FILE NAME: Brown & Root (BR)

DATE: 1996

DOC#: BR022

DOCUMENT DESCRIPTION: Legal - Defendant's Supplemental Answers to Plaintiff's Interrogatories

19271/cjb

Cause No. 31506

SHIRLEY HODGE, as Personal Representative of the Estate of A. J. HODGE, JR., Deceased,	§	**IN THE DISTRICT COURT OF**
v.	§	
TEXAS UTILITIES COMPANY; TEXAS UTILITIES ELECTRIC COMPANY (d/b/a VALLEY POWER PLANT); TEXAS UTILITIES GENERATING COMPANY, INC. and TEXAS POWER & LIGHT COMPANY, INC.; CSR, LTD.; BROWN & ROOT USA, INC.; BROWN & ROOT, INC. (A DELAWARE CORPORATION), and as successor to BROWN & ROOT, INC. (A TEXAS CORPORATION), individually and as successor to BROWN & ROOT, INC.	§	**FANNIN COUNTY, TEXAS**
	§	**6TH JUDICIAL DISTRICT**

DEFENDANTS' SUPPLEMENTAL ANSWERS TO PLAINTIFF'S INTERROGATORIES AND REQUESTS FOR PRODUCTION PROPOUNDED TO DEFENDANTS

TO: Plaintiff, by and through her attorneys of record, C. Andrew Waters, Law Offices of C. Andrew Waters, 400 Zang Blvd., Suite 1420, Dallas, Texas 75208 and Todd Kale, SILBER, PEARLMAN & BRUEGGER, SPB Building, 3110 Webb Ave., Dallas, Texas 75205

COME NOW Defendants Brown & Root, Inc. and Brown & Root USA Inc., per their agreement with Plaintiff to resolve issues related to discovery without the necessity of court intervention, and supplement earlier discovery responses. Only those responses which require supplementation are affected. The further responses are based on Plaintiff's agreement to reduce the scope and breadth of her inquiries. Where no supplementation is present, the original answer or response remains the same and should be considered set forth herein in full. Supplementation does not waive prior objections and privilege assertions. Investigation and discovery is on-going and further supplementation will be made as additional documents or information are located.

COPY

PLAINTIFF'S EXHIBIT B&R 72

Respectfully submitted,

FANNING HARPER & MARTINSON
A Professional Corporation

By: _____

PHILLIP S. BROWN
State Bar No. 03160300
300 Preston Commons West
8117 Preston Road
Dallas, Texas 75225
(214) 369-1300 (office)
(214) 369-3345 (telecopier)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been mailed, telecopied or hand delivered to all attorneys of record, in compliance with Rule 21a. of the Texas Rules of Civil Procedure, on this the 30th day of August, 1996.

_____
PHILLIP S. BROWN

INTERROGATORY NO. 3:

As agreed, Defendants state that at various times since the advent of OSHA they have issued or used caution statement or signs. Attached are representative signs or statements which were used at various times.

Interrogatory No. 4:

None.

INTERROGATORY NO. 5:

The individual who acted in a medical advisory capacity to Defendants is Robert Conte, M.D., c/o Brown & Root, Houston, Texas

The individuals who have served as industrial hygienists for Defendants are Carl Richardson, Steve Sellers, Ralph Craig, Lynley Harris, Brian McCulloch, Dale Drysdale, and Delbert Gaines. Defendants are locating addresses for these persons. Messrs. Drysdale and Gaines still work for Brown & Root.

INTERROGATORY NO. 6:

Defendants may have such materials but it will be necessary for Plaintiff to review the volumes contained in the corporate industrial hygiene library to verify this. Attached is a current list of publications found in such library.

INTERROGATORY NO. 7:

Defendants' safety departments, at some time, were members of the following organizations: Associated General Contractors, Texas Safety Association, National Safety Council, and Association of Builders and Contractors. If any publication from these organizations in our possession exists, it will be listed in the document attached to the answer to Interrogatory No. 6.

INTERROGATORY NOS. 8 and 14:

Defendants have produced all existing documents except photographs which relate to the construction activities on Units 2 and 3 at Valley Power.

INTERROGATORY NOS. 10, 11 and 12:

Although Defendants do not possess the medical expertise necessary to answer subpart A, they understand that under certain circumstances -- none of which appear to exist in this case -- inhalation of certain types of asbestos fibers, if significant in intensity and duration, can cause the disease of asbestosis. Defendants first began to hear of the possible relationship between certain asbestos exposure and asbestosis some time after the OSHA regulations became effective. Since then Defendants also have heard allegations that asbestos exposure might also be linked to the diseases of lung cancer and mesothelioma, but the scientific evidence is not clear on this.

INTERROGATORY NO. 13:

None known.

