

NO. 90-G-2055

WELDON R. MOAKE, et al.	§	IN THE DISTRICT COURT OF
	§	
v.	§	BRAZORIA COUNTY, TEXAS
	§	
OWENS-CORNING FIBERGLAS	§	
CORPORATION, et al.	§	239TH JUDICIAL DISTRICT

**OBJECTIONS AND RESPONSES
TO PLAINTIFFS' WRITTEN DISCOVERY REQUESTS**

Premises defendant Union Oil Company of California ("Union Oil") files these Objections and Responses to Plaintiffs' Interrogatories, Requests for Production, and Requests for Admissions and would show the Court as follows:

INTRODUCTORY STATEMENT AND OBJECTIONS

This case involves an allegation that Weldon Moake visited a Pure Oil Company refinery in Nederland, Texas ("the Nederland refinery") at some point in time between 1961 and 1964. Since the time of Mr. Moake's alleged visits, Pure Oil Company merged with Union Oil Company of California in 1965. Moreover, this refinery has since been completely dismantled, and the facility now operates merely as a terminal. Because Mr. Moake's alleged visits took place over thirty-five years ago, and things have changed both with the company and the refinery since that time, locating documents and witnesses relevant to his allegations is a time-consuming, expensive, difficult, and in certain instances, impossible task. Pursuant to applicable document retention policies and due to the passage of over three decades, many potentially responsive documents are no longer retained by Union Oil.

The time period involved in this lawsuit for Union Oil is 1961-64, and the facility involved is the Nederland refinery. Accordingly, Union Oil will respond to these requests only as

to the Nederland refinery and only as to Pure Oil, the company which owned that refinery at the time of Mr. Moake's alleged sales calls, namely 1961-64. Union Oil acquired the former Pure Oil Refinery, located in Nederland, Texas in 1965, after the 1961-64 time period in which Weldon Moake potentially made sales calls to sell asbestos-containing products at its Refinery in Nederland, Texas. Therefore, Union Oil objects to this entire set of discovery requests and plaintiffs' efforts to require any response beyond these parameters as over broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Union Oil also objects to all of the document request in this set of discovery because, as drafted, they are violative of the Texas Supreme Court's prohibition against fishing expeditions for insufficiently identified documents as is outlined in *Loftin v. Martin* and its progeny.

These responses are submitted by Union Oil subject to, and without in any way waiving or intending to waive, but, on the contrary, intending to reserve and reserving:

(1) All questions as to the competency, relevance, materiality, privilege, and admissibility as evidence for any purpose of any of the information or documentation referred to or responses given, or the subject matter thereof, in any subsequent proceeding in, or the trial of, this action or any other action or proceeding;

(2) The right to object to other discovery procedures involving or relating to the subject matter of the Requests herein responded to; and

(3) Union Oil has not yet had the opportunity to depose Mr. Moake to learn the specifics of his allegations, and so it reserves the right at any time to revise, correct, add to, or clarify any of the responses set forth herein, or information or documentation referred to herein.

OBJECTIONS AND RESPONSES

INTERROGATORY NO. 1:

For each person who has supplied any information used in answering these interrogatories, state the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, or jobs held when working for Defendant.

ANSWER:

In addition to its Introductory Objections and the parameters established in its introductory statement, Union Oil objects to this request because it seeks to impose obligations on Union Oil beyond those contemplated by the Texas Rules of Civil Procedure. Subject to this objection, these responses and objections are the corporate responses of defendant Union Oil Company of California and, as such, are disassociated from any specific individuals. Union Oil is a large corporation, and these responses came from many different sources. These responses were prepared with input from current and former employees of Union Oil Company of California with assistance from lawyers employed by Union Oil and Union Oil's trial counsel at Baker Botts L.L.P.

REQUEST FOR ADMISSION NO. 1:

Admit that Defendant ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, and/or machinery requiring the use of asbestos or asbestos-containing products.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is compound and contains the term "and/or" which renders this request for admission impossible to answer. Subject to these objections, Union Oil admits that asbestos-containing products were present at its Nederland Refinery from 1961-64, the time period when Mr. Moake says that he visited the Nederland refinery to sell asbestos-containing products.

REQUEST FOR PRODUCTION NO. 1:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 2:

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 during the years at issue.

RESPONSE:

In addition to its Introductory Objections and subject to the parameters established in its Introductory Statement, Union Oil objects to this request because it contains the term "and/or" which renders this request for admission impossible to answer as it is presently drafted. Subject to these objections, Union Oil admits that asbestos-containing products were present at its Nederland Refinery from 1961-64, the time period when Mr. Moake says that he visited the Nederland refinery to sell asbestos-containing products.

INTERROGATORY NO. 2:

If you admit the foregoing request, please list all asbestos-containing products used at Defendant's Premises and for each product state the following:

- a. What these products were used for
- b. From whom these products were purchased
- c. Where these products were installed
- d. Specific persons or contractors who install these products
- e. The first year each product was no longer purchased and installed on Defendant's Premises

ANSWER:

Union Oil objects to this request because it seeks to impose obligations on Union Oil beyond those contemplated by the Texas Rules of Civil Procedure. Additionally, Union Oil objects that, to the extent an answer is contained within the available records, the burden on Plaintiffs to ascertain the answer is the same as for Union Oil. Subject to these objections, Union Oil refers Plaintiffs to the documents produced, or to be produced, in this matter. In further answer, upon reasonable inquiry, Union Oil believes that asbestos-containing gaskets and various other insulation products were present at the Nederland Refinery during 1961-64. To date, Union Oil can identify Raybestos and Unibestos as asbestos-containing insulation products that were present at the Nederland refinery, but Union Oil no longer possesses the documentation necessary to provide a complete answer to this request.

