

NO. 00-04283-H

WILLIAM EARL BOWSER, et al;	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
	§	DALLAS COUNTY, TEXAS
GAF CORPORATION (successor to	§	
RUBEROID CORPORATION), et al;	§	
	§	
Defendants.	§	160TH JUDICIAL DISTRICT

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

TO: Plaintiff, LUDY JAMES CHAMBERLAIN, and his attorney of record, Elizabeth R. Schick, Esq., 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 D. Jeffrey Campbell, Esq., Porzio, Bromberg & Newman, P.C., 100 Southgate Parkway, Morristown, New Jersey, 07962-1977 and Jeffrey W. Kemp, Esq., Fulbright & Jaworski L.L.P., 2200 Ross Avenue, Suite 2800, Dallas, Texas 75201-2784, hereby responds to Plaintiff's First Set of Interrogatories, Requests for Production and Requests for Admission, subject to the following general and specific objections.

**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 Ludy James Chamberlain 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 1972, 1973 and 1977, during which years Plaintiff Ludy James Chamberlain allegedly worked, for a limited time, for independent contractors at ASARCO's El Paso 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 El Paso 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 El Paso 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 El Paso 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 El Paso 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 El Paso facility. It is also objectionable to the extent it refers to a time period during which plaintiff was not working at the El Paso 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 Plaintiff's Requests for Production, identify such person and include the length of time employed by Defendant or other employer, and a year-by-year list of all other positions, titles, or jobs held.

ANSWER:

ASARCO objects to this Interrogatory on the ground 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 current and former ASARCO employees, including, but 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. Peggy Munsell, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Employed by ASARCO as the Industrial Hygienist at the El Paso facility from December 1993 to January 2001.

3. Norma Kidder, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Employed by ASARCO as the Plant Nurse at the El Paso facility since 1976.

4. LeRoy Bates, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Employed by ASARCO since 1975 in the following positions at the El Paso facility: Invoice Clerk, 1975 - 1980; Computer Systems Analyst, 1980 - 1993; Trainer For Contractors and Employees, 1993; Training Specialist, 1994; and Safety Engineer In Charge Of Training, from 1994 - March 1999.

5. 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.

6. Michael O. Varner, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. 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.

7. 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.

8. 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 continuing 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 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, this Interrogatory calls for a medical opinion or conclusion which ASARCO is not qualified to render. ASARCO further objects to this Interrogatory to the extent it calls for information outside the periods during which Plaintiff allegedly worked at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products to which Plaintiff was allegedly exposed or the locations within the El Paso facility where Plaintiff allegedly was exposed to such products. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. 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 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 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 committees, 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 El Paso 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. ASARCO further objects to this Interrogatory to the extent it calls for information outside the periods during which Plaintiff allegedly worked at the El Paso 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 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. Plaintiff has failed to identify any asbestos-containing products with which Plaintiff worked 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 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 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. Plaintiff has failed to identify any asbestos-containing products with which Plaintiff worked 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. Without such limitations, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO commenced asbestos abatement at the El Paso facility in approximately 1990. Abatement was performed by ASARCO personnel (or former personnel), including J. Sarabia, Peggy Munsell, and David Rebeles, who have been trained in asbestos abatement procedures. Dates and locations of abatement include the following:

Date	Location
10/90 - 11/90	Zinc Plant Fuming Furnace
01/07/91	Environmental Bunker
01/07/91	Security Building
01/28/91	Acid Plant #1
01/91 - 02/91	Lead Plant D & L Baghouse Fan House
06/92 - 07/92	Warehouse
10/94 - 12/94	Jones School
10/94 - 12/94	Smelertown
10/24/94	Cadmium Plant
01/20/95	Auto Shop
01/24/95	Power House
02/01/95	Antimony Plant
03/07/95	Power House
03/08/95	Power House
03/30/95	Power House
05/12/95	Power House/Lab
07/15/95	Lab
07/29/95	Office Buildings
08/12/95	Main Office Lobby
08/13/95	Main Office Lobby
10/24/95	Power House
11/02/95	Power House
11/14/95	Power House
12/02/95	Elec. Shop/garage
12/09/95	Elec. Shop/garage
12/16/95	Elec. Shop/garage
12/21/95	Acid Plant #1
01/14/96	Elec. Shop/garage

04/10/96	Copper Plant By-Pass Flue
04/24/96	Lead Plant Blast Furnace Baghouse Stacks
06/12/96	Copper Plant Converter Boilers
06/16/96	Power House
06/96 - 08/96	Lead Plant Blast Furnace Coke Conveyor
07/96	Tower Ducts
08/96	Copper Plant Reverb
08/14/96	Acid Plant
09/04/96	Copper Plant Converter Boilers
09/04/96	Auto Shop
09/23/96	Power House
09/25/96	Copper Plant Converter Hot Gas Fan
09/27/96	Copper Plant Converter Hot Gas Fan
10/10/96	Power House
10/24/96	High Velocity Flue - Venturi
12/02/96	Copper Plant Converters
12/11/96	Power House
12/20/96	Power House
01/02/97	Power House
01/31/97	Power House
02/97	Lead Plant Blast Furnace
02/18/97	Lead Plant Dross Reverb
02/24/97	Lead Plant Breeching Stack
05/21/97	Acid Plant #1
05/22/97	Acid Plant #1
05/23/97	Acid Plant #1
05/29/97	Acid Plant #1
06/04/97	Acid Plant #
06/10/97	Acid Plant #1
06/13/97	Acid Plant #1
08/12/97	Power House
08/22/97	Copper Plant Cottrells
09/02/97	Zinc Plant

10/22/97	Power House
10/23/97	Power House
10/24/97	Heat Exchanger
10/25/97	Heat Exchanger
10/28/97	Heat Exchanger
11/97	Power House Basement Floor.
01/14/98	Power House
01/23/98	Copper Plant Cottrell Flue
02/98 - 03/98	Copper Plant Reverb
02/98 - 03/98	Zinc Plant Baghouse
03/98 -07/98	Copper Plant Converters
04/08/98	Acid Plant #2
04/98	Power House De-aerator
11/98 - 12/98	Copper Plant Converters
11/98 - 12/98	Power House 150# Steam Line
06/99	Copper Plant Reverb area
06/99	Pump House
06/99	Power House
06/99	Tunnel
09/99 - 11/99	Copper Plant Converters
01/24/00	Cadmium Plant Baghouse
07/12/00	Old Sulfur Pilot Plant

See also ASARCO's objections and response to Request for Production No. 1.

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 insofar as 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 El Paso 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. Peggy Munsell, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Employed by ASARCO as the Industrial Hygienist at the El Paso facility from December 1993 to January 2001. Ms. Munsell has knowledge of plant operations and industrial hygiene at the El Paso facility.

3. Norma Kidder, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Employed by ASARCO as the Plant Nurse at the El Paso facility since 1976. Nurse Kidder has knowledge of the operation of the clinic at the El Paso facility.

4. LeRoy Bates, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Employed by ASARCO since 1975 in the following positions at the El Paso facility: Invoice Clerk, 1975 - 1980; Computer Systems Analyst, 1980 - 1993; Trainer For Contractors and Employees, 1993; Training Specialist, 1994; and Safety Engineer In Charge Of Training, from 1994 - March 1999. Mr. Bates has knowledge of the safety equipment used and the safety measures followed at the El Paso facility.

5. Lawrence W. Castor, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. Plant Manager at the El Paso facility from March 1996 through May 2000. Mr. Castor has knowledge of the overall plant operations.

6. 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.

7. 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.

8. 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.

9. 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.

10. Plaintiff's co-workers on the jobs that Plaintiff worked at the El Paso facility.

11. Plaintiff's employers on the jobs that Plaintiff worked at the El Paso facility.

12. Any individual heretofore or to be named as an expert witness by ASARCO with knowledge relevant to the El Paso facility.

13. Any other individuals heretofore or to be named who were employed as plant managers, industrial hygienists, safety personnel or otherwise at the El Paso 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 El Paso 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 Interrogatory 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 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 to the extent that it seeks the identity of each employee whose duties included interface or liaison with Plaintiff’s employer or other unrelated contractors who installed, removed, maintained, repaired or replaced asbestos-containing products at the El Paso facility. ASARCO further objects to this Interrogatory to the extent Plaintiff has failed to identify any asbestos-containing products to which Plaintiff was allegedly exposed or the locations within the El Paso facility where Plaintiff allegedly was exposed to such products. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Accordingly, ASARCO has insufficient information from Plaintiff to adequately investigate, let alone answer this Interrogatory.

Subject to and without waiving the foregoing objections, see the documents produced in response to Request for Production No. 5. Further, the general practice at the El Paso facility was for the plant manager to send a letter to the security desk identifying the independent contractor and authorizing access to the facility to perform the contracted work. It was also the general practice that the superintendent of the department in which an independent contractor was to perform work was responsible for communicating with the foreman of the independent contractor regarding the status and progress of the work. 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 this interrogatory on the ground that it is overly broad, unduly burdensome and outside the scope of permissible discovery. It is overly broad insofar as it seeks information over the one-hundred-and-two year history of the El Paso 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 El Paso facility many decades ago. 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.

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

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.

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. 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. Corporate Medical Director after Dr. Pinto.

Perry Wilson, MD. El Paso facility plant physician, 1991-1998.

Robert Nering, MD. El Paso facility plant physician prior to Dr. Wilson.

Norma Kidder, LVM. Ms. Kidder began working as a nurse at the El Paso facility clinic in 1976.

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.

LeRoy Bates.- Mr Bates graduated from the University of Texas, El Paso in 1968 with a degree in business administration. He began work for ASARCO in 1975 and has held the following positions at the El Paso facility: Invoice Clerk, 1975 - 1980; Computer Systems Analyst, 1980 - 1993; Trainer For Contractors and Employees, 1993; Training Specialist, 1994; and Safety Engineer In Charge Of Training, 1994 - March 1999.

C. Industrial Hygiene

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

Philip 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, 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, 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.

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, 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, 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.

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 he taught Safety Engineering.

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, 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. 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.

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, Cothrin joined ASARCO as a Senior Environmental Scientist. In approximately 1994, he assumed the job of Industrial Hygiene Manager for ASARCO.

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

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 El Paso

facility. 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. John 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.

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. 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.

Peggy Ann Munsell. Ms Munsell graduated from Montana State University in 1977 with a BS in microbiology. She completed graduate school in 1994 at Montana College of Mineral Science and Technology, with a Master of Science degree in Industrial Hygiene. Her professional associations and accreditations have included: membership in the American Industrial Hygiene Association; MT(ASCP) accreditation; EPA Asbestos Accredited Supervisor; EPA Asbestos Accredited Building Inspector/Management Planner.