INTERROGATORY NOS. 15 and 18:

As of October 31, 1977, Defendants, acting through its employees or outside firms, would visit construction sites to make or test dust level counts. Defendants cannot state with certainty where or when the air sampling was done except as reflected in the documents produced in response to Request for Production Nos. 21 and 22. Defendants believe that other monitoring took place and that records were to be kept at the jobsites. Unfortunately, no documents exist other than what has been produced because of the document retention policy in effect at that time. Plaintiff must made inquiry of the industrial hygienists listed in answer to Interrogatory No. 5 to learn the details regarding the dates, purposes and results of these procedures. In addition to tests done by Defendants, the premises owners conducted their own air monitoring for their employees and the employees of Defendants and their subcontractors. Defendants were not given copies of those test results.

INTERROGATORY NO. 17:

Defendants' predecessors began operations in the 1920's. Although Defendants cannot state when safety departments were formally organized, safety has always been a corporate concern. No records have been located going back beyond 1963, nor can anyone with knowledge of the safety department before the 1960's be located. Defendants have located a document which reflects the philosophy, duties and responsibilities of the safety department once it was formally established. A copy of this document is attached.

INTERROGATORY NO. 19:

1. A. John Pendergrass, C.I.H., C.S.P, P.E.
100 N. Washington Street
Falls Church, VA 22046



B. Toxicology, engineering and industrial hygiene generally and particularly as they relate to alleged asbestos fiber exposure under different conditions, including the facts of this case.

C. The witness may testify concerning regulatory requirements for the health and safety of workers exposed to asbestos, including the EPA and OSHA requirements pertaining to the handling of asbestos. He may be asked to testify concerning the actions of Brown & Root and others similarly situated under the same or similar circumstances existing at all times material herein. The witness may testify concerning the potential hazards of different types of asbestos, when such hazards were known or knowable by different segments of trade and industry, and the diseases associated with different types of asbestos exposures and when such associations were known or knowable by different segments of trade and industry. The witness may also be asked to testify concerning the actions taken by and state of knowledge of the utility industry during the time

period material herein. The witness may also testify regarding the reasonableness of the corporate response of Brown & Root and others similarly situated concerning the potential hazards of asbestos usage and safety of workers under the same or similar circumstances. Defendants expect the witness to testify that the conduct of Brown & Root herein did not amount to negligence or gross negligence, nor did it cause any injury, damage or death as alleged by Plaintiffs. The witness has done research, gathered facts, inspected the premises in question, and reviewed relevant scientific and medical literature. He has offered a report in behalf of Texas Utilities and been deposed. Defendants first consulted with the witness on August 23, 1996, to discuss the case from the perspective of Defendants. The witness must have an opportunity to review additional case facts before being able to formulate his additional opinions and expressions on these several issues.

D. None other than what he produced at his deposition.

2. A. Philip Cagle, M.D.
Baylor College of Medicine
One Baylor Plaza
Houston, TX 77030-3498

B. Pathology, the effect of asbestos on human and the relationship of alleged asbestos exposure to disease generally and particularly how the exposures alleged in this case may have been the medical and/or legal cause of the injuries, damages and death alleged by Plaintiff.

C. The witness is expected to offer opinions regarding the merits of Plaintiff's claims and the defenses offered by Defendants, including opinions on liability, damages, and causation issues in this case. The witness is expected to testify that any asbestos exposure of Mr. Hodge while an employee of Texas Utilities was not the cause, nor did it contribute to cause decedent's cancer. The witness may testify that some other exposures to asbestos, especially that at the Johns-Manville plant, was the cause of the cancer, injuries, damages and death alleged herein. The witness has gathered facts, conducted research and performed tests in formulating opinions regarding causation in this case. These are reflected in the report prepared for Texas Utilities and discussed in his deposition, both of which describe the nature and scope of his expected opinions. The witness first consulted with Defendants last week and will need to gather additional facts before being able to formulate his final opinions and impressions on these several issues.

D. None other than what has been produced in connection with his deposition.

3. A. Francis Weir, Ph.D.
8131 Wycomb Drive
Houston, Texas 77070
(713) 893-4003

B. Pharmacology, toxicology and industrial hygiene generally and particularly as these medical science disciplines and professions relate to asbestos fiber exposure in various work places, including those of concern in this matter.

C. He is expected to testify concerning the types and characteristics of asbestos, as well as the pathogenic potential from exposure to fibers of these substances. If asked, his testimony will include a discussion of the way asbestos containing materials were used in general within the construction industry, and specifically as it relates to the present matter at the various times of interest. He will also be prepared to discuss laws, regulations and relevant standards relating to asbestos exposure, the characteristics and epidemiology of asbestos-related or associated diseases and the relevant medical and scientific literature in these subjects. Additionally, he is expected to discuss the evolution of the role of industrial hygiene professionals in the management of industrial health concerns within the industry. Dr. Weir may also discuss and describe the effects of chemicals on human physiology. Dr. Weir is expected to offer opinions regarding the merits of Plaintiff's claims and the defenses offered by Defendants, including his opinions on the liability, damage and causation issues in this case. Defendants first consulted with Dr. Weir on August 29, 1996, and the witness must have an opportunity to review additional case facts before being able to formulate his final opinions and impressions on the issues of concern in this matter.

