

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

NATIONAL GYPSUM COMPANY'S RESPONSES TO
PLAINTIFF(S) MASTER SET OF INTERROGATORIES
AND REQUEST FOR ADMISSIONS

TO: ALL PARTIES AND THEIR RESPECTIVE ATTORNEY(S) OF RECORD:

National Gypsum Company ("National Gypsum") responds to Plaintiff(s) Master Set of Interrogatories and Request for Admissions as follows:

GENERAL OBJECTIONS

Defendant, National Gypsum, objects to any interrogatory or instruction that purports to impose upon defendant any obligation not expressly set forth in the Federal Rules of Civil Procedure.

National Gypsum objects generally to these interrogatories to the extent that they purport to require National Gypsum to provide information with respect to all of its subsidiaries, affiliated companies, and predecessors on the grounds that, as so defined, the interrogatories are overly broad, unduly burdensome, seek information not relevant to the subject matter of this action, and are not reasonably calculated to lead to the discovery of admissible evidence.

Defendant, National Gypsum, answers with respect to asbestos-containing products of the type used by an insulation mechanic and with respect to asbestos fiber, which has many uses. With respect to each interrogatory, defendant objects to

answering to the extent that the interrogatory seeks information regarding additional products on the grounds that such interrogatory is overly broad and seeks information not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence, and thus the interrogatory is unduly burdensome.

INTRODUCTORY STATEMENT

Mr. Robert E. Oberkircher, an Assistant Controller of Gold Bond Building Products Division of National Gypsum Company, Charlotte, North Carolina, has reviewed the answers to these interrogatories and has attested on behalf of National Gypsum to the accuracy of the answers for the purpose of satisfying the verification requirement. Mr. Oberkircher has been employed by National Gypsum from 1955 to the present. These answers are based upon an ongoing review of National Gypsum documents and information obtained from ongoing discussions with various National Gypsum personnel over a period of years. The information contained herein has been assembled by authorized employees and counsel for National Gypsum. It is not possible to reconstruct each step taken to gather this information or to state that all documents that might possibly pertain to the matters at issue, which may have occurred many years ago, have been located or examined in connection with these answers. It is not possible to identify by name each person who could be said to have participated in the preparation of answers nor to identify all documents that may have provided information. National Gypsum reserves the right to amend these answers on the basis of

any further information that is obtained.

RESPONSES TO REQUESTS FOR ADMISSIONS

1. You are now in the business of manufacturing, selling or distributing products containing asbestos.

RESPONSE: Denied.

2. You have been in the past in the business of manufacturing, selling or distributing products containing asbestos.

(a) This was true during a part of the time between 1940 and 1972.

(b) Between 1940 and 1972, your products were sold or distributed in Texas.

(c) After 1972 some of your asbestos products were still in place where installed earlier.

RESPONSE: Admitted.

(a) Admitted.

(b) Admitted.

(c) Admitted.

3. You knew your products inquired about above contained asbestos.

RESPONSE: National Gypsum Company objects to this request on the grounds that it is vague and unintelligible in that it does not specify the products to which it refers. Without waiving this objection, National Gypsum admits that it knew that certain of its products contained asbestos.

4. You gave no warning to the plaintiff(s) in this case of the dangers of asbestos.

RESPONSE: After reasonable investigation, the

information known or readily obtainable by National Gypsum is insufficient to enable it to admit or deny this request.

5. Asbestos is a known cause of asbestosis.

(a) A known cause of mesothelioma.

(b) A known cause of cancer of other bodily organs.

(c) A known cause of lung or bronchial damage.

RESPONSE: Admitted.

(a) Admitted.

(b) and (c) National Gypsum objects to these requests on the grounds that they are vague and cannot be admitted or denied as stated, and they call for medical opinions that National Gypsum should not be required to give.

RESPONSES TO INTERROGATORIES

1. As to the person answering these interrogatories, state:

(a) Name;

(b) Title or position with defendant;

(c) Business address;

(d) Length of time employed by defendant.

(e) State year by year all other positions, titles or jobs that person has held with the defendant.

RESPONSE: See Introductory Statement.

2. State the following concerning this defendant:

(a) Full and correct name;

(b) Principal place of business;

(c) State of incorporation;

(d) Date of incorporation, and name of corporation;

(e) Is this defendant authorized to transact business in the State of Texas? If so, state the date such authority was first issued and last renewed;

(f) Does this defendant have an agent, representative or place of business in Texas? If so, state the name and address of such agent, representative, or place of business.

(g) Does this defendant have an agent for service in the State of Texas? If so, state the name and address of the registered agent.

RESPONSE: See Attachment 1. National Gypsum's Certificate of Authority to do business in the State of Texas is dated 3/30/36. Its resident agent for service of process is CT Corporation System, Republic National Bank Building, Dallas, Texas, 75221.

3. Has this defendant been sued under its correct name? If not, state the correct legal name of the defendant and provide the information requested in No. 2 above concerning the defendant as correctly named.

RESPONSE: See Attachment 1.

4. Has this defendant ever acquired through purchase, reorganization or merger another corporation, company, or business which manufactured, sold, processed, distributed or contracted to apply insulation products containing asbestos?

RESPONSE: Yes.

5. If the answer to Interrogatory No. 4 is "Yes," then state the following concerning such predecessor:

(a) Full and correct name;

(b) The principal place of business;

(c) State of incorporation;

(d) Date of acquisition by defendant;

(e) Was this business authorized to transact business in the State of Texas?

(f) Attach copies of all papers pertaining to the acquisition.

RESPONSE: See Attachments 2 and 3. National Gypsum does not know whether GIMCO was authorized to transact business in Texas.

6. As to any product containing asbestos in any form, has this defendant, or any predecessor(s):

(a) Ever designed such a product?

