

NO. 2000-2113

PABLO AGUILERA, TOMAS TORRES,
PEDRO PAZ BAEZA, ROBERT BAEZA and
MANUEL MACIAS,

Plaintiffs,

vs.

GAF CORPORATION et al.,

Defendants.

IN THE COUNTY COURT

AT LAW NO. THREE

CAUSE NO. 2000-2113

EL PASO COUNTY, TEXAS

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

GENERAL OBJECTIONS

1. ASARCO, Incorporated ("ASARCO") generally objects to any interrogatory, document request, request to admit, definition, or instruction that purports to require ASARCO to respond to any discovery request in a manner or to an extent not required by the Texas Rules of Civil Procedure.
2. ASARCO objects to any interrogatories or document requests which seek information protected by any privilege, including the attorney-client and/or attorney work product privileges.
3. ASARCO objects to any interrogatory or document request to the extent that they seek information regarding trade secrets, confidential financial data, or other proprietary information.
4. ASARCO objects to any interrogatory or document request to the extent that it seeks information that is not within the personal knowledge of ASARCO or its current employees.
5. ASARCO generally objects to plaintiffs' requests for documents that are not in ASARCO's possession, custody, or control.
6. ASARCO objects to any interrogatory or document request that seeks information that is not relevant to the subject matter involved in the pending action, that is not reasonably calculated to lead to the discovery of admissible evidence, that was prepared in anticipation of litigation or

for trial by or for ASARCO's representatives, including attorneys, consultants, and agents, or that are otherwise beyond the scope of discovery permitted by the Texas Rules of Civil Procedure.

7. ASARCO generally objects to any interrogatories and document requests seeking information as to entities other than ASARCO on the grounds that such interrogatories and requests are overly broad, unduly burdensome, and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

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

9. ASARCO objects to any interrogatory and document request seeking information regarding plaintiffs other than on the grounds that such plaintiffs assert no claims against ASARCO and any such interrogatory or document request is therefore overly broad, unduly burdensome, and seeks information and documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

10. ASARCO objects to any interrogatory and document request seeking information outside of the time frame 1971-1979 during which plaintiff Robert Baeza allegedly worked at an ASARCO facility, on the grounds that any such interrogatory or document request is overly broad, unduly burdensome, and seeks information and documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

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

OBJECTIONS TO DEFINITIONS

1. ASARCO objects to plaintiff's definition of "Defendant", "You", "Your", and "Your company" to the extent that it includes entities that are not parties to this case. ASARCO further objects to this definition to the extent it includes former officers, directors, agents and employees over whom ASARCO no longer has dominion and control. By way of further objection, the use of these definitions transforms plaintiff's interrogatories and request for production into an overly broad, unduly burdensome fishing expedition and is, therefore, in violation of the Texas Rules of Civil Procedure.
2. ASARCO objects to plaintiff's definition of the words "document", "documents", "written materials", and "printed matter" to the extent it includes information protected by privilege, including the attorney-client and attorney work product privileges. ASARCO further objects to this definition to the extent it includes documents which are no longer in ASARCO's possession and which, consequently, cannot be produced. By way of further objection, ASARCO objects to this definition to the extent it includes documents from entities which are not named defendants in this case.
3. ASARCO objects to plaintiff's definition of the words "person" and "persons" to the extent it includes entities that are not parties to this case. ASARCO further objects to this definition to the extent it includes former officers, directors, agents and employees over whom ASARCO no longer has dominion and control. By way of further objection, the use of these definitions transforms plaintiff's interrogatories and request for production into an overly broad, unduly burdensome fishing expedition and is, therefore, in violation of the Texas Rules of Civil Procedure.
4. ASARCO objects to plaintiff's definition of the words "medical advisory capacity" on the grounds that it is overly broad, vague, ill-defined, and not susceptible to precise response.
5. ASARCO objects to plaintiff's definition of the words "research" and "research department" on the grounds that it is overly broad, vague, ill-defined, and not susceptible to precise response.
6. ASARCO objects to plaintiff's definition of the words "medical department" and "safety department" on the grounds that it is overly broad, vague, ill-defined, and not susceptible to precise response.
7. ASARCO objects to plaintiff's definition of the words "test" and "testing" to the extent it encompasses substances other than asbestos on the grounds that it is overly broad and irrelevant.

8. ASARCO objects to plaintiff's definition of the words "abate" and "abatement" to the extent it encompasses substances other than asbestos on the grounds that it is overly broad and irrelevant.

9. ASARCO objects to plaintiff's definition of the words "meeting" or "meetings" to the extent it includes information protected by privilege, including the attorney-client and work product privileges. By way of further objection, ASARCO objects to this definition on the grounds that it is overly broad, vague, ill-defined, and not susceptible to precise response.

10. ASARCO objects to plaintiff's definition of the terms "product containing asbestos fibers," "asbestos-containing products," "asbestos products," "asbestos" or "asbestos materials" on the grounds that it is overly broad, vague, ill-defined, and not susceptible to precise response.

11. ASARCO objects to plaintiff's definition of the terms "plant" and "facility" on the grounds that it is overly broad, vague, ill-defined, and not susceptible to precise response. By way of further objection, ASARCO objects to this definition to the extent it encompasses substances other than asbestos on the grounds that it is overly broad and irrelevant.

**RESPONSES TO INTERROGATORIES, REQUEST FOR PRODUCTION, AND
REQUEST FOR ADMISSIONS**

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.

RESPONSE:

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

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

**Donald A. Robbins - Director of Environmental Services
ASARCO Incorporated
3422 South 700 West
Salt Lake City, Utah**

Mr. Robbins is currently employed by ASARCO as the Director of Environmental Services.

**Peggy Munsell - Industrial Hygienist
ASARCO Incorporated
P.O. Box 1111
El Paso, Texas 79999**

Ms Munsell began her employment with ASARCO as the Industrial Hygienist at the El Paso facility in December 1993 and her last date of employment with ASARCO was in January 2001.

**Norma Kidder, LVM - Plant Nurse
ASARCO Incorporated
P.O. Box 1111
El Paso, Texas 79999**

Ms. Kidder began her employment with ASARCO as the Plant Nurse at the El Paso facility in 1976 and her last date of employment with ASARCO was in July 1999.

**LeRoy Bates - Safety Engineer In Charge Of Training
ASARCO Incorporated
P.O. Box 1111
El Paso, Texas 79999**

Mr. Bates began his employment with ASARCO in 1975 in the following positions at the El Paso facility: Invoice Clerk, 1975 - 1980; Computer Systems Analyst, 1980 - 1993; Trainer For Contractors and Employees, 1993; Training Specialist, 1994; and Safety Engineer In Charge Of Training, 1994 and his late date of employment with ASARCO was in March 1999.

ASARCO's investigation is ongoing, and the right to supplement this response is expressly reserved.

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:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff alleges to have worked at the El Paso facility, which is the subject of this lawsuit. ASARCO further objects to this request as Plaintiff has failed to identify any asbestos-containing products with which he worked at ASARCO's facility or the locations in ASARCO's facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objections, ASARCO admits only that asbestos-containing products were present at its El Paso plant during the time period when plaintiff allegedly worked there. ASARCO denies the balance of this Request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR PRODUCTION NO. 1:

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

RESPONSE:

ASARCO objects to this Request to Produce as it is incomprehensible and not subject to response.

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:

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

Subject to and without waiving the foregoing objections, ASARCO admits that asbestos-containing products were present at the El Paso facility during the time period when plaintiff allegedly worked there.

