

CAUSE NO. 00-5325-D

IMAGING

H. RISLEY, ET AL.

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IN THE DISTRICT COURT

105TH JUDICIAL DISTRICT

GAF CORPORATION, ET AL.

NUECES COUNTY, TEXAS

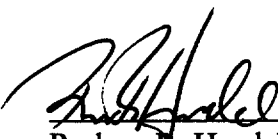
**ASARCO INCORPORATED'S OBJECTIONS AND RESPONSES TO PLAINTIFF
ISABEL T. GUERRERO'S FIRST SET OF INTERROGATORIES,
REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION**

TO: ISABEL T. GUERRERO, Plaintiff, by and through his attorney of record, Ms. Tiffany L. Newlin, Ms. Elizabeth R. Schick, Baron & Budd, P.C., 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.

Defendant ASARCO INCORPORATED (f/k/a American Smelting and Refining Company) (hereinafter referred to as "ASARCO"), by and through its attorneys of record Kenneth R. Meyer, Esq., Porzio, Bromberg & Newman, P.C., 100 Southgate Parkway, Morristown, New Jersey, 07962-1977 and Rodney R. Handel, Esq., Hunter & Handel, P.C., 555 North Carancahua, Suite 1600, Corpus Christi, Texas 78478, hereby responds to Plaintiff's First Set of Interrogatories, Requests for Production and Requests for Admission as attached hereto, subject to the following general and specific objections.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT,
ASARCO INCORPORATED f/k/a
AMERICAN SMELTING AND
REFINING COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been duly served on opposing counsel via facsimile and/or Certified Mail, Return Receipt Requested on this 1st day of March, 2002.



Rodney R. Handel

**ASARCO INCORPORATED'S OBJECTIONS AND RESPONSES
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, REQUESTS FOR
PRODUCTION AND REQUEST FOR ADMISSION**

GENERAL OBJECTIONS

1. ASARCO objects to any interrogatory, document request, request for admission, definition or instruction that purports to require ASARCO to respond to any discovery request in a manner or to an extent not required by the pertinent Texas Rules of Civil Procedure.

2. ASARCO objects to any interrogatory, document request or request for admission that seeks information or documents protected by any privilege, including the attorney-client and/or attorney work product privileges.

3. ASARCO objects to any interrogatory, document request or request for admission to the extent that it seeks information or documents regarding trade secrets, confidential financial data or other proprietary information.

4. ASARCO objects to any interrogatory, document request or request for admission to the extent that it seeks information or documents that are not within the personal knowledge of ASARCO or its current employees.

5. ASARCO generally objects to any request for documents that are not in ASARCO's possession, custody, or control.

6. ASARCO objects to any interrogatory, document request or request for admission that seeks information or documents that are not relevant to the subject matter involved in the pending action, that are not reasonably calculated to lead to the discovery of admissible evidence, that were prepared in anticipation of litigation or for trial by or for ASARCO's representatives, including attorneys, consultants, and agents, or that are otherwise beyond the scope of discovery permitted by the Texas Rules of Civil Procedure.

7. ASARCO generally objects to any interrogatory, document request or request for admission that seeks information as to entities other than ASARCO on the ground that such interrogatory or request is overly broad, unduly burdensome and seeks information or documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

8. ASARCO objects to any interrogatory, document request or request for admission regarding ASARCO facilities that are not at issue in this case on the ground that any such interrogatory or request is overly broad, unduly burdensome and seeks information or documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

9. ASARCO objects to any interrogatory, document request or request for admission that seeks information regarding a Plaintiff other than Isabel T. Guerrero on the ground that such Plaintiff asserts no claims against ASARCO and any such interrogatory, document request or request for

admission is therefore overly broad, unduly burdensome and seeks information or documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

10. ASARCO objects to any interrogatory, document request or request for admission that seeks information outside of the years during which years Plaintiff Isabel T. Guerrero, allegedly worked, for a limited time, for independent contractors at ASARCO's Corpus Christi facility, on the ground that any such interrogatory, document request or request for admission is overly broad, unduly burdensome and seeks information or documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

11. When ASARCO otherwise responds to an interrogatory, document request or request for admission, it does so by incorporating each of these General Objections into each individual response, without waiving any of its stated objections.

OBJECTIONS TO DEFINITIONS

1. ASARCO objects to Plaintiff's definition of "Defendant", "You", "Your" and "Your Company" to the extent that it includes entities that are not parties to this case and to the extent it includes former officers, directors, agents and employees over whom ASARCO no longer has control. By way of further objection, the use of these definitions transforms Plaintiff's interrogatories, requests for production and requests for admission into an overly broad, unduly burdensome fishing expedition in violation of the Texas Rules of Civil Procedure.

2. ASARCO objects to Plaintiff's definition of the term "subsidiaries" on the ground that it is overly broad, vague, ill-defined, not susceptible to a precise response and includes entities that are not parties to this case.

3. ASARCO objects to Plaintiff's definition of "document", "documents", "written materials" and "printed matters" to the extent it includes information protected by privilege, including the attorney-client and attorney work product privileges. ASARCO further objects to this definition to the extent it includes documents which are no longer in ASARCO's possession and which, consequently, cannot be produced. By way of further objection, ASARCO objects to this definition to the extent it includes documents from entities that are not named defendants in this case.

4. ASARCO objects to Plaintiff's definition of "person" and "persons" to the extent it includes entities that are not parties to this case. ASARCO further objects to this definition to the extent it includes former officers, directors, agents and employees over whom ASARCO no longer has control. By way of further objection, the use of these definitions transforms Plaintiff's interrogatories, requests for production and requests for admission into an overly broad, unduly burdensome fishing expedition in violation of the Texas Rules of Civil Procedure.

5. ASARCO objects to Plaintiff's definition of the words "meeting" and "meetings" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response.

6. ASARCO objects to Plaintiff's definition of the words "describe" or "description" on the ground that it is overly broad, vague, ill-defined and purports to place on ASARCO the burden of ensuring Plaintiff's full comprehension and understanding of the response, a subjective evaluation which ASARCO has no means of making.

7. ASARCO objects to Plaintiff's definition of "product containing asbestos fibers," "asbestos-containing products," "asbestos products" and "asbestos materials" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response.

8. ASARCO objects to Plaintiff's definition of "medical advisory capacity" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response.

9. ASARCO objects to Plaintiff's definition of "trade organization" and "trade association" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response.

10. ASARCO objects to Plaintiff's definition of "plant" and "facility" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response. It is also irrelevant insofar as it includes information or documents relating to worksites other than ASARCO's Corpus Christi facility and entities that are not parties to this action.

11. ASARCO objects to Plaintiff's definition of "manufacture" and "manufactured" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response. It is also irrelevant insofar as it seeks information or documents relating to products that did not contain asbestos or to which Plaintiff has not alleged exposure.

12. ASARCO objects to Plaintiff's definition of "research" and "research department" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response. It is also irrelevant insofar as it seeks information or documents relating to products that do not contain asbestos or to which Plaintiff has not alleged exposure.

13. ASARCO objects to Plaintiff's definition of "medical department", "safety department" and "industrial hygiene department" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response.

14. ASARCO objects to Plaintiff's definition of "industrial hygiene surveys" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response.

15. ASARCO objects to Plaintiff's definition of "potential health hazards" and "health hazards" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response. It is also objectionable insofar as it assumes that any exposure, however slight or within guidelines set by government regulatory agencies and/or industry groups, poses a hazard.

16. ASARCO objects to Plaintiff's definition of "test" and "testing" on the ground that it is overly broad and irrelevant insofar as it encompasses substances other than asbestos, seeks

information and documents relating to locations other than ASARCO's Corpus Christi facility and is without time limitation.

17. ASARCO objects to Plaintiff's definition of "identify" as used in connection with documents and persons on the ground that it is overly broad and burdensome insofar as it seeks information that is apparent on the face of the documents and information that is outside of ASARCO's knowledge.

18. ASARCO objects to Plaintiff's definition of "Premises At Issue" on the ground that it is overly broad, burdensome, and vague insofar as it seeks information or documents relating to locations other than ASARCO's Corpus Christi facility or from entities that are not parties to this lawsuit.

19. ASARCO objects to Plaintiff's definition of "workers" and "persons working at defendant's Premises At Issue" on the ground that it is overly broad, vague, and ill-defined insofar as it purports to include persons such as independent contractors over whom ASARCO did not have control or for whose actions it did not owe a duty of care.

20. ASARCO objects to Plaintiff's definition of the terms "abate" and "abatement" insofar as it seeks information and documents relating to substances other than asbestos or locations other than ASARCO's Corpus Christi facility.

21. ASARCO objects to Plaintiff's definition of the term "Time Period At Issue" on the ground that it is overly broad, vague and ill-defined insofar as Plaintiff has yet to state, with specificity, the dates at which he alleges to have worked at ASARCO's Corpus Christi facility. It is also objectionable to the extent it refers to a time period during which plaintiff was not working at the Corpus Christi facility.

22. ASARCO objects to Plaintiff's definition of the term "Plaintiff's Employer" as overly broad, vague, ill-defined and not susceptible to a precise response.

ASARCO'S ANSWERS TO 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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and irrelevant to the extent that it seeks the identity of each individual who supplied information, no matter how insignificant or minute the information supplied. By way of further objection, a year by year list of all other positions, titles or jobs held by each such individual is overly broad and irrelevant to the issues raised in this case.

Subject to and without waiving the foregoing objections, information contained within certain answers to certain questions in this set of interrogatories was secured directly or indirectly from former ASARCO employees, including, but not limited to:

Robert S. Jones, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Jones was employed by ASARCO at the Corpus Christi facility from approximately 1949 to 1985 in various positions including Engineer, Power Plant Assistant Superintendent, Power Plant Superintendent, Assistant Plant Engineer, and Plant Engineer.

C. B. White, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. White was employed by ASARCO at the Corpus Christi facility from approximately 1946 to 1983 in various positions including Assistant Personnel and Safety Director, Personnel and Safety Director, Assistant Plant Manager, and Plant Manager.

K. W. Nelson, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Nelson was employed by ASARCO from approximately 1945 through 1982 in various positions in the Industrial Hygiene department and Environmental Sciences department.