REQUEST FOR PRODUCTION NO. 2:

Produce all ordering and sales documents pertaining to the purchase or acquisition of such asbestos-containing products for use at Defendant's Premises, including but not limited to invoices, price quotations, purchase orders, requisitions, bills of lading, and other purchasing and/or shipping documents of the similar nature.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request,

Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 3:

Admit that during the time Plaintiff was working on Defendant's Premises, it was foreseeable that asbestos-containing products on Defendant's Premises would or could be removed, stripped, replaced or repaired at some time after installation.

RESPONSE:

Union Oil objects to this request because its meaning is unclear and could assume disputed facts, specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Moreover, Union Oil objects to this request because it impermissibly calls for admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birdo v. Parker*, 842 S.W.2d 699 (Tex. App.—Tyler 1992, writ denied) (requests for admission should not be used as a tool to trap opponent). Subject to these objections, after a reasonable inquiry, the information known or easily obtainable is insufficient to enable Union Oil to admit or deny whether asbestos-containing products were "removed, stripped, replaced or repaired" during Mr. Moake's sales calls from 1961-64. Union Oil does admit that, in general, asbestos-containing products could be removed, stripped, replaced or repaired at some time after installation.

INTERROGATORY NO. 3:

Please state whether any asbestos-containing products in place or in use at Defendant's Premises have been abated at any time.

- a. If so, list each person or company that performed such abatement services (including address and telephone number)
- b. State the dates and locations of each abatement procedure;
- c. State which asbestos-containing products were abated.

ANSWER:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects that, to the extent an answer is contained within the available records, the burden on Plaintiff to ascertain the answer is the same as for Union Oil. Subject to these objections, general abatement work began at the Nederland refinery in the 1980s. Based on the information available, Union Oil believes that Economy Insulation, Olshan, and Basic Industries were contractors who performed abatement work at the Nederland refinery. Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at

a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 3:

Produce all documents that in any way pertain to abatement of asbestos-containing materials on Defendant's Premises, including but not limited to a removal plan or organized written criteria or schedule for the removal of asbestos at Defendant's Premises, and in operation and maintenance plan.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, general abatement work began at the Nederland refinery in the 1980s. Based on the information available, Union Oil believes that Economy Insulation, Olshan, and Basic Industries were contractors who performed abatement work at the Nederland refinery. Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 4:

Admit that Plaintiff worked on premises owned by Defendant or by a predecessor-in-interest of Defendant.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 4:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR PRODUCTION NO. 5:

If you admit the foregoing request, in whole or in part, produce all documents supporting your admission that Plaintiff was on Defendant's Premises.

RESPONSE:

Not applicable.

REQUEST FOR PRODUCTION NO. 6:

Produce all records identifying contractors and/or the employees of contractors who were on your premises during the years at issue, including but not limited to sign-in-logs, gate records, visitors logs, identification badge logs and procedures, and other documents of a similar nature.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil also objects to this request because it is overly broad, vague and seeks disclosure of information not reasonably calculated to lead to the discovery of admissible evidence because it inquires about "contractors" and "employees of contractors" when Weldon Moake apparently was a sales representative for a distributor of asbestos-containing products. Subject to these objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 7:

Produce all records pertaining to the methods and manner of identification of individuals entering and/or leaving your facilities, during the years at issue, including but not limited to fingerprinting or other methods of identifying contractor employees at your premises, and specifically including any fingerprinting or other records identifying the Plaintiff.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is overly broad, vague and seeks disclosure of information not reasonably calculated to lead to the discovery of admissible evidence because it inquires about "contractors" and "employees of contractors" when Weldon Moake apparently was a sales representative for a distributor of asbestos-containing products. Subject to these objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written

discovery requests, if any, at a mutually convenient time and place. Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

INTERROGATORY NO. 4:

Identify the contractors who worked on your premises during the years at issue, and for each, state:

- a. The type of work performed by the contractor
- b. The dates such work was performed;
- c. Identify your employee responsible for monitoring, verifying or instructing concerning these services to be performed by such contractors.

ANSWER:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it assumes disputed facts which are not in evidence. Subject to these objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Although this is not a comprehensive answer, in general, Union Oil can identify the following contractors that worked at the refinery before 1961-64 and the general type of work performed: (1) M.W. Kellogg worked on the FCC in the 1950s; (2) Stone & Webster worked on lube and grease processing plant in the late 1940s; (3) Foster Wheeler worked on the lube unit in the late 1940s. Union Oil can identify the following contractors that worked for a time period that may have included work during 1961-64: (1) Ellerbee Brothers built tanks; (2) Carruth Dishman performed piping work. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 8:

Produce the contract documents pertaining to the contractors who performed services on Defendant's Premises during the years at issue, including but not limited to invitations to bid, requests for proposals, bids, proposals, scope of work, specifications, blueprints, plans, acceptances, contracts, amendments, addenda, change orders, and other contract documents of a similar nature.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Although this is not a comprehensive answer, in general, Union Oil can identify the following contractors that worked at the refinery before 1961-64 and the general type of work performed: (1) M.W. Kellogg worked on the FCC in the 1950s; (2) Stone & Webster worked on lube and grease processing plant in the late 1940s; (3) Foster Wheeler worked on the lube unit in the late 1940s. Union Oil can identify the following

contractors that worked for a time period that may have included work during 1961-64: (1) Ellerbee Brothers built tanks; (2) Carruth Dishman performed piping work. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

INTERROGATORY NO. 5:

Identify each employee who was responsible for allowing contractor employees access to Defendant's Premises during the years at issue.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, after reasonable inquiry Union Oil has been unable to identify an employee with these responsibilities for the time period from 1961-64. If such information becomes available, Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 5:

Admit that Plaintiff worked on Defendant's Premises where Defendant used or applied asbestos-containing products.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 9:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

INTERROGATORY NO. 6:

Do you contend that Plaintiff was not exposed to asbestos while working at the Defendant's Premise(s)? If the answer is anything other than "no", identify each and every fact which supports this contention.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this interrogatory because it is premature. Union Oil has not yet had an opportunity to depose Mr. Moake regarding his allegations against Union Oil. Union Oil will supplement this response in accordance with the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 6:

Admit that Plaintiff, in the course and scope of his work as an employee of an independent contractor, worked around Defendant's employees who were using and/or applying asbestos-containing products.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 10:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 7:

Admit that Plaintiff worked on and/or around Defendant's Premises in areas where asbestos-containing products were installed, used, prepared for use, replaced or repaired, stored or loaded, unloaded or transported.