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 Defendants Premises**

RESPONSE:

ASARCO objects to this Interrogatory on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information concerning years other than those years during which plaintiff allegedly worked at the El Paso facility. Further, ASARCO objects to this request as Plaintiff has failed to identify any asbestos-containing products with which he worked at ASARCO's facility or the locations in ASARCO's facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objections, ASARCO's investigation and sampling to date has revealed, generally, that asbestos-containing products are or may have been located in certain areas of the El Paso plant, including but not limited to the following:

Converter Building: Boiler surface material

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

Power House: Pipes with yellow air cell insulation

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

Antimony Plant: Wall board

- Gaskets
- Possibly asbestos rope

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

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

Anode:	Floor tile Pipe elbow
Warehouse:	Pipe insulation
Pond 6:	Insulation, wooden trough Insulation on pipe on the ground
Bedding:	Fan gasket Flue gasket Flue off reclaim hopper gasket
Unloading:	Unloading RCC plant roofing material
Bathhouse:	Roofing vent insulation (tar)

ASARCO currently does not know the last time that asbestos-containing products were purchased for or installed in the El Paso plant.

See also documents previously produced in *Hermosillo v. ASARCO, et. al., El Paso County*, No. 98-1338. ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information concerning years other than those during which plaintiff alleges to have worked at the El Paso facility. ASARCO further objects to this request as Plaintiff has failed to identify any asbestos-containing products with which he worked at ASARCO's facility or the locations in ASARCO's facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objections, ASARCO's investigation is continuing and it will produce, to the extent they exist and are available, responsive documents for the years during which plaintiff claims to have worked at the El Paso facility. See also documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

REQUEST FOR ADMISSION NO. 3:

Admit that during the time Plaintiff was employed by Defendant, 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:

Denied.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad and without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory as it seeks information concerning years other than those during which plaintiff alleges to have worked at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products with which plaintiff worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Without such limitations, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every

product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objections, ASARCO commenced asbestos abatement at the El Paso facility in approximately 1994. Abatement has been performed by ASARCO personnel, including Mike Romero, J. Sarabia, Peggy Munsell, and David Rebeles, who have been trained in asbestos abatement procedures. Dates and locations of abatement include the following:

10/24/94	Behind cadmium plant
10/25/94	Behind cadmium plant
12/21/95	#1 Acid Plant
1/24/95	Power House
3/07/95	Power House
3/08/95	Power House
3/30/95	Power House
7/15/95	Lab
8/12/95	Main Office Lobby
8/13/95	Main Office Lobby
10/24/95	Power House
11/02/95	Power House
11/14/95	Power House
12/02/95	Electric/Ins Shop/Storage Garage
12/09/95	Electric/Ins Shop/Storage Garage
12/16/95	Electric/Ins Shop/Storage Garage
1/14/96	Electric/Ins Shop/Storage Garage
4/10/96	By -Pass Flue
6/12/96	Converter Boiler
6/16/96	Power House
8/14/96	Acid Plant
9/04/96	Converter Boiler
9/23/96	Power House
9/25/96	Converter Hot Gas Fan
9/27/96	Converter Hot Gas Fan
10/10/96	Power House
12/11/96	Power House
12/20/96	Power House
1/02/97	Power House
1/31/97	Power House
4/08/97	Acid Plant #2
5/21/97	Acid Plant #1
5/22/97	Acid Plant #1
5/23/97	Acid Plant #1
5/29/97	Acid Plant #1
6/04/97	Acid Plant #1

6/10/97	Acid Plant #1
6/13/97	Acid Plant #1
8/12/97	Power House
8/22/97	Cottrells
9/02/97	Zinc Plant
10/22/97	Power House
10/23/97	Power House
10/24/97	Heat Exchanger
10/25/97	Heat Exchanger
10/28/97	Heat Exchanger

See also documents previously produced in *Hermosillo v. ASARCO, et. al.*, El Paso County, No. 98-1338. ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST TO 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:

ASARCO objects to this Request for Production on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information concerning years other than those during which plaintiff alleges to have worked at the El Paso facility and areas of the facility other than those in which plaintiff allegedly worked. Plaintiff has failed to identify any asbestos-containing products with which plaintiff worked or the locations in ASARCO's facility in which he worked with them. Without such limitations, this Interrogatory calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objections, see also documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

ASARCO's investigation is continuing, and the right to supplement or modify this response is expressly reserved.

REQUEST FOR ADMISSION NO. 4:

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

RESPONSE:

ASARCO admits only that it owned the El Paso facility during the years in which plaintiff claims to have worked there. ASARCO denies the balance of 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:

ASARCO is not aware of any documents evidencing that Plaintiff worked on Defendant's premises during the relevant time period. As ASARCO's investigation is ongoing, ASARCO reserves the right to supplement and/or amend its response as discovery continues.

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:

Objection. ASARCO does not admit that plaintiff was on its premises at any time. ASARCO only admits that it owned the El Paso facility during the time period in which plaintiff alleges that he was present on this Defendant's premises. See ASARCO's response to Request for Admission No. 4 and response to Request to Produce No. 4.

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, visitor's logs, identification badge logs and procedures, and other documents of a similar nature.

RESPONSE:

ASARCO objects to this Request for Production on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information concerning contractors for which plaintiff did not work.

Subject to and without waiving the foregoing objections, ASARCO investigation is continuing and it will produce, to the extent they exist and are available, responsive documents relating to the contractors for whom plaintiff alleges to have worked at the El Paso facility during the relevant time period.

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

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

ASARCO objects to this Request for Production on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information concerning contractors for which plaintiff did not work.

Subject to and without waiving the foregoing objections, the general practice at the El Paso facility was for the plant manager to send a letter to the security desk identifying the independent contractor and authorizing access to the facility to perform the contracted work. ASARCO's investigation is continuing and it will produce, to the extent they exist and are available, responsive documents as they pertain to the plaintiff for the years in which he alleges to have worked at the El Paso facility. See also documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it seeks information concerning contractors other than those for which plaintiff alleges to have worked at the El Paso facility. ASARCO further objects to this Interrogatory as it requests information concerning work performed and the location of work performed at ASARCO's facility. ASARCO further objects as plaintiff has failed to identify any asbestos-containing products with which he worked at ASARCO's facility and failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Interrogatory calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objections, as a general practice at the El Paso facility, the superintendent of the department in which an independent contractor was to perform work was responsible for communicating with the foreman of the independent contractor regarding the status and progress of the work.

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it seeks information concerning contractors other than those for which plaintiff alleges to have worked at the El Paso facility. ASARCO further objects to this Interrogatory as it requests information concerning work performed, the location of work performed and products used in such work on Defendant's premises and plaintiff has failed to identify any asbestos-containing products with which he worked at ASARCO's facility and failed to state

whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Interrogatory calls for a burdensome and non-specific search. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objections, ASARCO's investigation is continuing and it will produce, to the extent they exist and are responsive, documents relating to the contractors for whom plaintiff allegedly worked at ASARCO's El Paso facility during the relevant time period.

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

INTERROGATORY NO. 5:

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

ANSWER:

ASARCO objects to this Interrogatory on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it seeks information concerning contractors other than those for which plaintiff allegedly worked at the El Paso facility. By way of further objection, the phrase "allowing contractor employees access" is vague and ill-defined and therefore not susceptible to a precise response.

Subject to and without waiving the foregoing objections, the general practice was for the plant manager to send a letter to the security desk identifying the independent contractor and authorizing access to the facility to perform the contracted work.

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

REQUEST FOR ADMISSION NO. 5:

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

RESPONSE:

ASARCO can neither admit nor deny because after reasonable inquiry the information known or easily obtainable is insufficient to enable the responding party to

admit or deny. Currently, ASARCO has no information that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being used or applied during the relevant time period.

REQUEST FOR PRODUCTION NO. 9:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 5.

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.