Michael O. Varner c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Varner was employed by ASARCO from approximately 1971 through 1999 in various positions in the Environmental Sciences department, Technical Services department and Environmental Operations department.

Donald A. Robbins, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Robbins is currently employed by ASARCO as the Director of Environmental Services.

John B. Richardson, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Richardson has been employed by ASARCO, from approximately 1973 through

the present, in various positions in the Environmental Sciences department and Technical Services department.

James P. Sieverson, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Sieverson was employed by ASARCO from approximately 1972 through 1990 in various positions in the Environmental Sciences department.

ASARCO's investigation is ongoing and it reserves the right to supplement this answer in the course of continuing discovery.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it calls for information outside the periods during which Plaintiff allegedly worked at the Corpus Christi facility. Moreover, Plaintiff has failed to identify any asbestos-containing products to which he was allegedly exposed, the locations within the Corpus Christi facility where he allegedly was exposed to such products and failed to state whether any such products were in place at ASARCO or brought in by outside contractors. By way of further objection, this Interrogatory calls for a medical opinion or conclusion which ASARCO is not qualified to render. Furthermore, ASARCO objects to any request for information from predecessor or subsidiary companies that are not named defendants in this action on the ground that any such request is overly broad, unduly burdensome and seeks irrelevant information.

Subject to and without waiving the foregoing objections, ASARCO states that by the 1930's governmental and private industrial hygienists, occupational physicians and sophisticated manufacturing concerns were aware that susceptible persons who are exposed to excessive amounts of asbestos fibers over a prolonged period of time might develop the disease asbestosis. Medical and scientific literature on the potential dangers of asbestos had been published in a variety of medical and scientific periodicals, textbooks and other publications which were readily available to any interested entity or individual. ASARCO is and was aware that by the 1950's contradictory articles on whether there was an association between asbestosis and an increased incidence of lung cancer appeared in the medical literature. Most authors who reported the possibility of such an association recognized that both the methodology of the studies and limited number of cases reported prevented any firm conclusion. Further, many researchers had reported a lack of association between asbestos exposure and lung cancer and asbestosis and lung cancer. Additionally, ASARCO is and was aware that throughout the 1960's new studies regarding the health effects of asbestos

inhalation were published. Certain of those studies suggested that persons exposed to asbestos-containing products might have an increased risk of developing lung cancer and mesothelioma.

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:

ASARCO objects to this Interrogatory on the ground that it is overly broad, without time limitation, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it calls for information outside the periods during which Plaintiff allegedly worked at the Corpus Christi facility. By way of further objection, the phrase "any other industry-wide group" is vague, ill-defined and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO states that it was never a member of an asbestos-related trade organization as it understands the term. It was, however, a member of the Industrial Hygiene Foundation from 1937 to 1982. It also was a member of the National Safety Council.

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:

ASARCO objects to this Interrogatory on the ground that it is overly broad and without time limitation, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, a precise response to this Interrogatory is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility.

Subject to and without waiving the foregoing objections, K. W. Nelson and Dr. Sherman S. Pinto attended the New York Academy of Sciences Conference on Biological Effects of Asbestos held in New York, N.Y. on October 19-21, 1964. See also ASARCO's objections and response to Interrogatory No. 9.

ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, a precise response to this Interrogatory is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving these objections, see ASARCO's response to Request for Production No. 1.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, a precise response to this Interrogatory is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he was allegedly exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO's investigation to date reveals that no asbestos abatement, as ASARCO understands this term, occurred at the Corpus Christi plant up until the time that it ceased zinc smelting and refining operations in 1985.

ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

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:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome, duplicative, premature, seeks information that is neither relevant nor reasonably

calculated to lead to the discovery of admissible evidence and is otherwise outside the scope of proper discovery in that it calls for ASARCO to ascertain and obtain information from each and every person and/or entity having even the slightest knowledge of facts relevant to this case. ASARCO further objects that it has insufficient information from Plaintiff (including the nature and location within the facility of the work allegedly performed by Plaintiff) to adequately investigate, let alone answer this Interrogatory. ASARCO further objects to this Interrogatory to the extent it seeks information protected by the attorney-client and/or attorney work product privileges.

Subject to and without waiving the foregoing objections, ASARCO believes that individuals with knowledge of facts relevant to this case concerning the Corpus Christi facility during the relevant time period include, but are not limited to:

1. Donald A. Robbins, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Robbins is currently employed by ASARCO as the Director of Environmental Services.

2. C.B. White, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. White was employed by ASARCO at the Corpus Christi facility from approximately 1946 to 1983 in various positions including Assistant Personnel and Safety Director, Personnel and Safety Director, Assistant Plant Manager, and Plant Manager. He has knowledge of the overall plant operations.

3. K. W. Nelson, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Employed by ASARCO from approximately 1945 through 1982 in various positions in the Industrial Hygiene department and Environmental Sciences department.

4. Michael O. Varner, Mr. Varner was employed by ASARCO from 1971 through approximately 1999 and he held various positions in the Environmental Sciences, Technical Services and Environmental Operations departments.

5. John B. Richardson, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Richardson has been employed by ASARCO since approximately 1973, and he has held various positions in the Environmental Sciences and Technical Services departments.

6. James P. Sieverson, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Mr. Sieverson was employed by ASARCO from approximately 1972 through 1990 in various positions in the Environmental Sciences department.

7. Plaintiff's co-workers on the jobs that Plaintiff worked at the Corpus Christi facility.

8. Plaintiff's employers on the jobs that Plaintiff worked at the Corpus Christi facility.

9. Any individual heretofore or to be named as an expert witness by ASARCO with knowledge relevant to the Corpus Christi facility.

10. Any other individuals heretofore or to be named who were employed at the Corpus Christi facility during the relevant time period.

ASARCO reserves the right to call additional fact witnesses. Such additional fact witness will be identified at such time as Plaintiff provides sufficient information regarding the specific dates during which Plaintiff alleges exposure at the Corpus Christi facility and the nature and location of the work performed for ASARCO to adequately investigate such claim. ASARCO further reserves the right to call additional fact witnesses for the purpose of rebuttal or impeachment, if necessary, at the time of trial. As discovery in this case is ongoing, ASARCO further reserves the right to amend and/or supplement this response up to the time of trial.

See also ASARCO's objections and answer to Interrogatories No. 1 and No. 9.

INTERROGATORY NO. 8:

With respect to Defendant's Premises At Issue during the Time Period At Issue, please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as being employed by you or having been employed by you whose duties and/or responsibilities included interface or liaison with Plaintiff's employer or other contractors who installed, removed, maintained, repaired or replaced asbestos-containing products (including foremen or supervisors 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:

ASARCO objects to this Interrogatory on the grounds that the undefined terms "liaison" and "interface" are vague and ill-defined, and thus not susceptible to a precise response. Moreover, ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, a precise response to this Interrogatory is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility;" (ii) any asbestos-containing products to which he was allegedly exposed at the Corpus Christi facility and/or

the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use. Furthermore, it is objectionable as overly broad and unduly burdensome in that it seeks information concerning contractors other than Plaintiff's employer. Consequently, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, see the documents to be produced in response to Request for Production No. 5.

ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

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:

ASARCO objects to this Interrogatory as overly broad, unduly burdensome and ambiguous in its use of the undefined phrase "medical, safety or industrial hygiene advisory capacity". The use of this overly broad and undefined phrase literally implicates each and every person working at any time at ASARCO's Corpus Christi facility, as each and every ASARCO employee shared responsibility for safety as well as general hygiene at the Corpus Christi facility.

ASARCO further objects this interrogatory on the ground that it is overly broad, unduly burdensome and outside the scope of permissible discovery in that it seeks information over the approximately forty-four year history of the Corpus Christi facility and, thus, is not limited to the time-period when Plaintiff allegedly worked there for an independent contractor. Even if the Interrogatory were limited to such a period, it would nonetheless be objectionable as overly burdensome because it calls for details regarding the experience and qualifications of multiple individuals, some of whom may have worked at the Corpus Christi facility many decades ago and seeks safety and medical information other than that is not related to asbestos. Moreover, it seeks information and facts that are outside of ASARCO's knowledge and,

therefore, the scope of permissible discovery, such as the identities of persons known to independent contractors like Plaintiff's employer, who owed Plaintiff an independent and superseding duty of care.

Subject to and without waiving the foregoing objections, ASARCO identifies the following individuals (including ASARCO employees and contractors) who had responsibility at various times from 1945 onward for medical, safety and/or industrial hygiene activity and the information available to it regarding their qualifications.

A. Medical

Douglas H. Soutar, Esq. Mr. Soutar graduated from the University of Wisconsin in 1940 with a degree in philosophy. He is a graduate of University of Wisconsin law school and has post-graduate work in labor law at George Washington University. Mr. Soutar's professional associations include membership in the Industrial Hygiene Foundation, National Association of Manufacturers, US Chamber of Commerce and Labor Policy Association.

Mr. Soutar began working at ASARCO in August 1951 as assistant general counsel. In approximately 1952 or 1953, he became director of industrial relations. In May of 1984, he became Senior Vice President of Industrial Relations. Mr. Soutar retired from ASARCO in 1994.

Sherman Pinto, MD. Dr. Pinto was employed as ASARCO's Corporate Medical Director beginning in approximately 1948.

Charles Hine, MD. Dr. Hine was Corporate Medical Director after Dr. Pinto.

B. Safety

Douglas H. Soutar, Esq. See Section "A" above.

Rex Beckstead. Mr. Beckstead received his BS from the University of Utah in 1936 in Economics and Education. In 1939, he received a Masters degree from the University Southern CA, in Psychology and Personnel management. Mr. Beckstead joined ASARCO in September 1946 as Director of Safety and Technical Employment and Training and retired with the same title.

C. B. White. Mr. White was employed by ASARCO at the Corpus Christi facility from approximately 1946 to 1983 in various positions including Assistant Personnel and Safety Director, Personnel and Safety Director, Assistant Plant Manager and Plant Manager.

C. Industrial Hygiene

Douglas H. Soutar, Esq. See Section "A" above.