(b) Manufactured such a product?

(c) Processed such a product?

(d) Sold such a product?

(e) Distributed such a product?

(f) Patented such a product?

(g) Relabeled such a product which was manufactured, sold, or distributed by another company?

RESPONSE: See General Objections and Attachments A to D ("Product Attachments").

7. If your answer to No. 6(b), 6(d) and 6(e) is "Yes", then give the trade name of the product, the year the defendant or predecessor first sold or distributed such product, and the year the defendant last sold or distributed such product.

RESPONSE: See General Objections and Product Attachments.

8. Have any of the products listed above in Interrogatory No. 6 been altered in chemical composition since first being marketed?

RESPONSE: See Product Attachments.

9. If so, please state:

(a) The trade name of each such product.

(b) The date each such product was altered.

(c) The nature of the alteration.

(d) The reason for the alteration.

RESPONSE: See Product Attachments.

10. What is the name, address, and the job title of each individual who participated in the design and preparation of manufacturing specifications for each such product?

RESPONSE: See Attachments 4 and 9.

11. Do any written memoranda, specifications, blueprints or other written materials of any kind or character relating to the design and preparation of said products now exist?

RESPONSE: Yes.

12. If so, please state:

(a) List each written material or document.

(b) Who presently has possession of each such document?

(c) Where is it located?

RESPONSE: See Attachment 3.

13. In what year did the defendant first begin selling or distributing insulation products containing asbestos?

RESPONSE: See Product Attachments.

14. In what year did the defendant last sell the insulation product which contained asbestos?

RESPONSE: See Product Attachments.

15. As to the named defendant or any predecessor(s) or acquired business, state the various types of products, such as blocks, pipe covering, cements, tape, spray-on insulation, mastics, and cloth, and in connection with each type of such product, state how the same was packaged (i.e., bags, boxes, sacks, etc.) for sale.

RESPONSE: See General Objections and Product Attachments.

16. Is your company, as of the date of answering these interrogatories, still manufacturing, selling or distributing any insulation products containing asbestos? If so, give the brand names of such products, the binding material and date first manufactured.

RESPONSE: No.

17. Were each of your insulation products generally expected to reach, or were packaged to reach, the consumer or user, without substantial change in the condition in which it was sold?

RESPONSE: National Gypsum objects to this interrogatory on the ground that the term "consumer or user" is not defined. Without waiving its objection, National Gypsum states that its products generally were expected to reach a job site without substantial change. However, products might have been "changed" before they reached the insulation mechanic depending on the circumstances. For example, water and probably other ingredients such as portland cement would be added to Insulating Cement before application. See the Product Attachments for additional information.

18. If your answer to Interrogatory No. 17 is "No," with respect to any product, explain in what way the defendant claims its products were altered or substantially changed after sale or distribution and before reaching the insulation helper or mechanic.

RESPONSE: See response to Interrogatory No. 17.

19. Do you admit that asbestos insulation applicators, helpers or mechanics, were foreseeable users of defendant's asbestos-contained insulation products, such as:

(a) Pipe covering;

(b) Blocks;

(c) Asbestos cloth;

(d) Mastics;

(e) Spray-on insulation;

(f) Rope or tape;

(g) Asbestos sheeting or millboard;

(h) Cements.

RESPONSE: Yes, as to products described in the Product Attachments.

20. Based upon the material contents of your products, the method of manufacturing, and the method of application for the purpose of insulation, can your products be generally applied by an insulator without liberating asbestos fibers?

(a) If there is a different answer concerning different products manufactured, sold, distributed, or used by your company then specify the different products by exact manufacturers name and popular name.

(b) If there is a difference in your answer depending on the year or years in which a particular product was used, then specify in detail what year or years you are referring to and the specific products you are referring to and the year involved.

RESPONSE: See General Objections. With respect to Asbestos Jackets for Pipecovering, Asbestos-Faced Mineral Wool Board and Stripping Tape, yes. With respect to Rockwool Insulation Cement and asbestos fiber, some asbestos fiber could be released at some stage of use or application of these products.

21. Was it a foreseeable use of your asbestos containing insulation products that they may have to be removed, stripped or replaced at any time after installation? If your company contends the plaintiff(s) misused any of your products then state how and under what circumstances your product was misused.

RESPONSE: Some products could be replaced. In addition, see response to Interrogatory No. 71.

22. Prior to releasing the products listed in Interrogatory No. 6 to the public for sale, were any tests conducted on same to determine potential health hazards involved in the use of materials contained therein?

RESPONSE: Not to the best of National Gypsum's knowledge. At that time, National Gypsum had no reason to believe that these products were potentially hazardous if used properly.

23. If so, please state:

(a) The name, address, and job classification of each individual who conducted such tests.

(b) The results of such said tests.

(c) Date of such studies.

RESPONSE: Not applicable.

24. Do any written memoranda, specifications, blueprints or other written materials of any kind or character exist relating to the testing of said products?

RESPONSE: Not applicable.

25. If so, please state:

(a) List each such written material or document.

(b) Who presently has possession of each such document and where is it located.

RESPONSE: Not applicable.

26. Did defendant or any of its subsidiary companies make any design changes as a result of such tests?

RESPONSE: Not applicable.

27. If so, please state:

(a) The nature of the change made.

(b) The name, address, and job classification of each person in charge of making a change.

RESPONSE: Not applicable.

28. After releasing said products to the public, were any tests conducted thereon to determine potential health hazards involved in the use of materials contained therein?

RESPONSE: Not to the best of National Gypsum's knowledge. National Gypsum had discontinued sales of most of these products before it had any knowledge of any potential health hazards.

29. If so, please state:

(a) The name, address, and job classification of each person conducting said tests.

(b) The results of said tests.

RESPONSE: Not applicable.