RESPONSE:

ASARCO objects to this Interrogatory as it has no evidence that plaintiff was ever present on Defendant's premises. ASARCO further objects as plaintiff has failed to identify any asbestos-containing products with which he allegedly worked or the locations in ASARCO's facility in which he allegedly worked with them. Therefore, ASARCO has no information that plaintiff was exposed to asbestos while working at the El Paso facility during the relevant time period. ASARCO reserves the right to supplement and/or amend its response as discovery continues.

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:

ASARCO can neither admit nor deny because after reasonable inquiry the information known or easily obtainable is insufficient to enable the responding party to admit or deny. ASARCO has no information that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being used or applied during the relevant time period.

REQUEST FOR PRODUCTION NO. 10

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

RESPONSE:

See ASARCO's response to Request for Admission No. 6 and Interrogatory No. 6..

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:

ASARCO can neither admit nor deny because after reasonable inquiry the information known or easily obtainable is insufficient to enable the responding party to admit or deny. ASARCO has no information that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being installed, used, prepared for use, replaced or repaired, stored or loaded, unloaded or transported during the relevant time period.

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:

ASARCO only admits that, during the time period in which plaintiff alleges to have worked at the El Paso facility, it was aware that susceptible persons who are exposed to excessive amounts of airborne asbestos fibers over a prolonged period of time without proper respiratory protection might be subjected to potential health hazards.

REQUEST FOR PRODUCTION NO. 11:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 8.

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:

ASARCO admits that it was aware that asbestos-containing products were present at the El Paso facility during the time period in which plaintiff alleges to have worked there.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff alleges to have worked at the El Paso facility and information as to facilities other than the El Paso facility, which is the subject of this lawsuit.

ASARCO's investigation is continuing and it will produce, to the extent they exist and are responsive, such documents as they relate to the El Paso facility

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

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:

ASARCO has no information that plaintiff was ever present at any worksite at the El Paso facility where asbestos-containing products were being used or applied during the relevant time period. Therefore, ASARCO is currently unaware as to whether or not it gave any warnings regarding the potential hazards of asbestos directly to plaintiff.

ASARCO's investigation is ongoing, and the right to supplement this response is expressly reserved.

REQUEST FOR PRODUCTION NO. 13

Produce all such warnings.

RESPONSE:

See ASARCO's response to Interrogatory No. 7. ASARCO's investigation to date has disclosed no documents responsive to this request.

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

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:

ASARCO objects to this Interrogatory as it is overly broad. ASARCO further objects as there is no evidence that plaintiff was ever at ASARCO's El Paso facility. ASARCO further objects as there is no documentation that plaintiff worked with or near asbestos-containing products at ASARCO's El Paso facility. Subject to and without waiving these objections, it was ASARCO's general policy to provide warnings to its employees who potentially might be over-exposed to asbestos dust. ASARCO's investigation is ongoing and the right to supplement this response is expressly reserved.

REQUEST FOR PRODUCTION NO. 14:

If you deny the foregoing, produce all such warnings.

RESPONSE:

See ASARCO's response to Request for Admission No. 10.

INTERROGATORY NO. 8:

Describe Defendant's safety policy as it relates to the use of asbestos-containing materials at jobsites 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:

ASARCO objects to this Interrogatory on the grounds that the term "jobsites" is vague and ill-defined and therefore is not susceptible to a precise response. ASARCO further objects as the term "performing services" is vague and ill-defined and therefore not susceptible to a precise response. By way of further objection, the subjects inquired about in this Interrogatory are overly broad and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it seeks information outside the years during which plaintiff alleges to have worked at the El Paso facility and information as to facilities other than the El Paso facility, which is the subject of this lawsuit. As such, ASARCO is unable to respond to this Interrogatory in its present form.

REQUEST FOR PRODUCTION NO. 15:

Produce all such safety policies.

RESPONSE:

See ASARCO's response to Interrogatory No. 8.

REQUEST FOR ADMISSION NO. 11:

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

RESPONSE:

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

RESPONSE:

ASARCO objects to this Interrogatory to the extent that there is no evidence that plaintiff was ever at ASARCO's El Paso facility or that he was exposed to or worked with asbestos or asbestos-containing products at ASARCO's El Paso facility during the relevant time period.

ASARCO's investigation is ongoing, and the right to supplement this response is expressly reserved.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it seeks information outside the years during which plaintiff alleges to have worked at the El Paso facility, information concerning companies other than those for which plaintiff worked, or information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. By way of further objection, the term "bystander" is vague and ill-defined and therefore not susceptible to precise response.

Subject to and without waiving the foregoing objections, see ASARCO's response to Interrogatory No. 11. Further, ASARCO's investigation is ongoing, and the right to supplement or modify this response is expressly reserved.

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.**

RESPONSE:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory as it fails to specify the type of work or services or the location on the premises for which information is requested. To the extent such work or services and the location in which they were performed differ from those involved in this case, this Interrogatory is overly broad and seeks irrelevant information. ASARCO further objects to this Interrogatory to the extent it calls for information outside the years during which plaintiff alleges to have worked at the El Paso facility.

Subject to and without waiving the foregoing objections, ASARCO states that protective equipment has been provided to workers at the El Paso facility since ASARCO began to operate the plant. By the 1940's, such equipment included safety apparel and breathing protection. Protective clothing is worn to protect against heat, chemicals and debris in the plant. At least since the 1970's, standard protective clothing, in addition to respirators, has included hard hats, eye protection, ear protection, foot protection, as well as overalls. Outside contractors are subject to the same rules for wearing safety equipment in the plant as are ASARCO employees.

The persons with most knowledge of safety equipment policies at the El Paso plant are Peggy Munsell and LeRoy Bates.

ASARCO's investigation is ongoing, and the right to supplement this response is expressly reserved.

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:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff alleges to have worked at the El Paso facility or information concerning facilities other than the El Paso plant, which is the subject of this lawsuit.

Subject to and without waiving the foregoing objections, after reasonable inquiry, the information known or easily obtainable is insufficient to enable ASARCO to admit or deny this request. ASARCO admits, however, that respirators were provided to any employee who was engaged in work that produced excessive amounts of dust.

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.

RESPONSE:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility or information concerning facilities other than the El Paso plant, which is the subject of this lawsuit.

Without waiving said objections, ASARCO is aware that sampling for airborne asbestos concentrations was performed at the El Paso plant by ASARCO employees during the period February 9 through 23, 1976. As a result of heavy particulate matter, asbestos fibers were not recognizable for counting.

ASARCO's investigation is continuing, and the right to supplement this response is expressly reserved.

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 the Defendant's facility? If the answer is anything other than "no", identify each and every fact which supports this contention.

RESPONSE:

See ASARCO's response to Interrogatory No. 12. ASARCO's investigation is continuing, and the right to supplement or modify this response is expressly reserved.

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.

RESPONSE:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility.

Subject to and without waiving the foregoing objections, ASARCO is currently unaware of any such inspections during the relevant period. ASARCO's investigation is ongoing, and the right to supplement this answer if and when responsive information is obtained is expressly reserved.

REQUEST FOR ADMISSION NO. 13:

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

RESPONSE:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff allegedly worked at the El Paso facility and information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. By way of further objection, the terms "containment barriers" and "using" are vague, ambiguous, and ill-defined and therefore not susceptible to precise response. ASARCO further objects to this request to the extent it assumes that plaintiff was present at locations where asbestos was used. ASARCO has no information that plaintiff was ever present at the El Paso facility or was present at any worksite at the El Paso facility where asbestos-containing products were present.

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

See response to Request for Admission No. 13.

REQUEST FOR ADMISSION NO. 14:

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

RESPONSE:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility and information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. By way of further objection, the phrase "engineering controls such as isolation or enclosure" and the term "using" are vague, ambiguous, and ill-defined, and therefore not susceptible to precise response. ASARCO further objects to this request to the extent it assumes that plaintiff was present at locations where asbestos was used.

