PLAINTIFF'S EXHIBIT
KRC-743

NO. 26,166

GWENDOLYN GRAY LUCE, Individually and as Personal Representative of the Heirs and Estate of ROBERT THOMAS LUCE, Deceased	§	IN THE DISTRICT COURT OF MILAM COUNTY, TEXAS
vs.	§	
AC&S, INC., et al.	§	20th JUDICIAL DISTRICT

DEFENDANT SUNOCO, INC. (R&M)'S OBJECTIONS AND ANSWERS TO PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION

TO: Plaintiff, Gwendolyn Gray Luce, Individually and as Personal Representative of the Heirs and Estate of Robert Thomas Luce, Deceased, by and through her attorney of record, C. Andrew Waters, 400 South Zang Boulevard, Suite 500, Dallas, Texas 75208.

COMES NOW, Defendant, SUNOCO, INC. (R&M), improperly designated as Sun Company, Inc. (R&M) and Sun Company, Inc.(hereinafter "Defendant" or "Sun"), and pursuant to Rule 167 of the Texas Rules of Civil Procedure, file their Objections and Responses to Plaintiffs' Request for Production and by way of objections and answers respectfully states as follows:

Respectfully submitted,

WERNER & KERRIGAN, L.L.P.

By: _____

Philip Werner
State Bar No. 21190200
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1300 Post Oak Boulevard, Suite 2225
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ATTORNEYS FOR DEFENDANT,
SUNOCO, INC. (R & M)

CERTIFICATE OF SERVICE

Pursuant to Rule 21a of the Texas Rules of Civil Procedure, I hereby certify that a true and correct copy of the foregoing has been served upon all knowncounsel of record by telecopy, hand delivery, certified mail, return receipt requested, and/or regular mail, on this the 9th day of February, 1999.

Philip Werner

RESPONSES AND OBJECTIONS TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1.

Produce any and all documents, memoranda and/or writings that reflect, indicate or in any way relate to communications between you and any purchaser of asbestos-containing products concerning or related to the asbestos contained in such products.

RESPONSE:

None.

REQUEST FOR PRODUCTION NO. 2.

Produce any and all documents, memoranda and/or other writings, including but not limited to books, pamphlets, or other written materials of any kind or character in your possession that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as overly broad and unduly burdensome.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 3.

Produce any and all documents, memoranda and/or other writings that include or refer to publications published or disseminated by any trade association or organization that in any way relate to the hazards of asbestos.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as overly broad and unduly burdensome.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 4.

Produce any and all publications in your possession that were disseminated or published by any trade association or organization and that contain information relating to the hazards of asbestos.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as overly broad and unduly burdensome.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 5.

Produce any and all documents, memoranda and/or other writings that indicate and/or reflect or refer 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, including but not limited to written reports produced by such agency. This request specifically seeks any and all such documentation referring to dust hazards, including but not limited to asbestos in your plants.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption and the witness statement exemption.

Defendant objects to this Request as overly broad and unduly burdensome as it is not limited to those plants and time periods at issue in this lawsuit, nor is it limited to "health or safety regulations" or "dust hazards" that are relevant to this lawsuit.

Defendant objects to this Request as vague as a result of the use of the term "dust hazards."

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 6.

Produce any and all safety meeting minutes or other documents, memoranda and/or writings that refer to the dangers of asbestos and/or safety measures to be used in the vicinity of asbestos at any of your plants where asbestos products were manufactured or assembled.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as overly broad and unduly burdensome as it is not limited to those plants and time periods at issue in this lawsuit.

Subject to these objections, none.

REQUEST FOR PRODUCTION NO. 7.

Produce any and all contracts, memoranda and/or other writings that in any way reflect safety arrangements made for or relating to, the removal of asbestos and/or the installation of asbestos products at any of your plants where asbestos products were installed or utilized.

RESPONSE:

Defendant objects to this Request as overly broad because it is not limited to the time period during which Plaintiff allegedly worked at this Defendant's facility, nor is it limited to the specific facility owned by this Defendant at which Plaintiff worked, if any.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 8.

Produce any and all documents, memoranda, and/or other writings that in any way reflect a removal plan or organized written criteria or schedule for the removal of asbestos at any of your plants where asbestos products were installed or utilized.

RESPONSE:

Defendant objects to this Request as overly broad because it is not limited to the time period during which Plaintiff allegedly worked at this Defendant's facility, nor is it limited to the specific facility owned by this Defendant at which Plaintiff worked, if any.

Defendant objects to this Request as vague in part because of the use of the term "organized written criteria."

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 9.

Produce any and all documents, memoranda, and/or other writings that discuss or relate in any way to removal of asbestos from any of your plants where asbestos products were installed or utilized.

RESPONSE:

Defendant objects to this Request as overly broad because it is not limited to the time period during which Plaintiff allegedly worked at this Defendant's facility, nor is it limited to the specific facility owned by this Defendant at which Plaintiff worked, if any.

