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JUN. 11 97 * 01257

NO. B151305

MILTON ORION WEST, et al.,	)	IN THE DISTRICT COURT
Plaintiffs,	)	
v.	)	FOR JEFFERSON COUNTY, TEXAS
OWENS-CORNING FIBERGLAS CORPORATION, et al.,	)	
Defendants.	)	60TH JUDICIAL DISTRICT

RECEIVED FEB 10 1997 JACKSON & WALKER

FILED DISTRICT COURT JEFFERSON CO. '97 FEB -7 A11 JOHN S. APPLEMAN

OBJECTIONS OF DEFENDANT, NORFOLK SOUTHERN CORPORATION, INDIVIDUALLY AND AS A SUCCESSOR-IN-INTEREST TO NORFOLK SOUTHERN RAILWAY COMPANY, SUCCESSOR-IN-INTEREST TO SOUTHERN RAILWAY COMPANY, TO PLAINTIFF'S INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUEST FOR ADMISSIONS

Defendant, Norfolk Southern Corporation, Individually and as Successor-in-Interest to Norfolk Southern Railway Company, Successor-in-Interest to Southern Railway Company objects to answering and responding to each and every Interrogatory, Request for Production and Request for Admission propounded by the Plaintiff (which are attached to and incorporated herein as Exhibits "A", "B", and "C") due to the fact that the Plaintiff was never an employee of this Defendant and it was not in existence at the time of the Plaintiff's alleged employment. Effective June 1, 1982, Southern Railway Company and Norfolk and Western Railway Company became sister corporations with the stock of each owned by the Norfolk Southern Corporation, a non-carrier holding company which has never operated a railroad. Each of the carriers continued to operate as separate legal entities, a practice which continues to date. Southern Railway Company

PLAINTIFF'S EXHIBIT RR-442b

subsequently changed its name to Norfolk Southern Railway Company. Norfolk Southern Railway Company remains a separate distinct entity.

Insofar as the above objection is made to Plaintiff's Requests for Admission, Defendant is not able to admit or deny any of the individual requests.

Respectfully submitted,

JACKSON & WALKER, L.L.P.

By: _____

JAMES L. WALKER
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ATTORNEYS FOR DEFENDANT, NORFOLK SOUTHERN CORP., SOUTHERN RAILWAY CO., AND NORFOLK SOUTHERN RAILWAY COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served by certified mail, return receipt requested, to Mr. Allen M. Stewart, Baron & Budd, The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219, on this the 16 day of February, 1997. All defense counsel may request a copy of this document.

_____
ROSS CITTI

NO. B151305

MILTON ORION WEST, et al,	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	JEFFERSON COUNTY, TEXAS
VS.	§	
	§	
OWENS-CORNING FIBERGLAS CORPORATION, et al.,	§	
	§	
	§	60TH JUDICIAL DISTRICT
Defendants.		

PLAINTIFF'S INTERROGATORIES TO DEFENDANT

TO: **NORFOLK SOUTHERN CORPORATION (individually and as successor-in-interest to NORFOLK SOUTHERN RAILWAY COMPANY, successor-in-interest to SOUTHERN RAILWAY COMPANY), by and through its attorney of record, James L. Walker, Esq., Jackson & Walker, L.L.P., 112 E. Pecan St., Suite 2100, San Antonio, Texas 78205-1521.**

Pursuant to Rules 166b and 168 of the Texas Rules of Civil Procedure, Plaintiff Willie G. Holloman in the above-styled and numbered cause serves these Interrogatories upon you, the answers to which shall be made under oath separately and fully in writing within thirty (30) days after the service of such Interrogatories and shall be given to the undersigned attorney of record.

Respectfully submitted,

BARON & BUDD, P.C.
3102 Oak Lawn Ave., Suite 1100
Dallas, Texas 75219-4281
214/521-3605; 214/520-1181 (fax)

By: Kimberly Castles
PETER A. KRAUS
Texas State Bar 11712980
JENNIFER A. CURRIE
Texas State Bar 00783916
KIMBERLY A. CASTLES
Texas State Bar 00787221
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

Counsel for defendant was served with a true copy of this pleading on ~~2/22/96~~ 3/5/96.

Kimberly Castles
KIMBERLY A. CASTLES

EXHIBIT A

DEFINITIONS

As used in these Interrogatories, the following terms mean:

44. The words "Defendant," "You," "Your," "Your company," all mean the corporate Defendant answering these Interrogatories, and any of its merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates. This definition includes present and former officers, directors, agents, employees, and all other persons acting or purporting to act on behalf of the corporate Defendant or its predecessors, subsidiaries, and/or affiliates. "Predecessors" further means any business firm, whether or not incorporated, which had all or some of its assets purchased by you or came to be acquired by you whether by merger or consolidation. "Subsidiaries" further means any business firm, whether or not incorporated, which is or was in any way owned or controlled, in whole or in part by Defendant or its predecessors.

45. The words "document", "documents", "written materials", or "printed matter" include any written, printed, recorded or graphic matter, photographic or videographic matter or sound reproductions or computer input or output, including but not limited to: contracts, notes, rough drafts, inter-office memoranda, reports, research materials, logs, diaries, calendars, bank statements, tax invoices, diagrams, studies, manuals, minutes, by-laws, articles of incorporation, resolutions, shareholder endorsements, or partnership documents however produced or reproduced, that (1) are now or were formerly in the possession, custody, or control of the Defendant (including documents at any time in the possession, custody or control of their subsidiaries, whether domestic or international, or merged or acquired predecessors), or (2) are known or are believed to be responsive to these Interrogatories and Requests for Production regardless of who now has or formerly had custody, possession or control.

46. The words "person" or "persons" include natural persons, firms, partnerships, associations, joint ventures, corporations, and any other form of business organization or arrangement, and officers, directors, shareholders, employees, agents, and contractors of any business organization or arrangement.

47. The words "meeting" or "meetings" may mean any coincidence or presence of any persons, whether or not such coincidence or presence was pre-arranged, was formal or informal, or was in connection with some other activity.

48. The words "describe" or "description", when referring to a place, thing, or occurrence, mean to identify with sufficient particularity the place, thing, or occurrence so as to enable one to locate, examine and fully comprehend or understand the place, thing, or occurrence described.

49. The words "product containing asbestos fibers," "asbestos-containing products," "asbestos products" all refer to any products or materials prepared in any way for sale and/or distribution that contained any kind of asbestos in any possible form. The words "asbestos materials" refer to any and all materials, substance, or matter used or assembled or fabricated during the manufacture of a product, and that contain at least some asbestos fibers. "Product" includes, but is not limited to, pipecovering, turbines, cement, block, gaskets, packing, plaster, joint compound, floor and ceiling tiles, mastics, boilers, raw fibers, fireproofing, shingles, panels, sheets, boards, millboard, refractory cement, boilers, firebrick, brake and clutch linings, finishing compound, texture, and other construction, building, drywall, lath and insulation materials.

50. The words "distribute," "distributed," "distributor," and "distribution" all refer to the sale, marketing, dispersal and/or shipment of asbestos-containing products for purposes of their sale, resale and/or for purposes of filling orders provided by other business concerns. The word "distributor" specifically refers to a company or its sales representatives, whether dependent or independent, responsible for sales or marketing of products.

51. The words "medical advisory capacity" refer to the duties, abilities or capabilities of any member of Defendant's staff, or any individual or organization who has contracted with Defendant, to provide services of a medical nature, including but not limited to providing medical advice.

52. The words "trade organization," or "trade association" mean any organizations or associations of business or industrial entities that are associated and/or meet for the purpose of achieving common goals and/or exchanging information related to common needs or interests, and/or learning information or facts of interest to the various members of the organization or association.

53. The words "research" and "research department" refer to efforts, whether scientific or otherwise, to develop new and/or different types of products, processes or designs of pre-existing products and is meant to incorporate all efforts that specifically contemplated the possible alteration of products.

54. The words "medical department" and "safety department" refer to an individual or a section or group of individuals working for Defendants, either directly or in a contractual capacity, whose purpose was or is to provide guidance, assistance, or advice concerning any aspects of medical health, including but not limited to, the safety of Defendant's workers and the safety of individuals using or exposed to asbestos products.

55. The words "industrial hygiene surveys" mean surveys, tests, interviews, or other procedures taken or effectuated for the purpose of determining the possibility or existence of detrimental health effects caused by exposure to asbestos.

56. The words "potential health hazards," or "health hazards" refer and relate to any injury, effect, damage, scarring, wound, impairment or disability of any part of the human anatomy, including but not limited to the lungs and lung linings, that is caused by or associated with exposures to asbestos dust and fibers.