RESPONSE:

In addition to its Introductory Objections and subject to the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the

information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR ADMISSION NO. 8:

Admit that during the time period Plaintiff worked at premises, Defendant was aware that airborne asbestos dust created a potential health hazard to those who breathed such dust.

RESPONSE:

In addition to its Introductory Objections and subject to the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, denied.

REQUEST FOR PRODUCTION NO. 11:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR ADMISSION NO. 9:

Admit that Defendant was aware of the presence of and/or use of asbestos-containing products on Defendant's Premises during the time period Plaintiff was working on Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and subject to the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request because Union Oil is unable to determine if and when Mr. Moake made sales calls at the Nederland refinery to sell asbestos-containing products. Union Oil does admit that asbestos-containing products were present at its Nederland Refinery from 1961-64, the time period when Mr. Moake says that he visited the Nederland refinery to sell asbestos-containing products.

REQUEST FOR PRODUCTION NO. 12:

Produce any and all photographs or videographic depictions or films depicting the use by you or your employees 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 by your employees at any locations.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

INTERROGATORY NO. 7:

Please identify any and all warnings ever given by Defendant, if any, to Plaintiffs regarding the hazards of asbestos and the dangers inherent in the inhalation of asbestos fibers.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil did not warn Weldon Moake, a salesman who sold asbestos-containing products, about the potential dangers of such products because Union Oil was unaware of these dangers at the time that Mr. Moake allegedly made his sales calls at the Nederland refinery. In fact, Union Oil received no such warnings from Weldon Moake about the potential dangers of asbestos-containing products, like the ones he was trying to sell to Union Oil, before or during the time that Mr. Moake says that he made sales calls at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 13:

Produce all such warnings.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 10:

Admit that Defendant did not distribute any literature or warnings of any kind to its employees during the period of time Plaintiff worked on Defendant's Premises regarding the potential health hazards to those who breathe airborne asbestos dust.

RESPONSE:

In addition to its Introductory Objections and subject to the parameters established in its Introductory Statement, Union Oil objects to this request because it inquires into warnings that Union Oil gave its employees. Weldon Moake was never an employee of Union Oil. Subject to these objections, Union Oil admits that it did not warn Weldon Moake, a salesman who sold asbestos-containing products, about the potential dangers of such products because Union Oil was unaware of these dangers at the time that Mr. Moake allegedly made his sales calls at the Nederland refinery. In fact, Union Oil received no such warnings or literature from Weldon Moake about the potential dangers of asbestos-containing products, like the ones he was trying to sell to Union Oil, before or during the time that Mr. Moake says that he made sales calls at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 14:

If you deny the foregoing, produce all such warnings.

RESPONSE

Not applicable.

INTERROGATORY NO. 8:

Describe Defendant's safety policy as it relates to the use of asbestos-containing materials at job sites where Defendant's employees were performing services. In your answer, please state:

- a. when, if ever, Defendant's employees were first warned about the hazards of asbestos exposure; and
- b. what instructions, if any, were given to Defendant's employees on the identification of materials which might or did contain asbestos.

ANSWER:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it inquires into warnings that Union Oil gave its employees. Weldon Moake was never an employee of Union Oil. Additionally, Union Oil objects that, to the extent an answer is contained within the available records, the burden on Plaintiffs to ascertain the answer is the same as for Union Oil. Subject to these objections, Union Oil did not warn Weldon Moake, a salesman who sold asbestos-containing products, about the potential dangers of such products because Union Oil was unaware of these dangers at the time that Mr. Moake allegedly made his sales calls at the Nederland refinery. In fact, Union Oil received no such warnings or literature from Weldon Moake about the potential dangers of asbestos-containing products, like the ones he was trying to sell to Union Oil, before or during the time that Mr. Moake says that he made sales calls at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 15:

Produce all such safety policies.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR ADMISSION NO. 11:

Admit that Defendant consciously decided not to warn its employees of the dangers of asbestos.

RESPONSE:

In addition to its Introductory Objections and subject to the parameters established in its Introductory Statement, Union Oil objects to this request because it inquires into warnings that Union Oil gave its employees. Weldon Moake was never an employee of Union Oil. Subject to these objections, denied.

INTERROGATORY NO. 9:

Do you contend that Defendant specifically warned Plaintiff about the hazards of asbestos and asbestos-containing products? If the answer is anything other than "no," identify each and every fact which supports this contention.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil did not warn Weldon Moake, a salesman who sold asbestos-containing products, about the potential dangers of such products because Union Oil was unaware of these dangers at the time that Mr. Moake allegedly made his sales calls at the Nederland refinery. In fact, Union Oil received no such warnings or literature from Weldon Moake about the potential dangers of asbestos-containing products, like the ones he was trying to sell to Union Oil, before or during the time that Mr. Moake says that he made sales calls at the Nederland refinery.

INTERROGATORY NO. 10:

Describe all safety precautions taken by you or your employees (such as containment areas, warning signs, ventilation systems, evacuating the premises, etc.) for the protection of bystanders (including but not limited to Plaintiffs) from the hazards resulting from the use of asbestos-containing products by your employees at any locations.

ANSWER:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it inquires into warnings that Union Oil gave its employees. Weldon Moake was never an employee of Union Oil. Subject to these objections, Union Oil did not warn or take any special precautions with respect to Weldon Moake, a salesman who sold asbestos-containing products, about the potential dangers of such products because Union Oil was unaware of these dangers at the time that Mr. Moake allegedly made his sales calls at the Nederland refinery. In fact, Union Oil received no such warnings nor observed any such precautions from Weldon Moake regarding the potential dangers of asbestos-containing products, like the ones he was trying to sell to Union Oil, before or during the time that Mr. Moake says that he made sales calls at the Nederland refinery.