30. Prior to 1970, did you or your predecessor(s) ever have any labor inspectors or anyone from your company whose job it was to go to areas where your products were being used or installed to make a dust level count? If so, state when this procedure started, the purpose of such procedure, and what action, if any, was taken in response to the findings, and attach results.

RESPONSE: No. See Attachment 5.

31. If your company performed or had performed any dust level counts, what action based on the results did your company take?

RESPONSE: Not applicable. See response to Interrogatory No. 30.

32. Has your company or its predecessor(s) ever conducted any studies concerning the effects of the inhalation of

asbestos dust or fibers on one using or being exposed to any of the asbestos materials manufactured, sold or distributed by you, or your predecessor(s)? In answer to this question, give the date and nature of such studies, if any; the name or names of the persons conducting such studies and their addressed; what the purpose of the studies were; and attach a copy of any reports based upon such studies, showing to whom such reports were given, and the date.

RESPONSE: See Attachment 6.

33. Has your company or its predecessor(s) ever conducted or caused to be conducted any studies designed to minimize or eliminate the inhalation of asbestos dust and fibers by those exposed to the use of your company's insulation products? If so, give the following:

(a) Name of the person or firm conducting such studies;

(b) The date the studies began and the date completed;

(c) Any publication or dissemination of the results of the studies;

(d) The nature of any action to eliminate or minimize inhalation of asbestos dust or fibers.

(e) Attach copies.

RESPONSE: Not to the best of National Gypsum's knowledge.

34. If your answer to Interrogatory No. 33 is "Yes," state the name and address of such industrial hygienist or hygienists.

RESPONSE: Not applicable.

35. Does your company have, has it ever had, or has your predecessor(s) ever had, a Research Department? If so, give the year such Research Department was established, and whether or not such Research Department has operated continuously since being established.

(a) How much expended each year on research, etc.;

(b) What percentage of gross sales did your company or its predecessor spend on research concerning the health affects of asbestos?

RESPONSE: See Attachment 7. To the extent that this interrogatory seeks additional information, National Gypsum objects to this interrogatory on the grounds that it is unduly burdensome, overly broad, and seeks information that is not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence.

36. State in detail the purpose, duties and responsibilities of such Research Department.

RESPONSE: See Attachment 7.

37. Does your company have, has it ever had, or has your predecessor ever had, a Medical Department? If so, give the year such Medical Department was established, and whether or not such Medical Department has operated continuously since being established.

(a) Name each director, chief, or head of your Medical Department year by year with the first year you had a medical director or Medical Department. Give the last known address of each.

RESPONSE: See Attachment 7.

38. State in detail the duties and responsibilities of such Medical Department.

RESPONSE: Not applicable. See Attachment 7.

39. Prior to 1965, did your company, or any predecessor(s), ever at any time give insulation mechanics or insulation helpers who would be applying or removing your products instructions concerning safety precautions to use in applying such products? If so, describe such instructions, to whom they were given, the dates they were given, and the manner of giving such instructions.

RESPONSE: National Gypsum is not aware of having given any asbestos-related safety instructions to insulation mechanics prior to 1965.

40. Did your company, or your predecessor(s), ever place any warning signs on the containers in which asbestos insulation products were packaged?

RESPONSE: See General Objections and Product Attachments.

41. If you have answered Interrogatory No. 40 in the affirmative, please state:

(a) On what date did your company, or your predecessor(s), issue an order directing a warning be placed on your insulation products, or containers?

(b) On what date was such warning actually first placed on your insulation products or containers?

(c) On what date did your insulation products, accompanied by such warning, first reach the insulation contractor?

(d) State the exact wording of the first warning.

(e) State the exact size of the warning printed on your asbestos insulation products or containers.

(f) Did your company, or its predecessor(s), dictate the exact size of the printed warning?

(g) Why did your company or its predecessor(s) place such warning on your asbestos insulation products or containers?

(h) Did your company or its predecessor(s) place such warning on your asbestos insulation products or containers because you received a directive, command, suggestion, legal opinion, or any type of communication (written or otherwise) from any person, firm, corporation, governmental agency, committee, association, attorney or institute? If so, from whom and on what date did you receive such directive, command, suggestion, legal opinion, or other type of communication.

(i) If the wording of the warning has ever been changed or altered, state when it was changed, and the exact change in the wording.

RESPONSE: See response to Interrogatory No. 40.

42. Did your company or its predecessor(s) ever place any warning directly on any of its asbestos insulation pipe covering itself, block itself, cloth itself, or millboard itself?

RESPONSE: Not to the best of National Gypsum's knowledge.

43. Did your company ever stamp the name of the company, its initials, or any identifying logo on any of its asbestos pipe covering, blocks, cloth, or millboard?

RESPONSE: Unknown.

44. Did the warning inquired about in Interrogatories Nos. 42 and 43, or similar warning, ever appear in any of your sales literature? If so, attach copies of such sales literature, showing the date such literature was printed.

RESPONSE: Not to the best of National Gypsum's knowledge with respect to the products described in Product Attachments.

45. On what date was the sales literature inquired about in Interrogatory No. 44 first provided to distributors or sellers of your company's products, or your predecessor(s)'s products?

RESPONSE: Not applicable.

46. Has your company, or your predecessor(s), ever devised a high temperature heat insulation which does not contain asbestos? If so, state the date that such insulation was first placed on the market.

RESPONSE: National Gypsum objects to this Interrogatory on the grounds that it is vague and overly broad and seeks information that is not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence. In particular, the term "high temperature" has not been defined. Without waiving these

objections, National Gypsum states that it manufactured various heat insulation products which did not contain asbestos. However, these products were not developed as substitutes for National Gypsum's asbestos-containing thermal insulation products. Such non-asbestos insulation was first placed on the market by National Gypsum in approximately 1941.