Ms. Munsell's work experience includes employment as a Hematology Supervisor at St. James Community Hospital from 1978 to 1993 and a health and safety internship with Kennecot Corporation in summer 1993. She began work at ASARCO's El Paso facility in December 1993 as an Industrial Hygienist and assumed the position of Safety and Health Director for the facility in October 1995.

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.

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 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. Further, this Interrogatory fails to specify the type of work or services or the location on the premises for which information is requested. Nor does it specify 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. ASARCO further objects that it has insufficient information from Plaintiff (including the nature and location of the work he allegedly performed within the El Paso facility) to adequately investigate, let alone answer this discovery.

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 El Paso facility where asbestos-containing products were being used or applied during the relevant time period. ASARCO's investigation is ongoing, and the right to supplement this response is expressly reserved.

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 ground that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it is limited neither to the El Paso 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. 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. Further, Plaintiff fails to identify any asbestos-containing products to which Plaintiff was exposed or the locations in ASARCO's facility in which Plaintiff alleges to have been exposed to such asbestos-containing products. Plaintiff has also failed to state whether any such products were actually in place at ASARCO or brought in by outside contractors.

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.

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 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. ASARCO further objects to this Interrogatory to the extent it calls for information outside the periods during which Plaintiff worked at this facility. Further, Plaintiff has failed to identify any asbestos-containing products with which Plaintiff worked 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 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 states that it did not manufacture any asbestos-containing product at its El Paso facility and did not use raw asbestos fiber there. See also ASARCO's objections and answer to Interrogatory No. 13 and documents to be produced in response to Request for Production No. 1.

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, irrelevant to the allegations asserted against it in this lawsuit, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Specifically, and without limitation, this Interrogatory is limited neither to the El Paso facility nor to the time period in which Plaintiff allegedly worked there. 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 has never owned or operated a facility in which asbestos or asbestos-containing products were fabricated. The El Paso facility, first built in 1887, was owned and operated by Consolidated Kansas City. ASARCO purchased the facility in 1899 and has owned and conducted smelting and refining operations from that time until 1999.

Moreover, and again without waiving the foregoing objections, ASARCO's investigation and sampling to date has revealed, generally, that asbestos-containing products were located in certain areas of the El Paso plant, including the following:

Converter Building: Boiler surface material

- Valves
- Ducts
- Hot Gas Fan Flue
- Mastic covering on boilers
- Elbow joints on pipes

Power House: Pipes with yellow air cell insulation

- Valves
- Gaskets
- Cement in turbo generator #5
- Condenser #7 pipe
- Cloth by converter #1 exit door
- Blower flue
- Pipe wrap in basement
- Marine boiler south elbow
- Old 4 DA boiler surface and elbows
- Hot process tank surface
- DA tank upper level by hot process tank
- DEA reactor heater main
- DEA reactor
- Power house super heater elbow
- Valve super heater

Antimony Plant: Wall board

- Gaskets
- Possible asbestos rope

Laboratory: Boiler Pipe insulation

- Boiler Elbow

	Furnace Gasket Floor Floor tile Pipe elbow
Main Office:	Floor tile Pipe insulation
Engineering:	Pipe insulation outside by sub-station
Security:	Ceiling Panel Floor tile Lab counter Vent pipe
Electric/Ins:	Floor tile
Safety Supply:	Floor tile
Human Resource:	Pipe insulation
Environmental:	Floor tile Vinyl floor
Acid Plant #1:	Transite pipe By-pass flue Heat exchanger damper Elbow Heat exchanger 4b, roofing material Elbow safety shower pipe Insulation on safety shower pipe Asbestos cloth pipe wrap Converter dome roofing insulation Cooling tower (transite) Outlet flue
Machine Shop:	Tank insulation
Warehouse:	Pipe insulation in outside yard
Reverb:	East side pipe insulation Mud on north mouth of boiler Pipe flange Boiler elbow Pipe

	Boiler insulation(south side) Floor Old wedge roaster roof seam reinforcement
Cadmium Plant:	Siding of baghouse
Zinc Plant:	Zinc hopper Blower gasket Cloth on flue to hopper North wall of upper baghouse Sub-station wall Black mastic/cement insulation Pipe racks across railroad tracks
Ammonia Tank:	Pipe by eyewash
Roaster:	Gasket
High Line:	Possible transite siding Roofing material
Lead Plant:	Fan Gasket Baghouse tower - mud/mastic Baghouse tower - gasket Fan Gasket Flue to lead stack, mud/mastic Breaching flue to lead stack Sub station, blast furnace, buried pipe wrap
Cottrell:	Converter cottrell hopper, mud Inlet distribution of flue mastic Outlet distribution of flue mastic Cloth/mud outside office Reverb cottrell mud Reverb cottrell mastic Black mastic, mud, or tar in various areas
Sinter Plant:	Expansion gasket Gaskets Wall panel Floor tile Pipe covering Boiler mud
Anode:	Floor tile

Pipe elbow

Warehouse: **Pipe insulation**

Pond 6: **Insulation, wooden trough**
Insulation on pipe on the ground

Bedding: **Fan gasket**
Flue gasket
Flue off reclaim hopper gasket

Unloading: **Unloading RCC plant roofing material**

Bathhouse: **Roofing vent insulation (tar)**

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 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 insofar as it seeks information relating to facilities other than the El Paso facility and information relating to substances other than asbestos. Moreover, Plaintiff has failed to provide sufficient information such as specific dates or periods during which Plaintiff alleges he worked at the El Paso facility, the nature and location of the work performed, or the products used to adequately investigate, let alone respond to this Interrogatory.

Subject to and without waiving the foregoing objections, ASARCO employees possessing knowledge of some air sampling and results over the years include: Peggy

Munsell, ASARCO's former Director of Safety and Health at the El Paso facility, Jodie Haynes, a laboratory technician, Eric Marta, James Rice and John Richardson.

Again subject to and without waiving the foregoing objections, ASARCO is presently unaware of any tests performed to count or measure quantity, quality or threshold limit values or concentrations of asbestos dust or particles at its El Paso facility during the relevant time period. ASARCO's investigation is continuing and ASARCO expressly reserves the right to amend and supplement this response prior to trial.

INTERROGATORY NO. 15:

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

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

ANSWER:

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 insofar as 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 or services or the 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 and ill-defined, and therefore not susceptible to a precise response.

Subject to and without waiving the foregoing objections, since at least the 1970s ASARCO employees at the El Paso facility have undergone a complete physical yearly as well as a six month mini-physical. The yearly physical consists of a blood and urine test, chest x-ray, pulmonary function test, eye and ear test, as well as a complete bodily examination. The six month physical consists of a blood and urine test, pulmonary function test, and a complete bodily examination by the facility physician. The plant physician who most recently headed the El Paso clinic was Dr. Perry Wilson. Dr. Wilson was plant physician from between approximately 1991 and 1998. Dr. Robert Nering was the plant physician before Dr. Wilson.

Subject to and without waiving the foregoing objections, ASARCO states that, by the 1940s, it provided protective equipment to workers at the El Paso facility which included safety apparel and breathing protection. Protective clothing is worn to protect against heat, chemicals and debris in the plant. At least since the 1970s, standard protective clothing, in addition to respirators, has included hard hats, eye protection, ear protection, foot protection, as well as overalls. Outside contractors are subject to the same rules for wearing safety equipment in the plant as ASARCO employees. The persons with most knowledge of safety equipment policies at the plant are Peggy Munsell, LeRoy Bates and John Richardson. 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 El Paso 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 El Paso 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 Rules
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, burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it seeks information on inspections by regulatory agencies relating to substances other than asbestos.

Subject to and without waiving the foregoing objections, ASARCO states that asbestos-containing products were not manufactured at its El Paso facility. Moreover, it is currently unaware of any such inspections during the relevant time period. ASARCO's investigation is ongoing, and the right to supplement this answer if and when responsive information is obtained is expressly reserved.

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 insofar as it seeks information outside the time period during which Plaintiff allegedly worked at the El Paso facility, documents relating to facilities other than the El Paso facility, which is the subject of this lawsuit and claims which are unrelated to any alleged exposure at the El Paso facility or to asbestos-containing products that 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.

Subject to and without waiving the foregoing objections, ASARCO states that the El Paso facility, built in 1887, was owned and operated by Consolidated Kansas City. ASARCO purchased the facility in 1899 and has owned and conducted smelting and refining operations on it continuously since that time. Although, ASARCO has owned the facility since 1899, it expressly denies that it has ever "controlled" Plaintiff or the operations of his employers, who were independent contractors.

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.

ASARCO'S RESPONSES TO 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, 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", and is not limited to those years during which Plaintiff alleges to have worked at the El Paso facility or to 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.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are available, responsive documents for the years during which Plaintiff alleges to have worked at the El Paso 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. 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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that it is not limited to those periods during which Plaintiff alleges to have worked at the El Paso facility or to asbestos-containing products to which Plaintiff alleges to have been exposed. Moreover, it is overly broad in that it is not limited in scope to those independent contractors that Plaintiff has identified as his occasional employers. 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 where 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.

Subject to and without waiving the foregoing objections, ASARCO states that it is currently unaware of any documents relating to the abatement of asbestos-containing products at its El Paso facility during the years Plaintiff alleges to have worked there. 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. 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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as 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.

Subject to and without waiving the foregoing objections, ASARCO's states that it is currently unaware of any gate records, sign-in logs, visitor's logs, identification badges or fingerprinting documents for its El Paso facility, for the years Plaintiff alleges to have worked at the El Paso facility, that relate to the independent contractors Plaintiff identified as his employers.

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. 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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents concerning independent contractors and others who did not employ Plaintiff.

Subject to and without waiving the foregoing objections, ASARCO states that the general practice at the El Paso facility was for the plant manager to send a letter to the security desk identifying the independent contractor and authorizing access to the facility to perform the contracted work. ASARCO's further states that it is currently unaware of any records, for the years Plaintiff alleges to have worked at the El Paso facility, identifying Plaintiff or other individuals who worked for the independent contractors Plaintiff identified as his employers as they entered or left the El Paso 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 in that it seeks documents concerning contractors other than those for which Plaintiff alleges to have worked at the El Paso facility. Moreover, it is objectionable because it requests documents relating to work performed, the location of work performed and products used in such work on Defendant's premises when Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's facility and failed to state whether any such products 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 will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to any contracts with the independent contractors for whom Plaintiff allegedly worked at ASARCO's El Paso facility, that were

performed during the time Plaintiff alleges he worked at the El Paso 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. 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 in that it fails to specify the type of work, services or the location on the premises for which documents are requested and is not limited to work to which Plaintiff's employer, an independent contractor, assigned him.

ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to any payments to the independent contractors for whom Plaintiff allegedly worked at ASARCO's El Paso facility during the time Plaintiff alleges he worked at the El Paso facility. ASARCO's investigation is continuing and 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 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 outside of the time period that Plaintiff alleges he worked at the El Paso facility. ASARCO further objects to this Request to the extent it assumes there was an asbestos-related hazard at its El Paso facility.