ASARCO has no information that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were present.

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

See response to Request for Admission No. 14.

REQUEST FOR ADMISSION NO. 15:

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

RESPONSE:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility and information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. ASARCO further objects to this request to the extent it assumes that plaintiff was ever present at the El Paso facility or at locations at the El Paso facility where asbestos-containing materials were. ASARCO has no information that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being used. By way of further objection, the term "using" is vague, ambiguous and ill-defined, and therefore not susceptible to precise response.

Subject to and without waiving the foregoing objections, ASARCO can neither admit nor deny because after reasonable inquiry the information known or easily obtainable is insufficient to enable the responding party to admit or deny.

REQUEST FOR PRODUCTION NO. 18:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 15.

REQUEST FOR ADMISSION NO. 16:

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

RESPONSE:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility and information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. ASARCO further objects to this request to the extent it assumes that plaintiff was ever present at the El Paso facility or at locations at the El Paso facility where asbestos-containing materials were. ASARCO has no information that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being used. By way of further objection, the term "using" is vague, ambiguous and ill-defined, and therefore not susceptible to precise response.

Subject to and without waiving the foregoing objections, ASARCO can neither admit nor deny because after reasonable inquiry the information known or easily obtainable is insufficient to enable the responding party to admit or deny.

REQUEST FOR PRODUCTION NO. 19:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 16.

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 worksites where your employees were using asbestos-containing material, including the worksites where Plaintiff was present.

RESPONSE:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility and information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. ASARCO further objects to this request to the extent it assumes that plaintiff was ever present at the El Paso facility or at locations at the El Paso facility where asbestos-containing materials were. ASARCO has no information that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being used. By way of further objection, the term "using" is vague, ambiguous and ill-defined, and therefore not susceptible to precise response.

Subject to and without waiving the foregoing objections, ASARCO can neither admit nor deny because after reasonable inquiry the information known or easily obtainable is insufficient to enable the responding party to admit or deny.

REQUEST FOR PRODUCTION NO. 20:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 17.

REQUEST FOR ADMISSION NO. 18:

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

RESPONSE:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent

it seeks information outside the years during which plaintiff worked at the El Paso facility and information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. ASARCO further objects to this request to the extent it assumes that plaintiff was present at locations where asbestos was used. ASARCO has no information at this time that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being used.

Subject to and without waiving the foregoing objections, ASARCO admits that it did not evacuate its employees working in numerous buildings occupying its entire El Paso facility each time an asbestos-containing product was used anywhere on the facility.

REQUEST FOR PRODUCTION NO. 21:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 18.

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.

RESPONSE:

ASARCO objects to this Interrogatory on the grounds that it is overly broad and without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, the term "workers" is vague, ambiguous and ill-defined and therefore is not susceptible to precise response. ASARCO further objects to this Interrogatory as ASARCO has insufficient information from plaintiff (including but not limited to dates or periods of time during which plaintiff alleges exposure at defendant's property, the nature and location of the work or services performed and products used in the performance of the work or services) to adequately investigate, or respond to this discovery request. ASARCO further objects to this Interrogatory to the extent it calls for information outside the years during which plaintiff alleged to have worked at this facility.

Subject to and without waiving the foregoing objections, ASARCO is currently unaware of whether any such warnings were ever called for as it was ASARCO's policy to warn employees who potentially might be over-exposed to asbestos dust. However, ASARCO's investigation is ongoing, and the right to supplement this answer is expressly reserved.

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 applied (i.e. Defendant employees and contractor employees);
- d. and describe what types and brand names of respirators were required by you.

RESPONSE:

ASARCO objects to this Interrogatory on the grounds that it is overly broad. ASARCO further objects to this Interrogatory to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility.

Subject to and without waiving the foregoing objections, ASARCO states that by at least the 1970's, respirators were provided to employees at the El Paso facility as standard equipment. See also ASARCO's response to Interrogatory No. 11.

ASARCO's investigation is continuing, and the right to supplement or modify this response is expressly reserved.

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 worksites where your employees were using asbestos-containing materials, including the worksites where Plaintiff was present.

RESPONSE:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent

it seeks information outside the years which plaintiff alleges to have worked at the El Paso facility and information as to worksites where the plaintiff was not present. ASARCO further objects as the Request seeks information as to facilities other than the El Paso facility, which is the subject matter of this lawsuit. ASARCO further objects to this request to the extent it assumes that plaintiff was present at locations where asbestos was used. ASARCO has no information at the present time that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being used.

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

See response to Request for Admission No. 19.

REQUEST FOR ADMISSION NO. 20:

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

RESPONSE:

ASARCO objects to this Request for Admission on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff alleges to have worked at the El Paso facility and to the extent that it seeks information as to worksites at which plaintiff was not present. ASARCO further objects to this Request as it seeks information as to facilities other than the El Paso facility, which is the subject of this lawsuit. ASARCO further objects to this Request to the extent it assumes that plaintiff was present at locations where asbestos was used. ASARCO has no information at the present time that plaintiff was present at any worksite at the El Paso facility where asbestos-containing products were being used. By way of further objection, the terms "others" and "using" are vague, ambiguous and ill-defined and therefore not susceptible to a precise response.

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

See ASARCO's response to Request for Admission No. 20.

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 Plaintiff's employer.

RESPONSE:

ASARCO objects to this Request for Production on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information concerning facilities other than the El Paso facility, which is the subject of this lawsuit, and information concerning contractors other than those for which plaintiff allegedly worked at the El Paso facility. Further, this Request fails to specify the type of work or services or the location on the premises for which information is requested. To the extent such work or services and the location in which they were performed differ from those involved in this case, this Request is overly broad and seeks irrelevant information.

Subject to and without waiving the foregoing objections, while ASARCO is not currently aware of any such documents, its investigation is continuing. ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR ADMISSION NO. 21:

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

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 22:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to control the premises that it owned but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 25:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to manage the premises that it owned,

but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 26:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to direct the use of the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 27:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to superintend the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 28:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is aware of no documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to restrict the use of the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 29:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is aware of no documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to regulate the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 30:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is aware of no documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to govern the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 31:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is aware of no documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to oversee the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 32:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to administer the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 33:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 31:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to control the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 34:

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

RESPONSE:

ASARCO objects to this Request for Production a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 32:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to manage the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 35:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving, ASARCO is aware of no documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 33:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to direct the use of the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 36:

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

RESPONSE:

ASARCO objects to this Request for Production a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is aware of no documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 34:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to superintend the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 37:

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

RESPONSE:

ASARCO objects to this Request for Production because is a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 35:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to restrict the use of the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 38:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 36:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to regulate the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 39:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 37:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to govern the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 40:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 38:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to oversee the use of the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 41:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, as ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 39:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. Subject to and without waiving the foregoing objection, ASARCO admits that it, like any other property owner, had the legal right to administer the premises that it owned, but lacked the practical ability to constantly monitor the manner in which plaintiff and plaintiff's employer performed their work on the premises.

REQUEST FOR PRODUCTION NO. 42:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

REQUEST FOR ADMISSION NO. 40:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. ASARCO further objects that there is no evidence that plaintiff ever worked at ASARCO's El Paso facility. Subject to and without waiving the foregoing objections, ASARCO generally did not intervene in the work performed by independent contractors and their employees except to ensure that the work was being done properly or to submit change orders. The interaction was generally between the independent contractors' foremen on the site and a representative of ASARCO. As a general matter, ASARCO did not interact directly with employees of independent contractors regarding work quality, safety and the like. The independent contractors were experts in their respective fields and were therefore left to implement proper safety measures commensurate with the requirements and responsibilities of their job assignments at given sites.