D. None to date.

4. A. Raymond Heit, P.E.
c/o Brown & Root
Houston, TX

B. Engineering and construction standards.

C. The witness will review the facts concerning the design and construction of Units 2 and 3 of Valley Power in particular and steam generated electrical power plants generally in the U.S.A. where asbestos-containing products were specified for and used in the building of the facility. The witness is expected to offer opinions regarding the merits of Plaintiff's claims and the defenses offered by Defendants, including opinions regarding any alleged negligence or gross negligence in the construction and repair of the facilities in this case based on relevant industry standards. The witness may testify concerning the design, engineering and construction of industrial facilities generaly and plants like that involved herein. The witness may testify concerning the use of asbestos in the utility industry. He also may testify concerning the corporate response of Brown & Root and others similarly situated in the utility industry related to the potential hazards of asbestos and safety of workers under the same or similar circumstances..

D. None to date.

INTERROGATORY NO. 20:

Discovery and investigation are on-going. Defendants have not had an opportunity to confirm whether or not the scores of people listed in the discovery responses of Texas Utilities and Plaintiff, in fact, have knowledge of facts relevant to Plaintiff's claims and any defenses thereto. Out of an abundance of caution, however, Defendants assume that these individuals possess such knowledge and therefore are incorporated in this supplemental response.

Additionally, Defendants believe that the following persons also have knowledge of relevant facts:

A.J. Hodge, Jr., deceased

Shirley Hodge, Plaintiff

Carl H. Richardson, formerly of Brown & Root, Houston, Texas. Address to be provided. Telephone number unknown.

Gerald Scott of J.T. Thorpe Company, Houston, Texas

Stephen Payton, c/o T.U. Electric

Rick Federwisch, c/o T.U. Electric

Pete Martinez, c/o T.U. Electric

Cole Osburn, c/o T.U. Electric

Donald Grasty, c/o T.U. Electric

Mel Proctor, formerly of J.T. Thorpe Company, Houston, Texas

Dale Drysdale, c/o Brown & Root, Houston, Texas

Delbert Gaines, c/o Brown & Root, Houston, Texas

Ronald Batts, c/o Johns-Manville, Denison, Texas

Raymond Heit, c/o Brown & Root, Houston, Texas

Philip Cagle, M.D., Houston, Texas

John Pendergrass, Falls Church, VA

Howard Cole, Dallas, Texas

Francis Weir, Ph.D., Houston, Texas

Jimmy Kubecka, c/o Brown & Root, Houston, Texas

Custodians of records for Johns-Manville Manufacturing Company, Manville Personal Injury Settlement Trust, Manville Personal Injury Trust Warehouse, Merico Abatement Contractors, Inc., Valley Power Plant, T.U. Electric Company, Edwards Insulation & Sheet Metal, Gregg Insulators, SCA Services, and Vernell Crow Abatement.

Any person employed by T.U. Electric, Brown & Root and/or Thorpe Products at the sites and times A.J. Hodge was employed at Valley Power.

Any person employed by Johns-Manville or employed at any time or location that A.J. Hodge was employed at the Johns-Manville Denison plant location, including but not limited to Ronnie Bruce, Cecil Smith, Willard Templeton, Floy Viles, and Carl Weger. At this time Defendants do not have the address or telephone number for these people.

Any physician or health care provider named in medical and hospital records.

Defendants, like Plaintiffs, have not completed discovery at this time and they reserve the right to supplement this answer in accordance with the Texas Rules of Civil Procedure.

INTERROGATORY NO. 21:

Refer to Plaintiff's pleadings and the deposition of Barry Castleman for references to laws, regulations, etc., applicable through May 1971.

INTERROGATORY NO. 22:

As of October 31, 1977, none known and no records found. Plaintiff will need to make inquiry of the industrial hygienists listed in response to Interrogatory No. 5 for this information.

INTERROGATORY NO. 23:

As of October 31, 1977, employees were given pre-employment physicals. With the advent of the OSHA regulations medical surveillance began. Defendants believe, based on fact that they have microfilm records of physical exams in 1972, that the surveillance program began in 1972.

INTERROGATORY NO. 24:

With the advent of OSHA and the developments of information regarding the potential hazard associated with certain asbestos exposures, Defendants at various times since 1972 at construction sites, have placed cautionary signs. Attached hereto are copies of representative signs. Plaintiff will need to make inquiry of the industrial hygienists and persons listed in Interrogatory Nos. 5 and 20 to ascertain what was used, when and where.

REQUEST FOR PRODUCTION NOS. 7 and 8:

As of October 31, 1977, see attached documents.

REQUEST FOR PRODUCTION NO. 10:

None known.

REQUEST FOR PRODUCTION NO. 13:

See documents produced in response to Interrogatory No. 24.

REQUEST FOR PRODUCTION NOS. 21 and 22:

As of October 31, 1977, see attached documents.

REQUEST FOR PRODUCTION NO. 23:

None other than what has been generated and furnished to Plaintiff in connection with experts' depositions to date.

REQUEST FOR PRODUCTION NO. 24:

None to date other than what has been generated in connection with experts' depositions.

REQUEST FOR PRODUCTION NO. 25:

See attached for C.V.s not previously furnished to Plaintiff.