57. The terms "test" and "testing" are used in their broadest sense, including but not limited to, studies of atmospheric dust samples, studies of the concentration of asbestos in such airborne test sample, studies of the lung conditions of workers (by x-ray or other means of medical surveillance), pulmonary function studies of workers, animal studies, pathological studies, industrial hygiene studies, risk assessment studies, cost-benefit analyses and any other studies concerning health and safety.

58. The terms "railroad", "railway cars and/or engines" and "railyard(s)", refer and relate to any and all railroad track lines, roundhouses, shops, railyards, and freight, passenger, refrigerator or other railroad cars, engines, and/or locomotives, as well as the brakes and boilers used in the operation of such freight, passenger, refrigerator or other railroad cases, engines and/or locomotives, and including those containing boilers owned, either as owner or owner pro hac vice, rented, leased, chartered, operated, or otherwise utilized by Defendant in Defendant's regular course of business or over which Defendant had the right to direct, control, repair, or place in railway operation.

59. The terms "railroad worker" "employee" includes any operator, laborer, or maintenance and/or repair workers, persons whose businesses include maintaining or operating cars and/or engines or railroad track lines, or who are connected with the railroad as such and in some capacity to assist in its conduct, maintenance, or service, including all those whose labor contributes to the accomplishment of the main object in which the railroad is engaged. The term includes anyone who, in the course of his work about a railroad, exposes himself to risk traditionally associated with railroad duties of a member of a railroad's crew. As such, a "railroad worker" is an employee whose duties contribute to the function of the "railroad" on which he works or the accomplishment of its mission.

60. The term "agreement" includes any contract either oral or written entered into between Defendant and any other party either voluntarily or as the result of any sale, purchase, negotiation, collective bargaining or course of dealing.

61. "EPA" means Environmental Protection Agency. This agency is charged with the promulgation and enforcement of emissions from manufacturing sources into the air and water. It is charged with maintaining and/or improving the quality of the environment. Several other agencies have groups which work on asbestos diseases, including the National Institutes of Health, the National Cancer Institute, and several interagency committees.

62. "NIOSH" means National Institute for Occupational Safety and Health. This group, part of Health, Education and Welfare, is responsible for providing data on the toxicity and safe exposure limits for chemical and physical agents found in the workplace.

63. "NIESH" means National Institute of Environmental Health Sciences. This group, also an agency of Health, Education and Welfare, performs studies on chemical and physical agents emitted into the environment which may have an impact on the population.

64. "OSHA" means Occupational Safety and Health Administration. This group is responsible for promulgating and enforcing exposure of workers in the workplace. It is part of the Department of Labor.

65. "Friction product" includes any product used to absorb, alleviate, disperse or distribute friction or the effects of friction and includes, but is specifically not limited to, brake shoes and linings and clutch linings.

66. "Each" shall mean each and every; "All" shall mean any and all.

67. "Identify" or "identity" when used in reference to documents shall be understood as an instruction to identify the document completely. The identification shall include, but not be limited to, the document's date, title, authors, addresses and other recipients, type (e.g., letter, notes, memoranda, diary, etc.), subject matter, present location, present custodian, and the purposes for which the document was created or prepared.

68. "Relating to" and "regarding" shall mean embodying, pertaining to, concerning, constituting, comprising, reflecting, discussing, referring to, or having any logical or factual connection whatsoever with the subject matter in question.

69. "Relationship" means any connection, affiliation or association of any nature or kind whatsoever, currently or previously in existence.

70. The words "releasing products to the public" means selling, distributing, marketing, or otherwise causing the products to be available to the general public and/or retail and wholesale outlets for further distribution or sale.

71. The words "marketed," and "market" mean and include all efforts to aid or assist in the distribution and/or sale of products, including offers on the part of the manufacturer or distributor to sell products and the advertising of products and sales solicitation efforts.

72. The word "manufacture," or "manufactured" means to fabricate, to construct, to assemble, to prepare for fabrication, construction or assembly, and any other action taken prior to completion of the product or material before the time of its shipment.

INTERROGATORIES

INTERROGATORY NO. 1.: State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all positions, titles, or jobs held while working for Defendant of each person who supplied any information used in answering these interrogatories.

ANSWER:

INTERROGATORY NO. 2.: State the full and proper business name and address of the Defendant. State whether or not you are a corporation. If so, state your 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, maintained a registered agent in Texas, engaged in business in Texas or recruited or hired employees in Texas.

ANSWER:

INTERROGATORY NO. 3.: With regard to each policy of liability insurance intended to provide coverage to Defendant, its agents and/or employees for the liability in connection with the allegations such as those delineated in Plaintiff's Original and Amended Petitions including, but not limited to, all primary and excess policies covering the Defendant for such liability, state the name and address of each carrier.

ANSWER:

INTERROGATORY NO. 4.: State whether you contend that the Plaintiff has done anything or failed to do anything that constitutes contributory negligence and/or a failure to mitigate damages. If so, please describe the basis of your contention and what evidence exists to support that contention.

ANSWER:

INTERROGATORY NO. 5.: List each and every place of work and job assignment of the Plaintiff which he held during his employment with you and describe in detail the duties involved in each of the job assignments.

ANSWER:

INTERROGATORY NO. 6.: Describe in detail your knowledge of the nature of other work performed in your railroad or railroad shops during the period of Plaintiff's employment, where insulation and asbestos-containing products were installed, removed or used by railroad workers working in the vicinity of the Plaintiff.

ANSWER:

INTERROGATORY NO. 7.: If you have alleged in your answer that someone else's conduct or some other condition or event was the "sole proximate cause" or was "contributing proximate cause" of the alleged injuries made the basis of this lawsuit, please describe in detail the identity of such other person, entity, corporation, event, or condition and identify all evidence upon which you base this contention.

ANSWER:

INTERROGATORY NO. 8.: If you have alleged in your answer that Plaintiff's injuries and/or damages were caused by some other injury, disease or condition, either pre-existing or unrelated to and arising after or in conjunction with the Plaintiff's exposure to asbestos-containing products, please describe in detail such pre-existing or subsequent disease, injury or condition. For each alleged other injury, disease or condition, identify all evidence upon which you base this contention.

ANSWER:

INTERROGATORY NO. 9.: Please state the name, most recent 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 Plaintiff was exposed or facts disputing the identification of these products;
B. Plaintiff's damages, injuries and/or facts disputing Plaintiff's alleged damages and/or injuries;
C. The negligence of any person or entity other than Defendant which Defendant contends was a cause of Plaintiff's alleged injuries and/or damages;
D. Please identify documents which will be used at time of trial, (Exhibit List, Deposition List), which are relevant to each of Defendant's enumerated defenses in Defendant's last filed Answer.

ANSWER:

INTERROGATORY NO. 10.: Identify the names and addresses of all individuals Defendant may call as an expert witness(es) at trial, and for each individual, please state:

A. The subject matter in which the witness is expected to testify, the substance of the facts and opinions to which the witness intends to testify on the Defendant's behalf and, a summary of the grounds for each opinion;
B. All factual observations, test results, supporting data, learned treatise (books, general articles, texts or other publications) and opinions which the witness has generated, been provided, intends to use, and/or may use to support his/her opinions and conclusions relative to the case whereupon which the witness has or will base his/her testimony in this matter. The identity and address of each consulting expert whose opinions or data have been referred to and/or relied upon by the expert witness, and the complete title and author of each learned treatise referred to and/or relied upon by the witness for information and/or corroborating his/her opinions regarding the subject matter of this lawsuit.

ANSWER:

INTERROGATORY NO. 11.: Identify all persons, entities, agencies or others, whether governmental (state or federal) or private, who participated in any investigation of the claims made the basis of this lawsuit.

ANSWER:

INTERROGATORY NO. 12.: Before 1980, did Defendant or any predecessor or subsidiary company of Defendant receive notice that any individual or individuals claimed injury(ies) 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 by each claimant;
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.
H. The name, address and title of the person having custody of the records pertaining to each such claim.