Subject to and without waiving the foregoing objections, ASARCO states that it is presently unaware of any photographs, videographic depictions or films taken or used.

during the time period when Plaintiff alleges he was at the El Paso facility, which depict safety precautions of the types identified in the Request. 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. 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 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 the years during which Plaintiff alleges he worked at the El Paso facility, seeks documents regarding facilities other than the El Paso facility, and seeks documents regarding products which were not used by Plaintiff at the El Paso facility. Moreover, Plaintiff has failed to provide sufficient information such as, specific dates or periods during which Plaintiff alleges he worked at the El Paso facility, the nature and location of the work performed, or the products used to adequately investigate, let alone respond to this Request.

Subject to and without waiving these objections, ASARCO is presently unaware of any responsive documents containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos at its El Paso facility during the time Plaintiff alleges that he worked there. 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. 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 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 it is not limited to the period during which Plaintiff alleges he worked at the El Paso facility and seeks materials regarding products which were not used by Plaintiff at the El Paso facility. Moreover, Plaintiff has failed to provide sufficient information such as, specific dates or periods during which Plaintiff alleges he worked at the El Paso facility, the nature and location of the work performed, or the products allegedly used to 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.

Subject to and without waiving these objections, ASARCO states that it is presently unaware of any photographs of warning signs or warning statements, which are or have been in place, at the El Paso facility, in the vicinity of asbestos-containing products during the time period Plaintiff alleges to have worked there. 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. 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 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, not limited to inspections occurring at the El Paso facility, and includes inspections which were conducted outside of the time periods Plaintiff he alleges he worked at the El Paso facility. 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 these objections, ASARCO states that it is presently unaware of any documents relating to inspections of its El Paso facility for asbestos dust concentrations, by government regulatory agencies, during the years Plaintiff alleges to have worked there. 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. 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 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 outside of the time periods Plaintiff alleges he worked at the El Paso 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 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 is presently unaware of any tests performed to count or measure quantity, quality or threshold limit values or concentrations of asbestos dust or particles at its El Paso facility during the relevant time period. 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. 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 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 outside of the time periods Plaintiff alleges he worked at the El Paso 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.

Subject to and without waiving the foregoing objections, ASARCO is presently unaware of any tests performed to count or measure quantity, quality or threshold limit values or concentrations of asbestos dust or particles at its El Paso facility during the relevant time period. 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. 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 and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents outside the periods during which Plaintiff allegedly worked at the El Paso facility, documents relating to facilities other than the El Paso 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 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 El Paso facility during a time period when ASARCO employees, or independent contractors, worked with asbestos-containing materials. Further, Plaintiff has failed to adequately identify any asbestos-containing products with which he claims to have worked at the El Paso 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's investigation is continuing and it 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 which were previously produced in *Hermosillo v. ASARCO*, et al., El Paso County, No. 98-1338 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 refer-red 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 and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents outside the periods during which Plaintiff allegedly worked at the El Paso facility.

Subject to and without waiving the foregoing objections, 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 Plaintiff's' Interrogatories.

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 insofar as it seeks documents outside the periods during which Plaintiff allegedly worked at the El Paso facility and documents relating to facilities other than the El Paso 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 and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents outside the periods during which Plaintiff allegedly worked at the El Paso facility and documents relating to facilities other than the El Paso 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 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 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 outside of the time periods Plaintiff alleges he worked at the El Paso 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 El Paso 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 these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to communications between ASARCO El Paso and manufacturers of asbestos-containing products concerning or related to the asbestos contained in such products, during the time period in which Plaintiff alleges he worked at the El Paso 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. 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.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of documents in its possession disseminated or published by the Industrial Hygiene Foundation during the time Plaintiff alleges he worked at the El Paso facility that contain information relating to the hazards of asbestos. 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. 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 and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it seeks documents that are outside of the time periods Plaintiff alleges he worked at the El Paso facility and which relate to facilities where Plaintiff does not claim he was ever present.

Subject to and without waiving said objections, ASARCO states that it is presently unaware of any "safety meeting minutes" that refer to the dangers of asbestos-containing

products at its El Paso facility during the time Plaintiff alleges he worked there. 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. 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, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence and seeks documents outside the time period during which Plaintiff alleges he worked at the El Paso facility. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's El Paso 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 these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to the installation of asbestos-containing materials by Plaintiff's employers at its El Paso facility during the time period in which Plaintiff alleges he worked there. 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. 24:

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

RESPONSE:

ASARCO objects to this Request for Production insofar as it assumes that ASARCO would have the documents for which it calls. Plaintiff was an occasional employee of independent contractors who was never employed by ASARCO; consequently, ASARCO would not have documents of the type called for in this Request.

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 El Paso 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. Plaintiff was an occasional employee of independent contractors who was never employed by ASARCO; consequently, ASARCO would not have documents of the type called for in this Request.

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 El Paso 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, burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request insofar as it seeks documents for periods other than those during which Plaintiff alleges he worked at the El Paso facility. Further, Plaintiff has failed to adequately identify any asbestos-containing products with which he allegedly worked at the El Paso 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.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to the layout of the El Paso facility during the time Plaintiff alleges he worked at the El Paso facility.

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. Defendant 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 and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it is not limited to asbestos-containing products to which Plaintiff claims exposure and seeks documents outside of the time periods Plaintiff alleges he worked at the El Paso facility. Moreover, Plaintiff has failed to provide sufficient information, such as specific dates or periods during which Plaintiff alleges he worked at the El Paso facility, the nature and location of the work performed, or the products used 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.

Subject to and without waiving the foregoing objections, ASARCO states that it is not presently aware of any photographs of asbestos products in place or asbestos-containing materials being installed, maintained, removed, replaced, repaired, or manipulated in anyway at its El Paso facility during the time Plaintiff alleges he worked there. 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. 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 claim 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 for Production on the ground that it is overly broad, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents outside of the time periods Plaintiff alleges he worked at the El Paso 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 injuries as a result of asbestos exposure at the El Paso facility:

1. *Hermosillo v. ASARCO, et al.*, El Paso County, 98-1338;
2. *España v. Owens-Corning Fiberglas*, El Paso County, 98-559;
3. *Portillo v. Owens-Corning Fiberglas*, El Paso County, 97-1878;
4. *Lerma v. Asarco*, U.S.D.C. S.D. Tex., Houston Div. 98-0197, Transferred to E.D. Pa. (MDL);
5. *Glenn Biehl, et al. v AC & S, Inc., et al.*, El Paso County, No. 2000-3600;
6. *Jose Delaluz Mares, et al. v GAF Corp., et al.*, El Paso County, No. 2000-3841;
7. *William Earl Bowser, et al. v GAF Inc., et al.*, Dallas County, No. 00-04283;
8. *Juan Benitez, et al. v A.M.F. Inc., et al.*, County Court at Law No. 3, of El Paso County, No. 2000-1152;
9. *Daniel Alderete, Jr., et al. v Owens-Corning Fiberglas Corp., et al.*, Brazoria County, No. 6264*RM98;
10. *Owens Ray Adams, et al. v A.M.F. Inc., et al.*, Brazoria County, No. 6354*RM98;
11. *Harold Adkins, Jr., et al. v A.M.F. Inc., et al.*, Brazoria County, No. 7668*JG99;
12. *James Isaacks, et al. v A.M.F. Inc., et al.*, Brazoria County, No. 9886*JG99;
13. *Harold Erle Janssen, et al. v. A.M.F. Inc., et al.*, Jefferson County, No. E-0161739;
14. *Jose Rosendo Martinez, Sr. v. GAF Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-2591;

15. *Jose Angel Acevedo, et al. v Owens-Corning Fiberglass Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 97-1621;
16. *Cerros, et al., v. A.M.F. Inc. et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-4261;
17. *Aguilara, et al v. GAF Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-2113;
18. *Aguilar; et al. v. GAF Corp. et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-3418;
19. *Alva, et al. v. U.S. Gypsum Co., et al.*, County Court at Law No. 3 of El Paso County, No.: 2001-218;
20. *Diaz, et al. v. Foster Wheeler Energy Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2001-2086;
21. *Franco, et al., v. GAF Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-3546;
22. *Adams, et al. v AMF, Inc., et al.*, 149th Judicial District Court of Brazoria County, Texas, No.: 6534*RM98
23. *Munoz, et al. v GAF Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-3423;
24. *Pulido, et al., v. U.S. Gypsum Co., et al.*, County Court at Law No. 3 of El Paso County, No.: 2001-421;
25. *Parra, et al., v. Owens-Corning, et al.*, County Court at Law No. 5 of El Paso County, No.: 98-3836;
26. *Reza, et al.; v. Owens-Corning, et al.*, County Court at Law No. 5 of El Paso County, No.: Cause No. 99-060A;
27. *Sepulveda, et. al., v. Owens-Corning, et al.*, County Court at Law No. 3 of El Paso County Cause No. 99-2779.

See also ASARCO's objections and response to Interrogatory 18. 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. 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, 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 outside of the time periods Plaintiff alleges he worked at the El Paso facility and which relate to facilities where Plaintiff does not claim he was ever present. ASARCO further objects to the Request insofar as it assumes that ASARCO had a supervisory relationship to Plaintiff and his employer, who were independent contractors.

Subject to and without waiving those objections, ASARCO states that it is presently unaware of any 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 at its El Paso facility during the time Plaintiff alleges he worked there. 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. 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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents that are outside of the time periods Plaintiff alleges he worked at the El Paso facility and that relate to facilities where Plaintiff does not claim he was ever present. ASARCO further objects to the Request insofar as it assumes that ASARCO had a supervisory relationship to Plaintiff and his employer, who were independent contractors.

Subject to and without waiving those objections, ASARCO states that it is presently unaware of any corporate, board of directors, Defendant Premises representatives, departmental persons, task force, or other meetings of members of defendant during the relevant time period that contain discussion or information concerning asbestos, asbestos-related health hazards, or asbestos-containing products at its El Paso 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. 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, 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.

Subject to and without waiving the foregoing objections, ASARCO is presently unaware of any responsive documents between it and any of its worker's compensation insurance carriers or any other insurance carriers regarding the hazards of asbestos and asbestos-containing products during the time period Plaintiff alleges he worked at its El Paso facility. ASARCO's investigation is continuing and it reserves the right to amend and supplement this response 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 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 outside of the time periods Plaintiff alleges he worked at the El Paso facility 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 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 said objections, ASARCO states that it is presently unaware of any documents between ASARCO's El Paso facility and its insurance carriers during the time period Plaintiff alleges he worked at the El Paso facility that relate to any inspections carried out by the insurance carrier in which asbestos dust was mentioned. 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. 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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it is without time limitation, limitation to a specific subject, limitation to the El Paso facility or to a specific location at the El Paso 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, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of its orders, rules and policies which have been used relating to the use of asbestos-containing

products at its El Paso facility during the time Plaintiff alleges he worked there. 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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents that outside of the time periods Plaintiff alleges he worked at the El Paso facility and complaints which do not relate to asbestos dust conditions.