REQUEST FOR PRODUCTION NO. 27:

Such items are not kept in the ordinary course of Defendants' business operations. Subject to their objections and privilege assertions, Defendants state that none are known to exist in their possession.

19271/cgw

Cause No. 31506

SHIRLEY HODGE, Individually and as Personal Representative of the Estate of A. J. HODGE, JR., Deceased,	§	IN THE DISTRICT COURT OF
v.	§	
TEXAS UTILITIES COMPANY; TEXAS UTILITIES ELECTRIC COMPANY (d/b/a VALLEY POWER PLANT); TEXAS UTILITIES GENERATING COMPANY, INC. and TEXAS POWER & LIGHT COMPANY, INC.; CSR, LTD.; BROWN & ROOT USA, INC.; BROWN & ROOT, INC. (A DELAWARE CORPORATION), and as successor to BROWN & ROOT, INC. (A TEXAS CORPORATION), individually and as successor to BROWN & ROOT, INC.	§	FANNIN COUNTY, TEXAS
	§	6TH JUDICIAL DISTRICT

DEFENDANTS' ANSWERS TO PLAINTIFF'S INTERROGATORIES AND REQUESTS FOR PRODUCTION PROPOUNDED TO DEFENDANTS

TO: Plaintiff, by and through her attorney of record, C. Andrew Waters, 400 S. Zang Blvd., Dallas, Texas 75208.

COME NOW BROWN & ROOT USA, INC.; BROWN & ROOT, INC. (Delaware) and BROWN & ROOT, INC. (Texas), Defendants in the above entitled and numbered cause, and files the attached Answers to Interrogatories submitted by the Plaintiff, pursuant to Rule 168 of the Texas Rules of Civil Procedure.

Agreed

- Respons + date to supplmt
- depo of Richardson + per most knowledgable
- overhead docs?

Respectfully submitted,

FANNING, HARPER & MARTINSON
A Professional Corporation

By: _____

PHILLIP S. BROWN
State Bar No. 03160300
300 Preston Commons West
8117 Preston Road
Dallas, Texas 75225
(214) 369-1300 (office)

COMMON OBJECTIONS

Each and every request for information and documents is responded to subject to the common objections set forth below. These objections are set forth here to avoid the duplication and repetition of restating them in each response.

These common objections may be specifically referred to herein for the purposes of clarity. Defendant's failure to specifically incorporate a common objection in a response, however, should not be construed as a waiver of the common objection.

1. Defendant objects to each request for information and documents to the extent it seeks information or documents protected from disclosure by the attorney-client privilege, the attorney work product privilege, and/or the party communication privilege provided for by Rule 166b, Tex. R. Civ. P. and Rule 503, Tex. R. Evid.

2. Defendant further objects to each request for information or documents to the extent that it seeks nonrelevant information or documents. As used herein, all objections as to relevance shall mean that information or documents requested are irrelevant to the subject matter involved in the pending action and are not reasonably calculated to lead to the discovery of admissible evidence.

3. Defendant further objects to each request for information or documents to the extent that it seeks information or documents equally accessible to Plaintiff as to Defendant.

4. Defendant further objects to each request for information or documents to the extent that it seeks information or documents not in the possession or control of Defendant.

Subject to the foregoing common objections, Defendants BROWN & ROOT USA, INC.; BROWN & ROOT, INC. (Delaware) and BROWN & ROOT, INC. (Texas) make and file these their Objections and Answers to Plaintiff's First Set of Interrogatories to Defendant:

INTERROGATORIES

INTERROGATORY NO. 1:

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 of each person who has supplied any information used in answering these interrogatories.

ANSWER: The information was assembled by employees of Brown & Root, Inc., records and files, and from personnel in the appropriate offices, departments and divisions of the corporation.

INTERROGATORY NO. 2:

State whether or not you are a corporation. If so, state your correct corporate name, the state of your incorporation, the address of your principal place of business, the name and address of the person or entity authorized to accept service of process on your behalf, and whether or not you have ever held a Certificate of Authority to do business in the State of Texas.

ANSWER: Yes. Corporate histories will be provided.

INTERROGATORY NO. 3:

Has Defendant or any of this predecessor or subsidiary companies at any time published or distributed any printed material, including brochures, warning signs or statements, pamphlets, catalogs, packaging or other written material or any kind or character containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos? If so, state:

A. The names of each relevant product or type of product.

B. The exact wording of each warning statement on each printed material.

C. A description of the printed material other than the warning statement.

D. The method used to distribute the materials to persons likely to use the products or likely to be exposed to asbestos.

E. The date each warning was first issued or distributed.

F. The name, address, and job title of each person responsible for having drafted or issued the warning statements and/or written materials.

G. The current location of any such printed material and the custodian thereof.

H. The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

ANSWER: Not at the time material herein. Not in the time frame 196__ - 1980

INTERROGATORY NO. 4:

Before 1970, had you received notice that any individual or individuals had claimed injury as a result of exposure to asbestos? If so, state:

A. The name and address of each claimant.

B. The date of notice of each claim.

C. A description of the claim.

D. The type of injuries allegedly sustained.

E. The name and address of each attorney who represented each individual making a claim.

F. The style and court number of each claim.

G. The current location of any such printed material and the custodian thereof.

H. The form in which such literature or printed material can be accessed, i.e., the manner in which such literature is indexed or stored.