ANSWER:

INTERROGATORY NO. 13.: Has Defendant or any of its predecessor or subsidiary companies at any time published, distributed or displayed any printed material, including brochures, pamphlets, catalogs, warning signs or statements, packaging or other written material of any kind or character containing any warning concerning the possibility of injury resulting from the use of asbestos-containing products and/or machinery requiring the use of asbestos-containing products and/or exposure to airborne asbestos resulting from the use of asbestos-containing products by others? If so, state:

A. The exact wording of each warning statement and a description of the material upon which the warning was printed;
B. The method(s) used to distribute the materials to persons likely to use the asbestos-containing products or likely to be exposed to airborne asbestos;
C. The date each warning was first issued or distributed;
D. The name, address, and job title of each person responsible for having drafted or issued the warning statements and/or written materials;
E. The current location of any such printed material and the custodian thereof;
F. 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:

INTERROGATORY NO. 14.: Did Defendant, its agents and/or employees, borrowed servants or any other entity or person at the direction of the Defendant install, repair, replace, use, prepare for use, assemble, store and/or apply, either as an original appurtenance of the railroad or placed in/on the railroad in conjunction with repairs, alterations or fabrications to the railroad, any asbestos-containing products or machinery requiring the use of asbestos or asbestos-containing products during the time Plaintiff worked for Defendant and on such of Defendant's railroad or railway car(s) and/or engine(s), as previously defined, upon which Plaintiff worked including but specifically not limited to the following types of products: boilers, asbestos cement, pipe, pipecovering, gaskets, flat and corrugated siding, millboard, cements and fillers, insulated paper, firebrick, insulating materials, spray on fireproofing compounds, clothing, thermal, electrical and acoustical insulating materials, flooring, motor casings, insulating tapes, friction products, brake shoes, brake linings, clutch linings, wire and cable? If so, identify:

A. By name and number each of Defendant's railroad(s), whether operating or in railyards, upon which Plaintiff worked and upon which the asbestos-containing product(s), friction products and/or machinery requiring the use of asbestos or asbestos-containing products were installed, repaired, replaced, used, prepared for use, assembled, stored or applied during the time Plaintiff worked for Defendant;
B. The particular type of asbestos-containing product(s), friction products and/or machinery requiring the use of asbestos or asbestos-containing products present on said railroads;
C. The trade or brand name of each of the asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products installed, repaired, replaced or applied upon the railroad(s) and/or railway car(s) and/or engine(s) in question;
D. The years during which each named asbestos product was applied, assembled, stored, used, prepared for use or installed either as an original appurtenance of the railroad or railway car(s) and/or engine(s) or placed on/in the railroad or railway car(s) and/or engine(s) in conjunction with repairs, alterations or fabrications to the railroad(s) and/or railway car(s) and/or engine(s); and
E. The dates of any removal or abatement of such asbestos-containing products, friction products and/or machinery requiring the use of asbestos-containing products from the railroad(s) and/or railway car(s) and/or engine(s) in question.

ANSWER:

INTERROGATORY NO. 15.: If the answer to the preceding interrogatory is in the affirmative or if any asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products are identified in response to such interrogatory, state the following as to each identified product:

A. The name(s) of the company(ies), entity(ies) or other persons, whether crew members, builders, subcontractors, employees, borrowed servants or others installing, repairing, replacing, using, preparing for use, assembling or applying each asbestos-containing product, friction product and/or machinery requiring the use of asbestos or asbestos-containing products on such of Defendant's railroad(s) and/or railway car(s) and/or engine(s) upon which and in the vicinity of which Plaintiff worked;

B. A description of the physical appearance of each of the named asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products identified;

C. A detailed description of the intended uses of the named asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products identified;

D. A detailed description of the location upon each of Defendant's railway car(s) and/or engine(s) in question where such asbestos-containing products and/or machinery requiring the use of asbestos or asbestos-containing products were installed, repaired, replaced or applied;

ANSWER:

INTERROGATORY NO. 16.: Has Defendant its agents and/or employees or any other entity at the direction of Defendant, including any of its predecessor or subsidiary companies, engaged in or contracted with another entity for the acquisition, ordering, purchasing, supplying or distributing of asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products any time prior to or during the time Plaintiff was employed by Defendant for use on or in such of Defendant's railroad(s) and/or railway car(s) and/or engine(s) upon which Plaintiff worked including but specifically not limited to: boilers, asbestos cement pipe, pipecovering, gaskets, flat and corrugated siding, millboard, cements and fillers, insulated paper, firebrick, insulating materials, spray on fireproofing compounds, clothing, thermal, electrical and acoustical insulating materials, flooring, motor casings, insulating tapes, wire, cable, brake shoes, brake linings, and clutch linings? If so, identify:

A. Each of Defendant's railway car(s) and/or engine(s) by name and number upon which Plaintiff worked for which the asbestos-containing products, friction products and/or machinery identified were ordered, purchased, supplied or distributed during the time Plaintiff was employed by Defendant;

B. The particular type of asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products acquired;

C. The trade or brand name of each of those asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products ordered, purchased, supplied or distributed;

D. The years such asbestos-containing products were acquired, ordered, purchased, supplied or distributed by Defendant;

E. The dates of any removal or abatement of such asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products from the railway car(s) and/or engine(s) and/or locomotives in question.

ANSWER:

INTERROGATORY NO. 17.: If your answer to the preceding interrogatory is in the affirmative, or if any asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products are identified in response to such interrogatory, state the following as to each product so identified for each of the railway car(s) and/or engine(s) and/or locomotive(s) identified:

A. The name(s) of the company(ies), entity(ies), manufacturer(s) from which the asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products were acquired, ordered, purchased, supplied or distributed;
B. The date(s) each asbestos-containing product, friction products and/or machinery requiring the use of asbestos or asbestos-containing products was ordered, purchased, supplied or distributed;
C. A description of the physical appearance of each of the named asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products;
D. A detailed description of the intended uses of the named asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products;
E. Identify the last year that Defendant ordered, purchased, supplied or distributed each asbestos-containing product, friction products and/or machinery requiring the use of asbestos or asbestos-containing products.

ANSWER:

INTERROGATORY NO. 18.: 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 purchase or acquisition of asbestos-containing products, friction products and/or machinery requiring the use of asbestos-containing products. 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 railway car and/or engine name and/or locomotive name, by railroad track line, by product type, etc.

ANSWER:

INTERROGATORY NO. 19.: Identify all persons, including name, address and telephone number, who provided and/or conducted or were responsible for conducting any type of safety training, during the time Plaintiff was employed by Defendant, to Plaintiff and the crew, employees or borrowed servants working upon Defendant's railroad, railway car(s) and/or engine(s) and/or locomotive(s).

ANSWER:

INTERROGATORY NO. 20.: At any time prior to 1980 did Defendant or any of its agents, employees or anyone at the direction of Defendant, Defendant's agent or employees ever conduct an investigation, survey or other process to identify the primary emission sources of airborne asbestos fibers and/or to assess and/or sample for the detection of, the quantity of, or threshold limit value of airborne asbestos fibers aboard such of Defendant's railway car(s) and/or engine(s) and/or locomotive(s) upon which Plaintiff worked? If so, please identify with particularity the entity conducting such investigation(s), survey(s) or test(s), the dates conducted and the results of the same.

ANSWER:

INTERROGATORY NO. 21.: Did Defendant or any subsidiaries or predecessor(s) ever arrange for any labor agency, insurance company, government agency, inspectors or anyone from your company to go on to any of Defendant's railway car(s) and/or engine(s) and/or locomotive(s) in question where asbestos-containing products were used or present to make or take dust level counts related to asbestos dust? If so, identify with particularity the party(ies) conducting such procedure, the dates conducted, the purpose of such procedure, and all results of such procedure.

ANSWER:

INTERROGATORY NO. 22.: Did Defendant or any predecessor or subsidiary obtain facts, knowledge or information from any industry, insurance company, governmental agency, union, and/or any other entity regarding the potential health effects and/or health hazards created for persons exposed to airborne asbestos dust? If so, please list all sources of such information and the dates received.

ANSWER:

INTERROGATORY NO. 23.: List each person 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 (including those physicians who would have been responsible for conducting physicals, evaluations or screenings of Defendant's employees) and industrial hygienists, and the current address, telephone number and job title of each of those individuals who has had or may have had any knowledge regarding the hazards of airborne asbestos dust.

ANSWER:

INTERROGATORY NO. 24.: 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;
D. The name, job title, and address of each person who currently has possession of each publication and its present location.

ANSWER:

INTERROGATORY NO. 25.: 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 documents or information relating to the hazards of airborne 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:

INTERROGATORY NO. 26.: 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;
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;
D. What information was disseminated within 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 alone or in conjunction with second hand smoke.

ANSWER:

INTERROGATORY NO. 27.: 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;
B. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos exposure;
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 within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
E. Whether any such information is still maintained by Defendants or its subsidiaries or predecessors in a 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 dust and fibers.

ANSWER:

INTERROGATORY NO. 28.: As to the disease mesothelioma, state:

A. The date on which Defendant or its subsidiary or predecessor first learned such disease was caused by inhalation of asbestos fibers;
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 within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
F. Whether any such information is still maintained by Defendants or its subsidiary or predecessor in a written form;
G. Who is the custodian of such information;
H. Whether Defendant agrees that there is no known medical cure for mesothelioma.