47. Were any material safety data sheets ever prepared by your company or its predecessor(s)? If so, attach copies.

RESPONSE: National Gypsum objects to this interrogatory on the grounds that it is vague, overly broad, and unduly burdensome.

48. Did your company or its predecessor ever recall any products containing asbestos from the common market?

(a) State all details of such recall, giving the name of the product, the time of recall and any further action taken in connection with the recall.

RESPONSE: No.

49. Has your company or its predecessor(s) ever directly advised any contractor to whom you sell your products containing asbestos of threshold limit values for exposure to asbestos dust recommended by the American Conference of Governmental Industrial Hygienists? If so, state the date or dates that you so advised such contractors, the manner in which you advised such contractor, and the name of each contractor.

RESPONSE: See Attachment 8.

50. Prior to 1964 did your company or its predecessor(s) ever manufacture insulation products containing asbestos without a warning? List the years.

RESPONSE: Yes. See Product Attachments.

51. After 1964 did you ever manufacture insulation products containing asbestos without a warning? If so, list the name of the products and the years.

RESPONSE: No, except that National Gypsum did sell asbestos fiber, which has many uses, without a warning until 1969 or 1970.

52. Prior to 1970, did your company, or any predecessor(s), ever manufacture and sell a high temperature heat insulation which does not contain asbestos? If so, state the date that such insulation was first placed on the market.

RESPONSE: See response to Interrogatory No. 46.

53. Is your company, as of the date of answering these interrogatories, still manufacturing, selling or distributing any insulation products containing asbestos? If so, give the brand names of such products and the binding material and date of first manufacture of such product.

RESPONSE: No.

54. If your company, or your predecessor(s), ever devised a high temperature heat insulation which does not contain asbestos, state what prompted your company to devise such high temperature heat insulation not containing asbestos.

RESPONSE: National Gypsum is unable to provide the requested information. National Gypsum manufactured and sold various rock wool insulation products beginning in 1941, most of which did not contain asbestos. National Gypsum does not know whether these products could be categorized as "high temperature" insulation products.

55. Has such high temperature heat insulation not containing asbestos performed satisfactorily; that is, is such insulation suitable for the purpose for which it is to be used?

RESPONSE: National Gypsum objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter of this action or reasonably calculated to lead to the

discovery of admissible evidence. Without waiving these objections, National Gypsum states that to the best of its knowledge, all of its products were suitable for the purposes for which they were to be used. However, National Gypsum does not know whether these products can be characterized as "high temperature" insulation products as that term is used in these interrogatories.

56. Give the trade names of your high temperature heat insulation products which do not contain asbestos, and state fully what such insulation contains.

RESPONSE: National Gypsum objects to this interrogatory on the grounds that it is overly broad and unduly burdensome, and seeks information not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, National Gypsum states that it has sold various insulation products containing rock wool, and it has sold fiberglass insulation. National Gypsum does not know whether these products can be characterized as "high temperature" insulation products as that term is used in these interrogatories.

57. State the decade that there first existed manufacturing technology for commercial purposes the use of chemicals and minerals for combining into a high heat insulation product a substitute for asbestos in insulation materials.

RESPONSE: National Gypsum objects to this interrogatory on the ground that it seeks information equally available to plaintiffs as it is to this defendant.

58. To your company's knowledge, in what decade was fiberglass first commercially available for insulation over 350 degrees F.?

RESPONSE: Unknown.

59. In what decade was each of the following products commercially available for use and sale:

(a) Fiberglass;

(b) Calcium silicate;

(c) Mineral wool;

(d) Rock wool;

(e) Foamglass;

(f) Ceramics;

(g) Wood pulp;

(h) Organic pulp.

RESPONSE: National Gypsum objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, and not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence. Further, this information can be compiled by plaintiff as easily as by National Gypsum.

60. List all insulation products sold in the 1940's, 1950's and 1960's which did not contain asbestos and give the physical and tensil strength and temperature decomposition data for each product.

RESPONSE: See response to Interrogatory No. 59.

61. Did your company or any predecessor(s) ever have a division or subsidiary company engaged in the contracting business of applying insulation products? If so, give the name of such division or subsidiary company, the full address of the home office of such division or subsidiary company, and the dates such division or subsidiary company was engaged in the contracting business.

RESPONSE: See General Objections. Not to National Gypsum's knowledge.

62. Did any division of your company or subsidiary company engaged in the contract business of applying insulation products or your workmen's compensation insurance carrier ever have any claims for lung diseases or death from lung diseases, whether directly or indirectly attributed to asbestosis, mesothelioma, lung cancer, or any exposure to asbestos products prior to 1972? If the answer is "Yes," give the name of such employees and attach copies of such claims and copies of all documents relating to the disposition and handling of such claims.

RESPONSE: Not applicable. See response to Interrogatory No. 61 and Attachment 12.

63. Give the location of the state industrial accident board handling each such claim, the disposition of such claim, and the amounts paid in workmen's compensation benefits to each such employee, and the name of the compensation carrier.

RESPONSE: Not applicable.

64. Was your medical department or industrial health department or industrial hygienist responsible for contracting unit employees?

RESPONSE: Not applicable.

65. Did your company or its predecessor(s) ever make any industrial hygiene surveys? If so, give the date of such surveys, and attach copies of such surveys.

RESPONSE: National Gypsum objects to this interrogatory on the grounds that it is vague, overly broad, unduly burdensome, seeks information not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence. Further, National Gypsum objects on the ground that the term "industrial hygiene survey" is not defined. Without waiving these objections, National Gypsum states that it

made dust surveys in some of its manufacturing plants beginning in about 1972. In addition, see Attachment 5.

66. State the year that this defendant or any predecessor(s) was first advised of either threshold limit values or maximum allowable concentrations of both asbestos dust and total dust by the American Conference of Governmental Industrial Hygienists, and state the name of the employee-official of the company receiving such advice and attach copies of the instrument communicating such advice.

RESPONSE: See Attachment 8.

67. Was such threshold limit values or maximum allowable concentrations inquired about in Interrogatory No. 66 TOTAL dust and not just asbestos dust?

RESPONSE: See Attachment 8.

68. State in detail what test, if any, your company ever made with regard to the quantity, quality or threshold limit values of asbestos dust or particles to which insulators were exposed while using your products containing asbestos.

(a) If there were any such tests or studies, give the name or names of the person(s) conducting the tests, the date of the tests and attach true copies of any reports, findings or memorandums concerning such tests or studies.

RESPONSE: Not applicable.

69. When did any official with your company first have knowledge, information or understanding that asbestos would or could or might produce the diseases of:

(a) Asbestosis;

(b) Mesothelioma;

(c) Lung cancer;

(d) Any other diseases;

(e) With reference to your company give the name of such official who first had such knowledge, information or understanding;

(f) If there are any documents, records or memorandums of any kind concerning such knowledge, list them

and attach copies.

RESPONSE: See Attachment 10.

70. As to every product of yours which you have identified in previous interrogatories state specific type or types of asbestos, (i.e., crocidolite, chrysotile, amosite or any others) which your products contained. If you have any percentage figures available, then give the percentage as to each product.

RESPONSE: See Product Attachments.

71. Does defendant contend that plaintiff improperly used its products?

RESPONSE: See Attachment 11.

72. Set forth a list of photographs, plats, sketches or other documents in the possession of the party that will potentially be used as an exhibit at the trial of this case by you.

RESPONSE: National Gypsum is unable to respond to this interrogatory at this early stage in the discovery process. However, National Gypsum reserves the right to submit exhibit lists prior to the trial of these actions, in accordance with the Federal Rules of Civil Procedure.

73. Were you or any of your agents, servants, or employees aware of any of the articles described on Exhibit A prior to the year 1950?

RESPONSE: Since most of the listed articles were not published prior to 1950, it would have been impossible for National Gypsum employees to be aware of such articles in 1950. With respect to articles that were published prior to 1950, National Gypsum cannot determine whether any of the articles came to the attention of any of its employees.

74. If you answered the foregoing question "Yes," then

answer the following:

(a) Set forth such article you had knowledge of and the date you acquired such knowledge.

RESPONSE: Not applicable.

75. As of January 1, 1965, what quantity of the following asbestos-containing insulation products were stored in your warehousing facility or facilities awaiting sale to contractors or other concerns:

(a) Pipe covering (state figure and number of boxes);

(b) Block (state figure and number of boxes);

(c) Cement (state figure and number of bags).

RESPONSE: None.

76. Do you have any photographs of the products inquired about above or their packages or containers? If so, please attach exact copies.

RESPONSE: Not applicable.

77. Do you contend that none of your asbestos containing insulation products were sold to or ever reached the premises of any or all of the concerns listed in Exhibit "B" attached hereto? If so, indicate which and explain the factual basis for this contention.

RESPONSE: No Exhibit "B" was attached.

FULBRIGHT & JAWORSKI

By: 

Samuel E. Stubbs
MBank Building
Houston, Texas 77002
(713) 651-5151

Attorney for Defendant
National Gypsum Company

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above and foregoing instrument was served upon plaintiffs' attorneys by certified mail, return receipt requested, and defendants' attorneys by regular mail this 30th day of January, 1986.

Samuel E. Stubbs

STATE OF NORTH CAROLINA :
ss.
COUNTY OF MECKLENBURG :

ROBERT E. OBERKIRCHER, being duly sworn, deposes and says that he is an Assistant Controller of Gold Bond Building Products, a Division of National Gypsum Company; that he is authorized to make this affidavit; that he has read the foregoing answers to interrogatories and knows the contents thereof; and that they are true to the best of his knowledge, information and belief.

Robert E. Oberkircher
Assistant Controller
Gold Bond Building Products Divisio
National Gypsum Company

Sworn to and subscribed
before me this 28 day
of May 1985.

Notary Public

My Commission Expires:
My Commission Expires July 12, 1989

ATTACHMENT 1 TO ANSWERS TO INTERROGATORIES

The full corporate name and current principal place of business of National Gypsum Company is:

National Gypsum Company
4100 InterFirst Two
Dallas, Texas 75270

National Gypsum Company was incorporated under the laws of the state of Delaware under its present name on August 29, 1925. Its corporate headquarters were located in Buffalo, New York. In 1976, corporate headquarters were transferred to Dallas, Texas.

National Gypsum Company is a publicly held corporation. It had no prior name or predecessor corporation. It has never been incorporated in any state except Delaware. Over the course of its history, National Gypsum has acquired the assets or stock of various companies.

National Gypsum Company's Gold Bond Building Products Division was created in 1966. The Gold Bond Building Products Division designs, manufactures, sells, and distributes a wide variety of building products for use in the construction industry. At one time, the Gold Bond Building Products Division manufactured, sold, or distributed asbestos-containing products, although it no longer does so.

ATTACHMENT 2 TO ANSWERS TO INTERROGATORIES

On March 15, 1941, National Gypsum acquired General Insulating & Manufacturing Co. ("GIMCO"), Alexandria, Indiana. From about 1939 until 1941, GIMCO manufactured and sold GIMCO No. 340 Insulating Cement, which may have contained asbestos. Prior to 1941, GIMCO sold an asbestos roofing jacket in connection with certain styles of felted rock wool pipe covering. National Gypsum does not know the specifications of these products. National Gypsum does not admit that it has assumed the liabilities of GIMCO.