Answer: Not at the time material herein. NO.

Interrogatory No. 4:

Before 1960, had you received notice that any individual or individuals had claimed injury as a result of exposure to asbestos? If so, state:

A. The name and address of each claimant.

B. The date of notice of such claim.

C. A description of each claim.

D. The type of injuries allegedly sustained.

E. The name and address of each attorney who represented each individual making a claim.

F. The style and court number of each claim.

G. The disposition of each claim that has been settled or taken to judgment.

ANSWER: No.

INTERROGATORY NO. 5:

List each employee who has acted in a medical advisory capacity to your company at any time during the past 40 years, including, but not limited to, physicians and industrial hygienists, and the current address, telephone number and job title of each of those individuals and who has, had or may have had any knowledge regarding the hazards of asbestos.

ANSWER: None at the time material herein. See 3.

INTERROGATORY NO. 6:

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, state:

A. The name of each such publication.

B. The date of publication and the names of the author and publisher (if any).

C. The date received by Defendant, if known.

D. The name, job title, and address of each person who currently has possession of each publication and its present location.

ANSWER: None at the time material herein. See 3

INTERROGATORY NO. 7:

Has Defendant or any of its subsidiary or predecessor companies at any time been a member of any trade organization or association that published or disseminated any information relating to the hazards of asbestos? If so, state:

A. The name and address of each such association or organization.

B. The dates during which Defendant or any of its subsidiaries or predecessors were members.

C. The names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations related in any way to the hazards of asbestos.

D. Whether any of those publications are still in your possession, and if so:

1. A description of the publications, including the date.

2. The current location of such publications.

3. The custodian of such publications.

4. The method or manner in which such publications are maintained.

ANSWER: Not at the time material herein.

INTERROGATORY NO. 8: Is all tenure material

Identify by name and location each power plant operated by Texas Power & Light that was constructed and/or repaired by you and where which asbestos products were utilized, installed or fabricated, specifying the dates each plant is or was under construction or repair. need date

ANSWER: Only Valley Power Units 2 and 3 are material herein. See contracts and specifications previously furnished to counsel.

INTERROGATORY NO. 9: repair does other date.

Does Defendant have insurance policies that might cover the claims made by Plaintiff in this case? If so, list the name of each insurance carrier and the number of each policy, the amount of layer of coverage, and the effective dates of each policy.

ANSWER: Please see response to Request for Production No. 19.

INTERROGATORY NO. 10:

As to the disease asbestosis, state:

A. The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.

B. How Defendant became aware of the existence of the disease.

C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease and/or of asbestos exposure.

D. What information was disseminated while Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.

E. Whether any such information is still maintained by Defendant or its subsidiary or

predecessor in any written form.

F. Who is the custodian of such information.

G. The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers.

ANSWER: None as of the time material herein.

INTERROGATORY NO. 11:

As to the disease lung cancer, state:

A. The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.

B. How Defendant became aware of the existence of the disease.

C. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.

D. What information was disseminated while Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.

E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.

F. Who is the custodian of such information.

G. The date on which you first received knowledge or information that lung cancer was caused by inhalation of asbestos fibers.

ANSWER: None as of the time material herein.

INTERROGATORY NO. 12:

As to the disease mesothelioma, state:

A. The date on which Defendant or its subsidiary or predecessor first learned that such disease was caused by inhalation of asbestos fibers by humans.

B. The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos dust and fibers.

C. How Defendant or its subsidiary or predecessor became aware of the disease and that it

was caused by exposure to asbestos.

D. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure.

E. What information was disseminated while Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects.

F. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form.

G. Who is the custodian of such information.

H. Whether Defendant agrees that there is no known medical sure for mesothelioma.

ANSWER: None as of the time material herein. 7

INTERROGATORY NO. 13:

Did Defendant or any of its subsidiaries or predecessors maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards or asbestos products? If so, for each such set of minutes, state:

A. The dates of such meeting.

B. The general subject matter discussed at each meeting.

C. Who was in attendance at each meeting.

D. Where and by whom the written minutes are presently maintained.

E. By whom the minutes were taken and put into final format.

F. Whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

ANSWER: Not at the time material herein. #3

INTERROGATORY NO. 14:

State whether you or any of your predecessors and/or subsidiaries maintain, from 1960 through the present or for any portion thereof, copies of invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature relating to the utilization, installation and/or fabrication of asbestos-containing products for use at the Valley Plant, Savoy, Texas. If so, state:

A. The location of such documents.

B. The name and address of the custodian of the documents.

C. The format in which the documents are kept, i.e., hard copy, microfilm, microfiche, etc.

D. In what form the documents can be accessed, i.e., by plant, by product type, etc.

ANSWER: Those relevant, nonprivileged documents material to Units 2 and 3 at Valley Power were previously furnished to counsel.

Repair docs/NO other docs.

INTERROGATORY NO. 15:

Did you or your subsidiaries or predecessor(s) ever arrange for any labor inspectors, insurance company inspectors or anyone from your company to go to any construction site where asbestos-containing products were being used or installed to make or take dust level counts? If so, state when this procedure was done, the purpose of such procedures, and all results of such procedures.

ANSWER: Not at the time material herein.

(3)

INTERROGATORY NO. 16:

Does your company have, or has it ever had, or have your predecessor(s) or subsidiaries ever had, a Medical Department? If so, state:

A. The year such Medical Department was established;

B. Whether or not such Medical Department has operated continuously since being established;

C. The name of each director, chief, or head of your Medical Department year by year, beginning with the first year you had a Medical Director or Medical Department, and the last known address and phone number of each;

D. State the duties and responsibilities of such Medical Department.

ANSWER: None.

INTERROGATORY NO. 17:

Does your company have, or has it ever had, or have your predecessor(s) or subsidiaries ever had, a Safety Department? If so, state:

A. The year such Safety Department was established;

B. Whether or not such Safety Department has operated continuously since being established;

C. The name of each director, chief, or head of your Medical Department year by year, beginning with the first year you had a Safety Director or Safety Department, and the last known address and phone number of each;

D. State the duties and responsibilities of such Safety Department.

ANSWER: At the time material herein, safety was a corporate concern. An investigation is underway but not yet complete. It appears, however, that no person who worked on safety at the corporate headquarters is still with the company. This answer will be supplemented when more information becomes available. supplemented

INTERROGATORY NO. 18:

State in detail what tests, if any, Defendant ever made 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 plants or industrial facilities.

ANSWER: None at the time material herein. → 1980.

INTERROGATORY NO. 19:

Please state the following with respect to each expert witness that you may call during trial of these cases. Please designate with specificity the expert witnesses that you will call, including:

A. The name, address, and job classification of each such expert witness;

ANSWER: No decision has been made. Will supplement.

B. The subject matter on which the expert is expected to testify;

ANSWER: Not applicable.

C. The substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion;

ANSWER: Not applicable.

D. Whether any person identified in subparagraph (a) above has provided a report or other documentation to you, and if so, identify each such document or report;

ANSWER: Not applicable.

E. Identify all documents that you have provided to each person identified in response to subparagraph (a) above;

ANSWER: Not applicable.

Describe in detail the education and work history of, and identify any books, treatises, articles, published and unpublished reports, studies or other scholarly works authored by any individual identified in response to subparagraph (a) above. Alternatively, in lieu of said response, attach a copy of a resume or curriculum vitae and a list of publications to your answers.

ANSWER: Not applicable.

INTERROGATORY NO. 20:

Please state the name, present address and present telephone number, along with the experience and qualifications, if applicable, of each and every person, known to Defendant or to Defendant's agents, having knowledge of facts relevant to this case involving, but not limited to:

A. identification of asbestos-containing products or type of products to which Decedent was exposed or facts disputing the identification of asbestos-containing products or type of product in this case.

ANSWER: None known. Investigation is ongoing.

B. Plaintiffs damages, injuries, and/or facts disputing Plaintiff's alleged damages and/or injuries;

ANSWER: None known. Investigation is ongoing.

C. the negligence of any person or entity other than Defendant which Defendant contends was a cause of each and every individual Plaintiff's, separate and distinct from all other Plaintiffs within the group, alleged injuries and/or damage;

ANSWER: None known. Investigation is ongoing.

D. each of Defendant's defenses enumerated in Defendant's most recently filed Answer.

ANSWER: None known. Investigation is ongoing.

INTERROGATORY NO. 21:

Please state the precise State and/or Federal regulations, laws, statutes, or other authority pertaining to industrial hygiene or worker safety and health that governed, controlled and/or were applicable to asbestos exposure during operations at any of your plants where asbestos products were manufactured or assembled during the past forty years.

ANSWER: None as of the time material herein.

INTERROGATORY NO. 22:

Please describe each and every occasion during the past thirty years when any regulatory agency or other governing body inspected any of your construction sites where asbestos products were used, fabricated, and/or installed for the purpose of ascertaining whether health or safety regulations were being followed or adhered to, including the date of such inspection and/or meeting, the results, and whether a written report was produced.

ANSWER: None as of the time material herein.

INTERROGATORY NO. 23:

Please state whether a medical monitoring program, medical examination program, or other medical surveillance was provided to your employees who were exposed to asbestos at any time during the past 35 years. If so, please indicate what records of such program, examination or surveillance exist at this time, including but not limited to reports, x-rays, medical notes and/or descriptions of any kind.

ANSWER: No formal program as of the time material herein. Employees were given pre-employment physicals. Decedent was not an employee of Brown & Root.

INTERROGATORY NO. 24:

Please state whether written warnings were placed at any locations adjacent or near asbestos in place at any of your construction sites where asbestos products were cut, sawed, fabricated *[sic]*, and/or installed anytime from 1968 to the present. If so, please describe with specificity such signs, including size, color, wording, etc.

ANSWER: Investigation is ongoing. Will supplement.

I.