Subject to and without waiving these objections, ASARCO states that it is presently unaware of any documents which contain complaints by its employees at the El Paso facility regarding asbestos-related issues during the time Plaintiff alleges he worked there. 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. 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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents that outside of the time periods Plaintiff alleges he worked at the El Paso facility and complaints which do not relate to asbestos dust conditions.

Subject to and without waiving these objections, ASARCO states that it is presently unaware of any documents which contain complaints by Union representatives at the El Paso facility regarding asbestos-related issues during the time Plaintiff alleges he worked there. 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. 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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent that they exist and are available, all organizational charts or rosters which identify the members of the management at the El Paso facility and their areas of responsibility during the time period Plaintiff alleges he worked there. 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. 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, insofar as it seeks documents relating to years other than those during which Plaintiff alleges to have worked at the El Paso facility.

Subject to and without waiving these objections, ASARCO states that it owned the El Paso facility during the time period Plaintiff alleges he worked there. 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. 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, 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 occasional employee of independent contractors who was not subject to ASARCO's control, was present at any specific worksite at the El Paso 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 El Paso plant 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."

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Requests for Production Nos. 40, 42 and 44. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend this response throughout the continuing course of discovery.

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 occasionally employed Plaintiff.

Subject to and without waiving this objection, ASARCO’s states that it purchased the El Paso facility in 1899 and has owned it since that time. 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, byway of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

RESPONSE:

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 occasional 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, burdensome and seeks documents that are neither relevant nor reasonably

calculated to lead to the discovery of admissible evidence, insofar as it seeks documents relating to years other than those during which Plaintiff alleges he worked at the El Paso facility and which relate to potential liability for harms that are not in issue in this case.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent that they exist and are available, indemnity agreements, assignments of liability, and/or subrogation agreements with the independent contractors Plaintiff identified as his employers during the time period he alleges he worked at the El Paso 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. 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 adequately identify specific locations at ASARCO's El Paso 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'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. 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 insofar as it seeks documents relating to the present state of the El Paso facility.

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Requests for Production Nos. 2 and 45 and ASARCO's objections and answer to Interrogatory No. 6. 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. 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, 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 "any process taking place at any of Defendant's facilities", that are outside of the time periods Plaintiff alleges he worked at the El Paso facility, 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 adequately identify any asbestos-containing products with which Plaintiff 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, see also ASARCO's objections and documents to be produced in response to Request for Production No. 1. 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. 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 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", and documents that are outside of the time periods during which Plaintiff alleges he worked at the El Paso facility or which relate to processes to which Plaintiff has not claimed exposure. Moreover, 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, see also ASARCO's objections and documents to be produced in response to Requests for Production Nos. 8 and 35. 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. 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 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 time periods during which Plaintiff alleges he worked at the El Paso facility or to asbestos-containing products which to which Plaintiff alleges exposure. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which Plaintiff 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 El Paso facility. ASARCO further states that it is unaware of any marketing or advertising materials relating to its El Paso facility regarding its alleged use of asbestos or asbestos containing materials during the time Plaintiff alleges he worked there. 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. 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 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 time periods other than those during which Plaintiff alleges to have worked at the El Paso facility. 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.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of documents relating to boilers at its El Paso facility during the time Plaintiff alleges he worked there. 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. 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 and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent it seeks documents relating to years other than those during which Plaintiff alleges to have worked at the El Paso facility. 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.

Subject to and without waiving said objections, ASARCO states that it is presently unaware of any documents relating to audits it conducted or caused to be conducted at its El Paso facility, during the time Plaintiff alleges he worked there, as to some aspect of its safety program. 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. 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 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 periods other than those during which Plaintiff alleges to have worked at the El Paso facility and documents relating to facilities other than the El Paso facility. It is also overly broad insofar as 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 ambiguous in its use of the undefined phrase "safety in the industry" and 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 El Paso facility.

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

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 El Paso 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 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 facilities other than the El Paso facility and to work to which Plaintiff's employer, an independent contractor, did not assign him.

Subject to and without waiving said objections, see objections and documents produced in response to Request for Production No. 5. 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. 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 and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information relating to periods other than those during which Plaintiff alleges to have worked at the El Paso facility, products to which Plaintiff does not claim exposure, and facilities at which Plaintiff does not claim he was present.

Subject to and without waiving said objections, ASARCO's will produce at a mutually convenient date and time, to the extent they exist and are responsive, such documents as pertain to the El Paso facility during the relevant time period. 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. 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, insofar as it is limited neither to the El Paso 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. 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. Further, Plaintiff fails to identify any asbestos-containing products to which Plaintiff was exposed or the locations in ASARCO's facility in which Plaintiff alleges to have been exposed to such asbestos-containing products. Plaintiff has also failed to state whether any such products were actually in place at ASARCO or brought in by outside contractors.

Subject to and without waiving the foregoing objections, ASARCO states that by 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.

REQUEST FOR PRODUCTION NO. 59:

Please produce a 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 and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information relating to periods other than those during which Plaintiff alleges to have worked at the El Paso facility, products to which Plaintiff does not claim exposure, and facilities at which Plaintiff does not claim he was present.

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 and seeks documents that are neither relevant nor reasonably calculated to lead to

the discovery of admissible evidence insofar as it seeks information relating to periods other than those during which Plaintiff alleges to have worked at the El Paso facility, products to which Plaintiff does not claim exposure, claims of property damage and facilities at which Plaintiff does not claim he was present. .

**ASARCO'S RESPONSES TO 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 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 any asbestos-containing products where he worked 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 El Paso facility during the time period when Plaintiff allegedly worked there. 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 that Plaintiff was present 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 present at any location within the El Paso facility where asbestos-containing products were being used. In the absence of such information from Plaintiff, ASARCO denies this Request.

REQUEST FOR PRODUCTION NO. 61:

If your response to the foregoing request is any thing 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 that Plaintiff was present 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, ASARCO admits 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 to the extent it assumes that Plaintiff was present 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, ASARCO has no information at the present time that Plaintiff was present at any location within the El Paso facility where asbestos-containing products were being used. In the absence of such information from Plaintiff, ASARCO denies this Request. 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 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 that 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 El Paso 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 El Paso 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 that Plaintiff was present 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, ASARCO has no information at the present time that Plaintiff was present at any location within the El Paso 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 that Plaintiff was present 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, ASARCO has no information at the present time that Plaintiff was present at any location within the El Paso facility where asbestos-containing products were being used. Accordingly, ASARCO can neither admit nor deny because, after reasonable inquiry, the information known or reasonably obtainable is insufficient to enable the responding party to admit or deny.

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 that Plaintiff was present at locations where asbestos was present 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 further objects to this Request for Admission as ambiguous.

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 El Paso facility during the time period in which Plaintiff alleges to have worked there. 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 that Plaintiff was present 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 further objects to this Request as ambiguous.

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 El Paso facility during the time period in which Plaintiff alleges to have worked there. 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 the responding party 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 for Admission on the ground that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence and because it assumes Plaintiff was present at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any worksite at the El Paso 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 El Paso facility where asbestos-containing products were being used or applied during the relevant time period. 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 for Admission on the ground that it is overly broad 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 that Plaintiff was present at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any worksite at the El Paso 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. 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 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 that Plaintiff was present at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any worksite at the El Paso 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 El Paso facility in the 1950s. 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 El Paso facility in the 1960s. 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 El Paso facility in the 1970s. 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 El Paso facility in the 1980s. 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 admits only that asbestos-containing products were present at some locations within its El Paso facility in the 1990s. 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. 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:

Denied. 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 on the ground that it is overly broad 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 that Plaintiff was present at locations where asbestos was used. ASARCO has no information at the present time that Plaintiff was present at any worksite at the El Paso 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 on the ground that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information regarding independent contractors who did not employ Plaintiff.

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 on the ground that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information regarding independent contractors who did not employ Plaintiff.

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:

Denied. See also ASARCO's objections and response to Request for Admission No. 8.

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, burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it is not limited to those years during which Plaintiff alleges to have worked at the El Paso facility or to 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.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are available, responsive 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 ADMISSION NO. 21:

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

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 22:

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

RESPONSE:

ASARCO admits only that certain asbestos-containing products are still in place at certain locations within the El Paso facility. ASARCO denies the balance of 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 insofar as it seeks information outside of the time periods during which Plaintiff alleges that he worked at the

El Paso facility and as 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 insofar as it seeks information outside of the time periods during which Plaintiff alleges that he worked at the El Paso facility and as 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 admits only that it owned the El Paso facility during the years in which Plaintiff alleges to have worked there for independent contractors.

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.

Subject to this objection and without waiving it, ASARCO admits only that it engaged in the smelting and refining of copper and the production of sulfuric acid at the El

Paso facility during the years in which Plaintiff alleges to have worked there. 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, see 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, see 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 and unlikely to lead to the discovery of admissible evidence in that it relates to persons other than Plaintiff and the independent contractors that occasionally employed him, and because it is not limited to the periods during which Plaintiff alleges he worked at the El Paso facility.

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 and unlikely to lead to the discovery of admissible evidence insofar as it relates to persons other than Plaintiff and the independent contractors that occasionally employed him, and because it is not limited to the periods during which Plaintiff alleges he worked at the El Paso facility.

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 to 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 and unlikely to lead to the discovery of admissible evidence insofar as it seeks information that is outside the periods during which Plaintiff alleges he worked at the El Paso facility and information regarding independent contractors who did not employ Plaintiff.

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 and unlikely to lead to the discovery of admissible evidence insofar as it seeks information that is outside the periods during which Plaintiff alleges he worked at the El Paso facility and information regarding independent contractors who did not employ Plaintiff.

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 occasional 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 El Paso 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 occasional 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 El Paso 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. 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 occasional 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 El Paso 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 it contracted with Southwestern Industrial Contractors and Riggers, Inc. during the relevant time period, to perform the following work at the El Paso facility:

1. January 18, 1973 to install a ventilation system. The independent contractor's quotation called for the use of 1/16" asbestos gaskets on the ventilation system pressure duct only.
2. On or about March 9, 1977, to enclose the Converter Building. The independent contractor issued a purchase order to H. H. Robertson Company for the purchase of corrugated Galbestos panels.

ASARCO denies the balance of the 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 occasional 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 any asbestos-containing products with which he worked at ASARCO's El Paso 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 Plaintiff's 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 occasional 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 any asbestos-containing products with which he worked at ASARCO's El Paso 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 it contracted with Southwestern Industrial Contractors and Riggers, Inc. during the relevant time period, to perform the following work at the El Paso facility:

1. May 9, 1972 to construct a Cadmium Crane Building;
2. June 7, 1972 to erect the Blast Furnace Baghouse Stack.
3. October 30, 1973 to build water closets and lunch rooms.

ASARCO denies the balance of the Request.

REQUEST FOR ADMISSION NO. 38:

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

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the occasional employee of independent contractors, performed and because it is ambiguous in its use of the undefined phrase "turnaround" work. ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's El Paso 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 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 occasional 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 El Paso 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, which Plaintiff identified as his occasional employers, concerning some of the work which the independent contractors performed at ASARCO's El Paso facility.

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 occasional employee of independent contractors, performed and because it is ambiguous in its use of the undefined term "instructed". ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's El Paso 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, which Plaintiff identified as his occasional employers, concerning the work at its El Paso facility. Contracts for work, undertaken by the independent contractors which Plaintiff identified as his occasional employers, generally called for the independent contractors to maintain a competent staff at all times to supervise the work.

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 employee of independent contractors, performed and because it is ambiguous in its use of the undefined term "instructed". ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's El Paso 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, which Plaintiff identified as his occasional employers, how to perform work at its El Paso facility. Contracts for work, undertaken by the independent contractors which Plaintiff identified as his occasional employers, generally called for the independent contractors to maintain a competent staff at all times to supervise the work.

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 occasional 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 El Paso 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. Contracts for work, undertaken by the independent contractors which Plaintiff identified as his occasional employers, generally called for the independent contractors to maintain a competent staff at all times to supervise the work.

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 insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the occasional 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 El Paso 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 occasional 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 El Paso 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 these objections. ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to specifications for work to be performed at ASARCO's El Paso facility during the time Plaintiff alleges he worked there. ASARCO's investigation is continuing and 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 insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the occasional 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 El Paso 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 certain materials, or their equivalents, were sometimes specified for work undertaken by the independent contractors, which Plaintiff identified as his occasional employers, when performing work at its El Paso facility. ASARCO denies the balance of the 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 occasional 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 El Paso 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.

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. ASARCO further objects to this Request insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the occasional 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 El Paso 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 the independent contractors which Plaintiff identified as his occasional employers, generally called for work to be started by certain dates. 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 occasional employee of an independent contractor, 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 El Paso 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 the independent contractors which Plaintiff identified as his occasional employers, generally called for work to be completed by certain dates, with provisions for necessary extensions. ASARCO denies the balance of the Request.

REQUEST FOR ADMISSION NO. 47:

Admit that you told Plaintiff's 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 occasional 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 El Paso 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 certain materials were sometimes specified for work undertaken by the independent contractors, which Plaintiff identified as his occasional employers, when performing work at its El Paso facility. ASARCO denies the balance of the Request.

REQUEST FOR ADMISSION NO. 48:

Admit that you told Plaintiff's 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 occasional 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 El Paso 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 the independent contractors which Plaintiff identified as his occasional employers, 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 occasional employee of independent contractors, performed and because it is ambiguous in its use of the undefined term "deadline". ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's El Paso 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 the independent contractors which Plaintiff identified as his occasional employers, generally called for work to be completed by certain dates, with provisions for necessary extensions. 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 occasional employee of independent contractors, performed and because it is ambiguous in its use of the undefined term “power to correct”. ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO’s El Paso 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 the independent contractors which Plaintiff identified as his occasional employers, generally obligated independent contractors to “correct” defective work by taking down all portions of the work which did not meet contract requirements and replace the work, if final payment had not been made. In the event that final payment had been made, the independent contractor generally remained contractually obligated to replace faulty materials and workmanship and any defects caused by them, for one year after the date of completion. Disputes were generally subject to arbitration. 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 occasional 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 any asbestos-containing products with which he worked at ASARCO’s El Paso 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, the Request is denied.

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 occasional 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 El Paso 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 the independent contractors which Plaintiff identified as his occasional employers generally allowed it to terminate the contract in certain eventualities, e.g. the independent contractor’s bankruptcy, and retake possession of the premises from the independent contractor. 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 occasional employee of independent contractors, performed. ASARCO further objects to the Request as ambiguous in its use of the undefined term “observe”. ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO’s El Paso 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 the independent contractors which Plaintiff identified as his occasional employers 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 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 occasional 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 El Paso 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 the independent contractors which Plaintiff identified as his occasional employers generally allowed it the right to inspect the independent contractor's work. The balance of the Request is denied. See also ASARCO's objections and response to Request for Admission No. 55.

REQUEST FOR ADMISSION NO. 55:

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

RESPONSE:

ASARCO objects to this Request for Admission insofar as it assumes "the work" referenced in the Request was work which Plaintiff, the occasional 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 El Paso 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 the independent contractors which Plaintiff identified as his occasional employers generally provided for a final inspection of the work by ASARCO, and the issuance of a certificate of completion if ASARCO found the work acceptable. 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 phrase "power to control". It is also objectionable insofar as it assumes "the

work” referenced in the Request was work which Plaintiff, the occasional 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 El Paso 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.

Respectfully submitted,

**PORZIO, BROMBERG & NEWMAN,
P.C.**

Date: Sept. 18, 2001

By:


D. Jeffrey Campbell, Esq.

State Bar No. 00785468

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Morristown, New Jersey 07962-1997

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Dallas, Texas 75201

(214) 855-8000 fax: (214) 855-8200

Attorneys For Defendant,

ASARCO Incorporated, f/k/a American
Smelting And Refining Company.

NO. 00-04283-H

WILLIAM EARL BOWSER, et al;	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
	§	
	§	DALLAS COUNTY, TEXAS
GAF CORPORATION (successor to	§	
RUBEROID CORPORATION), et al;	§	
	§	
Defendants.	§	160TH JUDICIAL DISTRICT

VERIFICATION OF KEVIN McCaffery

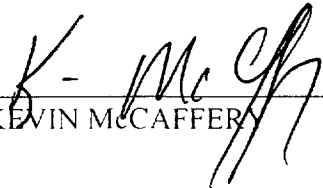
[illegible]

KEVIN McCaffery being duly sworn, deposes and says:

1. I am the Senior Associate General Counsel of Defendant, ASARCO-Incorporated, formerly known as, American Smelting and Refining Company.

2. I have read the foregoing Answers to Plaintiff's First Set of Interrogatories. I know the contents thereof, and verify the same to be true upon information and belief.

3. The bases of my knowledge, information and belief are memoranda, investigations, reports and records contained in the file of this case maintained in the regular course of business of the corporation and that of the corporation's attorneys, as well as advice provided from the corporation's attorneys in this action.



KEVIN McCAFFERY

Sworn to before me this
18th day of September, 2001

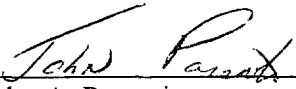


Notary Public

MATHEW D. LASKOWSKI
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires March 25, 2004
I.D. # 2225866

CERTIFICATE OF SERVICE

This document was served on counsel for plaintiffs via Federal Express on September 17th, 2001.



John A. Parenti
100 Southgate Parkway
Morristown, New Jersey 07962-1997
(973) 538-4006 fax: (973) 538-5146

WILLIAM EARL BOWSER, et al.,	)	IN THE DISTRICT COURT
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	DALLAS COUNTY, TEXAS
GAF CORPORATION (successor to	)	
RUBEROID CORPORATION)	)	
et al.,	)	
	)	
Defendants.	)	160 TH JUDICIAL DISTRICT

ASARCO INCORPORATED'S RESPONSE TO
PLAINTIFF LUDY JAMES CHAMBERLAIN'S
REQUEST FOR DISCLOSURE

TO: Plaintiff Ludy James Chamberlain, and his attorney of record, Elizabeth R. Schick, Esq., Baron & Budd, P.C., 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219.

Comes now ASARCO Incorporated formerly known as American Smelting and Refining Company, a corporation of the State of New Jersey, with a principal place of business in the State of Arizona (subsequently referred to as "ASARCO" or "Defendant"), named Defendant herein, and in answer to Plaintiff Ludy James Chamberlain's Request for Disclosure, makes and files this response pursuant to Rule 194 of the Texas Rules of Civil Procedure, respectfully showing unto the Court the following:

Rule 194.2(a): the correct names of the parties to the lawsuit.

RESPONSE:

ASARCO Incorporated, formerly known as American Smelting and Refining Company. ASARCO has no knowledge with regard to whether other parties have been correctly named.

Rule 194.2(b): the name, address and telephone number of any potential parties.

Based upon the limited information Plaintiffs have provided thus far, ASARCO is not aware of any potential parties to this action. As ASARCO's investigation of Plaintiffs' claims is ongoing, ASARCO expressly reserves its right to amend and supplement this response.

Rule 194.2(c): the legal theories and, in general, the factual bases of the responding party's claims or defenses.

RESPONSE:

ASARCO denies that its conduct toward Plaintiff was in any way negligent and denies responsibility for the injuries alleged by Plaintiff in the original petition and all subsequent amended pleadings. ASARCO denies that it failed to maintain a safe workplace and denies that Plaintiff was exposed to any asbestos and/or asbestos-containing products at its El Paso facility.

Further, even if Plaintiff could establish that he was exposed to asbestos and/or asbestos-containing products at the El Paso facility, such exposure was not the cause of Plaintiff's alleged injuries. Even if ASARCO is found to be negligent, Plaintiff's alleged injuries were not proximately related to or caused by ASARCO's conduct. ASARCO denies that Plaintiff's injuries and/or death were caused by an asbestos-related disease.

Further, even if Plaintiff did suffer from an asbestos-related disease, he failed to assert a claim for such injuries within the applicable limitations period. In addition, Plaintiff was himself negligent and/or assumed the risk of injury by failing, on occasions, to avail himself of or use safety equipment, respirators, and other protective devices that could have reduced or prevented his exposure to industrial dusts and/or chemicals. If Plaintiff was a cigarette smoker, Plaintiff was negligent and otherwise caused or contributed to his alleged injuries by continuing to smoke cigarettes in the face of knowledge and/or warnings that cigarette smoking was hazardous to health.

Further, with regard to the work it performed at the El Paso facility, Plaintiff's employers were knowledgeable and sophisticated contractors who had a duty to safeguard and protect their employees from actual and potential workplace hazards, and, therefore, ASARCO had no direct duty to Plaintiff to ensure that Plaintiff's employment was free from hazards encountered under the direction of his employer.

In addition, Plaintiffs' damages, if any, were caused by negligent acts or omissions or breach of warranty by third parties or other defendants and/or exposure to certain products manufactured or distributed by said third parties or defendants. Accordingly, pursuant to applicable law, ASARCO is entitled to a comparative apportionment of fault, if any, as to the other defendants and/or third parties and is entitled to a judgment against them for contribution and/or indemnity or a percentage reduction in accordance with the apportionment of fault.

Finally, ASARCO refers Plaintiff to the Special Exceptions, General Denial and Affirmative Defenses set forth in its Answer to Plaintiffs' First Amended and any subsequent Petition. As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO reserves the right to amend and/or supplement this response.

Rule 194.2(d): the amount and any method of calculating economic damages.

RESPONSE:

Not applicable to Defendant.

Rule 194.2(e): the name, address and telephone number of persons having knowledge of relevant facts and a brief statement of each identified person's connection with the case.

RESPONSE:

1. ASARCO incorporates by reference the name, address and telephone number of each person identified by Plaintiffs as persons with knowledge of relevant facts, including but not limited to Plaintiffs, their families, their co-workers and their medical providers. Plaintiffs should have knowledge of all aspects of their case. Plaintiffs' family members should know how Plaintiffs' injuries or illnesses have affected plaintiffs. Plaintiffs' co-workers should know which asbestos-containing products, if any, Plaintiffs were exposed to during their employment. Plaintiffs' medical providers should know plaintiffs' medical conditions and treatments. These persons include, but are not limited to the following:

Carlos Victor Chamberlain
2355 Grand Avenue
Hot Springs, Arkansas 71901

Carlota Chamberlain
317 Cullen Avenue
El Paso, Texas 79915

Wayne Elbert Crow
3208 Drumond Road
El Paso, Texas 79925

Arturo Avila
12408 Gage Road
Clint, Texas 79836

John William Riordan
7872 La Senda Drive
El Paso, Texas 79915

Oscar F. Perez
5971 Sixta Drive
El Paso, Texas 79932

Jose Rodolfo Bustillos
7363 Alpha
El Paso Texas 79915

Federico Gardea
1349 Vista De Oro
El Paso, Texas 79935

Howard Paul Frioux
P.O. Box 861
Groves, Texas 77619

R. Edward Castillo

Alejandro Carreon

David Portillo

Unknown physician
Baptist Hospital
College and 11th
Beaumont, Texas

Unknown physician
Sierra Medical Center
El Paso, Texas 79901

Dr. Carlos Miranda
1700 Curie Drive, Suite 1500
El Paso, Texas

Dr. Castillo
1250 East Cliff Drive
El Paso, Texas 79902

Unknown physician
V.A. Hospital
5000 West National Avenue
Milwaukee, Wisconsin 53290

Providence Hospital
El Paso, Texas 79901

2. ASARCO incorporates by reference the name, address and telephone number of each person identified by the other defendants and/or third-party defendants as persons with knowledge of relevant facts. To date, ASARCO has not been served with any discovery responses or witness designations by co-defendants and/or third-party defendants to this action. ASARCO reserves the right to supplement this response upon receipt of same.

3. ASARCO incorporates by reference the name, address and telephone number of each expert witness identified by any other party as persons who may also provide factual testimony relevant to the issues in this litigation.

4. Individuals who were employed as plant managers, industrial hygienists, and/or safety personnel at the ASARCO El Paso facility during the relevant time period.

5. Michael O. Varner, c/o ASARCO Incorporated, 3422 South West, Salt Lake City, Utah (801) 263-5220. 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.

6. 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.

7. 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.

8. 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.

9. Marvin Kushner, M.D., SUNY Health Science Center, Pathology, Stony Brook, NY. By videotape taken in *Everett v Owens-Corning Fiberglas, et al.*, Supreme Court of New York, Niagara County, Index No. 086198. Dr. Kushner is a pathologist and was a member of the Scientific Committee of the Institute of Occupational and Environmental Health ("IOEH") from 1966 to 1981. Dr. Kushner will testify by prior testimony concerning his involvement with the Scientific Committee, its autonomy, and the value of the scientific research funded by the IOEH.

The fact witnesses designated herein should only be contacted through counsel for ASARCO.

At this point in the case, Plaintiffs have not provided sufficient information regarding their claims for ASARCO to determine every person who may have knowledge of relevant facts. ASARCO reserves the right to call additional fact witnesses for the purpose of rebuttal or impeachment, if necessary, at the time of trial. ASARCO also reserves the right to amend and/or supplement this response up to the time of trial.

Rule 194.2 (f): for any testifying expert.

- (1) the expert's name, address and telephone number;**
- (2) the subject matter on which the expert will testify;**
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;**
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:**
 - (A) all documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and**
 - (B) the expert's current resume and bibliography.**

RESPONSE:

ASARCO may call the following expert witnesses at trial:

1. All individuals designated or to be designated as expert witnesses by plaintiffs, whether live or by deposition testimony.

2. All individuals designated or to be designated as expert witnesses by any other defendant or third-party defendant to this action, whether live or by deposition testimony, and without regard to that party's presence at the time of trial.

3. All physicians who have prior to trial examined plaintiffs or plaintiffs' decedent and/or plaintiffs or plaintiffs' decedents' medical records, hospital records, laboratory test results, x-ray or other diagnostic imaging films and/or any other information of whatever kind relating to the health of plaintiffs or plaintiff's decedent, on behalf of any party, without regard to that party's presence at the time of trial, who will testify as to the plaintiffs' or plaintiff's decedent's clinical course and causation of any illness either live or by deposition testimony, including but not limited to the individuals identified below.

4. All physicians or other health care practitioners who have treated plaintiffs or plaintiffs' decedent at any time and for any condition and whose names, addresses, and qualifications are already known to plaintiffs, may be called to testify whether live or by deposition testimony, including but not limited to the individuals identified below.

Unknown physician
Baptist Hospital
College and 11th
Beaumont, Texas

Unknown physician
Sierra Medical Center
El Paso, Texas 79901

Dr. Carlos Miranda
1700 Curie Drive, Suite 1500
El Paso, Texas

Dr. Castillo
1250 East Cliff Drive
El Paso, Texas 79902

Unknown physician
V.A. Hospital
5000 West National Avenue
Milwaukee, Wisconsin 53290

Providence Hospital
El Paso, Texas 79901

5. John E. Craighead, M.D., 1845 Four Winds Road, Ferrisburgh, VT 05456. Dr. Craighead is a clinical and anatomical pathologist specializing in pulmonary pathology. Dr. Craighead will testify generally as to his background, training and experience. Dr. Craighead will testify as to his knowledge of pathology and asbestos-related diseases. He will further testify as to the general medical issues concerning the development, cause, and diagnosis of asbestos-related disease and/or other diseases that may mimic asbestos-related diseases.

Dr. Craighead will testify generally as to the dangers posed by the inhalation of asbestos fibers and the relative risks associated with exposure to low levels of airborne asbestos. Dr. Craighead may also address thresholds of exposure below which there is no measurable increased risk of contracting an asbestos-related disease and the latency periods required for the development of the various asbestos-related diseases.

Dr. Craighead may review the pathological evidence in this case, if any, and testify concerning whether it is diagnostic of asbestos-related disease.

Dr. Craighead may also testify concerning asbestos fiber counts in the lung tissue of different populations and their significance with regard to dose-response relationships and causation. Dr. Craighead may offer such other opinions as may become necessary to rebut the opinions of Plaintiffs' experts.

Dr. Craighead may base his testimony on the available medical and scientific literature, his own training and experience, the opinions and reports of other experts named or to be named by any other party, whether presented live or by deposition, the testimony of all other witnesses named or to be named by any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

6. Allen R. Gibbs, M.D., Department of Pathology, Llandough Hospital, South Glamorgan, Penarth CF, 61XX, United Kingdom, is a pulmonary pathologist who received his medical degree from Newcastle Upon Tyne. He is a Fellow of the Royal College of Pathologists. He is a consultant pathologist to South Glamorgan Health Authority and is an honorary clinical teacher to the University of Wales College of Medicine. Dr. Gibbs is also an honorary consultant to the MRC external staff team on occupational lung diseases at Llandough Hospital. He was a senior lecturer in pathology at the University of Wales College of Medicine. He has special expertise in the diagnosis of asbestos-related diseases and the pathogenicity of the various forms of asbestos for pulmonary and pleural diseases and has reviewed over 1,000 lung samples involving asbestos-related changes. Additionally, Dr. Gibbs has authored or co-authored over 45 articles, papers and chapters in the field of pathology, many of which relate to asbestos-related disease.

Dr. Gibbs may review the pathological evidence in this case and testify concerning whether it is diagnostic of asbestos-related disease, including mesothelioma.

On the basis of Dr. Gibbs' personal research into issues concerning asbestos-related disease, his knowledge of the medical literature and his knowledge of the facts of this case as they are known to date, Dr. Gibbs may testify generally as to the dangers posed by the inhalation of asbestos fibers, the relative risks associated with exposure to low levels of airborne asbestos dust in the general environment, and the risks posed to Plaintiff from his alleged exposure to airborne asbestos dust.

7. Jeremiah Lynch, C.I.H., 25 Waterman Avenue, Rumson, New Jersey. Mr. Lynch is a Certified Industrial Hygienist. Mr. Lynch will testify generally as to his background, training and experience. Mr. Lynch will testify as to the methods and procedures involved in industrial hygiene, the methods and procedures utilized in the collection of airborne asbestos samples, including fiber measurement and counting techniques, and the use of industrial hygiene methods to control worker exposure to airborne asbestos dust. Mr. Lynch will further testify concerning threshold limit values, the various threshold limit values for asbestos exposure, the basis for the original threshold limit value and its subsequent changes. Mr. Lynch will further testify

concerning the setting and implementation of asbestos exposure limits by OSHA, the subsequent changes to those limits, and OSHA regulations pertaining to Plaintiff's workplace at various times. Mr. Lynch may also testify concerning the industrial hygiene programs implemented at Plaintiff's workplaces at various times, and how those programs compared to the industrial hygiene standards at various times. Mr. Lynch will further testify with regard to the effectiveness of the industrial hygiene program at Plaintiff's workplaces as compared to the various standards applicable at different times. Mr. Lynch may also testify as to the asbestos exposures which Plaintiff would have had at various times during his employment history. Mr. Lynch will also testify with regard to environmental exposures to airborne asbestos experienced by millions of Americans for which there is no epidemiological evidence of disease. Mr. Lynch may offer such other opinions as may become necessary to rebut the opinions of Plaintiff's experts.

Mr. Lynch will base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by any other party, whether presented live or by deposition, the testimony of all other witnesses named or to be named by any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

8. Ernest Mastromatteo, M.D., 19 Carey Road, Toronto, Ontario, Canada M4S 1N9. Dr. Ernest Mastromatteo will testify generally as to his background, training and experience. Dr. Mastromatteo is a medical doctor specializing in occupational and environmental health. He is currently Professor Emeritus, Occupational and Environmental Health, University of Toronto and self-employed as a consultant in Occupational and Environmental Health. Dr. Mastromatteo received his Doctor of Medicine degree from the University of Toronto in 1947. He received a Diploma in Public Health from the University of Toronto in 1950 and a Diploma in Industrial Health from the University of Toronto in 1958. In 1958, Dr. Mastromatteo was certified in Occupational Medicine by the American Board of Preventive Medicine. In 1981, Dr. Mastromatteo was certified in Occupational Medicine by the Canadian Board of Occupational Medicine.

From 1949 to 1952, Dr. Mastromatteo served as the Medical Director of the Virden Local Health Unit, Virden, Manitoba. In 1952, Dr. Mastromatteo commenced employment as a physician and consultant with the Ontario Ministry of Health. In 1968, he became the Director of the Division of Occupational and Environmental Health of the Ontario Ministry of Health. He remained in that position until 1974. From 1966 to 1974, Dr. Mastromatteo also served as a Consultant in Occupational Diseases to the Ontario Workers' Compensation Board. From 1968 to 1974, Dr. Mastromatteo was a part-time professor at the University of Toronto, and from 1972 to 1974, he was Professor and the Head of the Department of Occupational and Environmental Health of the University of Toronto.

In 1974, Dr. Mastromatteo became Chief of the Occupational Health and Safety Branch of the International Labour Office ("ILO") in Geneva, Switzerland. He remained in that position until 1976. From 1976 to 1985, Dr. Mastromatteo was employed as Director of Occupational Health for Inco Limited, Toronto, Canada. From 1985 to 1994, Dr. Mastromatteo was employed as the Program Director, Occupational and Environmental Health, of ORC Canada Inc., Toronto, Canada.

During part of this period, from 1985 to 1990, Dr. Mastromatteo also served as a consultant to the Occupational Health Policy Branch of the Ontario Workers' Compensation Board. From 1976 to the present, Dr. Mastromatteo has served as an Honorary Consultant to the Occupational Health Clinic of St. Michael's Hospital, Toronto, Canada.

Dr. Mastromatteo is a member of the Ontario Medical Association, and he has chaired its Section on Occupational Health and its Committee on Public Health. He is also a member of the Canadian Medical Association. Dr. Mastromatteo was elected to the Ramazzini Medical Society in 1968 and has been a member of the International Commission on Occupational Health since 1968. Dr. Mastromatteo is an Honorary Lifetime Member of the American Conference of Governmental Industrial Hygienists ("ACGIH"). Dr. Mastromatteo has served as a member of the ACGIH Threshold Limit Value ("TLV") Committee since 1964. He was Chair of the TLV Committee from 1985 to 1990 and President of the ACGIH for the 1969-1970 term. Dr. Mastromatteo has received numerous honors and awards in the field of occupational medicine. Among his other awards, in 1981 he received the Stokinger Award for Scientific Contributions to Occupational Toxicology in the United States. In 1986, he received the Yant Award for Scientific Contributions to Industrial Hygiene in the United States. In 1987, Dr. Mastromatteo received the Knudsen Award for his contributions to Occupational Medicine in the United States. In 1987, he was also inducted into the Safety and Health Hall of Fame International.

Dr. Mastromatteo will further testify that as a long-standing member of the American Conference of Governmental Industrial Hygienists Threshold Limit Value Committee, he is familiar with that organization's criteria for establishing threshold limit values. In setting those thresholds, the ACGIH examines all of the available evidence and bases its decision on the weight of evidence. As such, the ACGIH examines the relevant studies and evaluates those studies based on their methodology and scientific reasoning. Based on its review of the best medical evidence, the ACGIH set its first threshold limit value for asbestos in 1946 and has changed it from time to time where the medical evidence has warranted such a change. Dr. Mastromatteo will testify as to the threshold limit values at different points in time and the medical knowledge that was available to the ACGIH concerning the health effects of asbestos.

Dr. Mastromatteo will further testify that the Occupational Safety and Health Administration (OSHA) does not rely on the weight of evidence, but sets its Permissible Exposure Limit (PEL) based on a different control strategy. OSHA determines a safe level then sets the permissible exposure limit (PEL) by adding factors of between ten (10) and one hundred (100) times. OSHA has most recently set the PEL for all types of asbestos at 0.1 f/cc. That level of exposure is many times below the level of exposure which one would expect to cause disease in the average worker.

9. Howard E. Ayer, C.I.H., 2812 Linwood Avenue, Cincinnati, Ohio. Mr. Ayer is a Certified Industrial Hygienist and a Certified Safety Professional. He is Emeritus Professor of Environmental Health, Division of Environmental Hygiene and Safety, University of Cincinnati. Mr. Ayer received his Bachelors in Chemical Engineering in 1948 from the University of Minnesota. He received a Masters of Science in Industrial Hygiene Engineering from Harvard University in 1955.

Mr. Ayer was employed by the United States Public Health Service (USPHS) from 1948 to 1972. During that time period he served with the National Institute for Occupational Safety and Health, and its predecessor organizations (Division of Occupational Health, Occupational Health Program and Bureau of Occupational Safety and Health), assigned by the USPHS to the Kansas State Board of Health, the Occupational Health Field Station in Salt Lake City, Utah, and the Occupational Health Field Headquarters in Cincinnati, Ohio. Mr. Ayer was Assistant Chief of the Engineering Section from 1961 to 1964, Chief from 1964 to 1967, and Assistant Director of the Division of Field Studies from 1967 to 1972. Mr. Ayer has been with the University of Cincinnati, Institute of Environmental Health (Kettering Laboratory) as a Professor and Emeritus Professor since 1972. From 1982 to 1983, Mr. Ayer took a sabbatical year in safety engineering at Texas A&M.

Mr. Ayer has served on numerous committees in the field of industrial hygiene. As a member of the ACGIH, Mr. Ayer served on the Air Sampling Instruments Committee, the Energy Committee, the Ventilation Committee, and the Committee on Environmental Factors in the Pneumoconioses (which he chaired for three years). Mr. Ayer also chaired the ad hoc joint AIHA-ACGIH Committee on Uniform Methods in Impinger Counting. Mr. Ayer has authored over 40 published papers on matters of industrial hygiene.

Mr. Ayer's testimony will be based on his knowledge, training and experience in the field of industrial hygiene as it relates to asbestos and asbestos-containing products. Mr. Ayer will also testify as to the state of industrial hygiene at various points in time.

Mr. Ayer may also testify as to the asbestos exposures which Plaintiffs would have had at various times during their employment history. Defendant ASARCO reserves the right to supplement this information based on documents or testimony concerning exposure levels which to date have not been discovered.

Mr. Ayer will base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

10. Arthur M. Langer, Ph.D., Director, Environmental Sciences Laboratory of the Institute of Applied Sciences, Brooklyn College of the City University of New York, Brooklyn, New York 11210. Dr. Langer received his Bachelor of Arts degree in Geology from Hunter College, City University of New York in 1956. In 1962, Dr. Langer received his Master of Arts in Petrology (geology) from Columbia University. Dr. Langer received his Ph.D. in Mineralogy from Columbia in 1965.

Dr. Langer may testify as to his background, training, experience, fellowships, memberships and other professional activities, honors and awards, editorial board service, appointments.

publications in peer reviewed journals, abstracts and symposia proceedings, contributions to books, monographs and reports, national, international and regional committees and consultations, national and international invited seminars, lectures, meetings and conferences, and his participation in post-graduate education courses as fully set forth on his C.V. Dr. Langer may further testify as to his extensive study and experimentation with regard to the family of minerals commonly referred to as asbestos.

Dr. Langer will base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

11. Robert Murray, M.D., Deceased, by deposition testimony. Dr. Murray is an occupational health consultant. He qualified in medicine in 1939 at Glasgow University. From 1941 to 1946 he served in the R.A.M.C. in West Africa, India and Burma and was mentioned in despatches. Dr. Murray received his Diploma in Public Health in January 1947. In April 1947, he became one of only 12 of Her Majesty's Medical Inspectors of Factories and was assigned to the East Lancashire Division based in Manchester where he remained until 1956. While there, his Chief was E.R.A. Merewether. Dr. Murray regularly visited the asbestos factories within his jurisdiction including Turner Brother's Asbestos, British Belting and Asbestos, and Cape Asbestos.

As a Medical Inspector, Dr. Murray's duties included assisting the District Inspector in the implementation of those parts of the Acts and Regulations dealing with occupational health. This included the Asbestos Industry Regulations of 1931.

In 1949, he received the Diploma in Industrial Health of the Society of Apothecaries and lectured in Professor Lane's Department of Occupational Health in Manchester.

Dr. Murray joined the International Labour Office (ILO) in Geneva in 1956 and remained there until 1961. Dr. Murray then became Medical Advisor to the TUC in London, a post which he held until 1974. During the 1960s and 1970s, he assisted the TUC in its actions against asbestos which lead to the Asbestos Regulations of 1969. In 1974, Dr. Murray began independently consulting in occupational health. He consulted with a number of firms and organizations including the Asbestos Information Association. He served as the Convenor of the Medical Advisory Panel and Scientific Advisory Panel until 1992. In 1975, he became Secretary-Treasurer of the Permanent Commission on Occupational Health, now known as the International Commission on Occupational Health, and from 1981 to 1987 he was its President.

Dr. Murray's other qualifications include Membership (1963) and later Fellowship (1970) of the Royal College of Physicians of Glasgow, honorary Doctor of Technology of the University of Bradford, honorary Fellowship of the Institution of Occupational Safety and Health, Fellowship of the Faculty of Occupational Medicine of the Royal College of Physicians of Ireland, Fellowship of the corresponding Faculty of the Royal College of Physicians of London.

honorary Fellowship of the Royal Society of Medicine, honorary Fellowship of the Institute of Occupational Hygienists and honorary Doctor of Science of the University of Glasgow.

During the last 30 years, Dr. Murray kept in close touch with the increasing amount of literature concerning asbestos. He assisted the Asbestos Institute in Montreal in its efforts to ensure the safe use of asbestos. He participated in the ILO discussions in 1985 and 1986 which resulted in the Convention and Recommendation on the Safe Use of Asbestos and participated in seminars in Turkey, Malaysia, Thailand and Taiwan.

On the basis of Dr. Murray's personal knowledge and experience concerning issues regarding the health hazards of asbestos, and the historical developments relating to the development of knowledge concerning asbestos-related diseases and his knowledge of the medical literature, Dr. Murray will testify as to the state of knowledge concerning what an employer could have and should have known during particular time periods with regard to both the dangers of asbestos use and methods of minimizing those dangers via proper hygiene measures.

12. Robert Brown, 1169 Pointeview Road, Chapin, South Carolina. Mr. Brown received his Bachelor of Science in chemical engineering from the University of South Carolina in 1935. In or about 1948 or 1949, he obtained a Master of Public Health Degree from Johns Hopkins University School of Hygiene and Public Health.

Mr. Brown began his career in 1936 as a chemical engineer with the Division of Industrial Hygiene of the South Carolina State Board of Health where he worked with an industrial hygiene physician. Mr. Brown was responsible for performing a complete survey on a large sampling basis, including dust studies, of South Carolina industries and developing information of any existing or suspected industrial hygiene problems.

In January 1942, Mr. Brown was employed as the Chief of Industrial Hygiene Services for the Health Division of the City of St. Louis, Missouri. In 1949, he accepted a position on the faculty of the School of Public Health at Yale University where he taught public and occupational health. In 1951, Mr. Brown joined the Maryland State Department of Health to facilitate the development of the Maryland Bureau of Industrial Hygiene. Mr. Brown accepted a position with the National Sanitation Foundation in Ann Arbor, Michigan in 1965. In 1967, he became the president of the National Sanitation Foundation and remained in that capacity until his retirement in 1980.

Mr. Brown was a charter member and organizer of the National Conference of Governmental and Industrial Hygienists (NCGIH), established in or around 1938. This organization later changed its name to the American Conference of Governmental and Industrial Hygienists (ACGIH). Mr. Brown served as a member of this organization's Executive Committee, Constitutional Review Committee and Industrial Hygiene Codes Committee. The latter committee was responsible for establishing maximum allowable concentrations (MAC) and threshold limit values (TLV). In 1946, the Subcommittee on Threshold Limits of the ACGIH recommended a MAC for asbestos of 6 million particles per cubic foot of air.

Mr. Brown was also a member of the American Industrial Hygiene Association (AIHA). This organization also proposed TLV's and MAC's which were published as Hygiene Standards in the April, 1958 issue American Industrial Hygiene Association Journal and recommended maximum atmospheric concentrations for asbestos over 8 hours of 5 million particles per cubic foot of air. This publication also listed potential hazards of asbestos which noted that in addition to asbestosis there had been reports of an increased risk of lung cancer.

On the basis of Mr. Brown's personal knowledge of the facts surrounding the adoption of asbestos exposure standards, his training and experience in the areas of industrial hygiene and his review of the literature, Mr. Brown will testify by videotape or deposition, with regard to the composition of the membership of the ACGIH and its predecessors, the NCGIH and the AIHA. Mr. Brown will also testify by videotape or deposition, with regard to the facts and circumstances surrounding the proposal and adoption of the asbestos standards and his involvement in these processes. In addition, Mr. Brown may testify by videotape or deposition, with regard to the state of industrial hygiene knowledge during the 1930s, 1940s and 1950s.

Mr. Brown will further base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

13. Leonard J. Bristol, M.D., Hull Road, Rainbow Lake, NY. Dr. Bristol received his M.D. in 1944 from the Long Island College of Medicine. From 1944 to 1945 he had a general rotating internship at St. Catherine's Hospital in Brooklyn, New York. From July 1945 to April 1946, he was a resident in radiology at the Long Island College Hospital. From 1946 to 1948, Dr. Bristol was a radiologist at the United States Naval Hospital, National Naval Medical Center in Bethesda, Maryland. During that period of time, he also served as a full-time fellow in the Department of Radiology at the Johns Hopkins University Medical School. He was certified by the American College of Radiologists in 1949. In 1949, he assumed a full-time position as a radiologist at the Trudeau Sanatorium and the Saranac Lake Laboratory where he remained through the end of 1978. Dr. Bristol has been engaged in the practice of radiology at the General Hospital in Saranac Lake, the Placid Memorial Hospital in Lake Placid, the Alice Hyde Hospital in Malone, New York and was a member of the Department of Radiology at the Edward L. Trudeau Foundation through 1978.

Since 1949, approximately 50 percent of Dr. Bristol's practice involved chest diseases and 25 to 30 percent of his overall practice involved occupational lung disease. He has reviewed several hundred thousand films of workers with occupational lung disease. Dr. Bristol was instrumental in the development of the ILO/UICC classifications for asbestos-related diseases.

On the basis of Dr. Bristol's knowledge, training and experience as a radiologist and his personal knowledge of the research and experiments conducted by the Trudeau Foundation and

Saranac Laboratories, Dr. Bristol may testify by deposition or videotape as to the general radiological characteristics and diagnosis of asbestos-related diseases.

Dr. Bristol will further base his testimony on the available medical and scientific literature, applicable statutes and regulations, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

14. Wallace T. Miller, M.D., 3400 Spruce Street, Philadelphia, PA. Dr. Miller is board certified in radiology. Dr. Miller is also a NIOSH certified B Reader. Dr. Miller will testify generally as to his background, training and experience. Dr. Miller will testify as to his knowledge of radiology and its application in assisting the diagnoses of asbestos-related diseases. He will further testify as to the general medical issues concerning the development, cause, and diagnosis of asbestos-related disease and/or other diseases that may mimic asbestos-related diseases radiographically. Dr. Miller will testify as to his review of Plaintiff's medical and radiological records, reports and/or films. He will testify concerning whether they are diagnostic of asbestos-related disease, including asbestosis or other asbestos-related pleural conditions.

Dr. Miller may base his testimony on the available medical and scientific literature, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

15. John M. G. Davis, Ph.D., Sc.D., Pathology, Institute of Occupational Medicine, 8 Roxburgh Place, Edinburgh, E88 9SU, Scotland. By deposition testimony. Dr. Davis is an experimental pathologist specializing in animal studies. Dr. Davis will testify generally as to his background, training and experience. Dr. Davis will testify as to his knowledge of experimental pathology and animal studies as they relate to the human health effect of the various forms of asbestos. Dr. Davis will testify to the design of animal experiments including the methods and procedures used to generate asbestos dust clouds in a laboratory environment. Based upon these experiments, Dr. Davis will testify that crocidolite asbestos is dustier than chrysotile asbestos and that the similar manipulation of equal volumes of crocidolite and chrysotile asbestos produces more aerosolized crocidolite than chrysotile dust. Further, Dr. Davis will testify that in a work environment in which both crocidolite and chrysotile are similarly processed, the percentage of crocidolite in the airborne asbestos dust cloud will exceed the percentage of crocidolite processed.

Dr. Davis will testify as to the general medical issues surrounding asbestos-related diseases. He will address latency, dose response relationships and differences in asbestos fiber types, including their durability in biological tissues, as they relate to the development of asbestos-related diseases. He will base his testimony on his extensive personal research into the pathological effects of asbestos on animals and his knowledge of the relevant scientific and

medical literature. He will address the disease mesothelioma and his opinions as to its causation, development and rate of occurrence. Dr. Davis may also testify as to the state-of-the-art as it pertains to experimental studies involving animal exposure to various forms of asbestos. Dr. Davis may offer such other opinions as may become necessary to rebut the opinions of plaintiffs' experts.

Dr. Davis will also testify as to the relevance of animal experiments conducted at Saranac Lake under the direction of Dr. Gardner during the 1940s and later by Dr. Vorwald in the 1950s, as well as subsequent experiments undertaken by Dr. Lynch. Dr. Davis will testify that problems with experimental design, controls and the inherent characteristics of the tested animals rendered Gardner's and Vorwald's studies inconclusive. Although Lynch's study was properly designed, there was no significant difference in the incidence of pulmonary tumors between test and control animals. Hence, Dr. Davis will testify that the animal experiments of Gardner, Vorwald and Lynch gave no reliable information that asbestos was carcinogenic, and it was not until 1967 that Gross demonstrated a positive relationship using specific Pathogen Free Rats. Dr. Davis will testify that by the time of Gross' experiments in 1967, the association between asbestos exposure and lung cancer had been demonstrated by human epidemiology.

Dr. Davis may base his testimony on the available medical and scientific literature, his own training and experience, the opinions and reports of other experts named or to be named by ASARCO or any other party, whether live or by deposition, the testimony of all other witnesses named or to be named by ASARCO or any other party, whether live or by deposition, and any documents introduced into evidence or otherwise used by any party at the time of trial.

16. Philip C. Pratt, M.D., Deceased, by deposition testimony. Dr. Pratt received his M.D. degree from Johns Hopkins Medical School in 1944. In 1944 and 1945, he completed an internship in pathology and between 1945 and 1946 was an assistant in pathology at Johns Hopkins Hospital. He served as a pathologist at the Saranac Laboratory, Saranac Lake, New York, between 1946 and 1952, and as assistant director of the Saranac Laboratory in 1952 to 1955. Dr. Pratt has personal knowledge of the facts surrounding Dr. Leroy Gardner's animal experiments conducted at Saranac Laboratory from the late 1920's until his death in 1946. Dr. Pratt continued to work on these experiments after Dr. Arthur J. Vorwald was appointed as Dr. Gardner's successor as Director of the Saranac Laboratory and of the Trudeau Foundation. Dr. Pratt will testify with regard to the facts and circumstances surrounding these experiments, including his microscopic examination of tissue slides from the sacrificed animals, his review of Dr. Gardner's experimental notes, and drafting the portions of the literature published as a result of these studies, including the article entitled "Experimental Studies of Asbestosis" which was published in the A.M.A. Archives of Industrial Hygiene and Occupational Medicine in January 1951 as well as the document entitled "Asbestosis Experimental Studies, Report of the Johns-Manville Corporation, by the Saranac Laboratory" dated September 30, 1948.

ASARCO reserves the right to seek leave of court to call experts who may have to be substituted for experts on this list who become unavailable. ASARCO further reserves the right to call additional expert witnesses for the purpose of rebuttal or impeachment, if necessary at the time of trial.

The general description of the area of expertise for each expert's anticipated testimony is not intended to limit such testimony, but is merely an indication of the broad areas in which they may offer testimony. ASARCO reserves the right to supplement these designations up to the time of trial.

Rule 194.2(g): any indemnity and insuring agreements described in Rule 192.3(f).

RESPONSE:

Until ASARCO learns more about Plaintiff's alleged exposure at its El Paso facility, a meaningful response cannot be made to this request. Once such exposure information is received, ASARCO will investigate further, and responsive information, if any, will be supplied if, and when, it is obtained.

As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO reserves the right to amend and/or supplement this response.

Rule 194.2(h): any settlement agreements described in Rule 192.3(g).

RESPONSE:

None are known at this time. As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO reserves the right to amend and supplement this response.

Rule 194.2(i): any witness statements described in Rule 192.3(h).

RESPONSE:

ASARCO states that its representatives have made statements, in the form of deposition testimony, throughout the years. Once ASARCO learns more about Plaintiffs' alleged exposure to asbestos-containing products, ASARCO will provide any transcripts containing statements relevant to this action.

Rule 194.2(j): in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

RESPONSE:

Not applicable to the Defendant.

Rule 194.2(k): in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

RESPONSE:

None at this time. As ASARCO's investigation of Plaintiff's claim is ongoing, ASARCO reserves the right to amend and supplement its response to this request.

Respectfully submitted,

**PORZIO, BROMBERG & NEWMAN,
P.C.**

Date: Sept. 18, 2001

By:


D. Jeffrey Campbell, Esq.

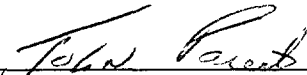
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CERTIFICATE OF SERVICE

This document was served on counsel for plaintiffs via Federal Express on September 17th, 2001.



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