Subject to all general and specific objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 10.

Please produce any and all documents related to the medical condition of all Plaintiffs and/or Decedent at any time. This request specifically includes any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, including annual physical forms, etc.

RESPONSE:

None.

REQUEST FOR PRODUCTION NO. 11.

Produce any and all documents, memoranda and/or other writings that indicate and/or refer to in any way to a decision related to ceasing the use of asbestos-containing products in any of your plants or ceasing the manufacture of asbestos-containing products.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as overly broad because it is not limited to the time period during which Plaintiff allegedly worked at this Defendant's facility, nor is it limited to the specific facility owned by this Defendant at which Plaintiff worked, if any.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 12.

Produce any and all documents, memoranda and/or other writings that reflect and/or demonstrate the layout or dimensions of any facility, location (including vessels, if any) where Plaintiffs and/or Decedents allege exposure to Asbestos including the location and dimensions of all buildings and specifically including but not limited to the location and/or placement of asbestos-containing products at any time within the last forty (40) years.

RESPONSE:

Defendant objects to this Request as overly broad and unduly burdensome insofar as it seeks to discover proprietary information regarding this Defendant, specifically the layout of Defendant's plants.

Defendant objects to this Request as overly broad because it is not limited to the time period during which Plaintiff allegedly worked at this Defendant's facility, if at all.

REQUEST FOR PRODUCTION NO. 13.

Produce any brochures, pamphlets, catalogs, packaging, or other written material of any kind or character containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos that have been published, distributed, or disseminated by you.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as vague because it fails to describe with reasonable particularity the documents being sought, insofar as it fails to define the terms "published, distributed or disseminated by you".

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 14.

Produce any photographs of asbestos products manufactured at any of your plants where asbestos products were manufactured or assembled.

RESPONSE:

Defendant objects to this Request as overly broad since it is not limited to those facilities and time periods specifically at issue in this lawsuit.

Subject to these objections, N/A.

REQUEST FOR PRODUCTION NO. 15.

Produce any photographs of warning signs or other statements in place at any time in the vicinity of asbestos-containing products or asbestos in place at any time during the last forty (40) years at any of your plants where asbestos products were manufactured or assembled.

RESPONSE:

Defendant objects to this Request as overly broad and unduly burdensome in part because it is not limited to those facilities and time periods specifically at issue in this lawsuit.

Subject to these objections, N/A.

REQUEST FOR PRODUCTION NO. 16.

Produce any documents indicating in any way that individuals claimed injury to their lungs as a result of exposure to any asbestos products at any facility, location (including vessels, if any,) where Plaintiffs and/or Decedents allege exposure to asbestos.

RESPONSE:

Defendant objects to this Request insofar as it seeks information which is irrelevant to this suit, and is not reasonably calculated to lead to the discovery of admissible evidence.

Defendant further objects to this Request as overly broad since it requests "any documents indicating in any way . . .".

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and/or the witness statement exemption.

Defendant objects to this Request as overly broad, vague, and unduly burdensome as it is not limited to those time periods and facilities relevant to this lawsuit. As phrased, this Request constitutes a "fishing expedition" which was disallowed by the Texas Supreme Court in *Loftin v. Martin*, 776 S.W.2d 145, 147 (Tex. 1989).

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 17.

Produce any documents, including but not limited to workers compensation claims, indicating that any individuals claimed injury as a result of exposure to asbestos products while employed by you at any of your facilities and/or factories where asbestos was used.

RESPONSE:

Defendant objects to this Request insofar as it seeks information which is irrelevant to this suit, and is not reasonably calculated to lead to the discovery of admissible evidence.

Defendant further objects to this Request as overly broad since it requests "any documents including but not limited to . . .".

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and/or the witness statement exemption.

Defendant objects to this Request as overly broad, vague, and unduly burdensome as it is not limited to those time periods and facilities relevant to this lawsuit. As phrased, this Request constitutes a "fishing expedition" which was disallowed by the Texas Supreme Court in *Loftin v. Martin*, 776 S.W.2d 145, 147 (Tex. 1989).

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 18.

Produce any memoranda, writings, or other documents that in any way reflect corporate minutes or other corporate records in any way involving a discussion of the hazards or potential hazards of asbestos.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as overly broad because it is not limited to the time period during which Plaintiff allegedly worked at this Defendant's facility, nor is it limited to the specific facility owned by this Defendant at which Plaintiff worked, if any.

Subject to these objections, Defendant state that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 19.

Produce any insurance policies that might cover the claims made by Plaintiff in this case.

RESPONSE:

Defendant objects to this Request because it is not a proper party to this case. Subject to the foregoing objection, Defendant has sufficient insurance coverage to satisfy any reasonable judgment which may be entered against it in this case.

REQUEST FOR PRODUCTION NO. 20.

Produce any documents reflecting a workers compensation claim filed against Defendant or Defendant's workers compensation carrier containing allegations that an individual contracted a disease as a result of inhaling asbestos fibers.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, and/or the investigative/party communications privilege.