PRELIMINARY STATEMENT APPLICABLE TO ALL REQUESTS

Subject to the limitations set forth in this Preliminary Statement, and the Common Objections set forth below, in a show of good faith and in the spirit of cooperation, and without waiving any of these objections, Defendant will attempt to respond. It should be noted that Defendant has not fully completed its investigation. It is anticipated that further discovery, independent investigation, legal research, and analysis will supply additional facts and add meaning to known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the statements set forth here.

The following responses are given without prejudice to Defendant's right ot produce evidence of any subsequently discovered fact or facts. Defendant accordingly reserves the right to change any and all responses herein as additional facts are ascertained, analyses are made, legal research is completed, and contentions are made.

The documents identified which Defendant agrees to provide for inspection in response to these specific requests for production will be provided upon reasonable notice at the offices of Defendant's counsel for inspection and copying between the hours of 9:00 a.m. to 5:00 p.m. on Monday through Friday, excluding holidays. If Plaintiff's counsel so chooses and makes arrangements accordingly, Defendant, at Plaintiff's expense, will copy and forward to Plaintiff's counsel such documents identified herein.

II.

COMMON OBJECTIONS APPLICABLE TO THE "CLAIMS OF PRIVILEGE," "LOST OR DESTROYED DOCUMENTS" AND "DEFINITIONS" SECTIONS IN PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

=> Andrew Waters #15 96 .. 9 23:15

1. Defendant objects to the "CLAIMS OF PRIVILEGE" section in Plaintiffs' First Request for Production of Documents on the grounds that it is overly broad and purports to create and/or impose objections upon Defendant beyond those contained in the Texas Rules of Civil Procedure.

2. Defendant objects to the "LOST OR DESTROYED DOCUMENTS" section in Plaintiffs' First Request for Production on the grounds that it is vague, ambiguous and unintelligible and purports to create and/or impose obligations upon Defendant beyond those contained in the Texas Rules of Civil Procedure.

3. Defendant objects to the "DEFINITIONS" section in Plaintiffs' First Request for Production of Documents and each and every "definition" contained in the "DEFINITIONS" section on the grounds that this section and the "definitions" contained therein purport to create and/or impose obligations upon Defendant beyond those contained in the Texas Rules of Civil Procedure. Defendant further objects to the following definitions:

a. Defendant objects to the definitions of "person," "You," "Your," "Defendant" and "Brown & Root" on the grounds that these definitions are vague and ambiguous, overly broad, harassing, and burdensome. Defendant further objects to these definitions as calling for discovery from an entity other than the named Defendant in this case. Finally, Defendant objects to these definitions as calling for documents protected from discovery by the attorney-client privilege, attorney work product privilege, investigation privilege, joint defense privilege, and/or party communication privileges.

b. Defendant objects to the definition of "Document(s)" as calling for documents protected by the attorney-client privilege, the attorney work product privilege, the party communication privilege, the investigative privilege, the joint defense privilege and also seeks to discovery matters exempt from discovery and/or privileged as trade secrets and/or proprietary

and/or confidential information. Defendant further objects to the definition of "Document(s)" as vague, ambiguous, overly broad, unduly burdensome and harassing. Finally, Defendant objects to the definition of "Document(s)" as calling for documents that are as readily available to Plaintiffs as to Defendant.

c. Defendant objects to the definition of "Relate to" and "Relating to" on the grounds that these definitions are vague, ambiguous, overly broad, and as applied would be unduly burdensome, harassing, and would involve unnecessary expense.

d. Brown & Root, Inc. incorporates each of these Common Objections by reference into its Objections and Responses to Specific Requests set forth below.

III.

OBJECTIONS APPLICABLE TO MORE THAN ONE REQUEST

To avoid repetition of objections that apply to several requests, Defendant's objections are set forth in the form of specifically numbered objections and each objection is, where applicable, specifically incorporated by paragraph number into Defendant's responses to particular requests.

1. Defendant objects to each and every request which seeks to discover any documents protected by the attorney-client privilege.

2. Defendant objects to each and every request which seeks to discover any documents protected by the attorney work product privilege.

3. Defendant objects to each and every request which seeks to discover any documents protected by the party communications privilege.

4. Defendant objects to each and every request which seeks to discover any documents protected by the investigative privilege.

5. Defendant objects to each and every request which seeks to discover any documents

protected by the joint defense privilege.

6. Defendant objects to each and every request which seeks to discover any documents which are exempt from discovery and/or privileged as trade secrets and/or proprietary and/or confidential information. Defendant will produce responsive, relevant documents, which are not otherwise objectionable, only upon issuance of a proper protective order.

7. Defendant objects to each and every request which seeks to discover any documents that are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

8. Defendant objects to each and every request which is overly broad, unduly burdensome, harassing, and/or would involve unnecessary expense.

9. Defendant objects to each and every request which is vague and ambiguous.

10. Defendant objects to each and every request which is multifarious.

11. Defendant objects to each and every request which seeks to discover any documents which are as readily available to Plaintiffs as to Defendant.

12. Defendant objects to each and every request which seeks to discover any documents beyond the scope of permissible discovery allowed by the Texas Rules of Civil Procedure.