INTERROGATORY NO. 11:

Have you ever provided safety equipment to persons working on Defendant's Premises? If so, please list the safety equipment provided and indicate:

- a. when the equipment was first provided
- b. to whom the equipment was provided
- c. under what circumstances the equipment was provided
- d. Further, identify the person with the most knowledge of your "safety equipment" policies.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement and after reasonable inquiry, Union Oil is working to identify an employee with these responsibilities for the time period from 1961-64. Beyond this response, Union Oil is without sufficient information to respond to this request, regarding information from the 1960s, at this time. If such information becomes available, Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 12:

Admit that Defendant did not continuously provide face masks to contract employees working with or around asbestos from 1945 to the present for the purpose of protecting these employees from inhaling asbestos.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil did not warn or take any special precautions, including the provision of a face mask, with

respect to Weldon Moake, a salesman who sold asbestos-containing products, about the potential dangers of such products because Union Oil was unaware of these dangers at the time that Mr. Moake allegedly made his sales calls at the Nederland refinery. In fact, Union Oil received no such warnings nor observed any such precautions from Weldon Moake regarding the potential dangers of asbestos-containing products, like the ones he was trying to sell to Union Oil, before or during the time that Mr. Moake says that he made sales calls at the Nederland refinery.

INTERROGATORY NO. 12:

State in detail what tests have been conducted with regard to the quantity, quality, or threshold limit values of asbestos dust or particles to which workers were exposed while using, working with or around, or installing asbestos-containing products in any of your facilities. Please state where and when these tests were conducted, by whom these tests were conducted, and the results of any such test.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure. At this time, however, Union Oil is aware of no such measurements before 1964, the last year that Mr. Moake says that he made sales calls at the Nederland refinery in order to sell asbestos-containing products.

INTERROGATORY NO. 13:

Do you contend that Defendant, Defendant's representatives, insurance carriers and/or agents performed any measurements and/or studies prior to 1970 to determine the quantity of asbestos fibers in the air at Defendant's facility? If the answer is anything other than "no", identify each and every fact which supports this contention.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure. At this time, however, Union Oil is aware of no such measurements before 1964, the last year that Mr. Moake says that he made sales calls at the Nederland refinery in order to sell asbestos-containing products.

INTERROGATORY NO. 14:

Please state each time any regulatory agency or other governing body has inspected the Defendant's premises to determine if health and safety regulations governing exposure to asbestos were being followed. Include in your response the date and results of each inspection, and state whether a written report was generated.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil is aware of no regulatory inspections regarding asbestos of the Nederland Refinery from, or before, 1961-64. Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 13:

Admit that you did not erect containment barriers to prevent emission of asbestos dust at the work sites where your employees were using asbestos-containing materials, including the work sites, where Plaintiff was present.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, including the assumption that Plaintiff "worked" at the Nederland refinery, when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 16:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 14:

Admit that you did not utilize engineering controls such as isolation or enclosure at the work sites where your employees were using asbestos-containing materials, including the work sites where Plaintiff was present.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, including the assumption that Plaintiff "worked" at the Nederland refinery, when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 17:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 15:

Admit that you did not utilize ventilation or exhaust systems to divert dust at the work sites where your employees were using asbestos-containing materials, including the work sites where Plaintiff was present.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, including the assumption that Plaintiff "worked" at the Nederland refinery, when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request. Union Oil does note, however, that the majority of the Nederland refinery is outdoors.

REQUEST FOR PRODUCTION NO. 18:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 16:

Admit that you did not utilize dust collection engineering controls to trap airborne asbestos dust at the work sites where your employees were using asbestos-containing materials, including the work sites where Plaintiff was present.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, including the assumption that Plaintiff "worked" at the Nederland refinery, when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request. Union Oil does note, however, that the majority of the Nederland refinery is outdoors.

REQUEST FOR PRODUCTION NO. 19:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 17:

Admit that you did not require your employees to handle, mix, apply, remove, cut or score asbestos-containing products in a wet state to prevent emission of airborne asbestos fibers at the work sites where your employees were using asbestos-containing materials, including the work sites where Plaintiff was present.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, including the assumption that Plaintiff "worked" at the Nederland refinery, when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 20:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 18:

Admit that you did not evacuate the premises prior to the utilization of asbestos-containing materials at the work sites where your employees were using asbestos-containing materials, including the work sites where Plaintiff was present.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, including the assumption that Plaintiff “worked” at the Nederland refinery, when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 21:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

INTERROGATORY NO. 15:

Have you ever warned workers on Defendant’s Premises of the hazards of asbestos and asbestos-containing products? If so, describe in detail the methods of such warnings, who you warned and when. Please include in your response a description of any written warnings relating to the hazards of asbestos in place at Defendant’s Premises and state when the written warnings were installed, how many were installed, and whether they have been removed.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil began to warn workers at the Nederland refinery after such time as Mr. Moake says that

he made his last sales call to the Nederland refinery for the purpose of selling asbestos-containing products there.

INTERROGATORY NO. 16:

Have you ever had a policy requiring workers on Defendant's premises to use respirators? If so, please:

- a. state when this policy was implemented;
- b. describe this policy in detail;
- c. state to whom it applied (i.e. Defendant employees and contractor employees);
- d. and describe what types and brand names of respirators were required by you.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure. Union Oil can state that it would not have required a salesman of asbestos-containing products such as Mr. Moake to wear respiratory protection during sales calls made between 1961-64.

REQUEST FOR ADMISSION NO. 19:

Admit that you did not post warning, caution or hazard signs prior to the utilization of asbestos-containing materials by your employees at the work sites where your employees were using asbestos-containing materials, including the work sites where Plaintiff was present.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, including the assumption that Plaintiff "worked" at the Nederland refinery, when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 22:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 20:

Admit that you did not issue any warnings to others at the work sites where your employees were using asbestos-containing materials, including the work sites where Plaintiff was present.