ANSWER:

INTERROGATORY NO. 29.: As to gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer or lymphatic cancer, state:

A. The type of cancer and the date on which Defendant or its subsidiary or predecessor first learned that such diseases were caused by inhalation of asbestos fibers by humans;
B. What cancers has the Defendant or its subsidiary or predecessor become aware can be caused by exposure to asbestos fibers;
C. The date on which Defendant first suspected other cancers were caused by asbestos inhalation;
D. Who within the company or its subsidiary or predecessor first discovered the adverse consequences or effects of asbestos exposure;
E. What information was disseminated with 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 a written form;
G. Who is the custodian of such information.

ANSWER:

INTERROGATORY NO. 30.: 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 each 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:

INTERROGATORY NO. 31.: Does Defendant intend to call a company representative as a witnesses at the trial of any of this case? If so, list:

A. The name, address, and job title of each company representative who may be called;
B. A summary of the testimony expected to be given by each such witness;
C. List any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiffs in that case.

ANSWER:

INTERROGATORY NO. 32.: 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:

INTERROGATORY NO. 33.: Please state whether written warnings were placed at any locations adjacent to or near asbestos in place on railroad(s), railway car(s) and/or engine(s) and/or locomotives owned or operated by Defendant at anytime from 1965 to the present. If so, please describe with specificity such signs, including size, color, wording, etc. Additionally, please state the number of such signs that were installed and indicate the specific location of each such sign and the dates such sign was at that location.

ANSWER:

INTERROGATORY NO. 34.: 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 Safety 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:

INTERROGATORY NO. 35.: Please state whether a medical monitoring program, medical examination program or other medical surveillance was provided to your employees and specifically to Plaintiff. If so, please indicate what records of such program, examination or surveillance concerning Plaintiff exist at this time, including but not limited to reports, x-rays and medical notes.

ANSWER:

INTERROGATORY NO. 36.: Please state whether Defendant has at any time provided safety equipment to the Plaintiff and/or the crew members or employees of Defendant present at any time on the railroad, railway car(s) and/or engine(s) and/or locomotive(s) in question during the time Plaintiff was employed by Defendant for protection against the inhalation of airborne asbestos dust, including but not limited to; masks, respirators, other breathing devices, protective clothing, protective gloves, etc. For each such item of equipment, please indicate when such item was first provided, under what circumstances provided, and the name, address and telephone number of the person most knowledgeable concerning such provision.

ANSWER:

INTERROGATORY NO. 37.: Please state whether Defendant ever agreed by contract, agreement, negotiation, collective bargaining or otherwise, to provide masks to Plaintiff and other crew members and/or employees of Defendant working with or around asbestos dust, asbestos products, friction products and/or machinery calling for the use of asbestos or asbestos containing products. If so, please state verbatim the specific agreement or contract and/or other document by which Defendant agreed to provide such masks. Include the date the agreement was entered into, the period of time covered by the agreement and the parties to the agreement.

ANSWER:

INTERROGATORY NO. 38.: 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, regulated controlled and/or were applicable to airborne asbestos exposure in your operations and/or aboard your railroad, railway car(s) and/or engine(s) and/or locomotive(s) during the past thirty years.

ANSWER:

INTERROGATORY NO. 39.: Please describe each and every occasion during the past thirty years when any regulatory agency or other governing body inspected Defendant's railroad, railway car(s) and/or engine(s) and/or locomotive(s) in question for the purpose of ascertaining whether health and 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:

INTERROGATORY NO. 40.: Please state whether any asbestos-containing products in place or in use on the railroad, railway car(s) and/or engine(s) and/or locomotive(s) owned or operated by Defendant has been removed or abated at any time from 1965 to the present. If so, please answer the following:

A. List each and every abatement company or other contractor involved with the removal of asbestos, including address and telephone number, dates of such removal, and whether a contract for such removal exists;
B. Indicate the total amount in dollars spent by Defendant to abate or remove asbestos from the railroad(s), railway car(s) and/or engine(s) and/or locomotive(s).
C. State whether any "removal plan" or organized written criteria or other document related to asbestos removal on the railroad(s), railway car(s) and/or engine(s) and/or locomotive(s) was ever prepared by Defendant;
D. State whether corporate documents discussing or relating generally to the removal of asbestos are in existence and/if so, where they are maintained;
E. State precise dates and locations when and where such removal or abatement took place for each such car, railroad and/or engine and/or locomotive.

ANSWER:

INTERROGATORY NO. 41.: As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American Conference of Governmental Industrial Hygienists, state:

A. The year in which Defendant or any predecessor(s) or subsidiaries were first advised of such limits or concentrations;
B. The name of the employee or official of the company receiving such advice;
C. How Defendant received notice of such limits or concentrations.

ANSWER:

INTERROGATORY NO. 42.: Please state whether and when Defendant received a copy of the Fleischer/Drinker Report published in 1945/1946.

ANSWER:

INTERROGATORY NO. 43.: Please describe all actions taken by Defendant to comply with the Boiler Inspection Act, previously 45 U.S.C. §23 during the past thirty-five (35) years, now designated at 49 U.S.C. §20701 et seq.

ANSWER:

NO. B151305

MILTON ORION WEST, et al,	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	JEFFERSON COUNTY, TEXAS
VS.	§	
	§	
OWENS-CORNING FIBERGLAS CORPORATION, et al.,	§	
	§	
	§	60TH JUDICIAL DISTRICT
Defendants.		

PLAINTIFF'S REQUESTS FOR PRODUCTION TO DEFENDANT

TO: **NORFOLK SOUTHERN CORPORATION (individually and as successor-in-interest to NORFOLK SOUTHERN RAILWAY COMPANY, successor-in-interest to SOUTHERN RAILWAY COMPANY), by and through its attorney of record, James L. Walker, Esq., Jackson & Walker, L.L.P., 112 E. Pecan St., Suite 2100, San Antonio, Texas 78205-1521.**

Pursuant to Rules 166b and 167 of the Texas Rules of Civil Procedure, Plaintiff Willie G. Holloman in the above-styled and numbered cause serves these Requests for Production upon you, the answers to which will be made under oath separately and fully in writing within thirty (30) days after the service of such Request for Admissions and will be given to the undersigned attorney of record.

Respectfully submitted,
BARON & BUDD, P.C.
3102 Oak Lawn Ave., Suite 1100
Dallas, Texas 75219-4281
214/521-3605; 214/520-1181 (fax)

By: Kimberly Castles
PETER A. KRAUS
Texas State Bar 11712980
JENNIFER A. CURRIE
Texas State Bar 00783916
KIMBERLY A. CASTLES
Texas State Bar 00787221

CERTIFICATE OF SERVICE

Counsel for Defendant was served with a true and correct copy of the above on ~~2/22/96.~~ 3/5/96

Kimberly Castles
KIMBERLY A. CASTLES

EXHIBIT "B"

~~CERTIFICATE OF SERVICE~~

~~Counsel for Defendant was served with a true and correct copy of the above on 1/12/96.~~

~~KIMBERLY A. CASTLES~~

DEFINITIONS

As used in these Requests for Production, the following terms mean:

1. The words "Defendant," "You," "Your," "Your company," all mean the corporate Defendant answering these Interrogatories, and any of its merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates. This definition includes present and former officers, directors, agents, employees, and all other persons acting or purporting to act on behalf of the corporate Defendant or its predecessors, subsidiaries, and/or affiliates. "Predecessors" further means any business firm, whether or not incorporated, which had all or some of its assets purchased by you or came to be acquired by you whether by merger or consolidation. "Subsidiaries" further means any business firm, whether or not incorporated, which is or was in any way owned or controlled, in whole or in part by Defendant or its predecessors.

2. The words "document," "documents," "written materials," or "printed matter" includes any written, printed, recorded or graphic matter, photographic or videographic matter or sound reproductions or computer input or output, including but not limited to: contracts, notes, rough drafts, interoffice memoranda, reports, research materials, logs, diaries, calendars, bank statements, tax invoices, diagrams, studies, manuals, minutes, bylaws, articles of incorporation, resolutions, shareholder endorsements, or partnership documents however produced or reproduced, that (1) are now or were formerly in the possession, custody, or control of the Defendant (including documents at any time in the possession, custody or control of their subsidiaries, whether domestic or international, or merged or acquired predecessors), or (2) are known or are believed to be responsive to these Interrogatories and Requests for Production regardless of who now has or formerly had custody, possession or control.

3. The words "person" or "persons" include natural persons, firms, partnerships, associations, joint ventures, corporations, and any other form of business organization or arrangement, and officers, directors, shareholders, employees, agents, and contractors of any business organization or arrangement.