13. Defendant objects to each and every request which seeks to discover any documents not in the possession, custody or control of this Defendant.

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

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

RESPONSE: None known. Investigation is ongoing.

REQUEST FOR PRODUCTION NO. 2:

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

RESPONSE: None.

REQUEST FOR PRODUCTION NO. 3:

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

RESPONSE: None.

REQUEST FOR PRODUCTION NO. 4:

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

RESPONSE: None.

REQUEST FOR PRODUCTION NO. 5:

Produce any and all documents, memoranda and/or other writings that indicate and/or reflect or refer to any inspections by any regulatory agency for the purpose of ascertaining whether health or safety regulations were being followed or adhered to at produced by such agency. This request specifically seeks any and all such documentation referring to dust hazards, including but not limited to asbestos at any of your construction sites.

RESPONSE: None.

REQUEST FOR PRODUCTION NO. 6:

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

RESPONSE: None available.

REQUEST FOR PRODUCTION NO. 7:

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

RESPONSE: None other than what is in the construction documents, copies of which were produced to counsel.

REQUEST FOR PRODUCTION NO. 8:

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

RESPONSE: None material.

REQUEST FOR PRODUCTION NO. 9:

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

RESPONSE: None material.

REQUEST FOR PRODUCTION NO. 10:

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

RESPONSE: None material.

REQUEST FOR PRODUCTION NO. 11:

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

RESPONSE: See documents previously provided. Investigation is ongoing.

REQUEST FOR PRODUCTION No. 12:

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

RESPONSE:

None available.

REQUEST FOR PRODUCTION NO. 13:

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

RESPONSE: Photos are available but these do not necessarily reflect presence of asbestos products.

REQUEST FOR PRODUCTION NO. 14:

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

RESPONSE: None available.

REQUEST FOR PRODUCTION NO. 15:

Produce any documents, including but not limited to workers compensation claims, indicating that any of your employees claimed injury as a result of exposure to asbestos products while employed by you at any of your construction sites where asbestos was used.

RESPONSE: None material.

REQUEST FOR PRODUCTION NO. 16:

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

RESPONSE: None available.

REQUEST FOR PRODUCTION NO. 17:

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

RESPONSE: These will be sought and produced.

REQUEST FOR PRODUCTION NO. 18:

Produce any documents reflecting a workers compensation claim filed against Defendant or Defendant's workers compensation carrier containing allegations that an employee contracted a disease

as a result of inhaling asbestos fibers.

RESPONSE: None material.

REQUEST FOR PRODUCTION NO. 19:

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

RESPONSE: None available.

REQUEST FOR PRODUCTION NO. 20:

Produce any and all documents, including invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature related to the use and/or installation of asbestos-containing products at the Valley Plant (Savoy, Texas).

RESPONSE: No relevant, nonprivileged documents available.

REQUEST FOR PRODUCTION NO. 21:

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

RESPONSE: None material.

REQUEST FOR PRODUCTION NO. 22:

In the event that Defendant performed or had performed any dust level counts or measurements of any of its construction sites or industrial facilities with respect to asbestos dust, product 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 studies or counts.

RESPONSE: None material.

RESPONSE FOR PRODUCTION NO. 23:

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

RESPONSE: Not applicable.

REQUEST FOR PRODUCTION NO. 24:

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

RESPONSE: None at this time.

REQUEST FOR PRODUCTION NO. 25:

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

RESPONSE: Not applicable.

REQUEST FOR PRODUCTION NO. 26:

Produce any and all documents which will be used at the time of trial, including all potential exhibits and those documents which may be used to cross-examine other witnesses or in rebuttal, and which you contend are relevant to any of Defendant's enumerated defenses in Defendant's most recently filed Answer.

RESPONSE: See objections and privilege assertions.

REQUEST FOR PRODUCTION NO. 27:

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

RESPONSE: Unknown if any such documents exist; investigation is ongoing.

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

The undersigned, being first duly sworn, deposes and says:

That he is the Secretary of Brown & Root, Inc., Defendant in this lawsuit; that he is authorized to make this verification on behalf of the Corporation; that the information set forth in the foregoing Answers to Interrogatories was assembled by employees of Brown & Root, Inc. from the Corporation's records and files and from personnel in the appropriate offices, departments and divisions of the Corporation; that he is informed and, therefore, believes that the matters therein stated are true and on that ground avers that the matters stated therein are true to the best of his knowledge, information and belief.

Peter W. Arbour
PETER W. ARBOUR

SUBSCRIBED AND SWORN TO BEFORE ME this 20th day of May, 1996.

Dellanira Solis
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

DELLANIRA SOLIS
Notary Public, State of Texas
Commission Expires: 11-20-97

(214) 369-3345 (telecopier)

ATTORNEYS FOR BROWN & ROOT USA, INC.; BROWN & ROOT, INC. (Delaware) and BROWN & ROOT, INC. (Texas)

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been forwarded to Plaintiffs' counsel and all other counsel have been notified of this filing (with copies available on request), on this the 20th day of May, 1996.

PHILLIP S. BROWN