Philip Drinker. Mr. Drinker consulted with ASARCO on matters relating to industrial hygiene from approximately 1945 through 1958.

Kenneth W. Nelson. Mr. Nelson graduated from Superior (Wisconsin) State Teacher's College in 1938 with a bachelor's degree in education. In February 1942, while assigned to active duty in the Navy, Mr. Nelson attended the Harvard School of Public Health for industrial hygiene training, for which he received a certificate. He later earned a Master of Science degree from the University of Utah in 1957, with a major in chemistry and a minor in preventive medicine.

After graduation from college, Mr. Nelson briefly taught chemistry before accepting a position with the Food and Drug Administration in Washington, D.C. in February of 1940 where he worked in a laboratory doing toxicological testing and carcinogen testing on animals. He began with the FDA as a laboratory apprentice and was promoted to junior chemist. After completing industrial hygiene training at Harvard, Mr. Nelson joined with Harvard's Professor Drinker, then the head of Harvard's industrial hygiene department, to form a team of physicians and industrial hygienists to survey the occupational disease risks associated with ship building in the contract ship yards. This was a joint project for the Navy and Maritime Commission. The survey was completed in 1942, after which the team developed a manual of minimum requirements for safety and health for contract shipyards, which was subsequently adopted by the Maritime Commission and Navy.

Mr. Nelson's other duty stations with the Navy included, in mid-1944, the Norfolk Naval Shipyard in Norfolk, Virginia where he set up and ran a laboratory that was equipped to analyze air, milk and water at the shipyard. Thereafter, he was ordered to Washington, D.C. to be an assistant to the then Captain in the Navy's medical corps, where he remained until discharge in November 1945.

After discharge, Mr. Nelson was employed by the American Smelting and Refining Company as an industrial hygienist reporting to Dr. John Abersold in Salt Lake City. In 1950, he became chief hygienist and, in 1958, became Director of ASARCO's Department of Industrial Hygiene. In 1966, Mr. Nelson became Director of Hygiene and Director of ASARCO's Department of Agricultural Research, two departments that were then combined and renamed the Department of Environmental Sciences. He remained Director of the Department of Environmental Sciences until late 1973, when he was made Vice President for Environmental Affairs. He held this position until his retirement from ASARCO in 1982.

Michael O. Varner. Mr. Varner received his bachelor's degree in Science and Engineering from California State Polytechnic University and, in 1965, a Master's of Science and Industrial Hygiene Engineering degree from Harvard University.

Mr. Varner's work experience includes employment by the University of Washington as an Industrial Hygiene Engineer, during which he performed consulting services for the State of Washington. After leaving the University of Washington, he was employed as a Health and Safety Engineer for the Lawrence Radiation Laboratory in Livermore, California. He was next employed as a Safety and Industrial Hygiene Engineer for Lockheed Missiles and Space

Company. Varner also has experience as a part-time instructor at Ohlone College, where the taught Safety Engineering.

Mr. Varner was hired by ASARCO in 1971 as an Environmental Scientist. His next position was as Supervisor of Field Services for the Department of Environmental Sciences in Salt Lake City in 1972. In 1974, he became Manager of the Department of Environmental Sciences and director of this department in 1982. In 1986, he became Director of ASARCO's Technical Services Center in Salt Lake City. In 1992, Mr. Varner became General Manager for ASARCO's Western Metals Division located in Salt Lake City and, in 1993, he was appointed Vice-President of Environmental Operations for ASARCO in New York, New York.

Stanley Cothrin. Mr. Cothrin graduated from the University of Nevada, Reno in 1961 with a BS in engineering. He was certified as an industrial hygienist in 1974. In 1964, Cothrin attended a ten-day course on industrial hygiene engineering by the United States Public Health Service. He has also attended a NIOSH course in respiratory protection held in approximately 1980 and several American Industrial Hygiene Association conferences at which lectures and training courses were provided on various industrial hygiene topics. Mr. Cothrin has been a member of professional associations including the American Industrial Hygiene Association and the American Board of Industrial Hygiene. At various times, he has been a member and associate member of the American Conference of Governmental Industrial Hygienists.

Mr. Cothrin's work experience includes positions as Industrial Hygiene Engineer and Industrial Hygiene Supervisor for Kennecott Copper Corporation from 1962 to 1969. From 1969 to 1976, he worked in the field of industrial hygiene for the State of Washington, Department of Labor and Industry. This work included air sampling for asbestos in the early 1970s. In 1976, Mr. Cothrin joined ASARCO as a Senior Environmental Scientist. In approximately 1994, he assumed the job of Industrial Hygiene Manager for ASARCO.

James P. Sieverson. Mr. Sieverson was a Certified Industrial Hygienist until 1995. Sieverson has been a member of the American Industrial Hygiene Association.

Mr. Sieverson worked for ASARCO from 1972 until 1990. He worked in ASARCO's Department of Field Services from 1972 through 1976. In 1976, he went to ASARCO's East Helena facility where he was Environmental Superintendent until 1982 when he assumed the position of Environmental Superintendent at the Corpus Christi facility. Mr. Sieverson returned to ASARCO's Salt Lake City, UT facility, from 1986 to 1990, where he worked for ASARCO's Department of Environmental Services.

John Richardson. Mr. Richardson received his undergraduate degree from the University of Utah in 1970 and a Masters Degree in environmental health from the University of Minnesota in 1973. His graduate studies in industrial hygiene addressed asbestos, its potential hazards and measures such as isolation, ventilation and engineering controls to control and eliminate the potential hazards. He was a member of the American Industrial Hygiene Association.

Mr. Richardson started work at ASARCO in June 1971 as a laboratory technician for approximately one and one-half years. He then went to graduate school. Upon completion of

graduate school, he returned to ASARCO in late 1973 as an Environmental Specialist. Mr. Richardson was certified as an Industrial Hygienist in 1976 and assigned to the El Paso facility that year. He was at the El Paso facility for 5 years and his title was always Environmental Specialist. In 1981, he transferred back to ASARCO's Salt Lake facility, where his title was Senior Environmental Scientist, from 1981 to the 1990s. His next title was manager of Environmental Sciences at the Tech Services Department and he later moved to the position of Senior Environmental Consultant.

Other persons employed by ASARCO with responsibility for industrial hygiene include Lowell White, an Environmental Scientist; Robert Putnam, the Director of Field Services; and Richard Marcus, an Environmental Scientist.

See also ASARCO's objections and responses to Interrogatory No. 7.

ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, a precise response to this Interrogatory is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he was allegedly exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use. Without such limitations, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents to determine when, how and to whom warnings regarding the safe handling of asbestos were conveyed at the Corpus Christi

facility. Such a fishing expedition is outside the scope of legitimate discovery under the Texas Rule of Court.

Subject to and without waiving the foregoing objections, it was ASARCO's general policy to provide warnings to its employees who potentially might be over-exposed to asbestos dust. With regard to Plaintiff, ASARCO has no information that Plaintiff was ever present at any work site within the Corpus Christi facility where asbestos-containing products were being used or applied during the relevant time period.

ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is limited neither to the Corpus Christi facility nor to the time period in which Plaintiff allegedly worked there. ASARCO objects to any request for documents relating to facilities which are not at issue in this case as such facilities are irrelevant to this litigation. Moreover, the unlimited scope of this Interrogatory makes it exceedingly burdensome, if not impossible, for ASARCO to identify each individual who received, maintained, reviewed, and disseminated the information contained in the materials referenced herein, or to specify "how and why" such materials came into ASARCO's possession.

Subject to and without waiving the foregoing objections, ASARCO states that by the 1930s governmental and private industrial hygienists, occupational physicians and sophisticated manufacturing concerns were aware of the possibility that susceptible persons who are exposed to excessive amounts of asbestos fibers over a prolonged period of time might develop the disease asbestosis. Medical and scientific literature on the potential dangers of asbestos had been published in a variety of medical and scientific periodicals, textbooks and other publications which were readily available to any interested entity or individual. ASARCO is and was aware that, by the 1950s, contradictory articles on whether there was an association between asbestosis and an increased incidence of lung cancer appeared in the medical literature. Most authors who reported the possibility of such an association recognized that both the methodology of the studies and limited number of cases reported prevented any firm conclusion. Further, many researchers had reported a lack of association between asbestos

exposure and lung cancer and asbestosis and lung cancer. Additionally, ASARCO is and was aware that throughout the 1960s new studies regarding the health effects of asbestos inhalation were published. Certain of those studies suggested that persons exposed to asbestos-containing products might have an increased risk of developing lung cancer, mesothelioma and certain gastro-intestinal cancers.

See also ASARCO's objections and answer to Interrogatory No. 2 and documents to be produced in response to Request to Produce No. 13.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, a precise response to this Interrogatory is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use. Consequently, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery. By way of further objection, the terms "manufacturing" and "industrial use" as used in this Interrogatory are vague and ill-defined, and thus not susceptible to a precise response.

Subject to and without waiving such objections, at no time did ASARCO use asbestos fibers in its production processes at the Corpus Christi plant.

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:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, a precise response to this Interrogatory is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use. Moreover, it is overly broad in that it is not limited to the Corpus Christi facility. ASARCO objects to any request for information or documents relating to facilities which are not at issue in this case. Such facilities are irrelevant to this litigation.

Subject to and without waiving the foregoing objections, ASARCO states that construction of the Corpus Christi facility began in approximately 1941 and zinc smelting was conducted there until 1985. ASARCO further states that it has never owned or operated a facility in which asbestos or asbestos-containing products were fabricated.