4. The words "meeting" or "meetings" may mean any coincidence or presence of any persons, whether or not such coincidence or presence was prearranged, was formal or informal, or was in connection with some other activity.

5. The words "describe" or "description," when referring to a place, thing, or occurrence, mean to identify with sufficient particularity the place, thing, or occurrence so as to enable one to locate, examine and fully comprehend or understand the place, thing, or occurrence described.

6. The words "product containing asbestos fibers," "asbestos-containing products," "asbestos products" all refer to any products or materials prepared in any way for sale and/or

distribution that contained any kind of asbestos in any possible form. The words "asbestos materials" refer to any and all materials, substance, or matter used or assembled or fabricated during the manufacture of a product, and that contains at least some asbestos fibers. "Product" includes, but is not limited to, pipecovering, turbines, cement, block, gaskets, packing, plaster, joint compound, floor and ceiling tiles, mastics, boilers, raw fibers, fireproofing, shingles, panels, sheets, boards, millboard, refractory cement, boilers, firebrick, brake and clutch linings, finishing compound, texture, and other construction, building, drywall, lath and insulation materials.

7. The words "distribute," "distributed," "distributor," and "distribution" all refer to the sale, marketing, dispersal and/or shipment of asbestos-containing products for purposes of their sale, resale and/or for purposes of filling orders provided by other business concerns. The word "distributor" specifically refers to a company or its sales representatives, whether dependent or independent, responsible for sales or marketing of products.

8. The words "medical advisory capacity" refer to the duties, abilities or capabilities of any member of Defendant's staff, or any individual or organization who has contracted with Defendant, to provide services of a medical nature, including but not limited to providing medical advice.

9. The words "trade organization," or "trade association" mean any organizations or associations of business or industrial entities that are associated and/or meet for the purpose of achieving common goals and/or exchanging information related to common needs or interests, and/or learning information or facts of interest to the various members of the organization or association.

10. The words "research" and "research department" refer to efforts, whether scientific or otherwise, to develop new and/or different types of products, processes or designs of preexisting products and is meant to incorporate all efforts that specifically contemplated the possible alteration of products.

11. The words "medical department" and "safety department" refer to an individual or a section or group of individuals working for Defendants, either directly or in a contractual capacity, whose purpose was or is to provide guidance, assistance, or advice concerning any aspects of medical health, including but not limited to, the safety of Defendant's workers and the safety of individuals using or exposed to asbestos products.

12. The words "industrial hygiene surveys" mean surveys, tests, interviews, or other procedures taken or effectuated for the purpose of determining the possibility or existence of detrimental health effects caused by exposure to asbestos.

13. The words "potential health hazards," or "health hazards" refer and relate to any injury, effect, damage, scarring, wound, impairment or disability of any part of the human anatomy, including but not limited to the lungs and lung linings, that is caused by or associated with exposures to asbestos dust and fibers.

14. The terms "test" and "testing" are used in their broadest sense, including but not limited to, studies of atmospheric dust samples, studies of the concentration of asbestos in such airborne test samples, studies of the lung conditions of workers (by x-ray or other means of medical surveillance), pulmonary function studies of workers, animal studies, pathological

studies, industrial hygiene studies, risk assessment studies, cost-benefit analyses and any other studies concerning health and safety.

15. The terms "railroad," "railway cars and/or engines" and "railyard(s)," refer and relate to any and all railroad track lines, roundhouses, shops, railyards, and freight, passenger, refrigerator or other railroad cars, engines, and/or locomotives, as well as the brakes and boilers used in the operation of such freight, passenger, refrigerator or other railroad cases, engines and/or locomotives, and including those containing boilers owned, either as owner or owner pro hac vice, rented, leased, chartered, operated, or otherwise utilized by Defendant in Defendant's regular course of business or over which Defendant had the right to direct, control, repair, or place in railway operation.

16. The terms "railroad worker" "employee" includes any operator, laborer, or maintenance and/or repair workers, persons whose businesses include maintaining or operating cars and/or engines or railroad track lines, or who are connected with the railroad as such and in some capacity to assist in its conduct, maintenance, or service, including all those whose labor contributes to the accomplishment of the main object in which the railroad is engaged. The term includes anyone who, in the course of his work about a railroad, exposes himself to risk traditionally associated with railroad duties of a member of a railroad's crew. As such, a "railroad worker" is an employee whose duties contribute to the function of the "railroad" on which he works or the accomplishment of its mission.

17. The term "agreement" includes any contract either oral or written entered into between Defendant and any other party either voluntarily or as the result of any sale, purchase, negotiation, collective bargaining or course of dealing.

18. "EPA" means Environmental Protection Agency. This agency is charged with the promulgation and enforcement of emissions from manufacturing sources into the air and water. It is charged with maintaining and/or improving the quality of the environment. Several other agencies have groups which work on asbestos diseases, including the National Institutes of Health, the National Cancer Institute, and several interagency committees.

19. "NIOSH" means National Institute for Occupational Safety and Health. This group, part of Health, Education and Welfare, is responsible for providing data on the toxicity and safe exposure limits for chemical and physical agents found in the workplace.

20. "NIESH" means National Institute of Environmental Health Sciences. This group, also an agency of Health, Education and Welfare, performs studies on chemical and physical agents emitted into the environment which may have an impact on the population.

21. "OSHA" means Occupational Safety and Health Administration. This group is responsible for promulgating and enforcing exposure of workers in the workplace. It is part of the Department of Labor.

22. "Friction product" includes any product used to absorb, alleviate, disperse or distribute friction or the effects of friction and includes, but is specifically <u>not</u> limited to, brake shoes and linings and clutch linings.

23. "Each" shall mean each and every; "All" shall mean any and all.

24. "Identify" or "identity" when used in reference to documents shall be understood as an instruction to identify the document completely. The identification shall include, but not be limited to, the document's date, title, authors, addresses and other recipients, type (e.g., letter, notes, memoranda, diary, etc.), subject matter, present location, present custodian, and the purposes for which the document was created or prepared.

25. "Relating to" and "regarding" shall mean embodying, pertaining to, concerning, constituting, comprising, reflecting, discussing, referring to, or having any logical or factual connection whatsoever with the subject matter in question.

26. "Relationship" means any connection, affiliation or association of any nature or kind whatsoever, currently or previously in existence.

27. The words "releasing products to the public" means selling, distributing, marketing, or otherwise causing the products to be available to the general public and/or retail and wholesale outlets for further distribution or sale.

28. The words "marketed," and "market" mean and include all efforts to aid or assist in the distribution and/or sale of products, including offers on the part of the manufacturer or distributor to sell products and the advertising of products and sales solicitation efforts.

29. The word "manufacture," or "manufactured" means to fabricate, to construct, to assemble, to prepare for fabrication, construction or assembly, and any other action taken prior to completion of the product or material before the time of its shipment.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: 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:

REQUEST FOR PRODUCTION NO. 2: Produce any and all documents, memoranda and/or other writings in your possession or organization that in any way related to the hazards of asbestos and/or airborne asbestos.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Produce and all publications in your possession that were disseminated or published by any trade association or organization and that contain information relating to the hazards of asbestos and/or airborne asbestos.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: 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 taken by crew members or workers or employees in the vicinity of asbestos-containing products and/or machinery requiring the use of asbestos or asbestos/containing products and/or materials on Defendant's railroad, railway car(s) and/or engine(s) and/or locomotive(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: Produce any and all contracts, memoranda, and/or other writings that in any way reflect arrangements made for the removal of asbestos and/or the installation of asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials on Defendant's railroad, railway car(s) and/or engine(s) and/or locomotive(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: 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 on Defendant's railroad(s), railway car(s) and/or engine(s) and/or locomotive(s) and/or roundhouses or shops upon which, in which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: Produce any and all documents, memoranda, and/or other writings that discuss or relate in any way to removal of asbestos from any Defendant's railroads, railway car(s) and/or engine(s) and/or locomotive(s) and/or roundhouses or shops upon which, in which, or in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: Please produce any and all documents related to the medical condition of Plaintiff at any time during his employment with Defendant. This request specifically includes any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, including annual physical forms, etc.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: Produce any and all documents, memoranda and/or other writings that indicate and/or refer to in any way a decision related to ceasing the use of asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials on Defendant's railroad(s), railway car(s) and/or engine(s) and/or locomotive(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: Produce any and all specifications, blue prints, documents, memoranda and/or other writings that reflect and/or demonstrate in the form of a map and/or chart the location and dimensions of all car(s) and/or engine(s), locomotives, roundhouses and/or shops upon which and in the vicinity of which Plaintiff worked and specifically including, but not limited to, the location and/or placement, repair or installation of asbestos-containing products and/or materials at any time within the last thirty-five (35) years on those railroad(s), railway car(s) and/or engine(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: Produce any photographs of asbestos products in place or asbestos products being fabricated and/or utilized on Defendant's railroad(s) and/or engine(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: Produce any photographs of warning signs or other statements in place at any time in the vicinity of asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials and/or asbestos in place at any time during the last thirty-five (35) years on your railroad(s), railway car(s) and/or engine(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: Produce any documents indicate in any way that individuals claimed injury to their lungs as a result of exposure to asbestos on any of Defendant's railroad(s), railway car(s) and/or engine(s) and/or locomotive(s).