REQUEST FOR PRODUCTION NO. 43:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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 the 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.

RESPONSE:

ASARCO objects to this Request for Admission because the terms "advise" and "control" are vague and ill-defined and therefore they are not susceptible to a precise response. By way of further objection, the subjects inquired about in this Interrogatory are overly broad and call for legal conclusions. ASARCO further objects to this Interrogatory on the grounds that as it involves a confusing, ambiguous and contradictory double-negative ("at no time ... did not"), it is not susceptible to a precise response. Subject to and without waiving the foregoing objections, ASARCO generally did not

intervene in the work performed by independent contractors and their employees except to ensure that the work was being done properly or to submit change orders. The interaction was generally between the independent contractors' foremen on the site and a representative of ASARCO. As a general matter, ASARCO did not interact directly with employees of independent contractors regarding work quality, safety and the like. The independent contractors were experts in their respective fields and were therefore left to implement proper safety measures commensurate with the requirements and responsibilities of their job assignments at given sites.

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:

ASARCO objects to this Request for Admission because the terms "advise" and "control" are vague and ill-defined and therefore they are not susceptible to a precise response. ASARCO further objects as there is no evidence that plaintiff ever worked at ASARCO's El Paso facility. By way of further objection, the subjects inquired about in this request are overly broad and call for legal conclusions. Subject to and without waiving the foregoing objections, ASARCO generally did not intervene in the work performed by independent contractors and their employees except to ensure that the work was being done properly or to submit change orders. The interaction was generally between the independent contractors' foremen on the site and a representative of ASARCO. As a general matter, ASARCO did not interact directly with employees of independent contractors regarding work quality, safety and the like. The independent contractors were experts in their respective fields and were therefore left to implement proper safety measures commensurate with the requirements and responsibilities of their job assignments at given sites.

REQUEST FOR PRODUCTION NO. 44:

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

RESPONSE:

ASARCO objects to this Request for Production because a legal right is a matter of law rather than a factual matter. Subject to and without waiving this objection, ASARCO is not currently aware of any documents that are responsive to this request.

ASARCO's investigation is ongoing, and the right to supplement this response throughout the continuing course of discovery is expressly reserved.

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:

ASARCO objects to this Request for Admission because the term "entirely free" is ambiguous, vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects as there is no evidence that plaintiff ever worked at ASARCO's El Paso facility. By way of further objection, the subjects inquired about in this request are overly broad and call for legal conclusions. Subject to and without waiving the foregoing objections, ASARCO admits that plaintiff was subject to the control, management, direction, supervision, restriction, regulation, governance, oversight, and administration of his employer.

REQUEST FOR PRODUCTION NO. 45:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 42.

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:

ASARCO objects to this Request for Admission because the term "entirely free" is ambiguous, vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects as there is no evidence that plaintiff ever worked at ASARCO's El Paso facility. By way of further objection, the subjects inquired about in this request are overly broad and call for legal conclusions. Subject to and without waiving the foregoing objections, ASARCO admits that it, like any other contracting party, had the right to insist that the contracted work be done properly.

REQUEST FOR PRODUCTION NO. 46:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 43.

REQUEST FOR ADMISSION NO. 44:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent it seeks information regarding a time period other than the relevant time period. Further, ASARCO has no information that plaintiff was ever present at any worksite at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products with which he worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has failed to state whether such products were ever used in proximity to him at the El Paso facility during the relevant time period. Plaintiff has also failed to state whether such products were in place at ASARCO or brought in by outside contractors. Without such limitations, this Request calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objection, ASARCO admits only that asbestos-containing products were present at the El Paso facility during the time period when plaintiff alleges that he worked there.

REQUEST FOR PRODUCTION NO. 47:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 44.

REQUEST FOR ADMISSION NO. 45:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent it seeks information regarding a time period other than the relevant time period. Further, ASARCO has no information that plaintiff was ever present at any worksite at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products with which he worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has failed to state whether such products were ever used in proximity to him at the El Paso facility during the relevant time period. Plaintiff has also failed to state whether such products were in place at ASARCO or brought in by outside contractors. Without such limitations, this Request calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objection, ASARCO admits only that asbestos-containing products were present at the El Paso facility during the time period when plaintiff alleges that he worked there.

REQUEST FOR PRODUCTION NO. 48:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 45.

REQUEST FOR ADMISSION NO. 46:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent it seeks information regarding a time period other than the relevant time period. Further, ASARCO has no information that plaintiff was ever present at any worksite at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products with which he worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has failed to state whether such products were ever used in proximity to him at the El Paso facility during the

relevant time period. Plaintiff has also failed to state whether such products were in place at ASARCO or brought in by outside contractors. Without such limitations, this Request calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objection, ASARCO admits only that asbestos-containing products were present at the El Paso facility during the time period when plaintiff alleges that he worked there.

REQUEST FOR PRODUCTION NO. 49:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 46.

REQUEST FOR ADMISSION NO. 47:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent it seeks information regarding a time period other than the relevant time period. Further, ASARCO has no information that plaintiff was ever present at any worksite at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products with which he worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has failed to state whether such products were ever used in proximity to him at the El Paso facility during the relevant time period. Plaintiff has also failed to state whether such products were in place at ASARCO or brought in by outside contractors. Without such limitations, this Request calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objection, ASARCO admits only that asbestos-containing products were present at the El Paso facility during the time period when plaintiff alleges that he worked there.

REQUEST FOR PRODUCTION NO. 50:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 47.

REQUEST FOR ADMISSION NO. 48:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent it seeks information regarding a time period other than the relevant time period. Further, ASARCO has no information that plaintiff was ever present at any worksite at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products with which he worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has failed to state whether such products were ever used in proximity to him at the El Paso facility during the relevant time period. Plaintiff has also failed to state whether such products were in place at ASARCO or brought in by outside contractors. Without such limitations, this Request calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objection, ASARCO admits only that asbestos-containing products were present at the El Paso facility during the time period when plaintiff alleges that he worked there.

REQUEST FOR PRODUCTION NO. 51:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 48.

REQUEST FOR ADMISSION NO. 49:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent it seeks information regarding a time period other than the relevant time period. Further, ASARCO has no information that plaintiff was ever present at any worksite at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products with which he worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has failed to state whether such products were ever used in proximity to him at the El Paso facility during the relevant time period. Plaintiff has also failed to state whether such products were in place at ASARCO or brought in by outside contractors. Without such limitations, this Request calls for a burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of legitimate discovery.

Subject to and without waiving the foregoing objection, ASARCO admits only that asbestos-containing products were present at the El Paso facility during the time period when plaintiff alleges that he worked there.

REQUEST FOR PRODUCTION NO. 52:

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

RESPONSE:

See ASARCO's response to Request for Admission No. 49.

REQUEST FOR ADMISSION NO. 50:

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

RESPONSE:

ASARCO objects on the grounds that the "installation" to which the request refers is not specified or defined and therefore ASARCO is unable to respond to this Request in its present form.

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:

See ASARCO's response to Request for Admission No. 50.

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:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff fails to identify any asbestos-containing products to which he was exposed or the locations in ASARCO's facility in which he claims to have been exposed to such asbestos-containing products. Plaintiff has also failed to state whether any such products were actually in place at ASARCO or brought in by outside contractors.

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

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:

ASARCO objects to this request for production as overly broad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, see documents previously produced by ASARCO in *Hermosillo v. ASARCO, et. al.*, El Paso County, No. 98-1338.

REQUEST FOR ADMISSION NO. 51:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. ASARCO further objects to this Request for Admission on the grounds that it is overly broad, irrelevant, seeks information concerning years other than those years during which plaintiff allegedly worked at the El Paso facility, and seeks information concerning contractors other than those for which plaintiff claims to have worked. By way of further objection, the term "supervise" is vague, ambiguous, ill-defined and, therefore, not susceptible to precise response.