INTERROGATORY NO. 14:

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

- 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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use makes it impossible to investigate or make a response specific to the Corpus Christi facility. Additionally, plaintiff testified at deposition that he worked outside at the Corpus Christi facility and therefore any such industrial hygiene studies measuring concentrations of asbestos dust in the air would be inapplicable. Consequently, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO is presently unaware of any such industrial hygiene studies. ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

INTERROGATORY NO. 15:

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

- 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:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is without limitation as to a substance or disease for which there may have been "monitoring," or a "medical examination program." Moreover, this Interrogatory fails to specify the type of work, services, location on the premises for which information is requested or the materials and products used in the performance of such work or services. To the extent such work or services and the location in which they were performed differ from those involved in this case, this Interrogatory is overly broad and seeks irrelevant information. By way of further objection, the terms "medical monitoring program", "medical examination program," "medical program" and "safety program" are vague, ill-defined, and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO states that standard protective equipment was provided to workers at the Corpus Christi facility since ASARCO began to operate the plant in the early 1940's. This standard protective equipment included boots, gloves, face shields, and respirators. By the 1960's this standard protective clothing included hard hats. ASARCO welders at the facility were provided with welder's masks and safety glasses. Protective clothing was worn to protect against molten metals, heat, chemicals, electrical current, dust and debris in the plant. Outside contractors were subject to the same rules for wearing safety equipment in the plant as ASARCO employees. Former Corpus

Christi plant manager C.B. White has knowledge of the safety equipment policies that were followed at the plant.

ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

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:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. By way of further objection, Plaintiff's failure to identify: (i) any asbestos-containing products to which Plaintiff was allegedly exposed at the Corpus Christi facility; and/or (ii) the locations within the facility where Plaintiff was allegedly exposed to such products; and (iii) in what capacity and by whom such products were put to use renders a precise response specific to the Corpus Christi facility an impossibility. Furthermore, all relevant state and federal regulations, laws, statutes, mandates, or other authority pertaining to industrial hygiene, safety, and health 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 are as equally available to Plaintiff as to Defendant.

Subject to and without waiving the foregoing objections, and not confined to the relevant time period, ASARCO was aware of a multitude of state and federal regulations, laws, statutes, mandates, or other authority pertaining to industrial hygiene, safety, and health 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 including, but not limited to:

**Texas Asbestos Health Protection Act;
Texas Asbestos Health Protection Rule;
OSHA Regulations;
National Emission Standards for Hazardous Air Pollutants.**

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:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it seeks information on inspections by regulatory agencies relating to substances other than asbestos. By way of further objection, Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use renders a precise response specific to the Corpus Christi facility an impossibility.

Subject to and without waiving the foregoing objections, ASARCO is unaware of such inspections or visitations occurring within the relevant time period and which involved the consideration of asbestos at the Corpus Christi facility.

ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

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:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks information outside the time period during which Plaintiff allegedly worked at the Corpus Christi facility. Moreover, it seeks information relating to facilities other than the Corpus Christi facility, which is the subject of this lawsuit, and claims which are unrelated to any alleged exposure at the Corpus Christi facility or to asbestos-containing products which are different than those to which Plaintiff alleges exposure.

Subject to and without waiving the foregoing objections, ASARCO is aware that a number of suits were filed against it in the Superior Court of California, in late 1979, by Steven Kazan, Esq. of Kazan, McClain, Edises, Simon & Abrams, 171 12th St., 3rd Fl., Oakland CA. Each of these suits was later dismissed as to ASARCO. The suits are more specifically identified as follows:

Case Name	Court	Docket No.	Date Filed
Burris v. Johns-Manville Corp.	Alameda Superior Court	519335-8	3/30/79
Cochran v. Johns-Manville Corp.	Contra Cos Superior Court	198382	4/17/79
Blakely v. Johns-Manville Corp.	Alameda Superior Court	524856-8	8/24/79
Brooks v. Johns-Manville Corp.	Alameda Superior Court	519835-3	8/20/79
Kelley v. Johns-Manville Corp.	Alameda Superior Court	519337-6	8/20/79
Stewart v. Johns-Manville Corp.	Alameda Superior Court	521386-7	8/20/79
Seymore v. Johns-Manville Corp.	Alameda Superior Court	5248568	8/24/79
Williams v. Johns-Manville Corp.	Alameda Superior Court	521580-9	9/5/79
Lopez v. Pabco, Inc.	Alameda Superior Court	515063-6	9/7/79
Lyons v. Johns-Manville Corp.	Alameda Superior Court	5248568	9/12/79
Ortega v. Johns-Manville Corp.	Alameda Superior Court	525446-8	9/17/79
Wright v. Johns-Manville Corp.	Alameda Superior Court	525535-5	9/19/79
Fridell v. Johns-Manville Corp.	Alameda Superior Court	526863-6	10/26/79

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

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is ambiguous in its use of the undefined terms "control" and "operate" and, therefore, not susceptible to a precise response. The use of these terms is also objectionable in that they might be construed to seek a legal conclusion. Moreover, Plaintiff's failure to precisely identify the "Time Period at Issue" makes it impossible for ASARCO to investigate, much less answer this Interrogatory with precision.

Subject to and without waiving the foregoing objections, ASARCO states that it purchased the property on which Corpus Christi facility is located in 1941. ASARCO conducted zinc refining and smelting operations at the facility from 1942 until 1985. In 1988, the facility was reopened by Encycle, Inc. as a waste treatment plant which recovered nonferrous metals from inorganic waste.

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:

Not Applicable.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks information relating to the purchase or acquisition of asbestos-containing products at "any time". Further, a precise response to this Request is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that a precise response to this Request is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, see objections and answer to Interrogatory No. 6.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, a precise response to this Request is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. in that it seeks documents relating to contractors for which Plaintiff did not work. It is also objectionable as vague and ambiguous in its use of the undefined term "brassing" procedure and, therefore, not susceptible to a precise response.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that a precise response to this Request is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; and (ii) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility.

Subject to and without waiving the foregoing objections, ASARCO is presently unaware of any documents pertaining to the methods and manner of identification of individuals entering and/or leaving the Corpus Christi facility

ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 5:

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

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence as Plaintiff has failed to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. Moreover, it is objectionable because Plaintiff has failed to state whether the asbestos-containing products to which he was allegedly exposed were in place at ASARCO or brought in by outside contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 6:

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

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence as Plaintiff has failed to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus

Christi facility. Moreover, it is objectionable because Plaintiff has failed to state whether the asbestos-containing products to which he was allegedly exposed were in place at ASARCO or brought in by outside contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the precise time period during which he allegedly worked at the Corpus Christi facility. ASARCO further objects to this Request to the extent it assumes there was an asbestos-related hazard at its Corpus Christi facility.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it fails to specify the type of work, services or the location on the premises for which documents are requested. Further, ASARCO objects to this Request as a precise response to this Request is rendered impossible due to Plaintiff's failure to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. Moreover, it is objectionable because Plaintiff has failed to state whether the asbestos-containing products to which he was allegedly exposed were in place at ASARCO or brought in by outside contractors. Consequently, this Request

for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery. ASARCO further objects to this Request insofar as it assumes ASARCO owed a legal duty to warn Plaintiff, who was the employee of an independent contractor.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks materials that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; and (iii) in what capacity and by whom such products were put to use. Without this information ASARCO cannot adequately investigate, let alone respond, to this Request. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to documents concerning inspections relating to the alleged hazards posed by asbestos and it is not limited to inspections occurring at the Corpus Christi facility. Moreover, as plaintiff has failed to specify the time period in which he allegedly worked at the Corpus Christi facility, this Request is not limited in time. By way of further objection, the information sought is not limited to any specific work area identified by Plaintiff as being an area where he was present as plaintiff has failed to provide this information. Consequently, this Request for Production calls for a burdensome

and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it seeks documents relating to “dust level counts or measurements” which do not relate to the alleged hazards posed by asbestos, are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked at the Corpus Christi facility and which occurred at facilities where Plaintiff does not claim he was ever present. It is also objectionable insofar as it seeks production of documents which are privileged attorney-client communications or attorney work product. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which Plaintiff worked, the locations in Corpus Christi facility where he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents relating to inspections that do not relate to the alleged hazards posed by asbestos, are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked at the Corpus Christi facility and which occurred at facilities where Plaintiff does not claim he was ever present. It is also objectionable insofar as it seeks production of documents which are

privileged attorney-client communications or attorney work product. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents which are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked at the Corpus Christi facility, documents relating to facilities other than the Corpus Christi facility and is not even limited to documents which are in ASARCO's possession. ASARCO further objects to this Request insofar as it assumes that any inhalation of asbestos fibers, however small or within limits promulgated by government regulatory agencies, poses a health hazard.

Subject to and without waiving these objections, see documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings which were previously produced in *Hermosillo v. ASARCO*, et al., El Paso County, No. 98-1338, *Anzualda v. Owens Corning*, Nueces County, Case No. 98-3444-H and in *Kinsey v. Owens-Corning (Corp.)*, et al., Brazoria County, No. 10346*BH99.

ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production as premature. ASARCO further objects to this Request insofar as it seeks documents protected by the attorney-client privilege or the

attorney work product doctrine. ASARCO expressly reserves its right to amend and supplement this response as discovery continues and as the pertinent Rules of Civil Procedure and Evidence require.

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:

ASARCO objects to this Request for Production insofar as it presumes Plaintiff worked at the Corpus Christi facility during a time period when ASARCO employees, or independent contractors, worked with asbestos-containing materials. Further, Plaintiff has failed to adequately identify the precise time period when he allegedly worked at the Corpus Christi facility, any asbestos-containing products with which he claims to have worked at the Corpus Christi facility, the locations where he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend this response throughout the continuing course of discovery.

REQUEST FOR PRODUCTION NO. 16:

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

RESPONSE:

ASARCO objects to this Request for Production as overly broad, unduly burdensome and not calculated to lead to the discovery of admissible evidence insofar as it seeks discovery of all documents that may have been "used" or "referred to" in the course of answering Interrogatories. Moreover, the Request is objectionable insofar as it may be construed to seek discovery of attorney work product.

Subject to and without waiving the foregoing objections, see all documents to be produced by ASARCO in response to Plaintiff's Requests to Produce Documents. See also all documents previously produced in *Hermosillo v. ASARCO*, et al., El Paso County, No. 98-1338, *Anzualda v. Owens Corning*, Nueces County, Case No. 98-3444-H and in *Kinsey v. Owens-Corning (Corp.)*, et al., Brazoria County, No. 10346*BH99.

ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents which are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked at the Corpus Christi facility.

Subject to and without waiving the foregoing objections, as of October 27, 1986 ASARCO's document retention program requires the retention of all asbestos-related documents.

ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents which are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked

at the Corpus Christi facility and documents relating to facilities other than the Corpus Christi facility. ASARCO further objects to this Request on the ground that it is vague, ambiguous, subject to multiple interpretations and could be construed to call for the production of attorney work product.

REQUEST FOR PRODUCTION NO. 19:

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

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents which are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked at the Corpus Christi facility and documents relating to facilities other than the Corpus Christi facility. ASARCO further objects to this Request insofar as it assumes that any inhalation of asbestos fibers, however small or within limits promulgated by government regulatory agencies, poses a health hazard.

Subject to and without waiving these objections, see all books, pamphlets, memoranda or written materials of any kind or character that would indicate asbestos fibers, when inhaled, can be hazardous to the health of human beings which were previously produced in *Hermosillo v. ASARCO, et al.*, El Paso County, No. 98-1338, *Anzualda v. Owens Corning*, Nueces County, Case No. 98-3444-H and in *Kinsey v. Owens-Corning (Corp.), et al.*, Brazoria County, No. 10346*BH99.

ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it seeks documents that do not refer to the alleged hazards posed by asbestos, are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked at the Corpus Christi facility and which relate to facilities where Plaintiff does not claim he was ever present. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he

worked, the locations in ASARCO's Corpus Christi facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome, without time limitation and it seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 22:

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

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it seeks documents which are not limited to any time period and which relate to facilities where Plaintiff does not claim he was ever present.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 23:

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

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, vague, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to any time period. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's Corpus Christi facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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 Plaintiff's health.

RESPONSE:

ASARCO objects to this Request for Production insofar as it assumes that ASARCO would have the documents for which it calls. A precise response to this Request is rendered impossible due to Plaintiff's failure to identify the precise time period during which he allegedly worked at the Corpus Christi facility or by whom he was employed during the time period in which he allegedly worked at the Corpus Christi facility.

Subject to and without waiving the foregoing objections, ASARCO states that it is presently unaware of any documents relating to the medical condition of Plaintiff at anytime during his work at its Corpus Christi facility, including x-rays, x-ray reports, medical notes and/or medical records or annual physical forms.

ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production insofar as it assumes that ASARCO would have the documents for which it calls. A precise response to this Request is rendered impossible due to Plaintiff's failure to identify the precise time period during which he

allegedly worked at the Corpus Christi facility or by whom he was employed during the time period in which he allegedly worked at the Corpus Christi facility.

Subject to and without waiving the foregoing objections, ASARCO states that it is presently unaware of any documents relating to Plaintiff's work performance and/or personnel records at its Corpus Christi facility.

ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request insofar as Plaintiff has failed to identify the precise time periods during which he worked at the Corpus Christi facility. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he allegedly worked at the Corpus Christi facility or the locations in ASARCO's facility in which he allegedly worked with them. Consequently, this Request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 27:

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

RESPONSE:

ASARCO objects to this Request for Production as violative of the work product doctrine and as premature. ASARCO reserves the right to amend and supplement this response as discovery continues and as the pertinent Rules of Civil Procedure and Evidence require.

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 anyway at Defendant's Premises At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to asbestos-containing products to which Plaintiff claims exposure and seeks documents which are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked at the Corpus Christi facility. Moreover, as Plaintiff has failed to provide sufficient information, such as specific dates or periods during which Plaintiff alleges he worked at the Corpus Christi facility, the nature and location of the work performed or the products used, ASARCO is unable to adequately investigate, let alone respond to this Request. By way of further objection, use of the term "utilized" is vague, ambiguous and ill-defined and, therefore, not susceptible to a precise response.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 29:

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

RESPONSE:

ASARCO objects to this Request on the grounds that it is overly broad, unduly burdensome, irrelevant and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents which are not limited to any time period as plaintiff has failed to provide any information as to when he allegedly worked at the Corpus Christi facility and documents relating to facilities at which Plaintiff does not claim he was ever present.

Subject to and without waiving the foregoing objections, ASARCO is aware of the following lawsuits brought against it which allege injury as a result of asbestos exposure at the Corpus Christi facility.

1. *Abrego v. Owens-Corning Fiberglas, et al.*, Nueces County, 319th Judicial District, No. 99-003861-G;
2. *Aguilar v. Owens-Corning Fiberglas, et al.*, Nueces County, 319th Judicial District, No. 00-00637-G;
3. *Alamo v. Pittsburgh Corning et al.*, Nueces County, 148th Judicial District, No. 99-03969-E;

4. ***Alanis v. Owens-Corning Fiberglas, et al.***, Nueces County, 105th Judicial District, No. 99-01992-D;

5. ***Alaniz v. Owens-Corning Fiberglas, et al.***, Nueces County, 148th Judicial District, No. 00-4221-E;

6. ***Alejandre (Tomas) v. Owens-Corning Fiberglas, et al.***, Nueces County, 94th Judicial District, No 98-04950-C;

7. ***Alejandre (Florencio) v. ACandS, Inc., et al.***, Nueces County, 194th Judicial District, No. 01-02199-B;

8. ***Aleman v. ASARCO, et al.***, , Nueces County, 94th Judicial District, No. 00-4650-C;

9. ***Aleman, (Maximino) v. ACandS, Inc.***, Nueces County, 319th Judicial District, No. 01-02196-G;

10. ***Alonzo v. Owens-Corning Fiberglas, et al.***, Nueces County, 347th Judicial District, No. 00-4225-H;

11. ***Alvarado v. Owens-Corning Fiberglas, et al.***, Nueces County, 319th Judicial District, No. 98-03930-G;

12. ***Alvear v. Owens-Corning Fiberglas, et al.***, Nueces County, 319th Judicial District, No. 98-05955-G;

13. ***Alviar v. Owens-Corning Fiberglas, et al.***, Nueces County, 117th Judicial District, No. 00-02206-00-0-B;

14. ***Amaya v. Owens-Corning Fiberglas, et al.***, Nueces County, 105th Judicial District, No.99-3859-D;

15. ***Anderson v. ACandS, Inc., et al.***, Nueces County, 28th Judicial District, No. 01-02197-A;

16. ***Anzualda v. Owens-Corning Fiberglas, et al.***, Nueces County, 347th Judicial District, No. 98-3444-H;

17. ***Arevalo v. ACandS, Inc., et al.***, Nueces County, 214th Judicial District, No. 01-0128-F;

18. ***Baltierra v. ACandS, Inc., et al.***, Nueces County 105th Judicial District, No. 01-1286-D;

19. ***Baros v. Owens-Corning Fiberglas, et al.***, Nueces County, 319th Judicial District, No. 98-06468-G;
20. ***Baugh v. ACandS, Inc., et al.***, Nueces County, 117th Judicial District, No. 01-02200-B;
21. ***Barrientes v. Owens-Corning Fiberglas, et al.***, Nueces County, 148th Judicial District, No. 00-2749-E;
22. ***Bayardo v. ACandS, Inc., et al.***, Nueces County, 28th Judicial District, No. 01-02198-A;
23. ***Beavers v. ACandS, Inc., et al.***, Nueces County, 347th Judicial District, No. 01-1287-H;
24. ***Benavidez v. Owens-Corning Fiberglas, et al.***, Nueces County, 117th Judicial District, No. 00-04223-B;
25. ***Bentley v. Amarillo facility, Inc., et al.***, Brazoria County, 239th Judicial District, No. 10315*JG00;
26. ***Billeaud v. Owens-Corning Fiberglas, et al.***, Nueces County, 214th Judicial District, No. 00-5257-F;
27. ***Blanco v. Owens-Corning Fiberglas, et al.***, Nueces County, 148th Judicial District, No. 99-6002-E;
28. ***Bocanegra v. Owens-Corning Fiberglas, et al.***, Nueces County, 105th Judicial District, No. 99-04630-D;
29. ***Bosquez v. Owens-Corning Fiberglas, et al.***, Nueces County, 94th Judicial District, No. 98-04764-C;
30. ***Braly v. Owens-Corning Fiberglas, et al.***, Nueces County, 117th Judicial District, No. 98-4251-B;
31. ***Briones v. Owens-Corning Fiberglas, et al.***, Nueces County, 214th Judicial District, No. 98-05147-H;
32. ***Brislis v. Owens-Corning Fiberglas, et al.***, Nueces County, 117th Judicial District, No. 00-04222-B;
33. ***Bryan v. Owens-Corning Fiberglas, et al.***, Nueces County, 148th Judicial District, No. 98-5148-E;

34. *Bueno v. Owens-Corning Fiberglas, et al.*, Nueces County, 214th Judicial District, No. 98-04766-H;

35. *Burford v. Owens-Corning Fiberglas, et al.*, Nueces County, 117th Judicial District, No. 00-5256-B;

36. *Camacho v. ACandS, Inc., et al.*, Nueces County, 94th Judicial District, No. 01-01285-C;

37. *Canchola v. Owens-Corning Fiberglas, et al.*, Nueces County, 105th Judicial District, No. 00-02748-D;

38. *Carrion v. Owens-Corning Fiberglas, et al.*, Nueces County, 347th Judicial District, No. 00-02205-H;

39. *Casanova v. Owens-Corning Fiberglas, et al.*, Nueces County, 105th Judicial District, No. 99-03860-D;

40. *Casas v. Owens-Corning Fiberglas, et al.*, Nueces County, 94th Judicial District, No. 00-2483-C;

41. *Celestino v. Owens-Corning Fiberglas, et al.*, Nueces County, 105th Judicial District, No. 00-05258-D;

42. *Cole v. Owens-Corning Fiberglas, et al.*, Nueces County, 94th Judicial District, No. 99-6021-C;

43. *Cox v. Owens-Corning Fiberglas, et al.*, Nueces County, 105th Judicial District, No. 00-04224-D;

44. *Davila v. Owens-Corning Fiberglas, et al.*, Nueces County, 148th Judicial District, No. 00-02972-E;

45. *Davis v. ACandS, Inc. et al.*, Nueces County, 148th Judicial District, No. 00-0660-E;

46. *De La Garza v. ACandS, Inc., et al.*, Nueces County, 214th Judicial District, No. 00-01283-00-0-F;