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: 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:

REQUEST FOR PRODUCTION NO. 15: Produce any and all documents, including invoices, shipping receipts, bills of lading, purchase orders, or other documents of a similar nature related to the purchase of asbestos-containing products for use on Defendants' railroad(s), railway car(s) and/or engine(s) and/or locomotive(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: 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 or installed and that included the taking or measure of "dust counts." This request specifically includes any and all of your railroad(s) and railway car(s) and/or engine(s) and/or locomotive(s) and/or roundhouse(s) or shops upon which and in the vicinity of which Plaintiff worked where asbestos-containing products were used and/or in place at any time in the last thirty-five (35) years.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17: In the event that Defendant performed or had performed any dust level counts with respect to asbestos dust on any of its railroad(s), railway car(s) and/or engine(s) upon which and in the vicinity of which Plaintiff worked, 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:

REQUEST FOR PRODUCTION NO. 18: Please provide all documents referred to in answering Plaintiff's interrogatories propounded to the Defendant, identifying with specificity which documents were used to answer which interrogatories.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19: (1) Please provide a curriculum vitae for each and every expert witnesses or expert or expert that the Defendant has retained or employs and cannot unequivocally state will not be a witness on its behalf at trial; and (2) with respect to any and all expert witness(es) identified in subpart (1), please provide any and all documents or tangible things including, but not limited to, all tangible reports, drawings, charts, exhibits, physical models, compilations of data, factual observations, tests, calculations, photographs, diagrams, sketches, movies, videotapes and tape recordings, opinions, supporting data and other documents and/or things reviewed and/or relied upon by him or her in formulating his or her opinions and conclusions on this case, including all learned treatises (texts, articles, studies, monographs, etc.) and consultant expert work product which forms the basis, in whole or in part, of the witness(es)' opinions or which he or she believes substantiates or corroborates his or her conclusions regarding this lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20: As to all such potential legal entities who are not now a party to this lawsuit, but who may be responsible for the incident in question, please provide:

A. All documents tending to establish such liability; and,

B. A list of all tangible items or things that may be reviewed tending to establish such liability, along with their location and the identity of the person to contact to view such tangible things.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21: Provide a copy of each policy of liability insurance intended to provide coverage to the Defendant, its agents and/or employees for liability on the date in question for allegations such as those delineated in Plaintiff's Original Complaint (and all amended complaints thereafter) including, but not limited to, all primary and excess policies covering the Defendant on the date in question, indicating the name and address of each carrier.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22: Provide a copy of all invoices, purchase orders, agreements, contracts, correspondences, telefaxes, telexes, and/or documents of any type passing between this Defendant and any other entity regarding the acquisition, ordering, purchasing, supplying, removal or distribution of asbestos-containing products by Defendant during the time period Plaintiff was employed by Defendant.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23: Provide a copy of all documents from which your present net worth may be ascertained.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24: Provide a copy of all photographs, diagrams, videotapes, slides and/or movie film of the railroad, railway car(s) and/or engine(s) and/or locomotive(s) owned or operated by Defendant including, but specifically not limited to the engine room, boiler room, common areas, living quarters, railroads, roundhouses.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25: Provide a copy of all medical records obtained by the Defendant relating to the Plaintiff.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26: Provide a copy of all documents including but not limited to invoices, purchase orders, agreements and contracts created by Defendant as a result of the installation, repair, replacement, removal and applying of asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials on the railroad, railway car(s) and/or engine(s) and/or locomotive(s) owned or operated by Defendant on which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27: Provide a copy of all documents regarding safety, safety training and/or safety meetings provided to or for the benefit of Plaintiff and others working on the car(s) and/or engine(s) on which Plaintiff worked relating to asbestos or asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products, friction products and/or materials on the railroad, railway car(s) and/or engine(s) and/or locomotive(s). Include any documents given out at such safety meetings and copies of the minutes of all safety meetings held for the benefit of the employees or crew members that worked on the railroad, railway car(s) and/or engine(s) and/or locomotive(s) in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28: Provide a copy of all Defendant's safety and policy manuals regarding the use of or exposure to asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products, friction products and/or materials from 1965 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29: Provide a copy of all personnel files maintained by Defendant or any agent of Defendant concerning the Plaintiff including but not limited to all earnings files, administrative files, and in particular any files concerning any physical examination conducted by the Defendant or for the benefit of the Defendant regarding Plaintiff either for hiring purposes, screening purposes or otherwise.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30: Provide a copy of all reports, investigations, transcripts, memoranda, correspondence and/or documents of any type you received from, or sent to any city, county, state, or federal entity, including but not limited to the EPA, NIOSH, NIESH or OSHA regarding either the potential health hazards or dangers associated with exposure to asbestos-containing products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials or airborne asbestos, or regarding any surveys, testing or other actions taken to determine the presence of and concentration of airborne asbestos on such of Defendant's railroad(s), railway car(s) and/or engine(s) and/or locomotive(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31: Provide a copy of all safety inspection or site inspection records referencing in any way asbestos or asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials placed on or used on such of Defendant's railroad(s), railway car(s) and/or engine(s) upon which and in the vicinity of which Plaintiff worked.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32: Provide a copy of all Defendant's safety inspection policies and procedures in effect during the time Plaintiff was employed by Defendant regarding the handling of, application, use or exposure to asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials on board the Defendant's railway car(s) and/or engine(s) and/or locomotive(s).

RESPONSE:

REQUEST FOR PRODUCTION NO. 33: Provide a copy of any and all photographs or video recordings, sketches, drawings, or pictures in Defendant's custody or control or that of your attorney, or of any agent or representative of you or your attorney, whether made as part of the reports of experts or made by you, your attorney, or persons acting as your agents or representatives, and pertaining to any of Defendant's railroad, railway car(s) and/or engine(s), and/or locomotive(s), engine rooms, boiler rooms, railyards, roundhouses, shops and/or common areas, concerning any asbestos-containing products, friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials contained within those areas. Request is hereby made for one print of each photograph or video recording produced in response to this request.

RESPONSE:

REQUEST FOR PRODUCTION NO. 34: Produce a copy of any reports prepared by any person you plan to call as an expert witness at the time of trial which pertain to the incident made the basis of this suit, specifically including all factual observations and opinions of consulting experts, if such consulting expert's opinion forms the basis of any opinions, theories, or conclusions reached by any testifying experts, and any accompanying photographs, drawings, charts, models, video recordings or other visual aids to such reports. If any expert has not prepared a written report, or if the information mentioned above has not been compiled into report form, then request is hereby made that each expert make a written report containing all said information and that each report be produced for inspection and copying.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35: Any and all documents prepared by, delivered to, or in the possession of any person you plan to call as an expert witness at the time of the trial, or who won't be called as a witness but whose work product forms a basis in whole or in part of an expert who will be called to testify, which related to any fact or matter that is the subject of or related to the subject of this suit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36: All witness statements or other documents generated or obtained in any investigations into the asbestos exposure made the basis of this lawsuit whether signed or unsigned. If you contend any such document is privileged, please identify specifically each document withheld, along with the specific privilege asserted.

RESPONSE:

REQUEST FOR PRODUCTION NO. 37: Any models, visual aids, experiments, documents or other writings or any items of demonstrative evidence prepared or preserved by you, your attorney, your experts, or any other person acting on your behalf that will or may be used in the trial of this lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 38: Please provide curriculum vitae for all expert witnesses that Plaintiffs intend to consult or call as witnesses at the trial of this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39: Copies of all depositions of any person previously employed by you specifically including, but not limited to Defendant or Defendant's employees, representatives, or agents, taken in connection with any alleged asbestos exposure aboard and/or in the vicinity of any of Defendant's railroad, railway car(s) and/or engine(s) and/or locomotive(s).