Subject to and without waiving the foregoing objections, ASARCO relied on the knowledge and expertise of the experienced contractors that were hired to perform work at the El Paso facility, including the contractors' expertise in the health and safety procedures inherent in the work they performed. If, however, workers and independent contractors were observed engaging in practices that were harmful to themselves or others working at the plant, then ASARCO personnel would address these practices.

REQUEST FOR ADMISSION NO. 52:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that it seeks a legal conclusion. ASARCO further objects that there is no evidence that plaintiff or plaintiff's employer was ever at ASARCO's El Paso facility. ASARCO further objects to this Request

for Admission on the grounds that it is overly broad, irrelevant, seeks information concerning years other than those years during which plaintiff allegedly worked at the El Paso facility, and seeks information concerning contractors other than those for which plaintiff claims to have worked. By way of further objection, the term "supervise" is vague, ambiguous, ill-defined and, therefore, is not susceptible to precise response.

Subject to and without waiving the foregoing objections, ASARCO relied on the knowledge and expertise of the experienced contractors that were hired to perform work at the El Paso facility, including the contractors' expertise in the health and safety procedures inherent in the work they performed. If, however, workers and independent contractors were observed engaging in practices that were harmful to themselves or others working at the plant, then ASARCO personnel would address these practices.

REQUEST FOR ADMISSION NO. 53:

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

RESPONSE:

ASARCO objects to this Request for Admission to the extent that there is no evidence that plaintiff was ever present on Defendant's premises. ASARCO further objects as plaintiff has failed to identify any asbestos-containing products with which he allegedly worked or the locations in ASARCO's facility in which he allegedly worked with them. ASARCO reserves the right to supplement and/or amend its response as discovery continues.

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

REQUEST FOR PRODUCTION NO. 55:

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

RESPONSE:

To be provided.

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.

RESPONSE:

ASARCO objects to this Interrogatory on the ground that plaintiff does not have an asbestos related disease. ASARCO further objects to this Interrogatory as there is no evidence that plaintiff was ever present on Defendant's premises. ASARCO further objects as plaintiff has failed to identify any asbestos-containing products to which he was exposed or with which he allegedly worked or the locations in ASARCO's facility in which he allegedly worked with them during the relevant time period. ASARCO reserves the right to supplement and/or amend its response as discovery continues.

Subject to and without waiving the foregoing objections, see medical literature previously produced in *Hermosillo v. ASARCO, et. al.*, El Paso County, No. 98-1338.

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

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:

ASARCO objects to this Request on the ground that plaintiff does not have an asbestos related disease. ASARCO further objects as there is no evidence that plaintiff was ever present on Defendant's premises. ASARCO further objects as plaintiff has failed to identify any asbestos-containing products to which he was exposed, or with which he allegedly worked or the locations in ASARCO's facility in which he allegedly

worked with them during the relevant time period. ASARCO reserves the right to supplement and/or amend its response as discovery continues.

See medical literature previously produced in *Hermosillo v. ASARCO, et al.*, El Paso County, No. 98-1338.

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

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 document supporting your denial.

RESPONSE:

ASARCO objects to this Request on the ground that plaintiff does not have an asbestos related disease. ASARCO further objects as there is no evidence that plaintiff was ever present on Defendant's premises. ASARCO further objects as plaintiff has failed to identify any asbestos-containing products to which he was exposed, or with which he allegedly worked, or the locations in ASARCO's facility in which he allegedly worked with them during the relevant time period. ASARCO reserves the right to supplement and/or amend its response as discovery continues.

See documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

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

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:

ASARCO objects to this Request on the ground that plaintiff does not have an asbestos related disease. ASARCO further objects as there is no evidence that plaintiff was ever present on Defendant's premises. ASARCO further objects as plaintiff has failed to identify any asbestos-containing products to which he was exposed, or with which he allegedly worked or the locations in ASARCO's facility in which he allegedly worked with them during the relevant time period. ASARCO reserves the right to supplement and/or amend its response as discovery continues.

See documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

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

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:

ASARCO objects to this Request for Production to the extent that ASARCO has no information that plaintiff was ever present at any worksite on the El Paso premises or, even if he was, ASARCO has no information as to whether plaintiff was present where such products were being used. ASARCO further objects to this request on the grounds that it presumes that plaintiff worked at the El Paso plant during a time period when ASARCO employees worked with asbestos-containing materials.

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

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:

ASARCO objects to this Request for Production to the extent that as it is vague, ambiguous and unintelligible. ASARCO further objects as it has no information that plaintiff was ever present at any worksite on the premises and, if he was, if he was present where such products were being used. ASARCO further objects to this request on the grounds that it presumes that plaintiff worked at the El Paso plant during a time period when ASARCO employees worked with asbestos-containing materials.

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

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:

See documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

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:

ASARCO objects to this request to the extent that it seeks information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. ASARCO further objects to this request as it is vague and ambiguous and therefore not susceptible to a precise response. ASARCO further objects to this request on the grounds that it presumes that plaintiff worked at the El Paso plant during the relevant time period and that ASARCO employees worked with asbestos-containing materials in proximity to plaintiff. Subject to and without waiving such objections, see documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338. ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

REQUEST FOR PRODUCTION NO. 63:

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

RESPONSE:

See previously produced by ASARCO in the matter entitled *Hermosillo v. ASARCO*, et. al., El Paso County, No. 98-1338. ASARCO reserves the right to supplement this response throughout the continuing course of discovery.

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 management, whether on-site or off-site, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.

RESPONSE:

ASARCO objects to this Request for Production on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff allegedly worked at the El Paso facility. Subject to and without waiving the foregoing objections, ASARCO's document retention program calls for the retention of all asbestos-related documents.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request on the grounds that it is vague, ambiguous and subject to multiple interpretations. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff allegedly worked at the El Paso facility, or information concerning facilities other than the El Paso plant, which is the subject of this lawsuit.

Subject to and without waiving these objections, documents concerning the El Paso facility are maintained on-site at the El Paso facility. Also, see documents previously produced by ASARCO in the matter entitled *Hermosillo v. ASARCO, et. al.*, El Paso County, No. 98-1338.

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.

RESPONSE:

ASARCO objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objection, Defendant has obtained through the ordinary course of its business over the past 50 or more years numerous documents which relate, in whole or in part, to the potentially hazardous nature of asbestos. ASARCO further objects to this Interrogatory on the grounds that it would be exceedingly burdensome, if not impossible, to identify each individual who received such material. Also, see documents previously produced in *Hermosillo v. ASARCO, et. al.*, El Paso County, No. 98-1338.

REQUEST FOR PRODUCTION NO. 66:

Produce the written materials referred to in the interrogatory above.

RESPONSE:

See response to Interrogatory 20.

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:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in use and/or in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff allegedly worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products are in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 61:

Admit that Defendant no longer uses asbestos on its Premises.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "uses" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff allegedly worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products are in place at some locations at the El Paso facility

REQUEST FOR ADMISSION NO. 62:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1972.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information about facilities other than the El Paso facility. Subject to and without

waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility after January 1, 1972.

REQUEST FOR ADMISSION NO. 63:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1973.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information about facilities other than the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility after January 1, 1973.

REQUEST FOR ADMISSION NO. 64:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1974.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information about facilities other than the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility after January 1, 1974.

REQUEST FOR ADMISSION NO. 65:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1975.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information about facilities other than the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility after January 1, 1975.

REQUEST FOR ADMISSION NO. 66:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1976.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information about facilities other than the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility after January 1, 1976.

REQUEST FOR ADMISSION NO. 67:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1977.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information about facilities other than the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility after January 1, 1977.

REQUEST FOR ADMISSION NO. 68:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1978.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information about facilities other than the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility after January 1, 1978.

REQUEST FOR ADMISSION NO. 69:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1979.

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information about facilities other than the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility after January 1, 1979.

REQUEST FOR ADMISSION NO. 70:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1980.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff allegedly worked at the El Paso facility. Subject to

and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 71:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1981.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 72:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1982.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 73:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1983.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 74:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1984.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 75:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1985.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 76:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1986.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 77:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1987.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility. Subject to and without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

REQUEST FOR ADMISSION NO. 78:

Admit that asbestos-containing materials were in place on Defendant's Premises after January 1, 1988.

RESPONSE:

ASARCO objects to this Request to Admit on the grounds that it is overly broad, vague and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent the term "in place" is vague, ill-defined and therefore is not susceptible to a precise response. ASARCO further objects to this request to the extent it seeks information outside the years during which plaintiff worked at the El Paso facility. Subject to and

without waiving to the forgoing objections, ASARCO admits that asbestos-containing products were in place at some locations at the El Paso facility.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad, vague, unduly burdensome, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence and seeks information outside the relevant time frame. ASARCO further objects to the extent it seeks information concerning facilities other than the El Paso plant, which is the subject of this lawsuit. Plaintiff has failed to identify the specific locations at ASARCO's facility at which he allegedly worked with asbestos-containing products. Defendant also objects that plaintiff has not asserted exposure to any specific asbestos-containing products. Plaintiff has also failed to state with any specificity whether any of the asbestos-containing products were in place at ASARCO's El Paso facility or were brought in by outside contractors. Subject to and without waiving such objection, see documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad, unduly burdensome, without time limitation and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects as the request improperly seeks documents that may not be in the Defendant's possession nor ascertainable without great difficulty to the Defendant and which are just as readily obtainable by the Plaintiff. Subject to and without waiving such objection, see documents previously produced in *Hermosillo v. ASARCO, et. al.*, El Paso County, No. 98-1338.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad, without time limitation and it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. To the extent that the Request seeks information concerning facilities other than the El Paso plant, which is the subject of this lawsuit, and documentation which refers to substances other than asbestos, ASARCO objects that the Request is overly broad. Further this Request fails to specify the type of work or services or the location on the premises for which information is requested or the materials and products used in the performance of such work or services. To the extent such work or services and the location in which they were performed differ from those involved in this case, this Request is overly broad and seeks irrelevant information. ASARCO further objects to this Request to the extent that it calls for information outside the years during which plaintiff allegedly worked at this facility, if any. By way of further objection, the information sought does not stipulate or refer to any specific work areas of inspection. Subject to and without waiving the foregoing objections, see documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

Subject to and without waiving the foregoing objections, ASARCO is currently unaware of any such inspections during the relevant time period. ASARCO's investigation is ongoing, and the right to supplement this answer if and when responsive information is obtained is expressly reserved.

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:

ASARCO objects to this Request for Production in that it is ambiguous or unintelligible in referring to documents regarding "the dangers of asbestos safety measures" and, therefore, is not susceptible to a precise response. ASARCO further objects to the extent that it is not limited to the relevant time period. Subject to and without waiving these objections, see documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

REQUEST FOR PRODUCTION NO. 71:

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

RESPONSE:

See ASARCO's response to Interrogatory No. 3. Also, see documents previously produced in *Hermosillo v. ASARCO, et. al*, El Paso County, No. 98-1338.

REQUEST FOR PRODUCTION NO. 72:

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

RESPONSE:

See ASARCO's answer to Interrogatory No. 2.

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.

ASARCO objects to this Request on the grounds that it is overly broad and without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff has failed to identify any asbestos-containing products with which plaintiff worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of legitimate discovery. ✓

Subject to and without waiving these objections, see response to Request to Produce No.71 and documents previously produced in *Hermosillo v. ASARCO et al*, El Paso County, No. 98-1338.

REQUEST FOR PRODUCTION NO. 74:

Produce all documents related to the medical condition of Plaintiff at any time during his employment 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 was never employed by this Defendant.

REQUEST FOR PRODUCTION NO. 75:

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

RESPONSE:

Plaintiff was never employed by this Defendant.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad, burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent that it seeks information for years other than those within the relevant time period. Further, plaintiff has failed to identify any asbestos-containing products with which he allegedly worked while allegedly at the El Paso facility or the locations in ASARCO's facility in which he allegedly worked with them. Consequently, this Request calls for a burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of legitimate discovery. ✓

Subject to and without waiving the foregoing objections, see documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

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:

ASARCO objects to this Request on the grounds that it is overly broad and without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, this Request fails to specify the type of work or services or the location on the premises for which information is requested or the materials and products used in the performance of such work or services. To the extent such work or services and the location in which they were performed differ from those involved in this case, this Request is overly broad and seeks irrelevant information. ASARCO further objects that it has insufficient information from plaintiff (including specific dates or periods during which plaintiff alleges exposure at defendant's property and the nature and location of the work performed) to adequately investigate, let alone answer this discovery. ASARCO further objects to this Request to the extent it calls for information outside the years during which plaintiff worked at this facility, if any.

Subject to and without waiving these objections, see documents previously produced in *Hermosillo v. ASARCO, et al.* El Paso County, No. 98-1338.

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:

ASARCO objects to this Request on the grounds that it is overly broad and without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, this Request fails to specify the type of work or services or the location on the premises for which information is requested or the materials and products used in the performance of such work or services. To the extent such work or services and the location in which they were performed differ from those allegedly involved in this case, this Request is overly broad and seeks irrelevant information. ASARCO further objects that it has insufficient information from plaintiff (including dates or periods during which plaintiff alleges exposure at defendant's property and the nature and location of the work performed) to adequately investigate, let alone answer this discovery. ASARCO further objects to this Interrogatory to the extent it calls for information outside the years during which plaintiff worked at this facility, if any. By way of further objection, use of the term "utilized" is vague, ambiguous and ill-defined and therefore not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO is not currently aware of any such photographs. ASARCO reserves the right to supplement its response to this request as discovery continues..

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:

ASARCO objects to this Request on the grounds that it is overly broad and without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, this Request fails to specify the type of work or services or the location on the premises for which information is requested or the materials and products used in the performance of such work or services. To the extent such work or services and the location in which they were performed differ from those involved in this case, this Request is overly broad and seeks irrelevant information. ASARCO further objects that it has insufficient information from plaintiff (including specific dates or periods during which plaintiff alleges exposure at defendant's property and the nature and location of the work performed) to adequately investigate, let alone answer this discovery. ASARCO further objects to this Request to the extent it calls for information outside the years during which plaintiff worked at this facility, if any.

Subject to and without waiving these objections, see documents previously produced in *Hermosillo v. ASARCO, et al.* El Paso County, No. 98-1338.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad, burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. By way of further objection, this request is without time limitation and seeks information concerning years other than those during which plaintiff claims he worked at the El Paso facility.

Subject to and without waiving the foregoing objections, ASARCO is aware of the following suits brought against it that allege injuries as a result of asbestos exposure at the El Paso facility:

Hermosillo v. ASARCO, et al., El Paso County, 98-1338

Esparza v. Owens-Corning Fiberglas, El Paso County, 98-559;

Portillo v. Ownes-Corning Fiberglas, El Paso County, 97-1878

Lerma v. Asarco, U.S.D.C. S.D. Tex., Houston Div. 98-0197, Transferred to E.D. Pa. (MDL).