ATTACHMENT 3 TO ANSWERS TO INTERROGATORIES

The burden of deriving or ascertaining the answer to this interrogatory from National Gypsum's records is substantially the same for the plaintiff as it is for National Gypsum. National Gypsum will make available for inspection at its Gold Bond Building Products Division facilities in Charlotte, North Carolina, and/or at its Research Center in Tonawanda, New York, documents in its possession that may be relevant to the extent that they are known to exist, except for certain privileged documents and documents obtained by counsel pursuant to the asbestos litigation. Robert E. Oberkircher, Assistant Controller, Gold Bond Building Products Division of National Gypsum Company, is the custodian for Gold Bond Building Products Division documents. National Gypsum will afford plaintiff a reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. National Gypsum reserves its right to review all such information as necessary to preserve legal objections, and to require any party requesting copies of documents containing confidential information to enter an appropriate confidentiality agreement.

ATTACHMENT 4 TO ANSWERS TO INTERROGATORIES

The following persons are believed to have had the responsibility for research in connection with the formulation of Gold Bond rock wool insulating cement during the period 1941 to 1944. D. D. Crandell, Director of Research, deceased; W. J. Floriano, Research Department, deceased; C. J. Koehler, Research Department; F. L. Marsh, Assistant Director of Research; L. W. Schad, Research Department; R. R. Teale, Research Department; and W. C. Chrisler, Research Department. The present addresses of the others, if alive, are unknown, except for F. L. Marsh, who can be contacted through National Gypsum.

ATTACHMENT 5 TO ANSWERS TO INTERROGATORIES

National Gypsum did not conduct dust-monitoring tests at job sites. National Gypsum complied with industry standards and governmental regulations with respect to its asbestos-containing products. National Gypsum also relied on the employers of workers using asbestos products to insure that dust levels at their facilities complied with industry standards and governmental regulations and to provide a safe workplace for their employees. National Gypsum did not believe that it would be useful for it to undertake inspections or dust counts at job sites where its products were in use because of the wide variation in conditions at each job site and National Gypsum's inability to control conditions at such sites.

ATTACHMENT 6 TO ANSWERS TO INTERROGATORIES

National Gypsum is not aware of having conducted, sponsored or directly contributed to any studies or research concerning the health effects of the inhalation of asbestos dust or asbestos fibers generally. National Gypsum did pay dues and contribute to trade associations, which may have contributed to such studies or research. National Gypsum complied with applicable governmental regulations and industry standards relating to asbestos containing products.

In December 1972 and April 1973, National Gypsum Company had certain of its products, including asbestos containing products, tested by an independent laboratory for purposes of classification under the Federal Hazardous Substances Labeling Act. The tests established that none of the products tested (with the exception of Permaboard, which was found to be an ocular irritant) was a "toxic substance" within the Act, and consequently that none of them (with the exception of Permaboard) required cautionary labeling under the Act. A Rabbit Eye Irritation study run on Permaboard, an asbestos cement flat sheet, showed that when ground to a fine particle size and instilled into the conjunctival sac of a rabbit's eye, the test material produced eye irritation sufficient to require cautionary labeling in accordance with the Act. Other tests established that Permaboard did not require cautionary labeling

under the Act with respect to acute oral toxicity, primary skin irritation, acute dermal toxicity, or inhalation toxicity.

National Gypsum's New Orleans plant was included in a study, sponsored by the Quebec Asbestos Mining Association, of the health effects of the inhalation of asbestos fibers on workers in the asbestos cement manufacturing industry in the New Orleans area. The study began in about 1969. National Gypsum believes that the results of the study are not yet in final form. National Gypsum has learned of the following articles which may be relevant to the study:

P. Enterline and H. Weill, "Asbestosis in Asbestos Cement Workers," Proceedings of International Conference on the Biological Effects of Asbestos, International Agency for Research on Cancer, Lyon (1973).

H. Weill, et al. "Radiographic and Physiologic Patterns Among Workers Engaged in Manufacture of Asbestos Cement Products, a Preliminary Report," Journal of Occupational Medicine, Volume 15 (March 1973).

H. Weill, et al. "Lung Function Consequences of Dust Exposure in Asbestos Cement Manufacturing Plants," Archives of Environmental Health, Volume 30, pp. 88-97 (February 1975).

ATTACHMENT 7 TO ANSWERS TO INTERROGATORIES

National Gypsum has never had a medical department. National Gypsum has maintained a research department to test and develop products and to provide technical assistance to all departments at least since 1928. From 1928 until 1954, research facilities were decentralized and were located at various plants throughout the United States. In 1954, the department was consolidated in Buffalo, New York, and it has been there continuously since that date.

The following individuals have held the positions listed:

Approximate Dates	Individuals	Titles
Prior to 1944	Dean D. Crandell	Director of Research
1944-1947	Dean D. Crandell	Vice President in Charge of Research
1945-1952	Frank L. Marsh	Director of Research
1952-1955	William H. Harding	Director of Research
1955-1965	Dean D. Crandell	Vice President in Charge of Research
1956-1959	Donald G. Hamme	Director of Research Projects
	Rodney G. Buergin	Director of Technical Services
1960-1964	Donald G. Hamme	Director of Research Projects

Approximate Dates	Individuals	Titles
	Joseph Volk	Director of Technical Services
1965-1977	Donald G. Hamme	Director of Research
1977-1983	Walter E. Voisinet	Director of Research
1984 - present	Joseph Volk	Director of Technical and Environmental Services

ATTACHMENT 8 TO ANSWERS TO INTERROGATORIES

As the American Conference Of Governmental Industrial Hygienists (ACGIH) has defined the term, National Gypsum understands "threshold limit value" to refer to the recommended maximum concentration of airborne particles or fibers less than 5 microns in length, whichever is applicable. National Gypsum has not defined the term "threshold limit value." National Gypsum was not a member of the ACGIH and did not participate in experiments, studies, or tests to determine what the threshold limit value for asbestos should be.

National Gypsum believes that the ACGIH established a threshold limit value for exposure to asbestos dust of 5 million particles per cubic foot (mppcf) in 1946. National Gypsum is unable to determine how or when one or more of its employees first became aware of a threshold limit value, but believes it was aware of such a value at least by 1971, when the ACGIH threshold limit value was still 5 mppcf.

National Gypsum believes that it became aware in approximately 1974 that the ACGIH threshold limit value for exposure to asbestos dust had been changed to 5 fibers greater than 5 microns in length per cubic centimeter, and that it became aware in approximately 1980 that the threshold limit value for exposure to chrysotile asbestos had been changed to 2 fibers greater than 5 microns in length per cubic centimeter.

National Gypsum believes that it never advised customers, distributors, contractors, or government agencies of ACGIH threshold limit values. National Gypsum does not know whether trade associations disseminated such information for exposure to asbestos dust.

National Gypsum was also aware of and complied with OSHA regulations concerning airborne asbestos fiber that were promulgated beginning in 1971.

ATTACHMENT 9 TO ANSWERS TO INTERROGATORIES

The following persons are believed to have had the responsibility for research in connection with the design of Asbestos-Faced Mineral Wool Board from 1944 to 1945. D. L. Gleaves, Research Department; C. J. Koehler, Research Department; F. L. Marsh, Assistant Director of Research; D. D. Crandell, Director of Research, deceased. The present addresses of such persons, if alive, are unknown, except for F. L. Marsh, who can be contacted through National Gypsum.

ATTACHMENT 10 TO ANSWERS TO INTERROGATORIES

National Gypsum cannot identify the precise date or manner in which one or more of its employees might have become aware of health hazards claimed to be associated with the inhalation of asbestos fibers by human beings. However, National Gypsum believes that one or more of its employees became aware at least by 1953 that inhalation of excessive amounts of asbestos fibers by human beings over long periods of time could cause asbestosis. This kind of high level exposure could occur in certain manufacturing operations utilizing asbestos, in the absence of dust control measures.

National Gypsum believes that it was aware by the late 1960's of an alleged association (1) between the presence of asbestosis and the contraction of lung cancer and (2) between the inhalation of asbestos fiber and the contraction of mesothelioma, but it cannot identify the source, date, or extent of its information.

ATTACHMENT 11 TO ANSWERS TO INTERROGATORIES

As of the date of these answers, National Gypsum has no information responsive to interrogatories relating to preparation for trial of this action, except as specifically stated. National Gypsum has raised a number of contentions and defenses in its Answer. Discovery is at an early stage, however, and factual investigation is continuing. National Gypsum objects to any interrogatory to the extent that it seeks privileged communications or work product in connection with litigation that is not subject to discovery under the rules of civil procedure.

ATTACHMENT 12 TO ANSWERS TO INTERROGATORIES

From a review of the available records with respect to workers' compensation claims, the earliest date of filing of an asbestos-related claim that National Gypsum has been able to determine was February 28, 1968.

The earliest reference of any type to an asbestos related workers' compensation case is a reference to a judgment, entered on January 27, 1959, apparently finding permanent partial disability due to "pulmonary asbestosis." For the period between January 27, 1959 and February 28, 1968, National Gypsum has found only one other asbestos-related workers' compensation case, evidenced by a judgment entered on April 19, 1965.

National Gypsum objects to interrogatories seeking a list or other detailed information on the ground that such interrogatories are overbroad, unduly burdensome, and seek information that is not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence.

ATTACHMENT A TO ANSWERS TO INTERROGATORIES

Gold Bond rock wool insulating cement, sometimes sold as Gold Bond No. 340 Insulating Cement, was intended for use as a scratch or finish coat over Gold Bond Flexfelt mineral wool blankets and pipe coverings or as a monolithic primary insulating coat on irregular surfaces such as valves or fittings.

Rock wool insulating cement was manufactured by National Gypsum at its Alexandria, Indiana plant from 1941 until 1957. It was also sold from National Gypsum's Dover, New Jersey, plant from 1941 until 1943. Prior to March, 1941, General Insulating and Manufacturing Company (Gimco) manufactured rock wool insulating cement at the Alexandria Plant. During World War II, National Gypsum revised the formula for this product in order to satisfy United States Navy specifications. A revised formulation was approved for use by the Bureau of Ships in 1943. Further revision to improve the work value was required, however, and a second revised formulation, designated internally as 340-N, was approved by the Bureau of Ships in 1944, and the prior approval was cancelled. The 340-N formulation was discontinued by 1946. Rock wool insulating cement was withdrawn from the market in 1957 because of poor market acceptance and because rock wool manufactured by new techniques was not suitable for use in cement.

This product was composed of rock wool, bentonite, clay, asbestos, sodium nitrite, sodium perborate or sodium silicate, and a wetting agent. After 1943, the asbestos content was approximately 10% by weight of product. The asbestos content before 1943 has not been established but available records indicate that the amount may have been less than 10% by weight. The 340-N formulation, which contained trisodium phosphate as well as sodium nitrite, was made under a non-exclusive patent license (U.S. Patent No. 2,237,745) granted by Eagle Picher Company.

At certain times, the asbestos used in this product was obtained from Southern Asbestos Company, Charlotte, North Carolina, and the fibers were approximately 3/8" to 3/4" in length, Grade 2. National Gypsum has no basis to believe that warnings accompanied the asbestos fiber supplied by Southern Asbestos Company.