RESPONSE:

REQUEST FOR PRODUCTION NO. 40: Provide a copy of each and every document (including all reports, memos, photographs, statements and any material collected or acquired of any investigation, and all correspondence between yourself and your insurer, and any reports, notes or any other documents regarding testing, examinations, inspections, or opinions related in any way to asbestos or any other communication from any individual or entity to yourself, your insurer or any agent or representative of yourself or your insurer concerning this incident or any injuries or disabilities allegedly resulting therefrom) in your possession or control, or that of your insurer, health insurer, disability insurer, liability insurer, or other insurer, relating to your claim or the investigation of this incident by yourself, your insurer, or any individual or entity engaged for such a purpose.

RESPONSE:

REQUEST FOR PRODUCTION NO. 41: Provide a copy of all accident, injury or illness reports concerning the Plaintiff prepared by and/or for Plaintiffs' employer(s) and/or agents in the general course of business.

RESPONSE:

REQUEST FOR PRODUCTION NO. 42: Provide copies of any and all safety standards, regulations, rules or codes pertaining in any way to asbestos or inhalation of toxic fumes or substances, whether promulgated by government or private industry, or Plaintiff's employer from 1965 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 43: Provide a copy of any and all contracts and/or agreements of any kind (if oral, reduce the agreement to writing) made by Defendant to supply masks and/or other safety equipment to the Plaintiff or any other employees or crew members.

RESPONSE:

REQUEST FOR PRODUCTION NO. 44: Provide copies of any and all documentation evidencing Defendant's compliance with the Boiler Inspection Act, formerly U.S.C. §20701, during the last thirty-five (35) years.

RESPONSE:

NO. B151305

MILTON ORION WEST, et al,	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	JEFFERSON COUNTY, TEXAS
VS.	§	
	§	
OWENS-CORNING FIBERGLAS CORPORATION, et al.,	§	
	§	
	§	60TH JUDICIAL DISTRICT
Defendants.		

PLAINTIFF'S REQUESTS FOR ADMISSIONS TO DEFENDANT

TO: **NORFOLK SOUTHERN CORPORATION (individually and as successor-in-interest to NORFOLK SOUTHERN RAILWAY COMPANY, successor-in-interest to SOUTHERN RAILWAY COMPANY), by and through its attorney of record, James L. Walker, Esq., Jackson & Walker, L.L.P., 112 E. Pecan St., Suite 2100, San Antonio, Texas 78205-1521.**

Pursuant to Rules 166b and 169 of the Texas Rules of Civil Procedure, Plaintiff Willie G. Holloman in the above-styled and numbered cause serves these Requests for Admissions upon you, the answers to which shall be made under oath separately and fully in writing within thirty (30) days after the service of such Request for Admissions and shall be given to the undersigned attorney of record.

Respectfully submitted,
BARON & BUDD, P.C.
3102 Oak Lawn Ave., Suite 1100
Dallas, Texas 75219-4281
214/521-3605; 214/520-1181 (fax)

By: Kimberly Castles
PETER A. KRAUS
Texas State Bar 11712980
JENNIFER A. CURRIE
Texas State Bar 00783916
KIMBERLY A. CASTLES
Texas State Bar 00787221
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

Counsel for defendant was served with a copy of the above and foregoing on ~~2/22/96~~ 3/5/96.

Kimberly Castles
KIMBERLY A. CASTLES

EXHIBIT "C"

~~CERTIFICATE OF SERVICE~~

~~Counsel for defendant was served with a copy of the above and foregoing on 1/12/96.~~

~~KIMBERLY A. CASTLES~~

DEFINITIONS

As used in these Requests for Admissions, the following terms mean:

1. The words "Defendant," "You," "Your," "Your company," all mean the corporate Defendant answering these Interrogatories, and any of its merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries, foreign subsidiaries of predecessors, and/or affiliates. This definition includes present and former officers, directors, agents, employees, and all other persons acting or purporting to act on behalf of the corporate Defendant or its predecessors, subsidiaries, and/or affiliates. "Predecessors" further means any business firm, whether or not incorporated, which had all or some of its assets purchased by you or came to be acquired by you whether by merger or consolidation. "Subsidiaries" further means any business firm, whether or not incorporated, which is or was in any way owned or controlled, in whole or in part by Defendant or its predecessors.

2. The words "document", "documents", "written materials", or "printed matter" include any written, printed, recorded or graphic matter, photographic or videographic matter or sound reproductions or computer input or output, including but not limited to: contracts, notes, rough drafts, inter-office memoranda, reports, research materials, logs, diaries, calendars, bank statements, tax invoices, diagrams, studies, manuals, minutes, by-laws, articles of incorporation, resolutions, shareholder endorsements, or partnership documents however produced or reproduced, that (1) are now or were formerly in the possession, custody, or control of the Defendant (including documents at any time in the possession, custody or control of their subsidiaries, whether domestic or international, or merged or acquired predecessors), or (2) are known or are believed to be responsive to these Interrogatories and Requests for Production regardless of who now has or formerly had custody, possession or control.

3. The words "person" or "persons" include natural persons, firms, partnerships, associations, joint ventures, corporations, and any other form of business organization or arrangement, and officers, directors, shareholders, employees, agents, and contractors of any business organization or arrangement.

4. The words "meeting" or "meetings" may mean any coincidence or presence of any persons, whether or not such coincidence or presence was pre-arranged, was formal or informal, or was in connection with some other activity.

5. The words "describe" or "description", when referring to a place, thing, or occurrence, mean to identify with sufficient particularity the place, thing, or occurrence so as to enable one to locate, examine and fully comprehend or understand the place, thing, or occurrence described.

6. The words "product containing asbestos fibers," "asbestos-containing products," "asbestos products" all refer to any products or materials prepared in any way for sale and/or distribution that contained any kind of asbestos in any possible form. The words "asbestos materials" refer to any and all materials, substance, or matter used or assembled or fabricated during the manufacture of a product, and that contain at least some asbestos fibers. "Product" includes, but is not limited to,

pipecovering, turbines, cement, block, gaskets, packing, plaster, joint compound, floor and ceiling tiles, mastics, boilers, raw fibers, fireproofing, shingles, panels, sheets, boards, millboard, refractory cement, boilers, firebrick, brake and clutch linings, finishing compound, texture, and other construction, building, drywall, lath and insulation materials.

7. The words "distribute," "distributed," "distributor," and "distribution" all refer to the sale, marketing, dispersal and/or shipment of asbestos-containing products for purposes of their sale, resale and/or for purposes of filling orders provided by other business concerns. The word "distributor" specifically refers to a company or its sales representatives, whether dependent or independent, responsible for sales or marketing of products.

8. The words "medical advisory capacity" refer to the duties, abilities or capabilities of any member of Defendant's staff, or any individual or organization who has contracted with Defendant, to provide services of a medical nature, including but not limited to providing medical advice.

9. The words "trade organization," or "trade association" mean any organizations or associations of business or industrial entities that are associated and/or meet for the purpose of achieving common goals and/or exchanging information related to common needs or interests, and/or learning information or facts of interest to the various members of the organization or association.

10. The words "research" and "research department" refer to efforts, whether scientific or otherwise, to develop new and/or different types of products, processes or designs of pre-existing products and is meant to incorporate all efforts that specifically contemplated the possible alteration of products.

11. The words "medical department" and "safety department" refer to an individual or a section or group of individuals working for Defendants, either directly or in a contractual capacity, whose purpose was or is to provide guidance, assistance, or advice concerning any aspects of medical health, including but not limited to, the safety of Defendant's workers and the safety of individuals using or exposed to asbestos products.

12. The words "industrial hygiene surveys" mean surveys, tests, interviews, or other procedures taken or effectuated for the purpose of determining the possibility or existence of detrimental health effects caused by exposure to asbestos.

13. The words "potential health hazards," or "health hazards" refer and relate to any injury, effect, damage, scarring, wound, impairment or disability of any part of the human anatomy, including but not limited to the lungs and lung linings, that is caused by or associated with exposures to asbestos dust and fibers.

14. The terms "test" and "testing" are used in their broadest sense, including but not limited to, studies of atmospheric dust samples, studies of the concentration of asbestos in such airborne test sample, studies of the lung conditions of workers (by x-ray or other means of medical surveillance), pulmonary function studies of workers, animal studies, pathological studies, industrial hygiene studies, risk assessment studies, cost-benefit analyses and any other studies concerning health and safety.

15. The terms "railroad", "railway cars and/or engines" and "railyard(s)", refer and relate to any and all railroad track lines, roundhouses, shops, railyards, and freight, passenger, refrigerator or other railroad cars, engines, and/or locomotives, as well as the brakes and boilers used in the operation of such freight, passenger, refrigerator or other railroad cases, engines and/or locomotives, and including those containing boilers owned, either as owner or owner pro hac vice, rented, leased,

chartered, operated, or otherwise utilized by Defendant in Defendant's regular course of business or over which Defendant had the right to direct, control, repair, or place in railway operation.