Defendant objects to this Request as overly broad, vague, and unduly burdensome as it is not limited to those time periods and facilities relevant to this lawsuit. As phrased, this Request constitutes a "fishing expedition" which was disallowed by the Texas Supreme Court in *Loftin v. Martin*, 776 S.W.2d 145, 147 (Tex. 1989).

Defendant further objects to this Request because it seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 21.

Produce any minutes or other notes or records from any meetings at which the hazards and/or potential hazards of asbestos were discussed by officers, agents, and/or employees of Defendant.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, and/or the witness statement exemption.

Defendant objects to this Request as overly broad, vague, and unduly burdensome in part because it is not limited to those time periods relevant to this lawsuit.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendants will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 22.

Produce any and all documents, including invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature related to the purchase of either raw asbestos or asbestos-containing products for use at any of your plants where asbestos products were manufactured or assembled at any time from 1960 to the present.

RESPONSE:

Defendants object to this Request as overly broad and unduly burdensome as it is not limited to those facilities and time periods at issue in this lawsuit.

Subject to these objections, N/A.

REQUEST FOR PRODUCTION NO. 23.

Produce any and all records, documents, memoranda or other writings reflecting in any way any inspections by labor inspectors, insurance company inspectors or anyone from your company or hired by your company where asbestos-containing products were being used, installed or manufactured and that included the taking or measures of "dust counts". This request specifically includes any and all of your plants or facilities where asbestos-containing products were manufactured, used and/or in place at any time in the last fifty (50) years.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as overly broad because it is not limited to the time period during which Plaintiff allegedly worked at this Defendant's facility, nor is it limited to the specific facility owned by this Defendant at which Plaintiff worked, if any.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 24.

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 as a result of such counts or studies.

RESPONSE:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege, the attorney-work product immunity, the investigative/party communications privilege, the joint defense privilege, the consulting expert exemption, and the witness statement exemption.

Defendant objects to this Request as overly broad because it is not limited to the time period during which Plaintiff allegedly worked at this Defendant's facility, nor is it limited to the specific facility owned by this Defendant at which Plaintiff worked, if any.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.

REQUEST FOR PRODUCTION NO. 25.

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

RESPONSE:

Defendant objects to this Request to the extent it seeks the discovery of any information from any purely consulting expert witness as this exceeds the scope of discovery set out in the Texas Rules of Civil Procedure.

Subject to these objections, no experts have been selected at this time.

REQUEST FOR PRODUCTION NO. 26.

Produce any and all documents provided to any expert or fact witnesses as a result of the filing of this case.

RESPONSE:

Defendant objects to this Request to the extent it seeks the discovery of any information from any purely consulting expert witness as this exceeds the scope of the discovery set out in the Texas Rules of Civil Procedure.

Defendants object to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the **attorney-client privilege**, the **attorney-work product immunity**, the investigative/party communications privilege, the joint defense privilege, and/or the witness statement exemption.

Subject to these objections, none.

REQUEST FOR PRODUCTION NO. 27.

Produce any and all curriculum vitae and/or resumes of any of the experts and/or persons with knowledge of relevant fact that you have listed in your Answers to Interrogatories.

RESPONSE:

Defendant objects to this Request as overly broad, unduly burdensome and beyond the scope of permissible discovery to the extent it seeks to compel Defendant to produce information or documentation beyond identifying persons with knowledge of relevant facts. Additionally, Defendant objects to this request as overly broad and unduly burdensome insofar as many of the persons with knowledge of relevant facts in this case are not within the control of this Defendant.

Subject to these objections, no experts have been selected at this time.

REQUEST FOR PRODUCTION NO. 28.

Produce any and 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:

Defendant objects to this Request to the extent it seeks the production of documents which are exempt or protected from discovery by the attorney-client privilege and the attorney-work product immunity

Defendant objects to this Request to the extent it seeks the Defendants' production of documents which may be offered as evidence at the time of trial, and is, therefore, an invasion of the mental impression and work product privileges of Rule 166b of the Texas Rules of Civil Procedure. *Texas Tech Univ. Health Sciences Ctr. v. Schild*, 828 S.W.2d 502, 504 (Tex. App.—El Paso 1992, orig. proceeding).

REQUEST FOR PRODUCTION NO. 29.

Produce any and all depositions and trial transcripts of any of your present or prior employees or expert witnesses whose testimony in any way related to asbestos and/or liability for asbestos disease.

RESPONSE:

Defendant objects to this Request to the extent that is seeks documents which can be found in the public record, and/or are equally available to the Plaintiffs.

Defendant objects to this Request as overly broad, unduly burdensome and seeking documents which are not relevant and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to these objections, Defendant states that discovery and investigation are ongoing. Defendant will make responsive and discoverable documents, if any, available for inspection and review at the offices of Werner & Kerrigan, L.L.P. or a location designated by Werner & Kerrigan, L.L.P. at a mutually agreeable date and time.