47. *De Leon v. Owens-Corning Fiberglas, et al.*, Nueces County, 214th Judicial District, No. 99-01100-F;

48. *Delfino v. Owens-Corning Fiberglas, et al.*, Nueces County, 94th Judicial District, No. 98-5150-C;

49. *Dolan v. ACandS, Inc., et al.*, Nueces County, 214th Judicial District, No. 01-1284-F;

50. *Edwards v. ACandS, Inc., et al.*, Nueces County, No. 00-6659-H;

51. *Escamilla v. U.S. Gypsum Co., et al.*, Nueces County, 319th Judicial District, No. 01-1208-G;

52. *Galvan v. Owens-Corning Fiberglas, et al.*, Nueces County, 94th Judicial District, No. 00-02207-C;

53. *Garza v. Owens-Corning Fiberglas, et al.*, Nueces County, 94th Judicial District, No. 98-06467-C;

54. *Hardeman v. Armstrong World Industries, Inc., et al.*, Nueces County, 319th Judicial District, No. 99-3594-G;

55. *Hinojosa v. ASARCO Incorporated, et al.*, Nueces County, 214th Judicial District, No. 99-05682-F ;

56. *Langoria v. Alcoa, Inc., et al.*, Nueces County, 148th Judicial District, No. 99-7095-E;

57. *Lawrence v. Pittsburgh Corning Corp., et al.*, Nueces County, 117th Judicial District, No. 99-07072-B;

58. *Moake v. ACandS, Inc., et al.*, Brazoria, County, 239th Judicial District, No. 90-G-2055;

59. *Morales v. Owens-Corning Fiberglas, et al.*, Nueces County, 319th Judicial District, No. 98-03934-G;

60. *Quintanilla v. Owens-Corning Fiberglas Corp., et al.*, Nueces County,; 347th Judicial District, No. 99-001496-00-0-H

61. *Risley v. GAF Corp., et al.*, Nueces County, 105th Judicial District, No. 00-5325-D;

62. *Weber v. Owens-Corning Fiberglas, et al.*, Nueces County, 94th Judicial District, No. 98-5261-C.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents that are not limited to any time period and which relate to facilities where Plaintiff does not claim he was ever present. ASARCO further objects to the Request in that it assumes that ASARCO had a supervisory relationship to Plaintiff and his employer, who were independent contractors.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents that are not limited to any time period and that relate to facilities where Plaintiff does not claim he was ever present. ASARCO further objects to the Request in that it assumes that ASARCO had a supervisory relationship to Plaintiff and his employer, who were independent contractors.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production as violative of the work product doctrine and premature. ASARCO's investigation is continuing and it reserves the right to amend and

supplement this response as discovery continues and as the pertinent Rules of Civil Procedure and Evidence require.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request for Production insofar as it could be construed to seek discovery of communications relating to the defense of asbestos-related lawsuits, which are privileged from disclosure pursuant to the work-product doctrine or as attorney-client communications. Moreover, this Request is objectionable as it is not limited to any time period. Consequently, this Request for production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents relating to inspections which are unrelated to the alleged hazards posed by asbestos, are not limited to any time period and which occurred at facilities where Plaintiff does not claim he was ever present. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's Corpus Christi facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is without time limitation, limitation to a specific subject, limitation to the Corpus Christi facility or to a specific location at the Corpus Christi facility. Further, the terms "all regulations, orders rules and/or policies" and "used" are vague, ambiguous and ill-defined and, therefore, not susceptible to a precise response.

Subject to and without waiving these objections, see documents regarding OSHA asbestos exposure rules and related matters previously produced in *Hermosillo v. ASARCO, et al.*, El Paso County, No. 98-1388 and *Anzualda v. Owens Corning, et al.*, Nueces County, Case No. 98-3444-H.

ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. It is impossible, therefore, for ASARCO to respond to this request at this time.

Further, this Request is objectionable as it seeks documents regarding complaints which do not relate to asbestos dust conditions.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. It is impossible, therefore, for ASARCO to respond to this request at this time.

Further, this Request is objectionable as it seeks documents regarding complaints which do not relate to asbestos dust conditions.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that plaintiff has failed to provide information as to the precise time period when he allegedly worked at the Corpus Christi facility. It is impossible, therefore, for ASARCO to respond to this request at this time.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and as it seeks information which is not properly within the scope of discovery at this time.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the precise time period during which he allegedly worked at the Corpus Christi facility and the Request seeks documents relating to years other than those during which Plaintiff may have worked at the Corpus Christi facility.

Subject to and without waiving the foregoing objections, ASARCO states that it purchased the property on which Corpus Christi facility is located in 1941. ASARCO conducted zinc refining and smelting operations at the facility from 1942 until 1985. In 1988, the facility was reopened by Encycle, Inc. as a waste treatment plant which recovered nonferrous metals from inorganic waste.

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:

ASARCO objects to this Request for Production because it is overly broad, unduly burdensome and not likely to lead to the discovery of relevant evidence in that it is not limited to the conditions and activities complained of in Plaintiff's Petition. It is also objectionable because ASARCO has no information that Plaintiff, the alleged employee of independent contractors who was not subject to ASARCO's control, was present at any specific work site at the Corpus Christi facility. Even if he was, ASARCO has no information as to whether Plaintiff was present where asbestos-containing products were being used. ASARCO further objects to this Request on the ground that it presumes that Plaintiff worked at the Corpus Christi facility during a time period when ASARCO employees worked with asbestos-containing materials and that a "dangerous condition or activity" existed on the premises. The Request is also ambiguous in its use of the undefined phrase "title documents" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Requests for Production Nos. 40, 42 and 44.

REQUEST FOR PRODUCTION NO. 42:

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

RESPONSE:

ASARCO objects to this Request for Production because it is vague and ambiguous in its use of the undefined term "control" and, therefore, not susceptible to a precise response. Moreover, it is objectionable insofar as it assumes that ASARCO exercised "control" over the independent contractors who allegedly employed Plaintiff.

Subject to and without waiving this objection, ASARCO states that it purchased the site where the Corpus Christi facility was constructed in 1941 and conducted zinc smelting and refining operations there during the time Plaintiff alleges he was employed there by independent contractors. See also ASARCO's objections and response to Requests to Produce No. 40.

ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 43:

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

RESPONSE:

ASARCO objects to this Request for Production because it is vague and ambiguous in its use of the undefined term "capacity" and, therefore, not susceptible to a precise response. Subject to and without waiving this objection, ASARCO does not contend that it has not been sued

in the proper capacity. But as set forth more fully in its Answer, ASARCO denies all liability for the harm alleged by Plaintiff, who was the alleged employee of independent 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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. It is impossible, therefore, for ASARCO to respond to this request at this time.

Further, this Request seeks documents which relate to potential liability for harms that are not in issue in this case.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production because it is vague and ambiguous in its use of the undefined term "asbestos-free". It is also objectionable because Plaintiff has failed to identify the precise time period during which he allegedly worked at the Corpus Christi facility, adequately identify specific locations at ASARCO's Corpus Christi facility at which he allegedly worked with asbestos-containing products, or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, see ASARCO's objections and answer to Interrogatory No. 6.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents relating to the present state of the Corpus Christi facility.

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Requests for Production Nos. 2 and 45. See also ASARCO's objections and answer to Interrogatory No. 6.

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:

ASARCO states that the Request for Production is not applicable to it because it was not a manufacturer of any asbestos or asbestos-containing products.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility.

ASARCO further objects as this Request seeks documents relating to “any process taking place at any of defendant’s facilities”, which relate to processes to which Plaintiff has not claimed exposure and includes facilities where Plaintiff does not claim he was ever present. Moreover, Plaintiff has failed to state whether any such asbestos-containing products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

See also ASARCO’s objections and documents to be produced in response to Request for Production No. 1.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents relating to the use of asbestos “in any industrial processes at Defendant’s Premises” or documents which relate to processes to which Plaintiff has not claimed exposure. Moreover, Plaintiff has failed to identify the precise time period in which he allegedly worked at the Corpus Christi facility. Further, Plaintiff has failed to adequately identify any “industrial process” to which he claims to have been exposed, any asbestos-containing products with which he worked, the locations in ASARCO’s facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

See also ASARCO’s objections and documents to be produced in response to Requests for Production No. 35.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents relating to the use of asbestos "in your industrial processes" or documents which relate to processes to which Plaintiff has not claimed exposure. Moreover, Plaintiff has failed to identify the precise time period in which he allegedly worked at the Corpus Christi facility. Further, Plaintiff has failed to adequately identify any "industrial process" to which he claims to have been exposed, any asbestos-containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO states that it did not manufacture asbestos or asbestos-containing products at its Corpus Christi facility. ASARCO further states that it is unaware of any marketing or advertising materials relating to its Corpus Christi facility regarding its alleged use of asbestos or asbestos-containing materials in its industrial processes.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents which are not limited to any time period. Moreover, Plaintiff has failed to adequately identify any boilers to which he claims to have been exposed, any asbestos-containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO, or brought in by independent contractors. Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents which are not limited to any time period. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO, or brought in by independent contractors. ASARCO also objects to the Request as vague and ambiguous in its use of the undefined term "audits". Consequently, this Request for Production calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents which are not limited to any time period and documents relating to facilities other than the Corpus Christi facility. It is also overly broad in that it is not limited to ASARCO facilities and in that it seeks documents relating to the elimination of exposures to dusts which do not contain asbestos. Moreover, it is objectionable as vague and ambiguous in its use of the undefined phrases "safety in the industry" and "other plants or facilities". It is, therefore, not susceptible to a precise response.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents relating to insurance coverage, entities that are not parties to this litigation or cases in which the claims were not for alleged asbestos-related injuries or related to alleged asbestos exposure at the Corpus Christi facility.