RESPONSE:

In addition to its Introductory Objections, Union Oil objects to this request because its meaning is unclear and could assume disputed facts, including the assumption that Plaintiff "worked" at the Nederland refinery, when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Subject to these objections, after reasonable inquiry the information known or easily obtainable is insufficient to enable Union Oil to either admit or deny this request.

REQUEST FOR PRODUCTION NO. 23:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR PRODUCTION NO. 24:

Produce all documents reflecting payments made to contractors during the years at issue, including Plaintiff's employer, including but not limited to invoices, bills, check requests, requisitions, canceled checks, or other documents of a similar nature reflecting payment for services rendered by Plaintiffs employer.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Although this is not a comprehensive answer, in general, Union Oil can identify the following contractors that worked at the refinery before 1961-64 and the general type of work performed: (1) M.W. Kellogg worked on the FCC in

the 1950s; (2) Stone & Webster worked on lube and grease processing plant in the late 1940s; (3) Foster Wheeler worked on the lube unit in the late 1940s. Union Oil can identify the following contractors that worked for a time period that may have included work during 1961-64: (1) Ellerbee Brothers built tanks; (2) Carruth Dishman performed piping work. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 21:

Admit that the use of asbestos-containing materials on Defendant's Premises created a substantial risk of injury.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning, fails to provide sufficient information regarding exposure levels, and could assume disputed facts, specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. This distinction is significant in terms of attempting to gauge any potential exposure to airborne asbestos. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Union Oil further objects to this request because it incorrectly assumes that asbestos, merely by its presence at the Nederland refinery, at all levels and conditions of exposure, creates a potential health hazard. Subject to and without waiving these objections, Union Oil denies this request as it is presently drafted.

REQUEST FOR ADMISSION NO. 22:

Admit that during the years at issue, Defendant had the power to control Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to control," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 25:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 23:

Admit that, during the years at issue, Defendant had the power to manage the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to manage the use or condition," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 26:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 24:

Admit that, during the years at issue, Defendant had the power to direct the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ.

App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birdo v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to direct the use or condition," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 27:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 25:

Admit that, during the years at issue, Defendant had the power to superintend the use or conditions of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birdo v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to superintend the use or condition," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 28:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 26:

Admit that, during the years at issue, Defendant had the power to restrict the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to restrict the use or condition," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 29:

If you deny the foregoing request, in whole or in part, produce all, documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 27:

Admit that, during the years at issue, Defendant had the power to regulate the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to regulate the use or condition," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 30:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 28:

Admit that, during the years at issue, Defendant had the power to govern the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birdo v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to govern the use or condition," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 31:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 29:

Admit that during the years at issue, Defendant had the power to oversee the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ.

App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to oversee the use or condition," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 32:

If you deny the foregoing request, in whole or in part produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 30:

Admit that, during the years at issue, Defendant had the power to administer the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the term "power to administer the use or condition," Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 33:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 31:

Admit that, during the years at issue, Defendant controlled Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 34:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 32:

Admit that, during the years at issue, Defendant managed the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 35:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 33:

Admit that, during the years at issue, Defendant directed the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 36:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 34:

Admit that, during the years at issue, Defendant superintended the use or conditions of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms

used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 37:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 35:

Admit that, during the years at issue, Defendant restricted the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 38:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 36:

Admit that, during the years at issue, Defendant regulated the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 39:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 37:

Admit that, during the years at issue, Defendant governed the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 40:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 38:

Admit that, during the years at issue, Defendant oversaw the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 41:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 39:

Admit that, during the years at issue, Defendant administered the use or condition of Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms

used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. This is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 42:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 40:

Admit that Defendant retained some control over the manner in which Plaintiff's work was performed.

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 43:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil has not located any such documents.

INTERROGATORY NO. 17:

Do you contend that at no time during the years at issue, Defendant did not have the right to advise or, if necessary, control the activities of employees of contractors, working on Defendant's Premises, who were engaged in activities which could be potentially hazardous to either themselves or to the employees of Defendant? If the answer is anything other than "no", identify each and every fact which supports this contention.

ANSWER:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this interrogatory because it is confusing and incomprehensible. Union Oil will attempt to answer this interrogatory if and when plaintiffs' counsel re-drafts it in a clear fashion without the use of confusing double and triple negatives and compound hypothetical questions.

REQUEST FOR ADMISSION NO. 41:

Admit that Defendant retained some control over the manner in which Plaintiff's employer performed the work requested by the Defendant.

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 44:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil has not located any such documents.

REQUEST FOR ADMISSION NO. 42:

Admit that Plaintiff was not entirely free to do the work on Defendant's Premises in his own way.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birdo v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. Union Oil would not allow workers to jeopardize these rights, but this is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 45:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 43:

Admit that Plaintiff's employer was not entirely free to do the work requested by Defendant on Defendant's Premises in its own way.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts specifically that Plaintiff "worked" at the Nederland refinery when it appears that Weldon Moake visited the Nederland refinery, if at all, to make sales calls in an effort to sell asbestos-containing products. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. Union Oil would not allow workers to jeopardize these rights, but this is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 46:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 44:

Admit that asbestos-containing gaskets were installed at Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because, to the extent an answer is contained within the available records, the burden on Plaintiffs to ascertain the answer is the same as for Union Oil. Subject to these objections, Union Oil refers Plaintiff to the documents produced, or to be produced, in this matter. In further answer, upon reasonable inquiry, Union Oil believes that asbestos-containing gaskets and various other insulation products were present at the Nederland Refinery during 1961-64. To date, Union Oil can identify Raybestos and Unibestos as asbestos-containing insulation products that were present at the Nederland refinery, but Union Oil does not possess the documentation necessary to provide a complete answer to this series of requests regarding the presence of specific types of products at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 47:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 45:

Admit that asbestos-containing pipe covering was installed at Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because, to the extent an answer is contained within the available records, the burden on Plaintiffs to ascertain the answer is the same as for Union Oil. Subject to these objections, Union Oil admits that asbestos-containing pipe covering was present at the Nederland refinery from 1961-64 and refers Plaintiff to the documents produced, or to be produced, in this matter. In further answer, upon reasonable inquiry, Union Oil believes that asbestos-containing gaskets and various other insulation products were present at the Nederland Refinery during 1961-64. To date, Union Oil can identify Raybestos and Unibestos as asbestos-containing insulation products that were present at the Nederland refinery, but Union Oil does not possess the documentation necessary to provide a complete answer to this series of requests regarding the presence of specific types of products at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 48:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 46:

Admit that asbestos-containing boilers were installed at Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because, to the extent an answer is contained within the available records, the burden on Plaintiffs to ascertain the answer is the same as for Union Oil. Subject to these objections, Union Oil refers Plaintiff to the documents produced, or to be produced, in this matter. In further answer, upon reasonable inquiry, Union Oil believes that asbestos-containing gaskets and various other insulation products were used at the Nederland Refinery during

1961-64. To date, Union Oil can identify Raybestos and Unibestos as asbestos-containing insulation products that were present at the Nederland refinery, but Union Oil does not possess the documentation necessary to provide a complete answer to this series of requests regarding the presence of specific types of products at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 49:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 47:

Admit that asbestos-containing fireproofing was installed at Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because, to the extent an answer is contained within the available records, the burden on Plaintiffs to ascertain the answer is the same as for Union Oil. Subject to these objections, Union Oil refers Plaintiff to the documents produced, or to be produced, in this matter. In further answer, upon reasonable inquiry, Union Oil believes that asbestos-containing gaskets and various other insulation products were used at the Nederland Refinery during 1961-64. To date, Union Oil can identify Raybestos and Unibestos as asbestos-containing insulation products that were present at the Nederland refinery, but Union Oil does not possess the documentation necessary to provide a complete answer to this series of requests regarding the presence of specific types of products at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 50:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 48:

Admit that asbestos-containing joint compound was installed at Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because, to the extent an answer is contained within the

available records, the burden on Plaintiffs to ascertain the answer is the same as for Union Oil. Subject to these objections, Union Oil refers Plaintiff to the documents produced, or to be produced, in this matter. In further answer, upon reasonable inquiry, Union Oil believes that asbestos-containing gaskets and various other insulation products were used at the Nederland Refinery during 1961-64. To date, Union Oil can identify Raybestos and Unibestos as asbestos-containing insulation products that were present at the Nederland refinery, but Union Oil does not possess the documentation necessary to provide a complete answer to this series of requests regarding the presence of specific types of products at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 51:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 49:

Admit that asbestos-containing insulation was installed at Defendant's Premises.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because, to the extent an answer is contained within the available records, the burden on Plaintiffs to ascertain the answer is the same as for Union Oil. Subject to these objections, Union Oil refers Plaintiff to the documents produced, or to be produced, in this matter. In further answer, upon reasonable inquiry, Union Oil believes that asbestos-containing gaskets and various other insulation products were used at the Nederland Refinery during 1961-64. To date, Union Oil can identify Raybestos and Unibestos as asbestos-containing insulation products that were present at the Nederland refinery, but Union Oil does not possess the documentation necessary to provide a complete answer to this series of requests regarding the presence of specific types of products at the Nederland refinery.

REQUEST FOR PRODUCTION NO. 52:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Not applicable.

REQUEST FOR ADMISSION NO. 50:

Admit that such installation was done under your direction, supervision, and/or control.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it is unclear in its meaning and could assume disputed facts. Moreover, Union Oil objects to this request because it impermissibly calls for an admission of a legal question. *Gore v. Cunningham*, 297 S.W.2d 287, 291 (Tex. Civ. App.—Beaumont 1956, writ ref'd n.r.e.) (requests for admissions cannot compel a party to answer a legal conclusion); *Birido v. Parker*, 842 S.W. 2d 699 (Tex. App.—Tyler 1992) (requests for admission should not be used as a tool to trap opponent). Subject to and without waiving these objections, although Union Oil will not speculate as to what plaintiffs' counsel means by the terms used in this confusing and redundant series of requests, Union Oil admits that it owned and possessed all rights of ownership regarding the Nederland refinery. Union Oil would not allow workers to jeopardize these rights, but this is not to say that Union Oil controlled the work of employees of independent contractors.

REQUEST FOR PRODUCTION NO. 53:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial, including but not limited to all documents identifying the entities or individuals who directed, supervised, and/or controlled such installation activities.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil has located no such documents. However, Union Oil does note that insulation work would have been done under the direction, supervision, and control of the insulation companies hired by then Nederland refinery to do this type of work. That is the whole reason that these specialists were hired for this type of work.

INTERROGATORY NO. 18:

Please state the first year you learned that persons could suffer physical injury through the inhalation of asbestos fibers and how Defendant became aware of the existence of asbestos hazards.

ANSWER:

In the early 1970s, Union Oil became aware that asbestos, at certain levels and durations of exposure, could potentially cause physical injury.

REQUEST FOR PRODUCTION NO. 54:

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

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. Union Oil will continue to search for responsive documents and will supplement this responses pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 51:

Admit that you supervised the health and safety procedures implemented by contractors working on Defendant's Premises.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 52:

Admit that you supervised the health and safety practices implemented by Plaintiff's employer.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 53:

Admit that you did not protect the Plaintiff from exposure to asbestos on Defendant's Premises.

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 55:

Produce all documents supporting the legal theories and factual bases of your defenses set forth in your response to Plaintiffs Request for Disclosure under Texas Rules of Civil Procedure 194.2, subparagraph (c).

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

INTERROGATORY NO. 19:

Do you contend that Plaintiff's exposure to asbestos at Defendant's Premises was not a substantial contributing factor in causing his asbestos-related injury? If the answer is anything other than "no", identify each and every fact which supports this contention.

ANSWER:

Union Oil contends that Mr. Moake's visits to Union Oil are not the proximate cause of his disease, and Union Oil will rely on expert testimony to support this contention. Because expert discovery has not yet begun in this case, this interrogatory is premature in its request for the identification of specific facts and documents which support this contention. Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 54:

Admit that Plaintiff's exposure to asbestos at Defendant's Premises was a substantial contributing factor in causing his asbestos-related injury.

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 56:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Union Oil contends that Mr. Moake's visits to Union Oil are not the proximate cause of his disease, and Union Oil will rely on expert testimony to support this contention. Because expert discovery has not yet begun in this case, this interrogatory is premature in its request for the identification of specific facts and documents which support this contention. Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 55:

Admit that Defendant did not exercise reasonable care to reduce or eliminate the risk of asbestos-related injury.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 56:

Admit that Defendant did not reduce or eliminate the unreasonable risk of harm posed by the use of asbestos-containing products at Defendant's Premises.

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 57:

If you deny the foregoing request, in whole or in part, produce all documents supporting your denial.

RESPONSE:

Union Oil contends that Mr. Moake's visits to Union Oil are not the proximate cause of his disease and did not pose an unreasonable risk of harm based on the state of the art of medical and scientific knowledge accepted at the time of those visits. Union Oil will rely on expert testimony to support this contention. Because expert discovery has not yet begun in this case, this request is premature in its request for the identification of specific facts and documents which support this contention. Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 57:

Admit that Defendant's failure to reduce or eliminate the risk of harm to Plaintiff was a substantial factor in bringing about Plaintiff's asbestos-related injury.

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 58:

If you deny the foregoing request, in whole, or in part, produce all documents supporting your denial.

RESPONSE:

Union Oil contends that Mr. Moake's visits to Union Oil are not the proximate cause of his disease and did not pose an unreasonable risk of harm based on the state of the art of medical and scientific knowledge accepted at the time of those visits. Union Oil will rely on expert testimony to support this contention. Because expert discovery has not yet begun in this case, this request is premature in its request for the identification of specific facts and documents which support this contention. Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 59:

If you contend that while at the premises on which you or your employees were working with asbestos-containing materials, Plaintiff was not exposed to sufficient quantities of asbestos dust to produce the disease(s) complained of, produce all documents supporting your contention.

RESPONSE:

Union Oil contends that Mr. Moake's visits to Union Oil are not the proximate cause of his disease and did not pose an unreasonable risk of harm based on the state of the art of medical and scientific knowledge accepted at the time of those visits. Union Oil will rely on expert testimony to support this contention. Because expert discovery has not yet begun in this case, this request is premature in its request for the identification of specific facts and documents which support this contention. Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 60:

If you contend that Plaintiff is suffering from an asbestos disease as a result of exposures other than asbestos dust at the premises on which you or your employees were working with asbestos-containing materials, produce all documents supporting your contention.

RESPONSE:

Union Oil contends that Mr. Moake's visits to Union Oil are not the proximate cause of his disease and did not pose an unreasonable risk of harm based on the state of the art of medical and scientific knowledge accepted at the time of those visits. Union Oil will rely on expert testimony to support this contention. Because expert discovery has not yet begun in this case, this request is premature in its request for the identification of specific facts and documents which support this contention. Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 61:

If you contend that Plaintiff does not suffer from the asbestos-related disease(s) complained of, produce all documents supporting your contention.

RESPONSE:

Union Oil contends that Mr. Moake's visits to Union Oil are not the proximate cause of his disease and did not pose an unreasonable risk of harm based on the state of the art of medical and scientific knowledge accepted at the time of those visits. Union Oil will rely on expert testimony to support this contention. Because expert discovery has not yet begun in this case, this request is premature in its request for the identification of specific facts and documents which support this contention. Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 62:

If you contend that Plaintiff was not exposed to asbestos dust at the premises on which you or your employees were working with asbestos-containing materials, produce all documents supporting your contention.

RESPONSE:

Union Oil contends that Mr. Moake's visits to Union Oil are not the proximate cause of his disease and did not pose an unreasonable risk of harm based on the state of the art of medical and scientific knowledge accepted at the time of those visits. Union Oil will rely on expert testimony to support this contention. Because expert discovery has not yet begun in this case, this request is premature in its request for the identification of specific facts and documents which support this contention. Union Oil will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 63:

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

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 64:

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 whether on-site or off-site, including but not limited to supplements, addenda, memoranda, operating

bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 65:

Produce any and all documentation, including but not limited to lists, inventories, indices, databases or print-outs 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) described in the preceding paragraphs.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it seeks to impose obligations on Union Oil beyond those contemplated by the Texas Rules of Civil Procedure. Union Oil will comply with the Texas Rules of Civil Procedure, and plaintiffs are entitled to request the production of Union Oil's discoverable and responsive documents. However, plaintiffs are not entitled to a wholesale inspection of Union Oil's records nor a fishing expedition into the manner or locations where such records are stored. As such, this request is over broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. If plaintiffs have complaints or concerns regarding the existence or storage of certain, specific documents after Union Oil completes its production, then Union Oil will work with plaintiffs' counsel at that time to resolve such issues. However, until such production is performed and reviewed by plaintiffs' counsel, this request is unnecessarily burdensome and premature.

INTERROGATORY NO. 20:

Does Defendant have 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? If so, identify the individuals who received, maintained, reviewed, or disseminated the information contained in such written materials.

ANSWER:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written

discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 66:

Produce the written materials referred to in the interrogatory above.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR ADMISSION NO. 58:

Admit that Plaintiff filed suit against Defendant within two (2) years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of action.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 59:

Admit that Defendant is liable for Plaintiff's asbestos related illness.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 60:

Admit that asbestos is still in use and/or in place on Defendant's Premises.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 61:

Admit that Defendant no longer uses asbestos on its Premises.

RESPONSE:

Denied.