Glenn Biehl, et al. v AC & S, Inc., et al., El Paso County, No. 2000-3600

Jose Delaluz Mares, et al. v GAF Corporation, et al., El Paso County, No. 2000-3841

William Earl Bowser, et al. v GAF Incorporated, et al., Dallas County, No. 00-04283

Juan Benitez, et al. v A.M.F. Incorporated, et al., County Court at Law No. 3, of El Paso County, No. 2000-1152

Daniel Alderete, Jr., et al. v Owens-Corning Fiberglas Corporation, et al., Brazoria County, No. 6264*RM98

Owens Ray Adams, et al. v A.M.F. Incorporated, et al., Brazoria County, No. 6354*RM98

Harold Adkins, Jr., et al. v A.M.F. Incorporated, et al., Brazoria County, No. 7668*JG99

James Isaacks, et al. v A.M.F. Incorporated, et al., Brazoria County, No. 9886*JG99

Harold Erle Janssen, et al. v. A.M.F. Incorporated, et al., Jefferson County, No. E-0161739

Jose Rosendo Martinez, Sr. v. GAF Corporation, et al., County Court at Law No. 3 of El Paso County, No.: 2000-2591

Jose Angel Acevedo, et al. v Owens-Corning Fiberglass Corporation, et al., County Court at Law No. 3 of El Paso County, No.: 97-1621

Each of the above claims are disputed and ASARCO has not been held liable nor has it admitted to any liability.

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:

ASARCO objects to this Request for Production as overly broad, unduly burdensome, without time limitation, without limitation to documents in the possession of

ASARCO during the relevant time period, and as it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects as the request improperly seeks documents that may not be in the Defendant's possession nor ascertainable without great difficulty to the Defendant and which are readily obtainable by the Plaintiff. ASARCO further objects to the extent that this Request seeks information concerning facilities other than the El Paso facility, which is the subject of this lawsuit.

Subject to and without waiving those objections, see documents previously produced by ASARCO in *Hermosillo v. ASARCO, et al*, El Paso County, No. 98-1338. ASARCO reserves the right to supplement this response as discovery continues.

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:

See response to Request to Produce No. 2.

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

ASARCO objects to this Interrogatory on the grounds that it is overly broad and without time limitation, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO specifically objects to this Interrogatory as overbroad, burdensome, and irrelevant to the extent it seeks information as to facilities other than the El Paso facility, which is the subject of this lawsuit. Plaintiff has failed to identify any asbestos-containing products with which plaintiff worked or the locations in ASARCO's facility in which plaintiff worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors.

Subject to and without waiving said objections, ASARCO is aware that sampling for airborne asbestos concentrations was performed by ASARCO employees during the period between February 9 through 23, 1976. As a result of heavy particulate matter, asbestos fibers were not recognizable for counting. ASARCO's investigation is ongoing

and it will produce, to the extent they exist and are responsive, such documents as they pertain to the El Paso facility during the relevant time period. ASARCO's right to supplement this response if and when responsive information is obtained is expressly reserved.

See also documents previously produced in *Hermosillo v. ASARCO et al.*, El Paso County, No. 98-1338.

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:

See response to Request to Produce No. 82.

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 any way pertain to asbestos and the hazards and/or diseases that may result therefrom.

RESPONSE:

ASARCO objects to this Request for Production as overly broad, unduly burdensome, and without time limitation. Subject to and without waiving the foregoing objections, ASARCO will produce the resumes of its experts.

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:

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

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:

See response to Request to Produce No. 80.

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:

ASARCO objects to this Request for Production that it is overly broad and without time limitation. Further, the terms "all regulations, orders rules and/or policies" and "used" are vague, ambiguous and ill-defined and therefore not susceptible to a precise response.

Subject to and without waiving those objections, see documents regarding OSHA asbestos exposure rules and related matters previously produced by ASARCO in *Hermosillo v. ASARCO, et al.*, El Paso County, No. 98-1338.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad to the extent that it seeks information concerning years other than those during which plaintiff alleges to have worked at the El Paso facility, and to the extent it concerns complaints regarding matters other than asbestos dust conditions. Subject to and without

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waiving these objections, ASARCO's investigation is continuing and it will produce, to the extent they exist and are responsive, such documents as they relate only to asbestos dust conditions during the relevant time period at the El Paso facility.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad to the extent that it seeks information concerning years other than those during which plaintiff alleges to have worked at the El Paso plant, and to the extent it concerns complaints regarding matters other than asbestos dust conditions. Subject to and without waiving these objections, ASARCO's investigation is continuing and it will produce, to the extent that they exist and are available, documents responsive to this Request as they relate to asbestos dust conditions during the relevant time period.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad, without time limitation, unduly burdensome, seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence and to the extent that it seeks information concerning years other than those during which plaintiff alleges to have worked at the El Paso plant. Subject to and without waiving these objections, ASARCO's investigation is continuing and it will produce, to the extent that they exist and are available, documents responsive to this Request during the relevant time period.

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:

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

REQUEST FOR PRODUCTION NO. 93:

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

RESPONSE:

The El Paso facility, first built in 1887, was owned and operated by Consolidated Kansas City. ASARCO purchased the facility in 1899 and has owned and operated it continuously since that time.

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:

ASARCO objects to this Request for Production on the grounds that it is overly broad and as it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent that it seeks information concerning years other than those during which plaintiff alleges to have worked at the El Paso facility. Subject to and without waiving these objections, ASARCO's investigation is continuing and it will produce, to the extent that they exist and are available, documents responsive to this Request during the relevant time period.

REQUEST FOR PRODUCTION NO. 95:

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

RESPONSE:

ASARCO objects to this Request for Production on the grounds that it is overly broad, burdensome, without time limitation and seeks information that is neither relevant

nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this request to the extent it seeks information concerning years other than those during which plaintiff claims to have worked at the El Paso facility, and contractors other than those for which plaintiff claims to have worked at the El Paso facility during the relevant time period.

Subject to and without waiving the foregoing objections, ASARCO will produce, to the extent that they exist and are available, responsive documents concerning contractors for which plaintiff claims to have worked at the El Paso facility during the relevant time period. ASARCO expressly reserves the right to supplement its response to this request as discovery continues.

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:

See response to Request to Produce No. 77.

REQUEST FOR PRODUCTION NO. 97.

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

RESPONSE:

ASARCO objects to this Request for Production to any extent it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the admissible evidence. ASARCO further objects as this Request fails to specify the type of work or services or the location on Defendant's premises for which information is requested. ASARCO further objects as this Request addresses materials that are privileged or subject to the work product doctrine.

Subject to and without waiving the foregoing objections, ASARCO's investigation is continuing and it will produce, to the extent that they exist and are available and to the extent that they are not protected as work-product or otherwise exempt from disclosure, responsive documents concerning plaintiff. ASARCO expressly reserves the right to supplement its response to this request as discovery continues.

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 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:

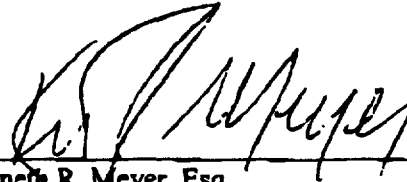
The El Paso facility, first built in 1887, was owned and operated by Consolidated Kansas City. ASARCO purchased the facility in 1899 and has owned and operated it continuously since that time. Although, ASARCO has owned and operated the facility since 1899, it expressly denies that it has ever controlled or managed plaintiff or his employer at any time.

Subject to and without waiving the foregoing objections, see ASARCO's responses to Request for Admission No. 4, Request for Production No. 4, Request for Production No. 5, Request for Admission No. 22, Request for Production No. 25, Request for Admission No. 31, and Request for Production No. 34.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Answers to Plaintiff's First Set of Interrogatories, First Request for Production and First Request for Admission was sent to Plaintiff's counsel of record on the 29th day of January, 2001, via facsimile and Federal Express.

By:



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