Subject to and without waiving the foregoing objections, see the deposition testimony of the following persons previously taken in *Hermosillo v. ASARCO, et al.*, El Paso County, No. 98-1338, which was an action alleging premises liability:

1. Peggy Munsell
2. Stanley Cothrin
3. James P. Sieverson
4. Michael O. Varner
5. Douglas H. Soutar
6. Leroy Bates
7. Jeffrey Braun

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents relating to litigation involving claims of property damage and asbestos-related personal injury filed by persons other than Plaintiff and which involve locations other than the Corpus Christi facility.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify: (i) the precise time period during which he allegedly worked at the Corpus Christi facility; (ii) any asbestos-containing products to which he allegedly was exposed at the Corpus Christi facility and/or the locations in the facility in which he was exposed; (iii) in what capacity and by whom such

products were put to use; and (iv) the independent contractor(s) for whom he allegedly worked at the Corpus Christi facility. It is impossible, therefore, for ASARCO to respond to this request at this time.

See also objections in response to Requests for Production No. 5 and No. 6.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents which are not limited to any time period, which refer to products to which Plaintiff does not claim exposure, and which refer to facilities at which Plaintiff does not claim he was present. It is impossible, therefore, for ASARCO to respond to this request at this time.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request on the ground that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it is limited neither to the Corpus Christi facility nor to any time period. ASARCO objects to any request for documents relating to facilities which are not at issue in this case. Such facilities are irrelevant to this litigation. Moreover, such a request would require a burdensome search through records at ASARCO's facilities located throughout the United States.

Subject to and without waiving said objections, ASARCO that it is presently unaware of any 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 at its Corpus Christi facility.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents which are not limited to any time period, which refer to products to which Plaintiff does not claim exposure and which refer to facilities at which Plaintiff does not claim he was present.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents which are not limited to any time period, which refer to products to which Plaintiff does not claim exposure, claims of property damage and which refer to facilities at which Plaintiff does not claim he was present.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

**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:

ASARCO objects to this Request for Admission on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. By way of further objection, the term "utilized" is vague and ill-defined and, therefore, not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the precise time period during which he allegedly worked at the Corpus Christi facility, any asbestos-containing products with which he worked or to which he was exposed at ASARCO's facility, or the locations in ASARCO's facility in which he allegedly worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO admits only that asbestos-containing products were present in certain areas of the Corpus Christi facility during certain time periods. ASARCO does not admit that asbestos-containing products were at or near any location where Plaintiff may have worked.

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:

ASARCO objects to this Request to the extent it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. It is also ambiguous in its use of the undefined phrase "exposed to" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO has no information at the present time that Plaintiff was ever present at any location within the Corpus Christi facility at any time where he used or was exposed to any asbestos-containing products. In the absence of such information, ASARCO denies 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:

See ASARCO's response to Request for Admission No. 2.

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:

ASARCO objects to this Request to the extent it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, it is objectionable as overly broad in that it seeks information about air monitoring for asbestos in locations where Plaintiff does not claim to have worked.

Subject to and without waiving the foregoing objections, ASARCO has no information at the present time that Plaintiff was ever present at any location within the Corpus Christi facility where he used or was exposed to any asbestos-containing products at the Corpus Christi facility at any time. In the absence of such information, ASARCO denies this Request.

REQUEST FOR PRODUCTION 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:

ASARCO objects to this Request for Production because it seeks admissions and not the production of documents. It is also objectionable in that it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely.

Subject to and without waiving the foregoing objections, to the extent this Request is construed as a Request for Admission it is denied. Further, see ASARCO's response to Request for Admission No. 3.

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 under-took in connection with your inability to admit or deny the foregoing request.

RESPONSE:

ASARCO objects to this Request for Production insofar as it assumes Plaintiff has provided sufficient information to allow ASARCO to make a reasonable inquiry. Plaintiff has not provided sufficient information to allow such an inquiry in that he has failed to adequately identify (i) asbestos-containing products with which he allegedly worked; (ii) the dates of the exposures; and (iii) the locations at the Corpus Christi facility at which the exposures are alleged to have occurred. Moreover, he has failed to state whether any such products were in place at the Corpus Christi facility or brought into the facility by independent contractors like his employers. ASARCO further objects to this Interrogatory to the extent it seeks information protected by the attorney-client and/or attorney work product privileges.

Subject to and without waiving the foregoing objections, see ASARCO's response to Request for Admission No. 3.

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:

ASARCO objects to this Request for Admission to the extent it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, ASARCO objects to this Request on the grounds that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the precise time periods during which he allegedly worked at the Corpus Christi facility, or the locations in the plant in which he allegedly worked. ASARCO further objects to this Request on the grounds that the term "working with" is vague, ill-defined and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO has no information at the present time that Plaintiff was present at any location within the Corpus Christi facility where asbestos-containing products were being used. In the absence of such information from Plaintiff, ASARCO denies this Request.

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:

ASARCO objects to this Request for Admission to the extent it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, ASARCO objects to this Request on the grounds that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the precise time periods during which he allegedly worked at the Corpus Christi facility, or the locations in the plant in which he allegedly worked. ASARCO further objects to this Request on the grounds that the term "working with" is vague, ill-defined and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO has no information at the present time that Plaintiff was present at any location within the Corpus Christi facility where asbestos-containing products were being used. In the absence of such information from Plaintiff, ASARCO denies this Request.

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:

ASARCO objects to this Request to the extent it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, ASARCO objects to this Request on the grounds that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the locations in the plant in which he allegedly worked.

Subject to and without waiving the foregoing objections, ASARCO admits only that it was aware that asbestos-containing products were present at some locations within the Corpus Christi facility at certain times. ASARCO denies the balance of the Request.

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:

ASARCO objects to this Request to the extent it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, ASARCO objects to this Request on the grounds that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the precise time periods during which he allegedly worked at the Corpus Christi facility, or the he locations in the plant in which he allegedly worked.

Subject to and without waiving the foregoing objections, ASARCO admits only that it was aware that asbestos-containing products were used at some locations within the Corpus Christi facility at certain times. ASARCO can neither admit nor deny the balance of the Request because, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny.

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:

ASARCO objects to this Request to the extent it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. ASARCO also objects to this Request on the ground that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the locations in the plant in which he allegedly worked. Moreover, ASARCO has no information at the present time that Plaintiff was ever present at any work site at the Corpus Christi facility where asbestos-containing products were being used.

Subject to and without waiving the foregoing objections, ASARCO admits only that it was ASARCO's general policy to provide warnings to its employees who potentially might be over-

exposed to asbestos dust. With regard to Plaintiff, ASARCO has no information that Plaintiff was ever present at any work site within the Corpus Christi facility where asbestos-containing products were being used or applied at any time. In the absence of such information, ASARCO denies the balance of the Request.

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:

ASARCO objects to this Request to the extent it assumes Plaintiff was present at the Corpus Christi facility at any time at locations where asbestos was used and because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. ASARCO also objects to this Request on the grounds that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the locations in the plant in which he allegedly worked. ASARCO has no information at the present time that Plaintiff was ever present at any work site at the Corpus Christi facility where asbestos-containing products were being used.

Subject to and without waiving the foregoing objections, ASARCO admits only that it was ASARCO's general policy to provide warnings to its employees who potentially might be over-exposed to asbestos dust. With regard to Plaintiff, ASARCO has no information that Plaintiff was ever present at any work site within the Corpus Christi facility where asbestos-containing products were being used or applied at any time. In the absence of such information, ASARCO denies the balance of the Request.

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:

ASARCO objects to this Request for Admission on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent it assumes Plaintiff was ever present at the Corpus Christi facility at any time at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any work site at the Corpus Christi facility where asbestos-containing products were being used.

Subject to, and without waiving these objections, ASARCO admits that, from time to time, some specifications did call for the use of asbestos-containing products. ASARCO denies the balance of the Request.

REQUEST FOR ADMISSION NO. 11:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term "in use" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO admits only that asbestos-containing products were present at some locations within its Corpus Christi facility in the 1950s, but denies any knowledge that Plaintiff was exposed to these products. After reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny the balance of this Request.

REQUEST FOR ADMISSION NO. 12:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term "in use" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO admits only that asbestos-containing products were present at some locations within its Corpus Christi facility in the 1960s, but denies any knowledge that Plaintiff was exposed to these products. After reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny the balance of this Request.

REQUEST FOR ADMISSION NO. 13:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term "in use" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO admits only that asbestos-containing products were present at some locations within its Corpus Christi facility in the 1970s, but denies any knowledge that Plaintiff was exposed to these products. After reasonable

inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny the balance of this Request.

REQUEST FOR ADMISSION NO. 14:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term "in use" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO admits only that asbestos-containing products were present at some locations within its Corpus Christi facility in the 1980s, but denies any knowledge that Plaintiff was exposed to these products. After reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny the balance of this Request.

REQUEST FOR ADMISSION NO. 15:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term "in use" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO states that it closed Corpus Christi facility in 1985. The facility was reopened by Encycle, Inc. as a waste treatment plant which recovered nonferrous metals from inorganic waste. Accordingly, ASARCO denies the Request.

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.

RESPONSE:

ASARCO objects to this Request for Admission because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, it is objectionable as overly broad, unduly burdensome and because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent it assumes Plaintiff was ever present at the Corpus Christi facility at locations where asbestos was used. ASARCO has no information at the present time

that Plaintiff was present at any work site at the Corpus Christi facility where asbestos-containing products were being used.

Subject to and without waiving the foregoing objections, ASARCO denies this Request. See also ASARCO's objections and response to Request for Admission No. 8.

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:

ASARCO objects to this Request for Admission because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, it is objectionable as overly broad, unduly burdensome and because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent it assumes Plaintiff was ever present at the Corpus Christi facility at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any work site at the Corpus Christi facility where asbestos-containing products were being used.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny this Request.

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:

ASARCO objects to this Request for Admission because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, it is objectionable because it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent it assumes Plaintiff was ever present at the Corpus Christi facility at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any work site at the Corpus Christi facility where asbestos-containing products were being used.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny this Request.

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:

ASARCO objects to this Request for Admission because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, it is objectionable because it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent it assumes Plaintiff was ever present at the Corpus Christi facility at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any work site at the Corpus Christi facility where asbestos-containing products were being used.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny this Request.