Rock wool insulating cement was sold in a dry form in 50-lb. bags. At one time National Gypsum products were typically packaged in tan paper bags with the words "Gold Bond" in black and, below that, the name of the product in white on a black band. The bag had three cream-colored stripes at the top and two at the bottom. For a brief period during World War II burlap bags may have been used. After about November 21, 1955, rock wool insulating cement may have been packaged in 50-lb. bags, 24" by 44", of 3 ply natural kraft paper with an orange and

black Gold Bond design. The insulating cement was mixed with water in a suitable container and applied with a trowel or hands. Instructions for use of the product were printed in a brochure entitled "Gold Bond (340 Monolithic) Insulating Cement." No reference to warnings to users is contained in the instructions; National Gypsum was not aware of any possibility of injury from the use of No. 340 rock wool insulating cement that would have required any such warning. After application, rock wool insulating cement had a grey cement-like appearance.

Rock wool insulating cement was described in Gold Bond annual handbooks. Brochures were available from National Gypsum in Buffalo, New York, and in 1949 advertisements were placed in Petroleum Processing, Power and in Chemical Industries. In addition, advertisements for rock wool insulating cement appeared in Sweet's File - Architectural until 1954.

ATTACHMENT B TO ANSWERS TO INTERROGATORIES

A National Gypsum brochure for Gold Bond Gimco Rock Wool Industrial Insulation, prepared about 1943, offers 35 lb. asbestos roofing jackets for sale in connection with certain styles of felted rock wool pipe covering. Prior to 1941, this product was offered for sale by General Insulating and Manufacturing Company (Gimco), Alexandria, Indiana. National Gypsum does not know the source of this product, its composition or color, its asbestos content or type, how it was packaged, or whether it was patented. National Gypsum is not aware of any records regarding the design of this product. National Gypsum is not aware of any instructions for use or that a warning was placed on this product and was not aware of any possibility of injury from the use of asbestos roofing jackets that would have required any such warning. Sales literature would have been prepared by the marketing department and certain material may have been approved by the research department. The rock wool pipe coverings with which this product was used are believed to have been discontinued during World War II.

ATTACHMENT C TO ANSWERS TO INTERROGATORIES

National Gypsum Company was in the business of selling chrysotile asbestos fiber from July, 1958 until October, 1974. Until September, 1973, this asbestos fiber was obtained from National Asbestos Mines, Ltd., a wholly-owned subsidiary of National Gypsum (Canada) Ltd., a wholly-owned subsidiary of National Gypsum Company. National Asbestos Mines, Ltd., was located in Thetford Mines, Quebec. In September, 1973, all of its assets were sold and it ceased operations. From September, 1973 until October, 1974, National Gypsum Company obtained asbestos fiber from Asbestos Corporation, Ltd. for resale. Chrysotile asbestos generally is light gray in color, although the color may have varied.

Asbestos fiber had numerous uses, as determined by the user based on the type and grade of the fiber and the user's particular needs. National Gypsum did not provide its customers with direction or manuals regarding the use of asbestos fiber, except for the warnings described below.

Gold Bond asbestos fiber was packaged in various types and sizes of jute, paper or polyethelene bags. At one time, the bags were tan with orange diagonal stripes and bore the name "Gold Bond" printed in large black letters with the word "Asbestos" in a black band below the words "Gold Bond." Above the

word "Asbestos" the fiber grade appeared in black letters. The asbestos was identified as "A Product of Canada" and the source was shown as "National Asbestos Mines Limited."

Beginning in approximately 1969 or 1970, the bags bore the following warning label:

CAUTION

This bag contains chrysotile asbestos fibers. Persons exposed to this material should use adequate protective devices as inhalation of this material over long periods of time may be harmful.

Some time in 1972, the caution label was changed to read as follows:

CAUTION

CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS DUST MAY CAUSE
SERIOUS BODILY HARM

Sales brochures were prepared regarding asbestos fiber, and advertisements for the product were prepared for Asbestos Magazine, Modern Plastics and Chemical Materials Catalog.

ATTACHMENT D TO ANSWERS TO INTERROGATORIES

Gold Bond Asbestos-Faced Mineral Wool Board was intended for use as marine insulation. It was manufactured by National Gypsum at its Alexandria, Indiana, plant in 1944 and 1945, and was designed to satisfy specifications of the Bureau of Ships of the United State Navy.

The product consisted of a rigid block of compressed rock wool which was faced with asbestos paper, scrim side to the wool, in accordance with Bureau of Ships specifications. The paper facing, the only part of the product containing asbestos, was Grade No. 112 asbestos paper supplied by Keasbey & Mattison Company. The chemical composition of this paper and the type of asbestos used are not known. It is believed that Keasbey and Mattison did not accompany this asbestos paper with any warnings or directions. When applied, the facing did not extend over the edge of the mineral wool at any point. It was bonded to the block with Cascanite adhesive. The product was fabricated to the thickness, width, and length specified in the order; standard dimensions appear to have been 24" by 36", and 1", 1 1/2" or 2" in thickness.

The finished product was packaged in cartons stamped to show the type, size, quantity of contents and the time and place of manufacture. No warnings or instructions for use are mentioned in the specifications; National Gypsum was not aware

of any possibility of injury from the use of asbestos-faced mineral wool board that would have required any such warning.

The product is believed to have been withdrawn from production because of poor market acceptance.

No design changes material to this action are known to have been made with respect to this product.

National Gypsum also sold asbestos stripping tape, which conformed to Bureau of Ships specifications, for use with asbestos-faced mineral wool board or alone. This product was purchased for resale from Keasbey & Mattison Company and is believed to have been made of reinforced asbestos paper. It was furnished in rolls containing 33 lineal yards. The chemical composition of this tape and the type of asbestos used are not known. National Gypsum is not aware of warnings or directions for use that may have accompanied this tape, and was not aware of any possibility of injury from the use of asbestos stripping tape that would have required any such warnings.

National Gypsum is not aware of any patents or sales material regarding these products.