REQUEST FOR PRODUCTION NO. 67:

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:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 68:

Produce all documents disseminated or published by any trade association that contain information relating to the hazards of asbestos and all documents which refer to such documents.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because such request should be made of the trade associations rather than being directed to Union Oil. Subject to these objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 69:

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:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request because it seeks documents available in the public domain. Subject to these objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 70:

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

RESPONSE:

Subject to its Introductory Objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 71:

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

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects that, to the extent an answer is contained within the available records, the burden on Plaintiff to ascertain the answer is the same as for Union Oil. Subject to these objections, general abatement work began at the Nederland refinery in the 1980s. Based on the information available, Union Oil believes that Economy Insulation, Olshan, and Basic Industries were contractors who performed abatement work at the Nederland refinery. Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 72:

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

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request as burdensome, harassing, and impossible because many, if not all, potentially responsive documents no longer exist due to the passage of time since 1961-64 and due to the fact that Union Oil ceased refinery operations at the Nederland refinery in 1990 and dismantled the refinery shortly thereafter. Subject to these objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 73:

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

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects that, to the extent an answer is contained within the available records, the burden on Plaintiff to ascertain the answer is the same as for Union Oil. Subject to these objections, general abatement work began at the Nederland refinery in the 1980s. Based on the information available, Union Oil believes that Economy Insulation, Olshan, and Basic Industries were contractors who performed abatement work at the Nederland refinery. Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Finally, Union Oil will continue to search for responsive documents and will supplement this response pursuant to the Texas Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 74:

Produce all documents related to the medical condition of Plaintiff at any time during his work at Defendant's Premises. 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 employment records relating to Plaintiff's health.

RESPONSE:

Plaintiff Weldon Moake was not an employee of Union Oil. Accordingly, Union Oil has no such documents.

REQUEST FOR PRODUCTION NO. 75:

Produce Plaintiff's entire personnel file from Defendant's Premises.

RESPONSE:

Plaintiff Weldon Moake was not an employee of Union Oil. Accordingly, Union Oil has no such documents.

REQUEST FOR PRODUCTION NO. 76:

Produce all documents that reflect the layout of Defendant's Premises, including the location and dimensions of all buildings and the location and placement of asbestos-containing products.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 77:

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

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 78:

Produce all photographs of asbestos products in place or asbestos-containing products being fabricated or utilized at Defendant's Premises.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 79:

Produce all photographs of warning signs or warning statements which are or have been in place at Defendant's Premises in the vicinity of asbestos-containing products.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 80:

Produce all documents relating to any individuals claimed injury as a result of exposure to asbestos at Defendant's Premises, including, but not limited to, workers compensation claims.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 81:

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

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 82:

Produce all documents, including invoices, shipping receipts, bills of lading and purchase orders, related to the purchase of asbestos-containing products for use at Defendant's Premises.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 83:

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:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written

discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 84:

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, 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:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 85:

Produce all reports, writings (whether published or unpublished) and/or other documentation written, created and/or edited by any of your experts that in anyway pertain to asbestos and the hazards and/or diseases that may result therefrom.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request for production because it is premature and should be postponed until after all experts have been selected and designated. Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 86:

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:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 87:

Produce documents between Defendant and any of its worker's compensation carriers regarding the hazards of asbestos and asbestos-containing products.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 88:

Produce a copy of all regulations, orders, rules and/or policies which have been used relating to the safety of the Defendant's Premises.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 89:

Produce all documents which contain complaints by employees of the Defendant's Premises regarding safety conditions and work place conditions at the Defendant's Premises.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 90:

Produce all documents which contain complaints by Union representatives of Defendant's Premises regarding safety conditions and work place conditions at the Defendant's Premises.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written

discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 91:

Produce all documents, organizational charts or rosters which identify the members of the management at the Defendant's Premises and their areas of responsibility during the time period of Plaintiff's work at Defendant's Premises.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 92:

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:

Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 93:

Produce all documents which evidence Defendant's purchase, acquisition, sale, or transfer of ownership of Defendant's Premises.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Union Oil retains the liabilities for the Nederland refinery formerly owned by The Pure Oil Company during the 1961-64 time period.

REQUEST FOR PRODUCTION NO. 94:

Produce all indemnity agreements, assignments of liability, subrogation agreements and other similar documents relating to Defendant's Premises and liabilities arising from said ownership.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter. Union Oil retains the liabilities for the Nederland refinery formerly owned by The Pure Oil Company during the 1961-64 time period.

REQUEST FOR PRODUCTION NO. 95:

Produce all contracts pertaining to work done by contractors at Defendant's facility.

RESPONSE:

In addition to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil objects to this request as burdensome, harassing, and impossible because many, if not all, potentially responsive documents no longer exist due to the passage of time since 1961-64 and due to the fact that Union Oil ceased refinery operations at the Nederland refinery in 1990 and dismantled the refinery shortly thereafter. Subject to these objections, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 96:

Please produce any printed material produced or published by Defendant containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos?

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 97:

Produce all documents and other tangible things relating to the Plaintiff.

RESPONSE:

Subject to its Introductory Objections and the parameters established in its Introductory Statement, Union Oil will produce documents responsive to plaintiffs' subpoena duces tecum and written

discovery requests, if any, at a mutually convenient time and place. In response to this request, Union Oil also refers Plaintiffs to the documents produced, or to be produced, in this matter.

REQUEST FOR PRODUCTION NO. 98:

If you contend that you did not own or control the facility(ies) during any time period that Plaintiff worked (or believes he worked) at the facility(ies), 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:

Union Oil retains the liabilities for the Nederland refinery formerly owned by The Pure Oil Company during the 1961-64 time period.

Respectfully submitted,

BAKER BOTTS L.L.P.

By: 

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ATTORNEYS FOR DEFENDANT UNION OIL
COMPANY OF CALIFORNIA

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Objections and Responses to Plaintiff's First Set of Interrogatories, First Request for Admissions and First Request for Production of Documents was forwarded by certified mail to plaintiffs' counsel and all other counsel of record by regular mail on the 15th day of September, 2000.



Brady Edwards