REQUEST FOR ADMISSION NO. 20:

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:

ASARCO objects to this Request for Admission because it assumes ASARCO owed a duty to Plaintiff, an employee of an independent contractor who was not under its control or supervision, to ensure that his work was completed safely. Moreover, it is objectionable because it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent it assumes Plaintiff was ever present at the Corpus Christi facility at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any work site at the Corpus Christi facility where asbestos-containing products were being used.

Subject to and without waiving the foregoing objections, this Request is 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:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility or the asbestos-containing products to which Plaintiff claims to have been exposed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO’s facility or the locations in ASARCO’s facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR ADMISSION NO. 21:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term “in use” and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO states that it closed its Corpus Christi facility in 1985. The facility was reopened by Encycle, Inc. as a waste treatment plant which recovered nonferrous metals from inorganic waste. Accordingly, ASARCO denies the Request.

REQUEST FOR ADMISSION NO. 22:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term “in place” and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO states that it closed its Corpus Christi facility in 1985. The facility was reopened by Encycle, Inc. as a waste treatment plant which recovered nonferrous metals from inorganic waste. Accordingly, ASARCO denies the 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:

ASARCO objects to this Request for Admission as overly broad in that Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility and as the information it seeks is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO 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:

ASARCO objects to this Request for Admission as overly broad in that Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility and as the information it seeks is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO 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:

ASARCO objects to this Request for Admission as overly broad in that Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility.

Subject to and without waiving the foregoing objections, ASARCO admits only that it purchased the property on which the Corpus Christi facility is located in 1941 and conducted zinc and smelting operations at the facility from 1942 until 1985.

REQUEST FOR ADMISSION No. 26:

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

RESPONSE:

ASARCO objects to the use of the word "operated" which is vague and ill-defined and, therefore, not susceptible to a precise response. ASARCO also objects to this Request for Admission as overly broad in that Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility.

Subject to this objection and without waiving it, ASARCO admits only that it purchased the property on which the Corpus Christi facility is located in 1941 and conducted zinc and smelting operations at the facility from 1942 until 1985. ASARCO denies the balance of the 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:

ASARCO objects to this Request for Admission as duplicative. Subject to and without waiving the foregoing objection, this Request is denied. See also ASARCO's response to Request for Admission No. 3.

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:

ASARCO objects to this Request for Admission as duplicative. Subject to and without waiving the foregoing objection, this Request is denied. See also ASARCO's response to Request for Admission No. 3.

REQUEST FOR ADMISSION NO. 29:

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

RESPONSE:

ASARCO objects to this Request for Admission as overly broad, unduly burdensome and unlikely to lead to the discovery of admissible evidence in that it relates to persons other than Plaintiff and the independent contractors that allegedly employed him, and because Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility. ASARCO further objects to this Request to the extent that it calls for a legal conclusion, as the definition of the term "business invitee" is a matter of law.

Subject to and without waiving the foregoing objections, ASARCO denies that it has any information which would lead it to believe Plaintiff does not understand English or that the independent contractors who employed him did not understand English. After reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny the balance of this Request.

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:

ASARCO objects to this Request for Admission as overly broad, unduly burdensome and unlikely to lead to the discovery of admissible evidence insofar as it relates to persons other than Plaintiff and the independent contractors that allegedly employed him, and because Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility. ASARCO further objects to this Request to the extent that it calls for a legal conclusion, as the definition of the term "business invitee" is a matter of law.

Subject to and without waiving the foregoing objections, ASARCO denies that it has any information which would lead it to believe Plaintiff does not understand English. After reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny the balance of this Request.

REQUEST FOR ADMISSION NO. 31:

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

RESPONSE:

ASARCO objects to this Request for Admission as overly broad, unduly burdensome and unlikely to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility and as it seeks information regarding independent contractors who did not employ Plaintiff.

It is also objectionable as vague in its use of the undefined term "safety orientations" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny this Request.

REQUEST FOR ADMISSION NO. 32:

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

RESPONSE:

ASARCO objects to this Request for Admission as overly broad, unduly burdensome and unlikely to lead to the discovery of admissible evidence in that Plaintiff has failed to identify the precise time period during which he alleges to have worked at the Corpus Christi facility and as it seeks information regarding independent contractors who did not employ Plaintiff. It is also objectionable as vague in its use of the undefined term "safety orientations" and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny this Request.

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:

ASARCO objects to this Request for Admission insofar as it assumes the removal of asbestos-containing materials referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO denies 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:

ASARCO objects to this Request for Admission insofar as it assumes the replacement of asbestos-containing materials referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractor by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there or the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO denies the 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:

ASARCO objects to this Request for Admission insofar as it assumes the installation of asbestos-containing materials referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractor by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO denies 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:

ASARCO objects to this Request for Admission insofar as it assumes the maintenance work referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed and because it is ambiguous in its use of the undefined phrase "maintain asbestos-containing materials". ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractor by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

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

REQUEST FOR ADMISSION NO. 37:

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

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes the "new construction work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed and the use of the term "new construction work" is ambiguous and not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractor by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

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

REQUEST FOR ADMISSION NO. 38:

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

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes the "work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. Moreover, it is objectionable as it is ambiguous in its use of the undefined phrase "turnaround" work and, therefore, not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractor by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

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

REQUEST FOR ADMISSION NO. 39:

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

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors,

performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractor by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO admits that it would have had some communication with the independent contractors concerning some of the work which the independent contractors performed at ASARCO's Corpus Christi facility. ASARCO denies the balance of 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:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed and because it is ambiguous in its use of the undefined term "instructed". Accordingly, it is not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO denies that it "instructed" the independent contractors concerning the work at its Corpus Christi facility.

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:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. It is also objectionable as ambiguous in its use of the undefined term "instructed" and its use of the phrase "how the work was to be performed". Accordingly, it is not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO denies that it “instructed” the independent contractors how to perform work at its Corpus Christi facility.

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:

ASARCO objects to this Request for Admission insofar as it assumes “the work” referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO’s Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor. Moreover, it is objectionable as ambiguous in its use of the undefined term “showed” and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, this Request is denied.

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:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term “specifications” and, therefore, not susceptible to a precise response. Moreover, it is objectionable insofar as it assumes “the work” referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed and because it assumes ASARCO provided specifications to the independent contractors. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO’s Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, this Request is denied.

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:

ASARCO objects to this Request for Production insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor. Consequently, this Request calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

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:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined term "specifications" and, therefore, not susceptible to a precise response. Moreover, it is objectionable insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed, because it assumes ASARCO provided specifications to the independent contractors and because it is ambiguous in its use of the undefined term "indicated". Accordingly, it is not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny this Request.

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:

ASARCO objects to this Request for Production insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed and because it is ambiguous in its use of the undefined term "indicated". ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor. Consequently, this Request calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, see response to Request for Production No. 65.

ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR ADMISSION NO. 45:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous in its use of the word "start". ASARCO further objects to this Request insofar as it assumes the "work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objection, ASARCO admits only that its contracts for work, undertaken by independent contractors, generally called for work to begin by a certain date. ASARCO denies the balance of the Request.

REQUEST FOR ADMISSION NO. 46:

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

RESPONSE:

ASARCO objects to this Request for Admission as ambiguous. ASARCO further objects to this Request insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of an independent contractor, performed. ASARCO further

objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objection, ASARCO admits only that its contracts for work undertaken by independent contractors generally called for work to be completed by certain dates. ASARCO denies the balance of the Request.

REQUEST FOR ADMISSION NO. 47:

Admit that you told Plaintiffs employer what materials to use when doing the work

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, and after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable ASARCO to admit or deny this Request.

REQUEST FOR ADMISSION NO. 48:

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

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates that he worked there and the specific work he performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO admits only that its contracts for work undertaken by independent contractors generally called for work to be undertaken in such order of precedence as ASARCO required, with the times of completion

for various portions of the work to be determined by a schedule that was mutually agreed upon by ASARCO and the independent contractor. ASARCO denies the balance of the Request.

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:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. Moreover, it is objectionable ambiguous in its use of the undefined term "deadline" and, therefore, not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO admits only that its contracts for work undertaken by independent contractors generally called for work to be completed by certain dates. ASARCO denies the balance of the 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:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. Moreover, it is objectionable as ambiguous in its use of the undefined term "power to correct" and, therefore, not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO admits only that its contracts for work undertaken by independent contractors generally obligated independent contractors to "correct" defective work. ASARCO denies the balance of the Request.

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:

ASARCO objects to this Request for Admission insofar as it assumes “the work” referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. Moreover, it is objectionable as ambiguous in its use of the undefined term “redone” and, therefore, not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO’s Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO admits only that its contracts for work undertaken by independent contractors generally obligated independent contractors to “correct” defective work. ASARCO denies the balance of the 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:

ASARCO objects to this Request for Admission insofar as it assumes “the work” referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO’s Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objection, ASARCO admits only that its contracts for work undertaken by independent contractors generally allowed it to terminate the contract under certain circumstances. The balance of the Request is denied.

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:

ASARCO objects to this Request for Admission insofar as it assumes “the work” referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. Moreover, it is objectionable as ambiguous in its use of the undefined term “observed” and, therefore, not susceptible to a precise response. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom

he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objection, ASARCO admits only that its contracts for work undertaken by independent contractors generally allowed it the right to inspect the independent contractor's work. The balance of the Request is denied.

REQUEST FOR ADMISSION NO. 54:

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

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objections, ASARCO admits only that its contracts for work undertaken by independent contractors generally allowed it the right to inspect the independent contractor's work. The balance of the Request is denied.

REQUEST FOR ADMISSION NO. 55:

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

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objection, ASARCO admits only that its contracts for work undertaken by independent contractors generally provided for final approval of the work by ASARCO. The balance of the Request is denied.

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:

ASARCO objects to this Request for Admission as ambiguous in its use of the undefined phrases "power to control" and "all phases". It is, therefore, not susceptible to a precise response. It is also objectionable insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the alleged employee of independent contractors, performed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify the independent contractors by whom he was employed, any asbestos-containing products with which he worked at ASARCO's Corpus Christi facility, the locations in the facility in which he worked with them, the dates worked there and the specific work to be performed for each independent contractor.

Subject to and without waiving the foregoing objections, the Request is denied.