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August 24, 2001

VIA FACSIMILE

Allen Vaught, Esq.
Baron & Budd, PC
3102 Oak Lawn Avenue
Dallas, TX 70219-4281

Re: *Kinsey v. Owens-Corning et al.*
Our File No.: 00532-37116

Dear Allen:

I am in receipt of your letter of this afternoon which was received by our office at 4:34 p.m. central time. I am somewhat mystified by some of the positions that you take in your letter given the discussions that you have had with various members of this office over the past two weeks. I am also surprised that you consider your letter to be a fulfillment of your discovery conference obligations under Rule 191.2 of the Texas Rules of Civil Procedure. Contrary to your assertion, it had been our understanding that all discovery disputes had been resolved and that ASARCO and Capco were providing discovery as agreed to by your office.

Although you assert that neither Capco nor ASARCO has responded to written discovery, Capco's answers to the Kiker Plaintiffs' Master Interrogatories and Requests for Production were served on Thursday, August 23, 2001. Moreover, ASARCO's answers to the Kiker plaintiffs' Master Interrogatories and Request for Production were served earlier this afternoon. It was our understanding, based on your representations earlier this week, that we should get these responses to you "as soon as we could" but "certainly by the end of this week." We have

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PLEASE REPLY TO MORRISTOWN, NJ OFFICE

PLAINTIFF'S EXHIBIT

CAP-209

Allen Vaught, Esq.
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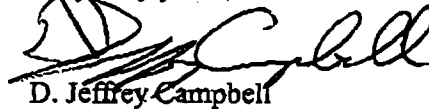
satisfied this request. You also note in the final paragraph of your letter that you granted a "time extension until August 16, 2001 for ASARCO and Capco to respond to the Kiker Plaintiffs' Master Interrogatories and Request for Production." As you are aware, no such extension was given; August 16 was the original due date.

As you are also aware, on August 22, 2001, ASARCO responded to written discovery propounded by plaintiffs' counsel Lanier, Parker & Sullivan. Those discovery responses included the production of 21 boxes of documents which were responsive not only to the specific inquiries of the Lanier discovery, but also to the discovery served by your office on behalf of the Kiker plaintiffs.

Finally, you raise the topic of the deposition notice of the corporate representative of Capco Pipe Company, Inc. Pursuant to discussions with you during the week of August 13, 2001, and with your consent, we scheduled that deposition for Tuesday, August 28, 2001. In a conversation with this office on Tuesday, August 21, 2001, you stated that you would like to receive documents responsive to the deposition notice prior to the deposition so that you could review them this weekend. Pursuant to your request, and in spite of the fact that large numbers of Capco documents have previously been produced to your co-counsel, we have Federal Expressed documents responsive to the deposition notice for morning delivery at your office on Saturday, August 25, 2001. Further, earlier today, we provided to you Capco's written response to the deposition notice and document request as well as notification that responsive documents had been shipped and would arrive at your office tomorrow morning.

We believe that throughout this process, we have worked cooperatively with you and made good faith efforts to provide all requested discovery on a timely basis. We stand ready to present a Capco corporate representative for deposition on Tuesday, August 28, 2001. We look forward to seeing you at the deposition on the 28th. If you are unable to attend the deposition, please notify us on Monday. As I will be out of the office early next week, please direct any additional correspondence on this matter to Ken Meyer or Jennifer Schettino.

Very truly yours,



D. Jeffrey Campbell

cc: G. Murr
S. Stubbs