

MELVIN KETCHUM	§	IN THE DISTRICT COURT OF
	§	
VS.	§	CAMERON COUNTY, TEXAS
	§	
OWENS-CORNING FIBERGLAS CORP.,	§	
ET AL;	§	103RD JUDICIAL DISTRICT

**THIRD SUPPLEMENTAL RESPONSES OF UNION CARBIDE CORPORATION
TO PLAINTIFFS' THIRD SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION**

COMES NOW, UNION CARBIDE CORPORATION, Defendant in the above-styled and numbered case, pursuant to the Texas Rules of Civil Prodedures and responds to Plaintiffs' First Set of Interrogatories and Request for Production. Defendant hereby incorporates all responses and objections set forth in Defendants First and Second Supplemental Responses.

GENERAL OBJECTION NO. 1:

Union Carbide states that trial preparation and factual investigation are ongoing. The facility made the basis of this lawsuit is no longer in operation and Union Carbide is making its best efforts to locate individuals and documentation to assist Union Carbide in answering this discovery. Therefore, the answers to Interrogatories and Request for Production are based upon information known to Union Carbide at this time. Union Carbide reserves the right to make reference at the trial or at any hearing in this action to facts and documents not identified in these responses, the existence or relevance of which is later discovered by Union Carbide or its counsel. By this reservation, Union Carbide does not in any way assume a continuing responsibility to update its responses to these Interrogatories and Requests for Production and specifically objects to each of these Interrogatories and Requests for Production to the extent that they seek to impose any such continuing obligation upon Union Carbide other than that imposed by TRCP 166(b)(6).

GENERAL OBJECTION NO 2:

Union Carbide objects to Plaintiffs' Interrogatories and Requests for Production of Documents in their entirety on the grounds that they are not reasonably framed in terms of the facts and subject matter of the present action, with the result that Union Carbide is called upon to speculate as to what information relevant to the present case, if any, may be deemed to fall within the scope of the Interrogatories and Requests for production of Documents as phrased.

GENERAL OBJECTION NO. 3:

Union Carbide objects to all Interrogatories and Requests for Production insofar as they would require disclosure of information protected by the attorney-client, attorney work product, or the consulting expert privileges.

GENERAL OBJECTION 4:

Union Carbide objects to providing information about any asbestos-containing products which it has manufactured, sold or distributed, on the grounds that the asbestos fiber in those products was encapsulated by or embedded in other material and on the grounds that the plaintiff has made no allegation of exposure to those products which Union Carbide no longer manufactures. From 1963 until June 30, 1985, Union Carbide mined and sold short fiber chrysotile asbestos initially as "Union Carbide Asbestos", and then under the trade name Calidria.

GENERAL OBJECTION 5:

Union Carbide objects to these Interrogatories and Requests for production to the extent that they call for information about Union Carbide employees or premises other than the Brownsville, Texas location which is the basis of this lawsuit. Union Carbide objects to the extent that these Interrogatories and Requests for Production seek information relating to policies and employee information regarding any other Union Carbide facility or facilities as such an inquiry is not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORIES

INTERROGATORY NO. 1:

State the name, address, job title, length of time employed by Defendant, and a year-by-year list of all other positions, titles, or jobs held when working for Defendant of each person who supplied any information used in answering these interrogatories.

ANSWER TO INTERROGATORY NO. 1:

Subject to and without waiver of said objections.

UCC objects to this Interrogatory because it seeks information protected by Texas Rule of Civil Procedure 166b(3)(c) and (d). UCC further objects to the request for a detailed year-by-year listing of all other employment positions as burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of said objections: UCC states that these answers and responses are the result of interviews by counsel for UCC with current and past UCC employees. The persons providing information are the following

current and past employees who can be reached through UCC's counsel of record in this case, DeHay & Elliston, L.L.P., 3500 NationsBank Plaza, Dallas, Texas:

Sam Footer: address previously provided
Bill McManus: 755 Acacia Lake Drive, Brownsville, Texas (956) 542-0417
Ben Brown: address unknown, Moses Lake, WA
Belia Lancon: c/o UCC, (281)280-3528
Gran Townsend: 25310 Oakhurst Drive, The Woodlands, Texas (281) 367-0199
Rita Murphy: 4895 West Eddy Dr., No. 234, Lewiston, NY, (716) 754-2657

INTERROGATORY NO. 2:

Please state the name, present address and present telephone number, along with the experience and qualifications, if applicable, of each and every person known to Defendant or to Defendant's agents, having knowledge of facts relevant to this case, as well as a summary of the knowledge possessed by each individual.

ANSWER TO INTERROGATORY NO. 2:

Subject to and without waiver of said objections:

Union Carbide does not know every person who may have "knowledge of facts relevant to this case", and therefore objects to this Interrogatory on the grounds that it calls for speculation, is vague, and is overly broad and unduly burdensome. In addition, Union Carbide objects on the ground that the identity and opinions of any and all consulting experts are protected from disclosure by the attorney work product privilege. Union Carbide also objects to providing information about the occupation and relationship, as well as other knowledge of fact witnesses because this request violates the attorney work product and attorney-client privileges. UCC objects further in that it would be impossible for UCC to know all facts known to all individuals who may have knowledge of relevant facts and the interrogatory is therefore overly broad and burdensome. Without waiving and subject to these objections, Union Carbide responds as follows:

Former UCC employees who may have information regarding past industrial hygiene, medical and safety procedures at the Brownsville facility with regard to asbestos:

William McManus: address unknown, Brownsville, Texas; (956)542-0417
Ben Brown: Address unknown, Moses Lake, WA (509)-765-1834
Rita Murphy: 4895 West Eddy Dr., No. 234, Lewiston, NY; (716) 754-2657
Dr. Harrison Rhodes
Dr. Duane Hyde
Sam Footer: Address previously provided
Gran Townsend: 25310 Oakhurst Dr., The Woodlands, TX; (281) 367-0199
Don Haley: Address unknown, 204 Grose, Victoria 77905

Skeeter Merritt: HC10, Box 112 Llano, Texas 78643 (915)247-5596
Ed Dietz: 1631 Graystone Charleston
Ashton Barefoot: 8836 U.S. Hwy 9. W. Sumrall, Miss.
Jack Wyatt: Address unknown
Dave Gorish: Address unknown (512)-578-7460
Conrad Kyle: Address unknown
T.B. Tiffany: Address unknown (509)-765-0969
E. Janacek (dec'd)
Bill Barlow: (713)522-2206
Oscar Dabrey: 1007 Sage Aspen Houston 77089 (713)481-4292
Rudy Thiesen 15910 Peninact, Crosby, Texas 77532 (713)-328-6453
Al Stephens, P.O. Box 279 Goodrich, Texas (409)-365-2735

The following former and/or current employees of Brown & Root, Inc. may have information regarding safety procedures at the Brownsville facility with regard to asbestos:

William Calloway: address unknown, Brownsville, TX; (956) 546-3263
Tony Roppolo: address unknown, Baytown, TX; (713)676-4295
Don Hockaday: deceased

INTERROGATORY NO. 3:

Do you contend that the Defendant and/or any predecessor or successor of Defendant's, did not, at any time, own, operate, control, possess or otherwise manage or occupy the premise(s) located in Brownsville, Cameron County, Texas. If you answer in the affirmative, please state the basis for this contention.

ANSWER TO INTERROGATORY NO. 3:

Subject to and without waiver of said objections:

The best information presently available to UCC indicates that Union Carbide began to operate on the property upon which its Brownsville facility was located in 1959 after extensive construction upon the existing facility. This property was leased from the Port Authority of Brownsville. Union Carbide owned the infrastructure and improvements on the property. After the closure of the facility in 1983, the property was returned to the Port Authority of Brownsville, with the exception of 10 acres which Union Carbide purchased and maintains. Prior to 1959, Amoco operated a facility on the property owned by the Port Authority of Brownsville.

INTERROGATORY NO. 4:

If the answer to Interrogatory No. 3 is anything other than "yes", please identify the dates wherein Defendant owned, operated, controlled, possessed and/or managed the premises, the entity from whom the Defendant purchased the premises and the person with the most knowledge regarding this transaction.

ANSWER TO INTERROGATORY NO. 4:

Subject to and without waiver of said objections:

Please refer to the answer to Interrogatory 3 herein. Union Carbide further answers that the person with the most knowledge regarding these transactions is Sam Footer, the former assistant plant manager, who has been deposed in this case.

INTERROGATORY NO. 5:

If the answer to Interrogatory No. 3 is anything other than in the affirmative, but Defendant contends it no longer owns, operates, controls, possesses, or manages the property, please describe the disposition of said premises. In your answer, please state the date the property was sold or conveyed, to whom the property was sold or conveyed and the name of the person most knowledgeable regarding this transaction.

ANSWER TO INTERROGATORY NO. 5:

Subject to and without waiver of said objections:

Union Carbide no longer leases the premises from the Port Authority of Brownsville. The property was returned to the Port Authority in 1983, except for a 10-acre tract which Union Carbide owns and maintains. There are no operations being conducted by Union Carbide at this location. Please refer to UCC's answers to Interrogatories 3 and 4 herein.

INTERROGATORY NO. 6:

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

ANSWER TO INTERROGATORY NO. 6:

UCC objects to the extent that this Interrogatory requests information regarding what knowledge these certain individuals had, may have or currently have, which is a vague request which would require UCC to speculate as to what these persons knew in the past or may know now. Subject to and without waiving the foregoing, Union Carbide answers as follows:

Union Carbide's Medical Department was formally organized in 1939. Prior to that, Union Carbide and its facilities consulted private physicians as appropriate. The Medical Directors at Union Carbide have included the following individuals for the years respectively indicated below:

Girard Cranch (1938-1945)
Thomas Nale (1945-1963)
John J. Welsh (1963-1978)
Thomas J. Lincoln (1978-1985)
T. Guy Fortney (1985-1989)
Jean B. Case (1989 - present)

The present duties of Union Carbide's medical director include coordination of all of Union Carbide's medical programs, including employee physical examination programs; recommendations with respect to medical policies, standards and procedures; and administration of medical services at Union Carbide's corporate headquarters, a corporate epidemiology program, a medical program for employees traveling overseas and an alcoholism prevention and treatment program. The medical director reports to the corporate Vice President in charge of Union Carbide's Community and Employee Health, Safety and Environmental Protection Department. In addition, Dr. Hilton Lewinsohn served as Medical Director for the Chemicals and Plastics Group.

Union Carbide and its divisions also employ and have employed Industrial Hygienists. Ronald Van Mynen currently serves as Vice President in charge of Union Carbide's Community and Employee Health, Safety and Environmental Protection Department. Dr. Harrison Rhodes supervised the dust count program from 19// to 19//.

UCC is currently searching for information regarding whether an industrial hygienist was assigned to the Brownsville facility at any time during its operation and will supplement this response.

The best information currently available to UCC indicates that a medical department was in operation during part of the time the Brownsville facility was in existence. The best information currently available to UCC indicates that this department was in operation for at least the last 12 years of the existence of the Brownsville facility. Ben Brown was the director of the medical department and Rita Murphy was a nurse employed by Union Carbide and assigned to Brownsville.

INTERROGATORY NO. 7:

Please state whether a medical monitoring program, medical examination program or other medical surveillance was provided to persons employed on Defendant's premises, including but

not limited to employees of contractors engaged in the provision of services on Defendant's premises? If any, please indicate which records of such program, examination or surveillance exist at this time, including but not limited to reports, x-rays, medical notes and/or descriptions of any kind.

ANSWER TO INTERROGATORY NO. 7:

Subject to and without waiver of said objections:

The best information currently available to Union Carbide indicates that Union Carbide did have a medical examination program in operation for the benefit of its employees. It is unknown at this time what the exact policies and procedures were or when they were written, expanded or revised. UCC is searching for records which might reflect past policies and procedures within the medical department at UCC's Brownsville facility. If any can be located, they will be produced to Plaintiff. Union Carbide objects to making available to Plaintiff any records regarding past UCC employees because of privacy concerns on behalf of those employees and because those records are not relevant to this suit since Plaintiff was not a Union Carbide employee. All responsive documents have been provided to plaintiff.

UCC hired numerous on-site contractors who were sophisticated in the areas of industrial hygiene and medicine and the best information currently available indicates that these contractors had their own policies for their own employees. With respect to Brown & Root, the best information available to Union Carbide indicates that Brown & Root did have pre-employment physicals for their employees, but it is unknown what other policies or programs they may have had in place for their employees at Union Carbide's Brownsville facility.

INTERROGATORY NO. 8:

Please state the years during which Defendant or its subsidiaries or predecessors operated a medical department at Defendant's premises and identify all persons who directed, headed or supervised said department and the years of their service in that capacity.

ANSWER TO INTERROGATORY NO. 8:

Subject to and without waiver of said objections:

The best information available to Union Carbide indicates that Union Carbide had a medical department for a portion of the time it conducted operations at the Brownsville, Texas facility. This medical department was in existence for the last 12 years of the Brownsville plant's operation. The director of the medical department was Ben Brown, who served in that capacity until the closure of the plant.

INTERROGATORY NO. 9:

Please state the years during which Defendant or its predecessors or subsidiaries operated a safety department at Defendant's premises and identify all persons who directed, headed or supervised said department and the years of their service in that capacity.

ANSWER TO INTERROGATORY NO. 9:

Subject to and without waiver of said objections:

The best information available to Union Carbide indicates that Union Carbide operated a Safety Department at the Brownsville, Texas facility during the last twelve years of its operations until the close of the facility. The director of the Safety Department was Ben Brown. Before the formal existence of the Safety Department, there were numerous safety procedures in place. All responsive documents have been provided to plaintiff.

INTERROGATORY NO. 10:

Please state whether Defendant has at any time provided safety equipment at the Defendant's premises for workers' protection against the inhalation of asbestos dust or fibers, 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 was first provided to workers at the plant, under what circumstances such were provided, the name, address and telephone number of the person most knowledgeable concerning such provision and whether such equipment was provided to employees of contractors performing services on Defendant's premises.

ANSWER TO INTERROGATORY NO. 10:

Subject to and without waiver of said objections:

We have made available all responsive documents.

The best information available to Union Carbide indicates that there were policies regarding the usage of protective devices. The best information available indicates that both UCC and Brown & Root, who was the maintenance contractor at the plant, had safety procedures which were enforced by the respective companies for the benefit of their personnel. It is unknown at this time the exact dates when these policies were implemented and/or expanded or revised. UCC is searching for records which may reflect what those policies were and how they were enforced. The person with the most knowledge regarding most of these policies is: Bill Calloway a former Brown & Root employee. Investigation is continuing as to others.

INTERROGATORY NO. 11:

Please state whether written warnings were placed at any locations adjacent or near asbestos in place at Defendant's premises at any time. If so, please describe with specificity such signs,

including size, color, wording, etc. Additionally, please state the number of such signs that were installed at Defendant's premises and indicate the specific location of each such sign and the dates and length of time each such sign was placed at that location.

ANSWER TO INTERROGATORY NO. 11:

Subject to and without waiver of said objections:

Upon information and belief and according to the best available information, Union Carbide believes that general warning signs were posted at various locations within the premises located at Brownsville, Texas. It is unknown to Union Carbide at this time whether these signs were located near to asbestos in place. It is also unknown at this time the specific descriptions of these signs as well as the dates they were posted and the length of time they were posted. UCC is searching for any records which may be responsive to this interrogatory and they will be produced if located.

INTERROGATORY NO. 12:

Please state when Defendant's premises ceased to use asbestos-containing products, indicating the first year each type of product was no longer purchased and/or installed.

ANSWER TO INTERROGATORY NO. 12:

UCC objects to this Interrogatory on the grounds that it is overly broad and burdensome in that UCC utilized numerous asbestos-containing products for various industrial applications at its premises. Subject to its objections, UCC responds as follows: Union Carbide's knowledge concerning potential health hazards possibly associated with excessive asbestos fiber inhalation developed gradually. Sources of information as to possible health concerns of which Union Carbide is presently aware included general and scientific literature on the topic and reports or memoranda by Union Carbide employees. In addition, UCC is searching for any other records which may be responsive to this interrogatory and will produce them if located. UCC responds further that its abatement records from the Brownsville facility have been produced to Plaintiff.

INTERROGATORY NO. 13:

Please state whether asbestos products have been installed, removed or abated at any time on Defendant's premises. If so, please list each and every asbestos insulation contractor, abatement company or other contractor involved with the installation and/or removal of asbestos, including address and telephone number, dates and particular locations of such installation and removal.

ANSWER TO INTERROGATORY NO. 13:

Subject to and without waiver of said objections:

See General Objections 4 and 5. Union Carbide objects to this Interrogatory on the

ground that it is vague, non-specific, overly broad and unduly burdensome to the extent the interrogatory seeks information about each installation, use or removal of asbestos containing materials. Subject to and without waiving its objections, Union Carbide responds that the best information available indicates that UCC utilized asbestos-containing materials at its Brownsville facility for numerous industrial insulation purposes and these products were most likely installed at various locations throughout the plant, on several occasions through the years and these installations were performed by various contractors. UCC produced to Plaintiff its abatement records from the Brownsville facility. The best information currently available to UCC indicates that Brown & Root performed most of the abatement work at the Brownsville facility.

INTERROGATORY NO. 14:

Identify by name and location each plant or manufacturing premise owned or operated by you in which asbestos products were assembled, manufactured or fabricated.

ANSWER TO INTERROGATORY NO. 14:

See General Objections 4 and 5. Union Carbide further objects to this Interrogatory on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to its objections, Union Carbide responds as follows:

Union Carbide no longer manufactures, produces or sells any asbestos or asbestos-containing products. According to the best information presently available to Union Carbide, the aforementioned products were manufactured at the following locations:

Prior to late 1979, Union Carbide or one of its subsidiaries produced a tree sprout inhibitor called TRE-HOLD, which was used primarily to inhibit growth on telephone poles. TRE-HOLD contained a small quantity of asbestos bound in an asphalt carrier; the asbestos in TRE-HOLD was fully encapsulated. Prior to 1976, Union Carbide manufactured Bakelite phenolics, which were molding compound resins. Bakelite phenolics were marketed by Union Carbide for use by manufacturers primarily to mold electronic parts and products such as switches, switch boxes, radios, and plugs in receptacles. Most Bakelite phenolics did not contain asbestos. Bakelite was used in part, because it provided electrical insulation. The asbestos fiber in those Bakelite brands which were asbestos-containing was fully encapsulated or mixed within or with other material.

Prior to August 1977, Union Carbide manufactured UDEL Polysulfone P6050, which was an asbestos-containing, high-temperature, high rigidity thermoplastic molding material, used primarily in camera cases. The asbestos in UDEL Polysulfone P6050 was fully encapsulated.

Union Carbide formerly manufactured automotive radiator products under the names Prestone Antifreeze, Prestone Sealer Stop Leak and Prestone Heavy Duty Sealer. Asbestos ceased to be used as an additive in the antifreeze in 1971 and in the sealers in 1972. The fiber in these products was embedded within a liquid substance.

Until 1985, Union Carbide sold or leased acetylene cylinders which contained asbestos liners. The asbestos in the acetylene cylinder liners was encapsulated within liner materials and the liner materials were contained within a metal cylinder.

Union Carbide also manufactured a steel "scarfer" machine (used to remove blemishes and imperfections from steel), with parts which contained some asbestos. In the late 1950's or early 1960's, Union Carbide may also have experimented with certain asbestos-containing polyethylene and polystyrene products which would only have been sold in limited quantities on an experimental basis.

Union Carbide no longer manufactures or distributes any of the above products. Union Carbide never manufactured or distributed an asbestos-containing cement, pipe covering or cloth.

From 1963 through June 30, 1985, Union Carbide mined and sold a unique short-fiber chrysotile asbestos initially known as "Union Carbide Asbestos" and then under the trade name of Calidria (some distributors marketed this product under other trade names). Calidria was sold, both directly by Union Carbide and through distributors as raw asbestos, in pelletized and fibrous form in varying grades of purity of content. Calidria was not sold to the general public or to "end users". It was sold to manufacturers for use in their products or production processes as a filler, reinforcer, opacifier, thixotrope (thickener), etc. Calidria asbestos was not suitable for use as a standard heat or frost insulation due to its quality, composition and the short length of its fiber.

Calidria was produced in King City, California. Bakelite was produced in Bound Brook, New Jersey. UDEL Polysulfone was produced in Marietta, Ohio or Bound Brook, New Jersey. Acetylene Cylinders were produced in Speedway, Indiana. TRE-HOLD was manufactured in California and Pennsylvania. Automotive radiator products were manufactured in Whiting, Indiana, Texas City, Texas and Torrence, California or Lake River Terminal, Illinois. The steel scarfer machine was produced in Piscataway, New Jersey. The polyethylene and polystyrene products which may have contained asbestos were produced in Bound Brook, New Jersey.

INTERROGATORY NO. 15:

State in detail what tests, if any, Defendant, Defendant's employees, governmental inspectors or insurance company ever made with regard to the quantity, quality or threshold limit values of asbestos dust or particles to which workers were exposed while using, working with or around, or installing asbestos-containing products at Defendant's premises. Please state where and when these tests were conducted, and the results of any such test.

ANSWER TO INTERROGATORY NO. 15:

UCC objects to this Interrogatory as overbroad and not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to relevant time periods which relate to the Plaintiff's work history at the Brownsville facility. UCC further objects because the interrogatory is argumentative and assumes as a premise that "workers", presumably all workers, were exposed to asbestos particles, a contention to which UCC does not agree. Subject to its objections: All responsive documents have been produced.

INTERROGATORY NO. 16:

Did Defendant have a company respirator policy requiring workers on Defendant's premises to use respirators when working in dusty conditions? If so, please state when said policy became effective.

ANSWER TO INTERROGATORY NO. 16:

See answer to Interrogatory No. 10.

INTERROGATORY NO. 17:

Please describe each and every occasion when any regulatory agency or other governing body inspected the Defendant's premises for the purpose of ascertaining whether health and safety regulations governing exposure to asbestos 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 TO INTERROGATORY NO. 17:

Subject to and without waiver of said objections: All responsive documents provided to plaintiff.

INTERROGATORY NO. 18:

Please state the precise State and/or federal regulations, laws, statutes, or other authority pertaining to industrial hygiene or worker safety and health, including internal procedures and manuals that governed, controlled and/or were applicable to asbestos exposure in your operations at the Defendant's premises.

ANSWER TO INTERROGATORY NO. 18:

UCC objects to this Interrogatory to the extent it calls for a legal conclusion. UCC objects further on the grounds that this interrogatory is vague, non-specific, overly broad and unduly burdensome. See Loftin v. Martin, 776 S.W. 2d 145 (Tex. 1989). UCC objects further to

this Interrogatory because it is outside the scope of the Texas Rules of Civil Procedure and seeks to impose upon UCC the task of researching all statutes, laws, regulations, and acts of both the state and federal governments, as well as industry standards, which might have pertained to industrial hygiene and/or worker safety and health during the entire time that Union Carbide operated the Brownsville, Texas facility. UCC objects further that the interrogatory seeks information regarding former operations at the Brownsville, Texas facility which are not relevant to the issues in this case and the interrogatory is therefore overly broad, non-specific and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to its objections, UCC states that numerous rules, policies and regulations have been in effect during the years of operation of the Brownsville facility which may relate to asbestos. UCC has provided these documents to plaintiff and provided copies of all responsive materials.

INTERROGATORY NO. 19:

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?

ANSWER TO INTERROGATORY NO. 19:

Union Carbide objects on the ground that this Interrogatory is overbroad and unduly burdensome. Subject to its objections, Union Carbide states that the following brochures and documents were made available to Union Carbide. Except as the dates are stated herein, the time of publication and the author are presently unknown.

In addition, listed below are brochures and documents which have been made available by Union Carbide to Union Carbide's Calidria customers, many of which contained information on potential hazards associated with excessive asbestos exposure and information as to how to control or avoid such hazards. Since Union Carbide sold the Calidria business in 1985, the material listed below has not been in use by Union Carbide. Except where the dates are stated herein, the time of publication and the author of each item is presently unknown.

I. GENERAL

- A. "Calidria" Booklet, John Crane
- B. Asbestos Fibers, R. Byrne
- C. Business Reply Card, John Crane
- D. Rubber Booklet, John Crane
- E. Grinding Asbestos Pellets, R. Byrne
- F. FDA Status - Asbestos in Paper.
- G. New Additives Induce Thixotropy - Reprint of John Myers Speech.
- H. New Idria Chrysotile an Unusual Ore Yields. New Products, R. Woolery
- I. Cationic Asbestos for Waste Water Treatment, John Myers

- J. Asbestos Products for Oil Pollution Control, John Myers
- K. Zeta Potentials of Some Minerals.
- L. US Patent Office - Waste and Water Treatments, R. Woolery
- M. Mineralogy of the Coalinga Asbestos Deposit, Mumpton and Thompson
- N. Bulk Handling Demonstration
- O. Electron Micrograph Illustrations.
- P. Asbestos Magazine Reprinting - John Myers - Pellets.
- Q. Rubber World Reprint.
- R. Suggested Primer Sealer for Masonry and Weathered Roofing, 3JG-123B.
- S. Suggested Exterior White Hi-Build Flexible Coating, 3JG-124B.
- T. Suggested Exterior White Insulating Roof Coating, 3JG-121B.
- U. Suggested Weather-Barrier Roof Coating and Lagging Compound,

E-1297.

II. RESIN GRADE PRODUCTS

- A. General.
 - 1. "Calidria" RG-144 & RG-244, John Myers
 - 2. Use of Cowles Dissolver, R. E. Byrne
 - 3. "Calidria" RG Products for Vinyl Plastisol Sealant Applications.
 - 4. "Calidria" Asbestos for a High Build Dip Coating Plastisol NF-12.
 - 5. "Calidria" RG-144 & RG-244 Asbestos in PVC Plastisols.
 - 6. Rubber Research Elastomerics.
 - 7. Plasticizer Viscosity Control with "Calidria" Asbestos RG-244 &
- B. RG-110 (Price Schedule).
 - 1. Viscosity Control Agent for Asphaltic Compounds.
 - 2. Polyester Premixes Comparative Cost & Performance Data.
- C. RG144 (Price Schedule).
 - 1. RG-144 Brochure, John Crane
 - 2. RG-144 Performance Data, John Crane
 - 3. RG-144 Product Characteristics.
 - 4. RG Asbestos Improves Thixotropic Properties of Highway
 - 5. PVP Reprint.
 - 6. Asbestos Beefs Up Plastics & Adhesives to Extend Their Use.
- D. RG-244 (Price Schedule).
 - 1. RG-244 Brochure, John Crane
 - 2. RG-244 Comparative Performance Characteristics, John Crane
 - 3. RG-244 Product Characteristics & Specifications.
 - 4. Ultrasonic Dispersion of RG-244, B. L. Ingalls
 - 5. RG-244 as a Thixotrope for Polyester Resins, B. L. Ingalls
 - 6. Polyester Putty & Patching Compounds.

RG-144.

Markers.

7. "Epoxy Coal Tar Coatings."
8. "Chlorinated Rubber Roofing Compound", B. L. Ingalls
9. High Build Vinyl Maintenance Paints.
10. Zinc-Rich Primers.
11. Vinyl Coal Tar Formulation Suggestions.
12. Formulating Plastisol Sealants with Silane Adhesion Promoters.
13. RG-244 Health Brochure.

E. RG-600 Brochures.

1. Cost Effectiveness Optimization of Reinforced Polyolefins;
10/4/76 (Ancker & Leung).
2. RG-600 Inquiry Form, John Crane
3. Coupled Chrysotile Asbestos Reinforced Thermoplastics (Ancker).
4. RG-600 Request Form, John Crane
5. RG-600 Patent Literature - 3,939,278; December 23, 1975.
6. RG-600 Health Brochure.
7. Reinforced Polyolefins for Large Structural Foam Parts; 2/8-11/77,
Michno
8. Structural Foam is Launched into an Era of Great Diversification;
August 1976.

III. STANDARD GRADE PRODUCTS

A. General.

1. "Calidria" Asbestos Standard Grade Products, Typical Properties,
John Myers

B. SG-100 (Price Schedule).

1. SG-100 "Calidria" Asbestos for Use in Vinyl and Asphalt Floor
Coverings.
2. SG-100 Saves Up to One-Half (12) the Amount of Asbestos.
3. Flintkote Report.

C. SG-130 (Price Schedule).

D. SG-200SG200X (Price Schedule).

E. 1. SG-200SG-200X Product Characteristics.

F. 2. TJC Brochure.

3. UCAR Latex 153 for Water-Based Caulks and Sealants.
4. Typical Product Characteristics and Specifications SG-210.
5. Suggested Interior Texturing or Exterior Spackling Formulation

(17-CHR-41).

IV. HIGH PURITY

A. General.

1. Effects of Chrysotile Asbestos Additions to Cellulosic Paper -

RGW.

2. "Calidria" High Purity Asbestos for Porosity Control, Pinhole Reduction, and Improvement in Two-Sidedness.

3. Properties of Asbestos Suitable for Use in Cellulosic Paper, Naumann.

4. How High Purity Asbestos is Used for Pitch Control in Papermaking, Woolery.

5. Paper Trade Journal - Asbestos Product Aids Retention, Boosts Opacity and Disperses Pitch, Ingalls.

6. "Calidria" Asbestos for Paper Coatings.

B. High Purity Open (Price Schedule for HOP & HPP).

1. Typical Product Characteristics for HPO, John Myers.

2. The Trial of Calidria HOP in New Rochelle Water Pollution

Control Plant.

3. Addition Rates for HOP in Primary Waste Treatment, John Myers.

4. Suggested Dark Green Acrylic Tennis Court Topcoat E-1400.

C. High Purity Pellets.

1. Typical Product Characteristics for HPP, John Myers.

V. TITANATED PRODUCTS

A. T-135 (Price Schedule).

1. T-135 Opacifying Agent.

2. "Calidria" Asbestos T-135 for Viscosity Control & Pigmentation.

3. T-135-0 for Spray Acoustic & Texture Compounds.

4. Chemical 26 Reprint - Checking Opacity.

VI. COATING GRADES

A. CG-135 (Price Schedule).

VII. DRILLING

A. Oil and Gas Journal Reprint.

In addition, the following material, some of which is listed above in the form of brochures, articles or addresses, has been prepared:

1. "Calidria Asbestos RG-244 - An Economical Effective Thickener and Thixotrope for Polyester Resins, Plastisols, Epoxies, Phenolic Adhesives Organosols" 9/70.

2. "CALIDRIA Asbestos, Resin-Grade 144, An Effective Low Cost Thickening Agent and Thixotrope for Epoxy Resin Systems" - 7/71, John Crane.

3. "CALIDRIA Asbestos Resin-Grade - 144 and Resin-Grade 224", John Myers.

4. "CALIDRIA Asbestos, Low Cost Highly Effective Reinforcer and Filler for Rubber, Two Grades: High-Purity and T-135" - 10/70, John Crane.
5. "CALIDRIA Asbestos, a Unique and Versatile Fiber With Proven Applications as an Extender, Thickener, Reinforcer, Opacifier" 574.
6. "New Additives Induce Thixotropy, Provide Sag and Viscosity Control," presented by John L. Myers to Western Coatings Technology Society Meetings in Denver, Los Angeles, San Francisco, Portland, Seattle, and Vancouver, in May 1969.
7. "Asbestos," by Robert E. Byrne, Jr., Area Manager, CALIDRIA Asbestos Marketing and Technology, Mining and Metals Division, Union Carbide Corporation, published March, 1972 in Modern Plastics Encyclopedia, McGraw-Hill, Inc.
8. "Calidria Asbestos Pellets" by John L. Myers, Former Product and Production Manager for Union Carbide's Calidria Operation, published October 1971 in Asbestos, reprinted by Union Carbide.

VIII. HEALTH AND SAFETY

A. General.

1. "Material Safety Data" for CALIDRIA Asbestos published September 1, 1972 and revised September 1, 1976 by Union Carbide Corporation.
2. "Chrysotile Asbestos in Plastics," presented May 14, 1974 at the 32nd annual technical conference of the Society of Plastics Engineers at San Francisco, by John L. Myers, Marketing Manager, Asbestos, Union Carbide.
3. "Handling Asbestos - Chrysotile Asbestos in Plastics," June 16, 1975, by John L. Myers, Marketing Manager Asbestos Union Carbide.
4. "Grinding CALIDRIA Asbestos Pellets," by Robert E. Byrne, Jr., Area Manager, CALIDRIA Asbestos, Marketing and Technology, Mining and Metals Division, Union Carbide Corporation.
5. Brochure "'Calidria' Asbestos Pellets Health and OSHA Information" Published November 1, 1977 by Metals Division, Union Carbide Corporation, Niagara Falls, New York.
6. "Consumer Safety in Plastics System Containing Bound Asbestos Fibers presented on November 9, 1977 at the NATEC Meeting of the Society of Plastics Engineers at Denver by Dr. Harrison B. Rhodes, Manager Marketing Services-Asbestos, Union Carbide.
7. "What You Should Know About Asbestos and Health," published by the Asbestos Information Association, disseminated by Union Carbide.

B. RG-244.

1. Brochure "'CALIDRIA' Asbestos RG-244 - Health and OSHA Information," published February 1, 1975 and revised October 1, 1977 by Marketing and Technology Department, Mining and Metals Division, Union Carbide Corporation, Niagara

Falls, New York.

2. "'CALIDRIA' Asbestos RG-244 - Typical Chemical Analysis,"
date of publication unknown.

IX. AIA MATERIAL

A) In addition to the above, Union Carbide made the following documents and brochures, which were prepared and published by the Asbestos Information Association, available to Calidria customers:

1. Testimony by George W. Wright, M.D. before U.S. Dept. of Labor, Occupational Safety & Health Hearing on Proposed Occupational Asbestos Standard, March 14-17, 1972.
2. Testimony by J. Corbett McDonald, M.C. - same as above.
3. OSHA Regulations - 6/7/72.
4. EPA Regulations - 4/6/73.
5. NY Times Article and Rebuttals (Article - 1/21/73, Rebuttals - 2/25/73).
6. AIA Response to the Wall Street Journal - 6/15/72.
7. "Airborne Asbestos" National Research Council, 1971.
8. "Airborne Asbestos" - Summary.
9. "Airborne Asbestos" - References.
10. Asbestos Bulletin (Asbestos Information Committee, London - 9/72).
11. CIBA GEIGY - UK 2/72.
12. QAMA Folder
13. WHO Report - 10/72
14. Target Health Hazard Fact Sheet (SILICA)
15. "Asbestos Has Its Defenders" - The Journal of Commerce, 4/20/73
16. "The Familiar Aroma of Panic" - Editorial, Plastics Technology 3/73
17. Dust Counting - S. G. Bayer, R. D. Zummalde, T. A. Brown - Feb. 1969 U.S. Dept. of Health, Education and Welfare
18. Dust Monitoring Equipment & Costs - 2/19/73
19. AIA - "Protecting The Asbestos Worker"
20. AIA - "Asbestos and Health"
21. AIA - "The Asbestos Information Association/North America"
22. AIA - "Asbestos and Health Questions and Answers"
23. AIA - "What Asbestos Is: How and Where It Is Used"
24. The Northern Miner - "Asbestos Completely Exonerated etc." - 4/19/73
25. Partnership for Prevention - "The Insulation Industry Hygiene Research Program" - 4/70
26. Asbestos - Reprint from National Safety News - 10/73

27. AIA Answer to TIME magazine - 2/1/74
28. AIA/"What Every Employee Should Know About Asbestos" -2/74
29. AIA Response to "Consumers Research" - 1/28/74
30. "Asbestos Health Question Perplexes Experts," C&EN - 12/10/73
31. Disputes on the Safety of Asbestos - New Scientist 3/7/74
32. JLM Speech (SPE Paper)
33. RG-244 Health Booklet
34. Asbestos in the Atmosphere - AIA/NA
35. Asbestos in Water - AIA/NA
36. Asbestos & Silica Dust in the Drywall Industry. Part 1 - Nov/Dec.
1975, Dr. Rhodes.
37. Asbestos & Silica Dust in the Drywall Industry. Part 2 - Jan./Feb.
1976, Dr. Rhodes.
38. Detection of Chrysotile Asbestos in Airborne Dust from
Thermosetting Resin Grinding. 1975, Faulring.
39. AIA/NA Molding & Fabrication of Asbestos-Containing Plastic
Products, Work Practices
40. Instructions for Sampling of Airborne Asbestos Fibers
41. Procedure for Pump Calibration used for Monitoring of Asbestos
Dust Emissions

B) The following information pamphlets were mailed to Calidria customers
beginning in 1977:

1. "Calidria Asbestos SG-130 and SG-210" sales brochure (1968).
2. "Safe Use of Calidria RG244" (February 1973).
3. "Calidria Asbestos RG-600 Health and OSHA Information"
(February 1, 1975).
4. "Calidria Asbestos RG 244 Health and OSHA Information"
(October 1, 1977).
5. "Calidria Asbestos Pellets Health and OSHA Information"
(November 1, 1977).
6. Letter to Calidria Customers with health and safety enclosures
(October 24, 1977).
7. Letter to Calidria distributors with health and safety enclosures
(September 10, 1979).
8. Letter to Calidria customers with health and safety enclosures
(August 20, 1979).
9. Letter to Calidria Customers with health and safety enclosures
(October 1, 1980).
10. Letter to Calidria Customers with health and safety enclosures
(November 23, 1981).
11. Letter to Calidria Customers with health and safety enclosures
(December 9, 1981).

In addition to the above, Union Carbide may have received printed material from other sources. Such material, still accessible to Union Carbide, would be contained in Union Carbide's repository of asbestos-related documents which has been made available.

Union Carbide's knowledge concerning potential health hazards possible associated with excessive asbestos fiber inhalation developed gradually. Sources of information as to possible health concerns of which Union Carbide is presently aware included general and scientific literature on the topic and reports or memoranda by Union Carbide employees.

Union Carbide responds further that so far it can find no documents relating to the IHF in its files. Union Carbide also has in its possession a copy of at least one edition of the newsletter published by the Insulation Industry Hygiene Research Program. In addition, Union Carbide possesses files which may contain miscellaneous correspondence to or from the AIA or other organizations.

INTERROGATORY NO. 20:

Has Defendant or any of its predecessor or subsidiary companies at any time published or distributed any printed material, including brochures, warning signs or statements, pamphlets, catalogs, packaging or other written material or any kind or (sic) character containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos? If so, please identify each person responsible for having drafted or issued the warning statements and/or written material, and the dates when each warning was first issued or distributed.

ANSWER TO INTERROGATORY NO. 20:

Subject to and without waiver of said objections:

See Union Carbide's response to Interrogatory No. 19. Union Carbide further states that during the early days of Union Carbide's Calidria business (which began in 1963), medical and industrial health officials at Union Carbide issued asbestos toxicology reports which were distributed to sales personnel and others within Union Carbide. Warning labels were added to Calidria packages in 1968 and toxicological information first appeared in sales literature in that year. Material Safety Data Sheets were mailed to Calidria customers beginning in 1972. AIA/NA information pamphlets were made available to customers starting in 1972 and were mailed to customers beginning in 1977 at the latest.

The health and safety literature made available and disseminated by Union Carbide to its customers of Calidria warned of possible serious adverse health effects associated with the excessive inhalation of asbestos fiber, advised customers on ways to control or avoid such hazards, including the use of respirators as a way to avoid the hazards. In addition to the dissemination of health and safety information, Union Carbide took active steps to help insure

that Calidria was handled and used in a clean and safe manner and environment.

Union Carbide used two cautionary statements on its Calidria packaging. The first cautionary statement was used from June 22, 1968 through May 1972, and read as follows: "Warning: Breathing dust may be harmful. Do not breathe dust." The second cautionary statement was prescribed by OSHA in 1972 and was first printed on Calidria packaging in June of that year and was used by Union Carbide until the sale of the Calidria mine and mill in 1985. This second cautionary statement read as follows: "Caution. Contains asbestos fibers. Avoid creating dust. Breathing asbestos dust may cause serious bodily harm. See also responses to Interrogatories No. 10, 11 and 19 herein.

Union Carbide states further that the best information currently available to it indicates that there may have been some warning signs posted at the Brownsville, Texas facility at some point in time; however, it is unknown at this time when these may have been posted, where they might have been posted, the content those signs, or who drafted the language on those signs. Union Carbide is continuing to investigate and will supplement if any further information is learned.

INTERROGATORY NO. 21:

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 asbestos? If so, please state the names of such associations and the dates during which Defendant or any of its subsidiaries or predecessors were members.

ANSWER TO INTERROGATORY NO. 21:

Subject to and without waiver of said objections:

See Union Carbide's answer to Interrogatory No. 12. Union Carbide states further that it was a member of the Industrial Health Foundation, the American Industrial Health Association and Asbestos Information Association/North America. Union Carbide may also have cooperated with work undertaken by the Pneumoconiosis Research Council of the United Kingdom, The Organization Resources Recovery Organization, and the Insulation Industry Hygiene Research Program. Union Carbide or its personnel also participated in activities of the National Safety Council. Union Carbide has no presently available record of associations with any other organization listed in the interrogatory.

INTERROGATORY NO. 22:

State the name, address and job title, and length of time employed of each and every individual employed at any time at any of Defendant's facilities who has made or presented a Worker's Compensation or other claim for personal injury and/or death resulting from inhalation of asbestos. In your answer, also give the date of any such claims and the injury alleged.

ANSWER TO INTERROGATORY NO. 22:

UCC objects to this Interrogatory on the grounds that it is overbroad and not reasonably calculated to lead to the discovery of admissible evidence in that the request is not limited to the Brownsville facility. UCC further objects to the extent that it does not know each and every person who has ever worked at one of UCC's facilities and who has made such a claim. Subject to its objections: All responsive documents have been provided.

INTERROGATORY NO. 23:

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

ANSWER TO INTERROGATORY NO. 23:

See General Objection No. 4. Union Carbide objects further to this Interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its objections, Union Carbide states that it possesses sufficient insurance coverage to enable it to cover the Plaintiff's claims.

INTERROGATORY NO. 24:

Please state the following with respect to each expert witness that you may call during the trial of these cases. Please designate with specificity the expert witnesses that you will call, including the name, address and job classification of each such expert witness; the subject matter on which the expert is expected to testify; the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion and whether any such expert has provided a report or other documentation to you, and if so, identify each document or report.

ANSWER TO INTERROGATORY NO. 24:

Subject to and without waiver of said objections:

Union Carbide objects to this Interrogatory to the extent that it seeks the identity of consulting experts which is outside the scope of the Texas Rules of Civil Procedure. Union Carbide further states that it has not yet determined who its expert witnesses will be and will supplement this answer according to the Texas Rules of Civil Procedure and the Camreon County Standing Order.

INTERROGATORY NO. 25:

Please state the date on which Defendant or its subsidiary or predecessor first learned that persons could suffer physical injury through the inhalation of asbestos fibers and how Defendant became aware of the existence of the hazard.

ANSWER TO INTERROGATORY NO. 25:

See General Objection No. 4. Union Carbide responds, subject to and without waiving its objection, that its knowledge concerning potential health hazards possible associated with excessive asbestos fiber inhalation developed gradually and it would be impossible to state a particular date. Sources of information as to possible health concerns of which Union Carbide is presently aware included general and scientific literature on the topic and reports or memoranda by Union Carbide employees. All responsive documents have been made available.

INTERROGATORY NO. 26:

Do you contend that Defendant, Defendant's representatives, insurance carriers and/or agents performed measurements and/or studies prior to 1970 to determine the quantity of asbestos fibers in the air at Defendant's facilities? If the answer is anything other than "no", identify each and every fact which supports this contention and identify all documents which specifically support this contention.

ANSWER TO INTERROGATORY NO. 26:

Union Carbide objects to the extent that this interrogatory overly broad in that it seeks information regarding Union Carbide facilities other than Brownsville, Texas, where the Plaintiff worked. Subject to and without waiving its objection, Union Carbide answers as follows:

Union Carbide performed air maintenance at its Calidria mine and mill. The monitoring record reflects Union Carbide's general compliance with all applicable statutes and regulations and corrections of any aberrations. All responsive documents have been made available.

With respect to the Brownsville facility, the best information currently available to UCC indicates that air measurements and studies were performed at the plant during the time of its operation, but it is unknown at this time whether any such tests were conducted before 1970. UCC is searching for records which may reflect such testing and will produce these records to Plaintiff if they are located.

INTERROGATORY NO. 27:

Do you contend that Defendant specifically warned its employees and/or other persons on Defendant's premises about the hazards of asbestos and asbestos-containing products prior to 1970? If the answer is anything other than "no", identify each and every fact which supports this contention and identify all documents which specifically support this contention.

ANSWER TO INTERROGATORY NO. 27:

See Union Carbide's responses to Interrogatories No. 10, 11, 19 and 20.

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Produce any and all documents regarding Defendant's purchase agreement, acquisition, sale, transfer and/or ownership of the premises.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

See General Objections No. 4 and 5. Union Carbide further objects to this request on the grounds that it is vague, non-specific, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence and constitutes an impermissible "fishing expedition" in violation of the Texas Rules of Civil Procedure. *K-Mart Corp. v. Sanderson*, 937 S.W. 2d 429, 431 (Tex. 1996).

REQUEST FOR PRODUCTION NO. 2:

Produce any and all documents regarding the disposition of Defendant's liabilities as they relate to Defendant's ownership of the premise.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

See General Objections No. 4 and 5. Union Carbide further objects to this request on the grounds that it is vague, non-specific, overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence, and constitutes an impermissible "fishing expedition" in violation of the Texas Rules of Civil Procedure. *K-Mart Corp. v. Sanderson*, 937 S.W. 2d 429, 431 (Tex. 1996).

REQUEST FOR PRODUCTION NO. 3:

Produce any and all documents regarding contracting services performed on Defendant's premises by Brown & Root (contractors).

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

See General Objections 4 and 5. Union Carbide further objects to this request on the grounds that it is overbroad, vague, non-specific, not reasonably calculated to lead to the discovery of admissible evidence, and fails to specify with reasonable particularity the items sought. See *K-Mart Corp. v. Sanderson*, 937 S.W. 2d 429, 431 (Tex. 1996). Subject to and without waiving the foregoing, Union Carbide states it will produce records relating to asbestos and/or asbestos abatement work performed by Brown & Root at the Brownsville facility during its operation.

REQUEST FOR PRODUCTION NO. 4:

Produce any and all documents which form the basis of Defendant's answer to Interrogatory Nos. 3, 4 and 5.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Union Carbide objects to this request on the grounds that it is non-specific, overly broad and unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and is an impermissible fishing expedition. See *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989), *Davis v. Pate*, 915 S.W. 2d 76 (Tex. App. — Corpus Christi 1996, orig. proceeding). Subject to its objections, see UCC's answer(s) to Interrogatories 3, 4 and 5.

REQUEST FOR PRODUCTION NO. 5:

Produce any and all indemnity agreements, assignments of liability, subrogation agreements or other similar documents relating to Defendant's ownership of said premise and liabilities arising from said ownership.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Union Carbide objects to this request on the grounds that it is vague, overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence and constitutes an impermissible "fishing expedition" in violation of the Texas Rules of Civil Procedure. *Loftin v. Martin*, 776 S.W. 2d 145, 148 (Tex. 1989); *K-Mart Corp. v. Sanderson*, 937 S.W. 2d 429, 431 (Tex. 1996).

REQUEST FOR PRODUCTION NO. 6:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Subject to and without waiver of said objections: All responsive documents have been produced.

REQUEST FOR PRODUCTION NO. 7:

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 TO REQUEST FOR PRODUCTION NO. 7:

UCC objects to this request as overboard, burdensome and it furthermore fails to specify with reasonable specificity the items sought. Subject to its objections, all responsive documents have been produced.

REQUEST FOR PRODUCTION NO. 8:

Produce any 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 all documents which refer to such publications.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Union Carbide objects to this request because it is overly broad and unduly burdensome. Subject to its objections, Union Carbide states as follows:

Union Carbide has in its possession a copy of at least one edition of the newsletter published by the Insulation Industry Hygiene Research Program. In addition, Union Carbide possesses files which may contain miscellaneous correspondence to or from the AIA or other organizations.

Union Carbide maintains a repository of asbestos-related documents and materials, referred to elsewhere herein. All responsive documents have been produced.

REQUEST FOR PRODUCTION NO. 9:

Produce any and all documents, memoranda and or other writings that indicate and/or reflect or refer to any inspections by any regulatory agency for the purpose of ascertaining whether health or safety regulations pertaining to asbestos were being followed or adhered to at any of your plants, including but not limited to written reports produced by such agency.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Union Carbide objects to the extent that this request is overbroad and burdensome in that it is not limited to the Brownsville, Texas facility where the Plaintiff worked. Subject to and without waiver of said objections: All responsive documents have been produced.

REQUEST FOR PRODUCTION NO. 10:

Produce all safety meeting minutes or other documents, memoranda and/or writings that refer to the dangers of asbestos and/or safety measures to be used in the vicinity of asbestos at Defendant's premise.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Union Carbide objects to this request on the grounds that it is non-specific, overly broad and vague. Subject to its objections, Union Carbide states that all responsive documents have been produced.

REQUEST FOR PRODUCTION NO. 11:

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 products at Defendant's premises.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Subject to and without waiver of said objections:

Union Carbide produced its abatement records from its Brownsville facility.

REQUEST FOR PRODUCTION NO. 12:

Produce any and all documents, memoranda and/or other writings that in any way reflect a removal plan or organized written criteria or schedule for the removal of asbestos at Defendant's premise.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

See Response to Request for Production No. 11 herein. All responsive documents have been produced.

REQUEST FOR PRODUCTION NO. 13:

Any and all videotapes and/or photographs of the Plaintiff. All responsive documents have been produced.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Subject to and without waiver of said objections:

Union Carbide has located one photograph of the Plaintiff which has been produced. If

any other photographs are located, they will be produced to Plaintiff. UCC has not located any videotapes of Plaintiff, but will produce such videotape(s) if located.

REQUEST FOR PRODUCTION NO. 14:

Any and all material safety data sheets for any asbestos-containing product used at Defendant's premise.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Subject to and without waiver of said objections:

Union Carbide maintains an index of Material Safety Data Sheets from its Brownsville, Texas facility which have been provided.

REQUEST FOR PRODUCTION NO. 15:

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 in any of your plants.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Union Carbide refers Plaintiff to its repository for asbestos-related documents in New York and to its documents from the Brownsville facility. Responsive, non-privileged documents have been provided.

REQUEST FOR PRODUCTION NO. 16:

Produce any and all documents, memoranda, and/or other writings that reflect and/or demonstrate in the form of a map and/or chart the layout of Defendant's premise, including the location and dimensions of all buildings and specifically including, but not limited to, the location and/or placement of asbestos-containing products at any time.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

UCC objects on the grounds that this request is overbroad and burdensome and not limited in time to the period when the Plaintiff worked at UCC's Brownsville facility. Subject thereto, UCC states that it may have numerous documents which reflect the layout of the plant or portions thereof at various times during the plant's existence. All responsive documents have been produced.

REQUEST FOR PRODUCTION NO. 17:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Subject to and without waiver of said objections:

Union Carbide refers Plaintiff to its document repository for asbestos-related documents and materials where any responsive and non-privileged items have been made available.

REQUEST FOR PRODUCTION NO. 18:

Produce any photographs of asbestos products or asbestos products being fabricated and/or utilized at Defendant's premises.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Subject to and without waiver of said objections:

Union Carbide states that it did not produce asbestos products at the Brownsville, Texas facility. UCC states further that it is searching for responsive materials. If any such photographs are located, they will be produced to Plaintiff.

REQUEST FOR PRODUCTION NO. 19:

Produce any photographs of warning signs or other statements in place at any time in the vicinity of asbestos-containing products or asbestos in place at any time at Defendant's premises.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Subject to and without waiver of said objections:

UCC is searching for responsive materials and will produce such documents if located.

REQUEST FOR PRODUCTION NO. 20:

Produce any documents indicating in any way that individuals claimed injury to their lungs as a result of exposure to asbestos at Defendant's premises.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

UCC objects to this request as vague, lacking in specificity and overly broad and unsuly burdensome. In addition, UCC is unsure what is meant by the wording of the request. Furthermore, the request as worded does not describe the documents sought with reasonable particularity and amounts to an impermissible fishing expedition. See *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989). In addition, UCC objects to the request to the extent that it seeks any material protected by the attorney-client, attorney work product, investigative and consulting expert privileges.

REQUEST FOR PRODUCTION NO. 21:

Produce any documents, including but not limited to workers compensation claims, indicating that any individuals claimed injury as a result of exposure to asbestos products at any of your facilities and/or factories where asbestos was used.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

UCC objects to the request as framed to the extent that it seeks items which are protected by the attorney-client and attorney work product privileges, and it is not limited in scope to the Brownsville facility and is such overbroad. Subject to its objections, UCC refers Plaintiffs to its answer to Interrogatory No. 22.

REQUEST FOR PRODUCTION NO. 22:

Produce any memoranda, writings, or other documents, including but not limited to, corporate minutes, which in any way contain a discussion of the hazards or potential hazards of asbestos.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Union Carbide objects to this request on the grounds that it is vague, overly broad and burdensome. Subject to these objections, Union Carbide may have responsive documents in its document repository for asbestos-related materials which has been made available to plaintiff.

REQUEST FOR PRODUCTION NO. 23:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Subject to and without waiver of said objections: Union Carbide possesses sufficient insurance coverage to enable it to cover the claims of the Plaintiff.

REQUEST FOR PRODUCTION NO. 24:

Produce any minutes or any 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 TO REQUEST FOR PRODUCTION NO. 24:

UCC objects to the extent this request seeks information which is protected by the attorney-client, attorney work product and the consulting expert privileges. Subject to its objections, UCC states that non-privileged, responsive materials may be located in UCC's repository for asbestos-related information which have been produced to Plaintiff.

REQUEST FOR PRODUCTION NO. 25:

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 and/or installation of asbestos-containing products at Defendant's premises.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

Subject to and without waiver of said objections: No responsive documents exist.

REQUEST FOR PRODUCTION NO. 26:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

Union Carbide objects to the extent that this request seeks information from plants other than the Brownsville, Texas location and furthermore, is not limited in time, and is therefore overly broad. Subject to and without waiving its objections, Union Carbide may have responsive documents in its asbestos document repository which has been opened to Plaintiff. Additionally, these documents have been provided.

REQUEST FOR PRODUCTION NO. 27:

In the event that Defendant performed or had performed any dust level counts or measurements of any of its plants or industrial facilities with respect to asbestos dust, produce any documents,

memoranda, or other writings that in any way reflect the actions taken as a result of such counts or studies.

RESPONSE TO REQUEST FOR PRODUCTION NO. 27:

Please see response and objections to Request for Production No. 26.

REQUEST FOR PRODUCTION NO. 28:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 28:

Union Carbide objects to the extent that this request violates the investigative, attorney-client and the consulting expert privileges. Subject to those objections and without waiving same, Union Carbide states that it has not yet determined who its experts will be in this case and will properly supplement according to the Texas Rules of Civil Procedure and the Cameron County Standing Order.

REQUEST FOR PRODUCTION NO. 29:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 29:

Union Carbide objects to the extent that this request violates the consulting expert privilege. Subject to these objections, Union Carbide states that it has not determined what expert or fact witnesses it will call as a result of the filing of this case and will supplement according to the Texas Rules of Civil Procedure and the Cameron County Standing Order.

REQUEST FOR PRODUCTION NO. 30:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 30:

Subject to and without waiver of said objections:

Union Carbide has not yet determined what experts it will use in this case. Union Carbide will produce upon request, at Plaintiff's expense, curriculum vitae and/or resumes of any

persons listed herein, or in supplements thereto to the extent that such individuals have curriculum vitae or resumes.

REQUEST FOR PRODUCTION NO. 31:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 31:

Union Carbide objects to this request to the extent it is overly broad, is lacking in specificity, is unduly burdensome and outside the scope of discovery permitted by TRCP 166(b). See *Loftin v. Martin and County of Dallas v. Harrison*, 759 S.W. 2d 530, 531 (Tex. App. — Dallas 1988, no writ). Union Carbide further objects to this request for trial exhibits as overly broad and violative of TRCP 166(b). See *Texas Tech Univ. Health Sciences Ctr. v. Schild*, 828 S.W. 2d 502, 504 (Tex. App. — El Paso 1992, orig. proceeding). UCC also objects to this request because UCC has not had the benefit of disclosure from the Plaintiff as to what Plaintiff's evidence will be and this request calls for speculation as to what evidence Defendant might adduce at the trial of this case based upon the evidence the Plaintiffs put forth.

REQUEST FOR PRODUCTION NO. 32:

If your answer to Interrogatory No. 19 is anything other than "no", please produce all books, pamphlets, memoranda and written materials which relate to your answer.

RESPONSE TO REQUEST FOR PRODUCTION NO. 32:

Union Carbide objects in that the request does not reasonable describe with particularity the documents to be inspected, is vague and overboard and is thus an "impermissible fishing expedition." See *Texaco, Inc. v. Sanderson*, 898 S.W. 2d 813, 814-815 (Tex. 1995), *Loftin v. Martin*, 776 S.W. 2d 145, 148 (Tex. 1989). Subject to its objections, Union Carbide refers Plaintiff to its document repository of asbestos-related documents which is referred to and discussed herein.

REQUEST FOR PRODUCTION NO. 33:

If your answer to Interrogatory No. 20 is anything other than "no", please produce all warning statements and/or printed material which relate to your answer.

RESPONSE TO REQUEST FOR PRODUCTION NO. 33:

UCC refers Plaintiff to its answers to Interrogatory No.20 and No. 11.

REQUEST FOR PRODUCTION NO. 34:

Produce a copy of any and all regulations, orders, rules and/or policies which govern the safety of the Defendant's premise.

RESPONSE TO REQUEST FOR PRODUCTION NO. 34:

UCC objects to this request as vague and non-specific, overly broad, unduly burdensome, not limited to time and to the subject matter of this suit and therefore not reasonably calculated to lead to the discovery of admissible evidence. In addition, this request does not describe with reasonable particularity the documents sought. See *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989). Subject to its objections, UCC states that numerous rules, regulations and policies have been in effect during the years of operation of the Brownsville facility which relate to asbestos-containing products. UCC has provided these to plaintiffs.

REQUEST FOR PRODUCTION NO. 35:

Produce any and all documents which contain, relate or refer to complaints regarding safety conditions and/or work place conditions at the Defendant's premises.

RESPONSE TO REQUEST FOR PRODUCTION NO. 35:

Union Carbide objects to this request to the extent it is not limited to the subject matter of this lawsuit and not limited in time and is therefore overbroad. Subject to and without waiving its objections, UCC is searching for and will produce any responsive documents it locates.

REQUEST FOR PRODUCTION NO. 36:

Produce any and all documents which contain, relate or refer to complaints by Union representatives of the employees at Defendant's plant regarding safety conditions and/or work place conditions at the plant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 36:

See response and objection to Request for Production No. 35.

REQUEST FOR PRODUCTION NO. 37:

Produce any documents, organizational charts or rosters, which identify the members of the

management at the Defendant's premises and their areas of responsibility.

RESPONSE TO REQUEST FOR PRODUCTION NO. 37:

UCC is searching for any responsive materials which, if located, will be produced to Plaintiff.

REQUEST FOR PRODUCTION NO. 38:

Produce any and all documents which evidence Defendant's net worth, including but not limited to all "10-K" forms filed for the last five years.

RESPONSE TO REQUEST FOR PRODUCTION NO. 38:

See General Objection No. 4. Union Carbide objects further on the grounds that this request is overly broad, unduly burdensome, an invasion of privacy and not reasonably calculated to lead to the discovery of admissible evidence. Further this request does not describe the documents to be inspected with reasonable particularity. See *Loftin v. Martin*, 776 S.W. 2d 145 (Tex. 1989). Subject to its objection, Union Carbide has produced copies of its 10K for the past five years.

REQUEST FOR PRODUCTION NO. 39:

Produce any and all interrogatory answers, responses to request for production and/or responses to requests for admission filed by Defendant in any action wherein the Plaintiff was claiming an injury from exposure to asbestos or asbestos-containing products.

RESPONSE TO REQUEST FOR PRODUCTION NO. 39:

See General Objection No. 4. Union Carbide further objects to this request on the grounds that it is overly broad and unduly burdensome.

REQUEST FOR PRODUCTION NO. 40:

Produce any and all correspondence, memoranda, documents, and/or other communications between Defendant and any of its worker's compensation carriers regarding the hazards of asbestos and asbestos-containing products.

RESPONSE TO REQUEST FOR PRODUCTION NO. 40:

Any responsive material would be in the repository which has been made available to plaintiff.

REQUEST FOR PRODUCTION NO. 41:

Produce any and all correspondence, memoranda and/or other documents regarding asbestos, if any, which were provided by Defendant to contractors performing services on Defendant's premises.

RESPONSE TO REQUEST FOR PRODUCTION NO. 41:

UCC is searching for records which may be responsive to this request and will produce them if located.

REQUEST FOR PRODUCTION NO. 42:

Any and all material safety data sheets for any asbestos-containing product used at Defendant's plant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 42:

UCC objects in that this request is vague and non-specific in that it does not identify which plant is meant. Subject to this objection, Union Carbide refers Plaintiff to its response to Request for Production No. 14 herein.

REQUEST FOR PRODUCTION NO. 43:

Produce any and all deposition transcripts or trial transcripts of any witness taken in any action where the Plaintiff was claiming an injury from exposure to asbestos or asbestos-containing products at Defendant's plant and Defendant and/or Defendant's officers and directors were a party to the litigation, either as a Defendant, cross-defendant or third-party defendant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 43:

See General Objections 4 and 5. Union Carbide further objects to this request because it is overbroad and unduly burdensome.

REQUEST FOR PRODUCTION NO. 44:

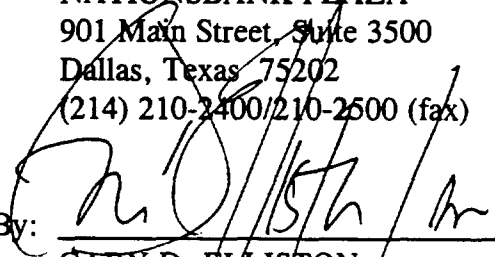
Produce any and all safety manuals and/or safety handbooks provided to Defendant's employees at any time.

RESPONSE TO REQUEST FOR PRODUCTION NO. 44:

Union Carbide objects to the extent that this request is not limited in scope and in time, and is therefore overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Subject thereto, Union Carbide refers Plaintiff to its repository for asbestos-related documents. All responsive documents have been made available.

Respectfully submitted,

DEHAY & ELLISTON, L.L.P.
NATIONSBANK PLAZA
901 Main Street, Suite 3500
Dallas, Texas 75202
(214) 210-2400/210-2500 (fax)

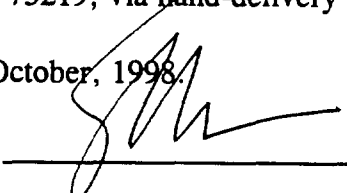
By: 

GARY D. ELLISTON
State Bar No. 06584700

COUNSEL FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been forwarded to counsel of record for Plaintiffs herein, Ms. Alicia Haff, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219, via hand-delivery and via certified mail, return receipt requested this 6th day of October, 1998.


ANTHONY S. MILLER