONSE:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor scope. To the extent this request purports to call for the production of books, reports of plaintiff's experts, and the like, all such material is equally available to Plaintiffs.

Defendant's investigation is continuing and Defendant reserves the right to supplement this response as additional information is located.

Without waiving the foregoing, and in addition to documents previously produced, documents are available for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time. Plaintiff's copies are enclosed. In addition, a set of Asbestos Worker Journals and "green sheets" are also available to all parties for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time.

REQUEST FOR PRODUCTION NO. 5:

Produce all safety meeting minutes or other documents, that refer to the dangers of asbestos safety measures to be used in the vicinity of asbestos at Defendant's Premises.

RESPONSE:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor scope. Defendant further objects to this interrogatory as vague and ambiguous.

Without waiving the foregoing, and in addition to documents previously produced, documents are available for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time. Plaintiff's copies are enclosed. In addition, please see response to Request for Production No. 27.

REQUEST FOR PRODUCTION NO. 6:

Produce all contracts, or other documents that relate to abatement of asbestos at Defendant's Premises.

RESPONSE:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party

communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor scope.

Without waiving the foregoing, and in addition to documents previously produced, documents are available for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time. Plaintiff's copies are enclosed. In addition, please see response to Request for Production No. 27. Plaintiff's copies are enclosed.

REQUEST FOR PRODUCTION NO. 7:

Produce all contracts, or other documents that relate to the installation of asbestos products at Defendant's Premises.

RESPONSE:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor scope.

Without waiving the foregoing, and in addition to documents previously produced, documents are available for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time. Plaintiff's copies are enclosed. In addition, please see responses to Request for Production Nos. 8, 9 and 27.

REQUEST FOR PRODUCTION NO. 8:

Produce all documents that in any way reflect a removal plan or organized written criteria or schedule for the removal of asbestos at Defendant's Premises.

RESPONSE:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor scope.

Without waiving the foregoing, and in addition to documents previously produced, documents are available for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time. Plaintiff's copies are enclosed. In addition, please see responses to Request for Production Nos. 7, 9 and 27.

REQUEST FOR PRODUCTION NO. 9:

Produce all documents that relate to abatement of asbestos from any of your plants, including but not limited to the Defendant's Premises located in El Paso, Texas.

RESPONSE:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor in scope to the applicable premises alleged to be involved in the incidents made the basis of plaintiff's suit. Defendant further objects to this interrogatory as additionally vague, overly broad, over burdensome and irrelevant given Plaintiff's definition of the term "your".

Without waiving the foregoing, and in addition to documents previously produced, documents are available for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time. Plaintiff's copies are enclosed. In addition, please see responses to Request for Production Nos. 7, 8 and 27.

REQUEST FOR PRODUCTION NO. 13:

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

RESPONSE:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor in scope. Defendant further objects to this request as calling for material which is equally accessible to Plaintiffs.

Without waiving the foregoing, and in addition to documents previously produced, documents are available for inspection and copying at the offices of Strong, Pipkin, Nelson, Bissell & Ledyard at any mutually convenient time. Plaintiff's copies are enclosed. In addition, please see response to Request for Production No. 27.

REQUEST FOR PRODUCTION NO. 17:

Produce all documents, including but not limited to, corporate minutes, which mention the hazards or potential hazards of asbestos.

RESPONSE:

In addition to all previous objections which are incorporated herein, Defendant objects to this request insofar as it calls for the production of material exempted from discovery by the privileges afforded attorney work product, attorney/client communication and party communication all of which are embodied in Rule 166b (3) (a) (d) and (e) of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. Defendant further objects to this request as it is overly broad, over burdensome, harassing and amounts to nothing more than an impermissible fishing expedition in violation of Texas law regarding discovery. Defendant further objects to this request as it calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in time nor in scope to the facility alleged to be made the basis of this suit.

Without waiving the foregoing, and in addition to documents previously produced,