16. The terms "railroad worker" "employee" includes any operator, laborer, or maintenance and/or repair workers, persons whose businesses include maintaining or operating cars and/or engines or railroad track lines, or who are connected with the railroad as such and in some capacity to assist in its conduct, maintenance, or service, including all those whose labor contributes to the accomplishment of the main object in which the railroad is engaged. The term includes anyone who, in the course of his work about a railroad, exposes himself to risk traditionally associated with railroad duties of a member of a railroad's crew. As such, a "railroad worker" is an employee whose duties contribute to the function of the "railroad" on which he works or the accomplishment of its mission.

17. The term "agreement" includes any contract either oral or written entered into between Defendant and any other party either voluntarily or as the result of any sale, purchase, negotiation, collective bargaining or course of dealing.

18. "EPA" means Environmental Protection Agency. This agency is charged with the promulgation and enforcement of emissions from manufacturing sources into the air and water. It is charged with maintaining and/or improving the quality of the environment. Several other agencies have groups which work on asbestos diseases, including the National Institutes of Health, the National Cancer Institute, and several interagency committees.

19. "NIOSH" means National Institute for Occupational Safety and Health. This group, part of Health, Education and Welfare, is responsible for providing data on the toxicity and safe exposure limits for chemical and physical agents found in the workplace.

20. "NIESH" means National Institute of Environmental Health Sciences. This group, also an agency of Health, Education and Welfare, performs studies on chemical and physical agents emitted into the environment which may have an impact on the population.

21. "OSHA" means Occupational Safety and Health Administration. This group is responsible for promulgating and enforcing exposure of workers in the workplace. It is part of the Department of Labor.

22. "Friction product" includes any product used to absorb, alleviate, disperse or distribute friction or the effects of friction and includes, but is specifically not limited to, brake shoes and linings and clutch linings.

23. "Each" shall mean each and every; "All" shall mean any and all.

24. "Identify" or "identity" when used in reference to documents shall be understood as an instruction to identify the document completely. The identification shall include, but not be limited to, the document's date, title, authors, addresses and other recipients, type (e.g., letter, notes, memoranda, diary, etc.), subject matter, present location, present custodian, and the purposes for which the document was created or prepared.

25. "Relating to" and "regarding" shall mean embodying, pertaining to, concerning, constituting, comprising, reflecting, discussing, referring to, or having any logical or factual connection whatsoever with the subject matter in question.

26. "Relationship" means any connection, affiliation or association of any nature or kind whatsoever, currently or previously in existence.

27. The words "releasing products to the public" means selling, distributing, marketing, or otherwise causing the products to be available to the general public and/or retail and wholesale outlets for further distribution or sale.

28. The words "marketed," and "market" mean and include all efforts to aid or assist in the distribution and/or sale of products, including offers on the part of the manufacturer or distributor to sell products and the advertising of products and sales solicitation efforts.

29. The word "manufacture," or "manufactured" means to fabricate, to construct, to assemble, to prepare for fabrication, construction or assembly, and any other action taken prior to completion of the product or material before the time of its shipment.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Admit or deny that asbestos-containing products were in general use aboard Defendant's railway cars, engines and/or locomotives during the time period Plaintiff was employed by Defendant.

RESPONSE:

REQUEST FOR ADMISSION NO. 2: Admit or deny that Defendant ordered, purchased or otherwise acquired asbestos-containing products, asbestos-containing friction products, machinery requiring the use of asbestos or asbestos-containing products and/or materials for use during the time period Plaintiff was employed by Defendant.

RESPONSE:

REQUEST FOR ADMISSION NO. 3: Admit or deny that Defendant used or implemented upon Defendant's railway cars, engines and/or locomotives on which or in the vicinity of which Plaintiff worked, asbestos-containing products, asbestos-containing products, asbestos-containing friction products or machinery requiring the use of asbestos or asbestos-containing products.

RESPONSE:

REQUEST FOR ADMISSION NO. 4: Admit or deny that Defendant's cars, engines and/or locomotives which Plaintiff worked on or around were unfit because of the presence of and/or use of asbestos-containing products, machinery requiring the use of asbestos or asbestos-containing products and/or asbestos-containing friction products on these railway cars, engines and/or locomotives.

RESPONSE:

REQUEST FOR ADMISSION NO. 5: Admit or deny that Plaintiff was a railroad worker, as that term is generally understood, during his employment with Defendant.

RESPONSE:

REQUEST FOR ADMISSION NO. 6: Admit or deny that Plaintiff, in the course and scope of his work as a railroad worker and/or employee of Defendant, worked on and/or around Defendant's railroad, railway cars, engines and/or locomotives where asbestos, asbestos containing products and/or machinery calling for the use of asbestos or asbestos containing products were present.

RESPONSE:

REQUEST FOR ADMISSION NO. 7: Admit or deny that Defendant was aware at any time during the periods of time Plaintiff worked for Defendant that airborne asbestos dust created a potential health hazard to those who breathed such dust.

RESPONSE:

REQUEST FOR ADMISSION NO. 8: Admit or deny that Plaintiff was employed by Defendant or by a predecessor-in-interest of Defendant.

RESPONSE:

REQUEST FOR ADMISSION NO. 9: Admit or deny that Plaintiff worked on and/or around Defendant's railway cars, engines and/or locomotives where asbestos-containing products, asbestos-containing friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials were installed, used, prepared for use, replaced or repaired.

RESPONSE:

REQUEST FOR ADMISSION NO. 10: Admit or deny that Defendant did not distribute any literature or warnings of any kind to its employees during the period of time Plaintiff worked for Defendant regarding the potential health hazards to those who breathe airborne asbestos dust.

RESPONSE:

REQUEST FOR ADMISSION NO. 11: Admit or deny that the friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials were placed on or used in Defendant's railway cars, engines and/or locomotives during the time period Plaintiff was employed by Defendant and upon Defendant's railway cars, engines and/or locomotives where Plaintiff worked were the following asbestos-containing products:

a. any asbestos-containing product and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials
b. asbestos tiles
c. asbestos millboard
d. asbestos friction products
e. asbestos pipecovering
f. asbestos gaskets
g. asbestos joint compound
h. asbestos cement
i. asbestos block
j. asbestos packing
k. boilers
l. brake shoes
m. brake linings
n. clutch linings
o. firebrick
p. refractories/castables
q. turbines

RESPONSE:

REQUEST FOR ADMISSION NO. 12: Admit or deny that Defendant engaged in any abatement programs for the removal of asbestos or asbestos-containing products, asbestos-containing friction products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials at any time since 1965 on Defendant's railroad, railway cars, engines and/or locomotives during the time of Plaintiff's employment.

RESPONSE:

REQUEST FOR ADMISSION NO. 13: Admit or deny that Defendant was aware of the presence of and/or use of asbestos-containing products and/or machinery requiring the use of asbestos or asbestos-containing products and/or materials during the time period Plaintiff was employed by Defendant and upon Defendant's railroad, railway cars, engines and/or locomotives where Plaintiff worked.

RESPONSE:

REQUEST FOR ADMISSION NO. 14: Admit or deny that Defendant became aware of the potential health hazards of airborne asbestos during the time periods in which Plaintiff was employed by Defendant.

RESPONSE:

REQUEST FOR ADMISSION NO. 15: Admit or deny that Defendant did not continuously provide face masks to crew members working with or around asbestos, asbestos-containing products, asbestos-containing friction products and/or machinery requiring the use of asbestos and/or asbestos-containing products upon Defendant's railway cars, engines and/or locomotives from 1945 to the present for the purpose of protecting these crew members from inhaling asbestos, air borne asbestos fibers and/or dust.

RESPONSE:

REQUEST FOR ADMISSION NO. 16: Admit or deny that during the time Plaintiff was employed by Defendant, it was foreseeable that asbestos-containing products on Defendant's railway cars, engines and/or locomotives would or could be removed, stripped, replaced or repaired at some time after installation.

RESPONSE:

REQUEST FOR ADMISSION NO. 17: Admit or deny that during the time Plaintiff was employed by Defendant, Defendant failed to comply with the requirements of the Boiler Inspection Act, formerly 45 U.S.C. §23; and restated at 49 U.S.C.§20701 et seq.

RESPONSE:

REQUEST FOR ADMISSION NO. 18: Admit or deny that Plaintiff filed suit against Defendant within three (3) years of the date of discovering his asbestos-related condition or the existence of any asbestos-related causes of action.

RESPONSE: