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EL PASO COUNTY, TEXAS  
DEPUTY

PLAINTIFF'S EXHIBIT

ASA-551

Defendant ASARCO Incorporated (f/k/a American Smelting and Refining Company and hereinafter referred to as "ASARCO"), by and through its Attorneys of Record, Kenneth R. Meyer, Esq., Porzio, Bromberg & Newman, P.C., 100 Southgate Parkway, Morristown, New Jersey, 07962-1977 and David S. Jeans, Esq., Ray, McChristian & Jeans, P.C., 5822 Cromo, Suite 400, El Paso, Texas 79912, hereby provides Master Objections and Responses to Plaintiffs' Premises Specific Interrogatories and Request for Production.

### GENERAL OBJECTIONS

1. ASARCO Incorporated ("ASARCO") generally objects to any interrogatory, document request, definition or instruction that violates the substantive and/or procedural provisions of any applicable Standing Order or Amended Standing Order adopted by this Court.
2. ASARCO generally objects to any interrogatory, document request, definition or instruction that purports to require ASARCO to respond to any discovery request in a manner or to an extent not required by the Texas Rules of Civil Procedure.
3. ASARCO objects to any interrogatory or document request to the extent that it seeks information protected by any privilege, including the attorney-client and/or attorney work product privileges.
4. ASARCO objects to any interrogatory or document request to the extent that it seeks information regarding trade secrets, confidential financial data or other proprietary information.
5. ASARCO objects to any interrogatory or document request to the extent that it seeks information that is not within the personal knowledge of ASARCO or its current employees.
6. ASARCO generally objects to Plaintiffs' requests for documents that are not in ASARCO's possession, custody or control.
7. ASARCO objects to any interrogatory or document request that seeks information that is not relevant to the subject matter involved in the pending action, that is not reasonably calculated to lead to the discovery of admissible evidence, that was prepared in anticipation of litigation or for trial by or for ASARCO's representatives, including attorneys, consultants, and agents, or that are otherwise beyond the scope of discovery permitted by the Texas Rules of Civil Procedure.
8. ASARCO generally objects to any interrogatory or document request that seeks information concerning entities other than ASARCO on the grounds that such interrogatory or request is overly broad, unduly burdensome and seeks information and documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
9. ASARCO objects to any interrogatory or document request concerning ASARCO facilities that are not at issue in this case on the grounds that any such interrogatory or request for such documents is overly broad, unduly burdensome and seeks information and documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
10. ASARCO objects to any interrogatory or document request seeking information regarding plaintiffs who assert no claims against ASARCO as any such discovery request is overly broad, unduly burdensome and seeks information or documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

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

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

### **OBJECTIONS TO DEFINITIONS**

1. ASARCO objects to Plaintiffs' definition of "Defendant", "You", "Your", and "Your company" to the extent that it includes entities that are not parties to this case. ASARCO further objects to this definition to the extent it includes former officers, directors, agents and employees over whom ASARCO no longer has dominion and control. By way of further objection, the use of these definitions transforms Plaintiffs' interrogatories, requests for production and requests for admission into an overly broad and unduly burdensome fishing expedition which violates the Texas Rules of Civil Procedure.
2. ASARCO objects to Plaintiffs' definition of "subsidiaries" on the grounds that it is overly broad, vague, ill-defined, not susceptible to a precise response and includes entities that are not parties to this case.
3. ASARCO objects to Plaintiffs' definition of "document", "written materials", and "printed matters" to the extent it includes information protected by privilege, including the attorney-client and attorney work product privileges. ASARCO further objects to this definition to the extent it includes materials that are no longer in ASARCO's possession and which, consequently, cannot be produced. By way of further objection, ASARCO objects to this definition to the extent it includes documents from entities that are not named defendants in this case.
4. ASARCO objects to Plaintiffs' definition of "person" and "persons" to the extent it includes entities that are not parties to this case. ASARCO further objects to this definition to the extent it includes former officers, directors, agents and employees over whom ASARCO no longer has control. By way of further objection, the use of these definitions transforms Plaintiffs' interrogatories and request for production into an overly broad and unduly burdensome fishing expedition which violates the Texas Rules of Civil Procedure.

5. ASARCO objects to Plaintiffs' definition of "meeting" or "meetings" to the extent it includes information protected by privilege, including the attorney-client and work product privileges. By way of further objection, ASARCO objects to this definition on the grounds that it is overly broad, vague, ill-defined and not susceptible to precise response.
6. ASARCO objects to Plaintiffs' definition of "describe" or "description" on the grounds that it is overly broad, vague, ill-defined and purports to place on ASARCO the burden of ensuring Plaintiffs' full comprehension and understanding of the response, a subjective evaluation which ASARCO has no means of making.
7. ASARCO objects to Plaintiffs' definitions of "product containing asbestos fibers," "asbestos-containing products," "asbestos products," "asbestos" and "asbestos materials" on the grounds that they are overly broad, vague, ill-defined and not susceptible to precise response.
8. ASARCO objects to Plaintiffs' definition of "medical advisory capacity" on the grounds that it is overly broad, vague, ill-defined and not susceptible to precise response.
9. ASARCO objects to Plaintiffs' definition of "trade organization" and "trade association" on the grounds that it is overly broad, vague, ill-defined and not susceptible to a precise response.
10. ASARCO objects to Plaintiffs' definition of "plant" and "facility" on the grounds that it is overly broad, vague, ill-defined and not susceptible to a precise response. It is also irrelevant insofar as it includes information or documents relating to work sites other than ASARCO's El Paso facility and entities that are not parties to this action.
11. ASARCO objects to Plaintiffs' definition of "manufacture" and "manufactured" on the grounds that it is overly broad, vague, ill-defined and not susceptible to a precise response. It is also irrelevant insofar as it seeks information or documents relating to products that did not contain asbestos or to which Plaintiffs have not alleged exposure.
12. ASARCO objects to Plaintiffs' definition of "research" and "research department" on the grounds that it is overly broad, vague, ill-defined and not susceptible to precise response.
13. ASARCO objects to Plaintiffs' definition of "medical department", "safety department" and "industrial hygiene department" on the ground that it is overly broad, vague, ill-defined and not susceptible to a precise response.
14. ASARCO objects to Plaintiffs' definition of "industrial hygiene surveys" on the grounds that it is overly broad, vague, ill-defined and not susceptible to a precise response.

15. ASARCO objects to Plaintiffs' definition of "potential health hazards" and "health hazards" on the grounds that it is overly broad, vague, ill-defined and not susceptible to a precise response. It is also objectionable insofar as it assumes that any exposure, however slight or within guidelines set by government regulatory agencies and/or industry groups, poses a hazard.
16. ASARCO objects to Plaintiffs' definition of "test" and "testing" on the grounds that it is overly broad, unduly burdensome and irrelevant to the extent it encompasses substances other than asbestos, seeks information and documents relating to locations other than ASARCO's El Paso facility and is without time limitation.
17. ASARCO objects to Plaintiffs' definition of "identify" as used in connection with documents and persons on the grounds that it is overly broad and unduly burdensome insofar as it seeks information that is apparent on the face of the documents and information that is outside of ASARCO's knowledge.
18. ASARCO objects to Plaintiffs' definition of "Defendant's Premises At Issue" on the ground that it is overly broad, unduly burdensome, and vague insofar as it seeks information or documents relating to locations other than ASARCO's El Paso facility or from entities that are not parties to this lawsuit.
19. ASARCO objects to Plaintiffs' definition of "workers" and "persons working at Defendant's Premises" on the grounds that it is overly broad, vague, and ill-defined insofar as it purports to include persons such as independent contractors over whom ASARCO did not have control or for whose actions it did not owe a duty of care.
20. ASARCO objects to Plaintiffs' definition of "abate" and "abatement" insofar as it seeks information and documents relating to substances other than asbestos or locations other than ASARCO's El Paso facility.
21. ASARCO objects to Plaintiffs' definition of the term "Time Period At Issue" on the ground that it is overly broad, vague and ill-defined insofar as Plaintiffs have yet to state, with specificity, the dates when they allege to have worked at ASARCO's El Paso facility. It is also objectionable to the extent it refers to a time period during which plaintiffs were not working at the El Paso facility.
22. ASARCO objects to Plaintiffs' definition of the term "Plaintiff's Employer" as overly broad, vague, ill-defined and not susceptible to a precise response.

**ASARCO INCORPORATED'S MASTER OBJECTIONS AND RESPONSES**  
**TO PLAINTIFFS' PREMISES SPECIFIC INTERROGATORIES**

**INTERROGATORY NO. 1:**

For each person who has supplied any information used in answering these interrogatories, or who assisted in identifying, locating or retrieving documents responsive to Plaintiff's Requests for Production, identify such person and include the length of time employed by Defendant or other employer, and a year-by-year list of all other positions, titles, or jobs held.

**ANSWER:**

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

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

1. Donald A. Robbins, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Mr. Robbins is currently employed by ASARCO as the Director of Environmental Services.

2. Peggy Munsell, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Employed by ASARCO as the Industrial Hygienist at the El Paso facility from December 1993 to January 2001.

3. Norma Kidder, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Employed by ASARCO as the Plant Nurse at the El Paso facility since 1976.

4. LeRoy Bates, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Employed by ASARCO since 1975 in the following positions at the El Paso facility: Invoice Clerk, 1975 - 1980; Computer Systems Analyst, 1980 - 1993; Trainer For Contractors and Employees, 1993; Training Specialist, 1994; and Safety Engineer In Charge Of Training, from 1994 - March 1999.

5. K. W. Nelson, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Employed by ASARCO from approximately 1945 through 1982 in various positions in the Industrial Hygiene department and Environmental Sciences department.

6. Michael O. Varner, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Mr. Varner was employed by ASARCO from 1971 through approximately 1999 and he held various positions in the Environmental Sciences, Technical Services and Environmental Operations departments.

7. John B. Richardson, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Mr. Richardson has been employed by ASARCO from approximately 1973 until approximately 2001. He has held various positions in the Environmental Sciences and Technical Services departments.

8. James P. Sieverson, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Mr. Sieverson was employed by ASARCO from approximately 1972 through 1990 in various positions in the Environmental Sciences department.

ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

INTERROGATORY NO. 2:

As to each of the following, please state the first year you first became aware, what you learned, and how Defendant learned that humans who inhale asbestos fibers can contract

- a. asbestosis
- b. lung cancer
- c. mesothelioma

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. By way of further objection, this Interrogatory calls for a medical opinion or conclusion which ASARCO is not qualified to render. ASARCO further objects to this Interrogatory to the extent it calls for information outside the periods during which Plaintiff allegedly worked at the El Paso facility. Plaintiff has failed to identify any asbestos-containing products to which Plaintiff was allegedly exposed or the locations within the El Paso facility where Plaintiff allegedly was exposed to such products. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Furthermore, ASARCO objects to any request for information from predecessor or subsidiary companies that are not named defendants in this action on the ground that any such request is overly broad, unduly burdensome and seeks irrelevant information.

Subject to and without waiving the foregoing objections, ASARCO states that by the 1930s governmental and private industrial hygienists, occupational physicians and sophisticated manufacturing concerns were aware of the possibility that susceptible

persons who are exposed to excessive amounts of asbestos fibers over a prolonged period of time might develop the disease asbestosis. Medical and scientific literature on the potential dangers of asbestos had been published in a variety of medical and scientific periodicals, textbooks and other publications which were readily available to any interested entity or individual. ASARCO is and was aware that by the 1950s contradictory articles on whether there was an association between asbestosis and an increased incidence of lung cancer appeared in the medical literature. Most authors who reported the possibility of such an association recognized that both the methodology of the studies and limited number of cases reported prevented any firm conclusion. Further, many researchers had reported a lack of association between asbestos exposure and lung cancer and asbestosis and lung cancer. Additionally, ASARCO is and was aware that throughout the 1960s new studies regarding the health effects of asbestos inhalation were published. Certain of those studies suggested that persons exposed to asbestos-containing products might have an increased risk of developing lung cancer and mesothelioma.

INTERROGATORY NO. 3:

Please list all trade organizations, trade associations and any other industry-wide groups to which you belong(ed) (specifically including but not limited to the following groups: American Hygiene Foundation, Industrial Hygiene Foundation, Chemical Manufacturer's Association, American Chemical Council, American Petroleum Institute, Texas Chemical Council, Ohio Safety Congress, National Safety Council, Asbestos Information Association, Industrial Medical Association) in which information or documents relating to asbestos was discussed, disseminated, or published (including, but not limited to, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk). As to each such group, please state:

- a. the inclusive dates of your membership and
- b. identify Defendant's employees or former employees or representatives who attended any of the meetings held by each organization, and
- c. the meetings they attended, and
- d. if any individuals employed by Defendant or representing Defendant were members of committees or subcommittees of any such organizations, (such as, e.g., a medical advisory committee or legal committees, identify the committee or subcommittee on which such individual served and the position occupied on the committee, if applicable.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad, without time limitation, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it calls for information outside the periods during which Plaintiff allegedly worked at the El Paso facility. By way of further objection, the

phrase "any other industry-wide group" is vague, ill-defined and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO states that it was never a member of an asbestos-related trade organization as it understands the term. It was, however, a member of the Industrial Hygiene Foundation from 1937 to 1982. It also was a member of the National Safety Council.

INTERROGATORY NO. 4

Please identify Defendant's employees or former employees or representatives who attended any proceedings, symposia, or conferences of a scientific or medical or technical nature at which information or documents relating to asbestos was discussed, disseminated, or published, (including, by way of example, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk) and specifically including but not limited to the Seventh Saranac Symposium, 1952, and/or New York Academy of Sciences, October 1964, and for each such individual, state the proceedings, symposia, or conferences attended and to whom within your corporate organization information concerning attendance at such proceedings, symposia, or conferences were reported, either verbally or in documentary form.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad and without time limitation, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it calls for information outside the periods during which Plaintiff allegedly worked at the El Paso facility.

Subject to and without waiving the foregoing objections, K. W. Nelson and Dr. Sherman S. Pinto attended the New York Academy of Sciences Conference on Biological Effects of Asbestos held in New York, N.Y. on October 19-21, 1964. ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

INTERROGATORY NO. 5:

Please identify each company from which you acquired asbestos-containing products used at Defendant's Premises At Issue during the years Plaintiff has indicated he worked at Defendant's Premises At Issue and include in your response

- a. a description of each asbestos-containing product acquired and
- b. the dates each asbestos-containing product was acquired.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff has failed to identify any asbestos-containing products with which Plaintiff worked or the locations in ASARCO's facility in which he allegedly worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Interrogatory calls for an unduly burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving these objections, see ASARCO's response to Request for Production No. 1.

INTERROGATORY NO. 6:

If any asbestos-containing materials located or formerly located at Defendant's Premises At Issue have been removed, encapsulated, or otherwise abated at any time,

- a. Identify each person or company that performed such abatement services;
- b. State the dates and locations within Defendant's Premises At Issue of each abatement procedure; and
- c. Describe what asbestos-containing materials were abated
- d. State how such asbestos-containing waste was stored at Defendant's Premises At Issue prior to disposal and how it was disposed of

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad and without time limitation, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff has failed to identify any asbestos-containing products with which Plaintiff worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Without such limitations, this Interrogatory calls for an unduly burdensome and non-specific search of potentially decades worth of documents to determine each and every product used at the plant which may have contained asbestos. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO commenced asbestos abatement at the El Paso facility in approximately 1990. Dates and locations of abatement include the following:

| Date          | Location                            |
|---------------|-------------------------------------|
| 10/90 - 11/90 | Zinc Plant Fuming Furnace           |
| 01/07/91      | Environmental Bunker                |
| 01/07/91      | Security Building                   |
| 01/28/91      | Acid Plant #1                       |
| 01/91 - 02/91 | Lead Plant D & L Baghouse Fan House |
| 06/92 - 07/92 | Warehouse                           |
| 10/94 - 12/94 | Jones School                        |
| 10/94 - 12/94 | Smeltertown                         |
| 10/24/94      | Cadmium Plant                       |
| 01/20/95      | Auto Shop                           |
| 01/24/95      | Power House                         |
| 02/01/95      | Antimony Plant                      |
| 03/07/95      | Power House                         |
| 03/08/95      | Power House                         |
| 03/30/95      | Power House                         |
| 05/12/95      | Power House/Lab                     |
| 07/15/95      | Lab                                 |
| 07/29/95      | Office Buildings                    |
| 08/12/95      | Main Office Lobby                   |
| 08/13/95      | Main Office Lobby                   |
| 10/24/95      | Power House                         |
| 11/02/95      | Power House                         |
| 11/14/95      | Power House                         |
| 12/02/95      | Elec. Shop/garage                   |
| 12/09/95      | Elec. Shop/garage                   |
| 12/16/95      | Elec. Shop/garage                   |
| 12/21/95      | Acid Plant #1                       |
| 01/14/96      | Elec. Shop/garage                   |
| 04/10/96      | Copper Plant By-Pass Flue           |

|               |                                          |
|---------------|------------------------------------------|
| 04/24/96      | Lead Plant Blast Furnace Baghouse Stacks |
| 06/12/96      | Copper Plant Converter Boilers           |
| 06/16/96      | Power House                              |
| 06/96 - 08/96 | Lead Plant Blast Furnace Coke Conveyor   |
| 07/96         | Tower Ducts                              |
| 08/96         | Copper Plant Reverb                      |
| 08/14/96      | Acid Plant                               |
| 09/04/96      | Copper Plant Converter Boilers           |
| 09/04/96      | Auto Shop                                |
| 09/23/96      | Power House                              |
| 09/25/96      | Copper Plant Converter Hot Gas Fan       |
| 09/27/96      | Copper Plant Converter Hot Gas Fan       |
| 10/10/96      | Power House                              |
| 10/24/96      | High Velocity Flue - Venturi             |
| 12/02/96      | Copper Plant Converters                  |
| 12/11/96      | Power House                              |
| 12/20/96      | Power House                              |
| 01/02/97      | Power House                              |
| 01/31/97      | Power House                              |
| 02/97         | Lead Plant Blast Furnace                 |
| 02/18/97      | Lead Plant Dross Reverb                  |
| 02/24/97      | Lead Plant Breeching Stack               |
| 05/21/97      | Acid Plant #1                            |
| 05/22/97      | Acid Plant #1                            |
| 05/23/97      | Acid Plant #1                            |
| 05/29/97      | Acid Plant #1                            |
| 06/04/97      | Acid Plant #                             |
| 06/10/97      | Acid Plant #1                            |
| 06/13/97      | Acid Plant #1                            |
| 08/12/97      | Power House                              |
| 08/22/97      | Copper Plant Cottrells                   |
| 09/02/97      | Zinc Plant                               |
| 10/22/97      | Power House                              |
| 10/23/97      | Power House                              |

|               |                             |
|---------------|-----------------------------|
| 10/24/97      | Heat Exchanger              |
| 10/25/97      | Heat Exchanger              |
| 10/28/97      | Heat Exchanger              |
| 11/97         | Power House Basement Floor. |
| 01/14/98      | Power House                 |
| 01/23/98      | Copper Plant Cottrell Flue  |
| 02/98 - 03/98 | Copper Plant Reverb         |
| 02/98 - 03/98 | Zinc Plant Baghouse         |
| 03/98 -07/98  | Copper Plant Converters     |
| 04/08/98      | Acid Plant #2               |
| 04/98         | Power House De-aerator      |
| 11/98 - 12/98 | Copper Plant Converters     |
| 11/98 - 12/98 | Power House 150# Steam Line |
| 06/99         | Copper Plant Reverb area    |
| 06/99         | Pump House                  |
| 06/99         | Power House                 |
| 06/99         | Tunnel                      |
| 09/99 - 11/99 | Copper Plant Converters     |
| 01/24/00      | Cadmium Plant Baghouse      |
| 07/12/00      | Old Sulfur Pilot Plant      |

See also ASARCO's objections and response to Request for Production No. 2.

INTERROGATORY NO. 7:

Please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as having knowledge of facts relevant to this case concerning Defendant's Premises At Issue during the Time Period At Issue, including but not limited to the identification or location in your premises of asbestos-containing products to which Plaintiff was exposed or facts disputing the identification or location of such product or type of products.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome, duplicative, premature, seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence and is otherwise outside the scope of proper discovery insofar as it calls for ASARCO to ascertain and obtain information from each and every person and/or entity having even the slightest knowledge of facts relevant to this case. ASARCO further objects that it has insufficient information from Plaintiff (including the nature and location within the facility of the work allegedly performed by Plaintiff) to adequately investigate, let alone answer this Interrogatory. ASARCO further objects to this Interrogatory to the extent it seeks information protected by the attorney-client and/or attorney work product privileges.

Subject to and without waiving the foregoing objections, ASARCO believes that individuals with knowledge of facts relevant to this case concerning the El Paso facility during the relevant time period include, but are not limited to:

1. Donald A. Robbins, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Mr. Robbins is currently employed by ASARCO as the Director of Environmental Services.

2. Peggy Munsell, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Employed by ASARCO as the Industrial Hygienist at the El Paso facility from December 1993 to January 2001. Ms. Munsell has knowledge of plant operations and industrial hygiene at the El Paso facility.

3. Norma Kidder, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Employed by ASARCO as the Plant Nurse at the El Paso facility since 1976. Nurse Kidder has knowledge of the operation of the clinic at the El Paso facility.

4. LeRoy Bates, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Employed by ASARCO since 1975 in the following positions at the El Paso facility: Invoice Clerk, 1975 - 1980; Computer Systems Analyst, 1980 - 1993; Trainer For Contractors and Employees, 1993; Training Specialist, 1994; and Safety Engineer In Charge Of Training, from 1994 - March 1999. Mr. Bates has knowledge of the safety equipment used and the safety measures followed at the El Paso facility.

5. Lawrence W. Castor, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Plant Manager at the El Paso facility from March 1996 through May 2000. Mr. Castor has knowledge of the overall plant operations.

6. K. W. Nelson, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Employed by ASARCO from approximately 1945 through 1982 in various positions in the Industrial Hygiene department and Environmental Sciences department.

7. Michael O. Varner, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Mr. Varner was employed by ASARCO from 1971 through approximately 1999 and he held various positions in the Environmental Sciences, Technical Services and Environmental Operations departments.

8. John B. Richardson, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Mr. Richardson has been employed by ASARCO from approximately 1973 until approximately 2001. He has held various positions in the Environmental Sciences and Technical Services departments.

9. James P. Sieverson, c/o ASARCO Incorporated, 2575 East Camelback Road, Phoenix, AZ, (602) 997-6500. Mr. Sieverson was employed by ASARCO from approximately 1972 through 1990 in various positions in the Environmental Sciences department.

10. Plaintiff's co-workers on the jobs that Plaintiff worked at the El Paso facility.

11. Plaintiff's employers on the jobs that Plaintiff worked at the El Paso facility.

12. Any individual heretofore or to be named as an expert witness by ASARCO with knowledge relevant to the El Paso facility.

13. Any other individuals heretofore or to be named who were employed as plant managers, industrial hygienists, safety personnel or otherwise at the El Paso facility during the relevant time period.

ASARCO reserves the right to call additional fact witnesses. Such additional fact witness will be identified at such time as Plaintiff provides sufficient information regarding the specific dates during which Plaintiff alleges exposure at the El Paso facility and the nature and location of the work performed for ASARCO to adequately investigate such claim. ASARCO further reserves the right to call additional fact witnesses for the purpose of rebuttal or impeachment, if necessary, at the time of trial. As discovery in this case is ongoing, ASARCO further reserves the right to amend and/or supplement this response up to the time of trial. See also ASARCO's objections and response to Interrogatory No. 9 setting forth the names of additional individuals who may have knowledge of facts relevant to Plaintiff's claims.

#### INTERROGATORY NO. 8:

With respect to Defendant's Premises At Issue during the Time Period At Issue, please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as being employed by you or having been employed by you whose duties and/or responsibilities included interface or liaison with Plaintiff's employer or other contractors who installed, removed, maintained, repaired or replaced asbestos-containing products (including foremen or supervisors or Plaintiff) on Defendant's Premises At Issue (regardless of job title, including but not limited to "plant engineers", "project engineers".

"company engineers", "project superintendents", "purchasing agents" or job descriptions of a similar nature) and specifically include those whose duties and responsibilities included the following:

- a. entering into contracts or purchase orders (including specifications) with such contractors
- b. allowing such contractors access to Defendant's Premises At Issue,
- c. overseeing or supervising or observing or monitoring such contractor activities or addressing any contractor questions or concerns relating to the work being performed
- d. providing or approving asbestos-containing materials to be used by such contractors
- e. inspecting or approving work done by such contractors or authorizing payment for work done by such contractors.

**ANSWER:**

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks the identity of each employee whose duties included interface or liaison with Plaintiff's employer or other unrelated contractors who installed, removed, maintained, repaired or replaced asbestos-containing products at the El Paso facility. ASARCO further objects to this Interrogatory to the extent Plaintiff has failed to identify any asbestos-containing products to which Plaintiff was allegedly exposed or the locations within the El Paso facility where Plaintiff allegedly was exposed to such products. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Accordingly, ASARCO has insufficient information from Plaintiff to adequately investigate, let alone answer this Interrogatory.

Subject to and without waiving the foregoing objections, see the documents produced in response to Request for Production No. 5. Further, the general practice at the El Paso facility was for the plant manager to send a letter to the security desk identifying the independent contractor and authorizing access to the facility to perform the contracted work. It was also the general practice that the superintendent of the department in which an independent contractor was to perform work was responsible for communicating with the foreman of the independent contractor regarding the status and progress of the work. ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

INTERROGATORY NO. 9:

If you have or have had an industrial hygiene or safety or medical department, please

- a. state the year such department was established, and whether it was established on the corporate level or at Defendant's Premises At Issue or both and
- b. with respect to Defendant's Premises At Issue during the Time Period At Issue, please identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as being or having acted in a medical, safety, or industrial hygiene advisory capacity (regardless of job title), specifically including, but not limited to, physicians, medical directors, medical personnel, nurses, safety engineers or managers and industrial hygienists. (You should include in your answer those persons on a corporate level, regardless of whether they worked directly on Defendants' Premises if they had such responsibilities for workers on defendant's Premises At Issue, and identify such individuals as affiliated with the corporate headquarters of Defendant.)

ANSWER:

ASARCO objects this interrogatory on the ground that it is overly broad, unduly burdensome and outside the scope of permissible discovery. It is overly broad insofar as it seeks information over the one-hundred-and-two year history of the El Paso facility and, thus, is not limited to the time-period when Plaintiff allegedly worked there for an independent contractor. Even if the Interrogatory were limited to such a period, it would nonetheless be objectionable as unduly burdensome because it calls for details regarding the experience and qualifications of multiple individuals, some of whom may have worked at the El Paso facility many decades ago. Moreover, it seeks information and facts that are outside of ASARCO's knowledge and, therefore, the scope of permissible discovery, such as the identities of persons known to independent contractors like Plaintiff's employer, who owed Plaintiff an independent and superseding duty of care.

ASARCO further objects to this Interrogatory as overly broad and ambiguous in its use of the undefined phrase "medical, safety or industrial hygiene capacity". The use of this overly broad and undefined phrase literally implicates each and every person working at any time at ASARCO's El Paso facility, as each and every ASARCO employee shared responsibility for safety as well as general hygiene at the El Paso facility.

Subject to and without waiving the foregoing objections, ASARCO identifies the following individuals (including ASARCO employees and contractors) who had responsibility at various times from 1945 onward for medical, safety and/or industrial hygiene activity and the information available to it regarding their qualifications.

#### A. Medical

Douglas H. Soutar, Esq. Mr. Soutar graduated from the University of Wisconsin in 1940 with a degree in philosophy. He is a graduate of University of Wisconsin law school and has post-graduate work in labor law at George Washington University. Mr. Soutar's professional associations include membership in the Industrial Hygiene Foundation, National Association of Manufacturers, US Chamber of Commerce and Labor Policy Association.

Soutar began working at ASARCO in August 1951 as assistant general counsel. In approximately 1952 or 1953, he became director of industrial relations. In May of 1984, he became Senior Vice President of Industrial Relations. Soutar retired from ASARCO in 1994.

Sherman Pinto, MD. Dr. Pinto was employed as ASARCO's Corporate Medical Director beginning in approximately 1948.

Charles Hine, MD. Corporate Medical Director after Dr. Pinto.

Perry Wilson, MD. El Paso facility plant physician, 1991-1998.

Robert Nering, MD. El Paso facility plant physician prior to Dr. Wilson.

Norma Kidder, LVM. Ms. Kidder began working as a nurse at the El Paso facility clinic in 1976.

#### B. Safety

Douglas H. Soutar, Esq. See Section "A" above.

Rex Beckstead. Mr. Beckstead received his BS from the University of Utah in 1936 in Economics and Education. In 1939, he received a Masters degree from the University Southern CA, in Psychology and Personnel management. Mr. Beckstead joined ASARCO in September 1946 as Director of Safety and Technical Employment and Training and retired with the same title.

LeRoy Bates.- Mr. Bates graduated from the University of Texas, El Paso in 1968 with a degree in business administration. He began work for ASARCO in 1975 and has held the following positions at the El Paso facility: Invoice Clerk, 1975 - 1980; Computer Systems Analyst, 1980 - 1993; Trainer For Contractors and Employees, 1993; Training Specialist, 1994; and Safety Engineer In Charge Of Training, 1994 - March 1999.

### C. Industrial Hygiene

Douglas H. Soutar, Esq. See Section "A" above.

Philip Drinker - Consulted with ASARCO on matters relating to industrial hygiene from approximately 1945 through 1958.

Kenneth W. Nelson. Mr. Nelson graduated from Superior (Wisconsin) State Teacher's College in 1938 with a bachelor's degree in education. In February 1942, while assigned to active duty in the Navy, Nelson attended the Harvard School of Public Health for industrial hygiene training, for which he received a certificate. He later earned a Master of Science degree from the University of Utah in 1957, with a major in chemistry and a minor in preventive medicine.

After graduation from college, Mr. Nelson briefly taught chemistry before accepting a position with the Food and Drug Administration in Washington, D.C. in February of 1940 where he worked in a laboratory doing toxicological testing and carcinogen testing on animals. He began with the FDA as a laboratory apprentice and was promoted to junior chemist. After completing industrial hygiene training at Harvard, Nelson joined with Harvard's Professor Drinker, then the head of Harvard's industrial hygiene department, to form a team of physicians and industrial hygienists to survey the occupational disease risks associated with ship building in the contract ship yards. This was a joint project for the Navy and Maritime Commission. The survey was completed in 1942, after which the team developed a manual of minimum requirements for safety and health for contract shipyards, which was subsequently adopted by the Maritime Commission and Navy.

Nelson's other duty stations with the Navy included, in mid-1944, the Norfolk Naval Shipyard in Norfolk, Virginia where he set up and ran a laboratory that was equipped to analyze air, milk and water at the shipyard. Thereafter, he was ordered to Washington, D.C. to be an assistant to the then Captain in the Navy's medical corps, where he remained until discharge in November 1945.

After discharge, Nelson was employed by the American Smelting and Refining Company as an industrial hygienist reporting to Dr. John Abersold in Salt Lake City. In 1950, he became chief hygienist and, in 1958, became Director of ASARCO's Department of Industrial Hygiene. In 1966, Nelson became Director of Hygiene and Director of ASARCO's Department of Agricultural Research, two departments that were then combined and renamed the Department of Environmental Sciences. He remained Director of the Department of Environmental Sciences until late 1973, when he was made Vice President for Environmental Affairs. He held this position until his retirement from ASARCO in 1982.

Michael O. Varner. Mr. Varner received his bachelor's degree in Science and Engineering from California State Polytechnic University and, in 1965, a Master's of Science and Industrial Hygiene Engineering degree from Harvard University.

Varner's work experience includes employment by the University of Washington as an Industrial Hygiene Engineer, during which he performed consulting services for the State of Washington. After leaving the University of Washington, he was employed as a Health and Safety Engineer for the Lawrence Radiation Laboratory in Livermore, California. He was next employed as a Safety and Industrial Hygiene Engineer for Lockheed Missiles and Space Company. Varner also has experience as a part-time instructor at Ohlone College, where he taught Safety Engineering.

Varner was hired by ASARCO in 1971 as an Environmental Scientist. His next position was as Supervisor of Field Services for the Department of Environmental Sciences in Salt Lake City in 1972. In 1974, he became Manager of the Department of Environmental Sciences and director of this department in 1982. In 1986, he became Director of ASARCO's Technical Services Center in Salt Lake City. In 1992, Varner became General Manager for ASARCO's Western Metals Division located in Salt Lake City and, in 1993, he was appointed Vice-President of Environmental Operations for ASARCO in New York, New York.

Stanley Cothrin. Mr. Cothrin graduated from the University of Nevada, Reno in 1961 with a BS in engineering. He was certified as an industrial hygienist in 1974. In 1964, Cothrin attended a ten-day course on industrial hygiene engineering by the United States Public Health Service. He has also attended a NIOSH course in respiratory protection held in approximately 1980 and several American Industrial Hygiene Association conferences at which lectures and training courses were provided on various industrial hygiene topics. Cothrin has been a member of professional associations including the American Industrial Hygiene Association and the American Board of Industrial Hygiene. At various times, he has been a member and associate member of the American Conference of Governmental Industrial Hygienists.

Cothrin's work experience includes positions as Industrial Hygiene Engineer and Industrial Hygiene Supervisor for Kennecott Copper Corporation from 1962 to 1969. From 1969 to 1976, he worked in the field of industrial hygiene for the State of Washington, Department of Labor and Industry. This work included air sampling for asbestos in the early 1970s. In 1976, Cothrin joined ASARCO as a Senior Environmental Scientist. In approximately 1994, he assumed the job of Industrial Hygiene Manager for ASARCO.

Jim Sieverson. Sieverson was a Certified Industrial Hygienist until 1995. Sieverson has been a member of the American Industrial Hygiene Association.

Sieverson worked for ASARCO from 1972 until 1990. He worked in ASARCO's Department of Field Services from 1972 through 1976. In 1976, he went to

ASARCO's East Helena facility where he was Environmental Superintendent until 1982 when he assumed the position of Environmental Superintendent at the El Paso facility. Sieverson returned to ASARCO's Salt Lake City, UT facility, from 1986 to 1990, where he worked for ASARCO's Department of Environmental Services

John Richardson. John Richardson received his undergraduate degree from the University of Utah in 1970 and a Masters Degree in environmental health from the University of Minnesota in 1973. His graduate studies in industrial hygiene addressed asbestos, its potential hazards and measures such as isolation, ventilation and engineering controls to control and eliminate the potential hazards. He was a member of the American Industrial Hygiene Association.

Richardson started work at ASARCO in June 1971 as a laboratory technician for approximately one and one-half years. He then went to graduate school. Upon completion of graduate school, he returned to ASARCO in late 1973 as an Environmental Specialist. Richardson was certified as an Industrial Hygienist in 1976 and assigned to the El Paso facility that year. He was at the El Paso facility for 5 years and his title was always Environmental Specialist. In 1981, he transferred back to ASARCO's Salt Lake facility, where his title was Senior Environmental Scientist, from 1981 to the 1990s. His next title was manager of Environmental Sciences at the Tech Services Department and he later moved to the position of Senior Environmental Consultant.

Peggy Ann Munsell. Ms Munsell graduated from Montana State University in 1977 with a BS in microbiology. She completed graduate school in 1994 at Montana College of Mineral Science and Technology, with a Master of Science degree in Industrial Hygiene. Her professional associations and accreditations have included: membership in the American Industrial Hygiene Association; MT(ASCP) accreditation; EPA Asbestos Accredited Supervisor; EPA Asbestos Accredited Building Inspector/Management Planner.

Ms. Munsell's work experience includes employment as a Hematology Supervisor at St. James Community Hospital from 1978 to 1993 and a health and safety internship with Kennecott Corporation in summer 1993. She began work at ASARCO's El Paso facility in December 1993 as an Industrial Hygienist and assumed the position of Safety and Health Director for the facility in October 1995.

Other persons employed by ASARCO with responsibility for industrial hygiene include Lowell White, an Environmental Scientist; Robert Putnam, the Director of Field Services; and Richard Marcus, an Environmental Scientist.

See also ASARCO's objections and responses to Interrogatory No. 7.

INTERROGATORY NO. 10:

Please identify all warnings given by Defendant, if any, to anyone at Defendant's Premises At Issue (including the Plaintiff) regarding the hazards of asbestos and the dangers inherent in the inhalation of asbestos fibers, and please include in your response:

- a. to whom these warnings were given (and specifically state if Plaintiff was among them),
- b. when they were given, if ever, and
- c. in what manner they were given (e.g. written pamphlets, signs posted, oral/group meeting, individual discussions, etc.) and
- d. state whether you have ever published, written, edited, or distributed any other printed materials, 'including brochures, pamphlets, catalogs, packaging, advertising, signs, statements, or other materials containing any warnings of the possibility of injury from the use or exposure to asbestos or asbestos-containing products, and
- e. state whether any of the foregoing warnings were in Spanish or any other language besides English.

**ANSWER:**

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Further, this Interrogatory fails to specify the type of work or services or the location on the premises for which information is requested. Nor does it specify the materials and products used in the performance of such work or services. To the extent such work or services and the location in which they were performed differ from those involved in this case, this Interrogatory is overly broad and seeks irrelevant information. ASARCO further objects that it has insufficient information from Plaintiff (including the nature and location of the work he allegedly performed within the El Paso facility) to adequately investigate, let alone answer this discovery request.

Subject to and without waiving the foregoing objections, it was ASARCO's general policy to provide warnings to its employees who potentially might be over-exposed to asbestos dust. With regard to Plaintiff, ASARCO has no information that Plaintiff was ever present at any work site within the El Paso facility where asbestos-containing products were being used or applied during the relevant time period. ASARCO's investigation is ongoing, and the right to supplement this response is expressly reserved.

**INTERROGATORY NO. 11:**

If Defendant has or had or maintained 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, please identify

- a. the individuals who received, maintained, reviewed, and disseminated the information contained in such written materials,
- b. identify the written materials received, and

c. state how and why these materials came into Defendant's possession.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it is limited neither to the El Paso facility nor to the time period in which Plaintiff allegedly worked there. ASARCO objects to any request for documents relating to facilities which are not at issue in this case. Such facilities are irrelevant to this litigation. Moreover, such a request would require an unduly burdensome search through records at ASARCO's facilities located throughout the United States. Further, Plaintiff fails to identify any asbestos-containing products to which Plaintiff was exposed or the locations in ASARCO's facility in which Plaintiff alleges to have been exposed to such asbestos-containing products. Plaintiff has also failed to state whether any such products were actually in place at ASARCO or brought in by outside contractors.

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

See also ASARCO's objections and answer to Interrogatory No. 2.

INTERROGATORY NO. 12:

Please describe in detail your manufacturing or industrial use of any asbestos or asbestos-containing products at Defendant's Premises At Issue. Please include in your response

- a. the type of asbestos fiber used,
- b. from whom you purchased the asbestos fiber used,
- c. a description of the process in which the asbestos was used.

ANSWER:

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

Subject to and without waiving the foregoing objections, ASARCO states that it has never manufactured any asbestos-containing products at its El Paso facility and did not use raw asbestos fiber there. See also ASARCO's objections and answer to Interrogatory No. 13 and documents to be produced in response to Request for Production No. 1.

INTERROGATORY NO. 13:

Identify by name and location each plant, facility, location, or premises owned, operated, or controlled by you in which asbestos-containing products were assembled, stored, used, prepared for use, installed, or fabricated during the Time Period At Issue. For each plant, facility, location, or premises listed as responsive to the above request, specify

- a. the functional dates for each plant, facility, location, or premises and
- b. the period during which asbestos-containing materials were stored, used, prepared for use, installed or fabricated.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad, irrelevant to the allegations asserted against it in this lawsuit, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, this Interrogatory is limited neither to the El Paso facility nor to the time period in which Plaintiff allegedly worked there. ASARCO objects

to any request for information or documents relating to facilities which are not at issue in this case. Such facilities are irrelevant to this litigation.

Subject to and without waiving the foregoing objections, ASARCO has never owned or operated a facility in which asbestos or asbestos-containing products were fabricated. The El Paso facility, first built in 1887, was owned and operated by Consolidated Kansas City. ASARCO purchased the facility in 1899 and has owned and conducted smelting and refining operations from that time until 1999.

Moreover, and again without waiving the foregoing objections, ASARCO's investigation and sampling to date has revealed, generally, that asbestos-containing products were located, at the time of sampling, in certain areas of the El Paso plant, including the following:

|                     |                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Converter Building: | Boiler surface material<br>Valves<br>Ducts<br>Hot Gas Fan Flue<br>Mastic covering on boilers<br>Elbow joints on pipes                                                                                                                                                                                                                                                                                                                  |
| Power House:        | Pipes with yellow air cell insulation<br>Valves<br>Gaskets<br>Cement in turbo generator #5<br>Condenser #7 pipe<br>Cloth by converter #1 exit door<br>Blower flue<br>Pipe wrap in basement<br>Marine boiler south elbow<br>Old 4 DA boiler surface and elbows<br>Hot process tank surface<br>DA tank upper level by hot process tank<br>DEA reactor heater main<br>DEA reactor<br>Power house super heater elbow<br>Valve super heater |
| Antimony Plant:     | Wall board<br>Gaskets<br>Possible asbestos rope                                                                                                                                                                                                                                                                                                                                                                                        |
| Laboratory:         | Boiler Pipe insulation<br>Boiler Elbow<br>Furnace Gasket<br>Floor                                                                                                                                                                                                                                                                                                                                                                      |

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

|                       |                                                                                                                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Cadmium Plant:</b> | Siding of baghouse                                                                                                                                                                                                                   |
| <b>Zinc Plant:</b>    | Zinc hopper<br>Blower gasket<br>Cloth on flue to hopper<br>North wall of upper baghouse<br>Sub-station wall<br>Black mastic/cement insulation<br>Pipe racks across railroad tracks                                                   |
| <b>Ammonia Tank:</b>  | Pipe by eyewash                                                                                                                                                                                                                      |
| <b>Roaster:</b>       | Gasket                                                                                                                                                                                                                               |
| <b>High Line:</b>     | Possible transite siding<br>Roofing material                                                                                                                                                                                         |
| <b>Lead Plant:</b>    | Fan Gasket<br>Baghouse tower - mud/mastic<br>Baghouse tower - gasket<br>Fan Gasket<br>Flue to lead stack, mud/mastic<br>Breaching flue to lead stack<br>Sub station, blast furnace, buried pipe wrap                                 |
| <b>Cottrell:</b>      | Converter cottrell hopper, mud<br>Inlet distribution of flue mastic<br>Outlet distribution of flue mastic<br>Cloth/mud outside office<br>Reverb cottrell mud<br>Reverb cottrell mastic<br>Black mastic, mud, or tar in various areas |
| <b>Sinter Plant:</b>  | Expansion gasket<br>Gaskets<br>Wall panel<br>Floor tile<br>Pipe covering<br>Boiler mud                                                                                                                                               |
| <b>Anode:</b>         | Floor tile<br>Pipe elbow                                                                                                                                                                                                             |
| <b>Warehouse:</b>     | Pipe insulation                                                                                                                                                                                                                      |
| <b>Pond 6:</b>        | Insulation, wooden trough                                                                                                                                                                                                            |

Insulation on pipe on the ground

Bedding: Fan gasket  
Flue gasket  
Flue off reclaim hopper gasket

Unloading: Unloading RCC plant roofing material

Bathhouse: Roofing vent insulation (tar)

INTERROGATORY NO. 14

For any of Defendant's Premises At Issue, during the Time Period At Issue, if you, your affiliates, subsidiaries, or predecessor(s), arranged for any of your employees, labor inspectors, insurance company inspectors, industrial hygienists, or any other party, whether directly employed by you or otherwise, to count or measure quantity, quality or threshold limit values or concentrations of asbestos dust or particles or other dust at any of your plants, facilities, locations, or premises where asbestos or asbestos-containing products were used, assembled, installed, or removed, please describe such tests and indicate

- a. the results obtained,
- b. by whom such tests were performed and
- c. identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as the person most knowledgeable concerning such tests and their results.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information relating to facilities other than the El Paso facility and information relating to substances other than asbestos. Moreover, Plaintiff has failed to provide sufficient information such as specific dates or periods during which Plaintiff alleges he worked at the El Paso facility, the nature and location of the work performed, or the products used to adequately investigate, let alone answer this Interrogatory.

Subject to and without waiving the foregoing objections, ASARCO employees possessing knowledge of some air sampling and test results over the years include: Peggy Munsell, ASARCO's former Director of Safety and Health at the El Paso facility, Jodie Haynes, a laboratory technician and John Richardson. See also ASARCO's objections and the documents to be produced in response to Request for Production No. 11. ASARCO's investigation is continuing and ASARCO expressly reserves the right to amend and supplement this response prior to trial.

INTERROGATORY NO. 15:

For the Time Period At Issue, if you provided or caused to be provided any safety equipment or medical program (including, but not limited to, masks, respirators, other breathing devices, protective clothing, protective gloves, area air filtration systems, and area exhaust systems or barriers or enclosures or medical monitoring program medical examination program, or other medical or safety program) to employees, contractors, or invitees at any of your plants, facilities, locations, or premises where asbestos and asbestos-containing products were manufactured, used, assembled, installed, or removed, please indicate

- a. when such was first provided to your employees, contractors, and/or invitees and to whom,
- b. under what circumstances such were provided, and
- c. state whether you conducted safety meetings discussing the hazards of asbestos with employees, contractors, or invitees at any of Defendant's Premises At Issue during the Time Period At Issue, and if so, when and what was discussed, and
- d. identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as the person most knowledgeable concerning such equipment and programs and their provision.

**ANSWER:**

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it is without limitation as to a substance or disease for which there may have been "monitoring," or a "medical examination program." Moreover, this Interrogatory fails to specify the type of work or services or the location on the premises for which information is requested or the materials and products used in the performance of such work or services. To the extent such work or services and the location in which they were performed differ from those involved in this case, this Interrogatory is overly broad and seeks irrelevant information. By way of further objection, the terms "medical monitoring program", "medical examination program," "medical program" and "safety program" are vague and ill-defined, and therefore not susceptible to a precise response.

Subject to and without waiving the foregoing objections, since at least the 1970s ASARCO employees at the El Paso facility have undergone a complete physical yearly as well as a six month mini-physical. The yearly physical consists of a blood and urine test, chest x-ray, pulmonary function test, eye and ear test, as well as a complete bodily examination. The six month physical consists of a blood and urine test, pulmonary function test, and a complete bodily examination by the facility physician. The plant physician who most recently headed the El Paso clinic was Dr. Perry Wilson. Dr. Wilson was plant physician from between approximately 1991 and 1998. Dr. Robert Nering was the plant physician before Dr. Wilson.

Subject to and without waiving the foregoing objections, ASARCO states that, by the 1940s, it provided protective equipment to workers at the El Paso facility which included safety apparel and breathing protection. Protective clothing is worn to protect

against heat, chemicals and debris in the plant. At least since the 1970s, standard protective clothing, in addition to respirators, has included hard hats, eye protection, ear protection, foot protection, as well as overalls. Outside contractors are subject to the same rules for wearing safety equipment in the plant as ASARCO employees. The persons with most knowledge of safety equipment policies at the plant are Peggy Munsell, LeRoy Bates and John Richardson. ASARCO's investigation is continuing and it reserves the right to supplement this answer in the course of continuing discovery.

INTERROGATORY NO. 16:

Please state for each of defendant's Premises At Issue, all relevant State and Federal regulations, laws, statutes, mandates, or other authority pertaining to industrial hygiene, safety, and health of which you were aware during the Time Period At Issue that governed, controlled, or applied to exposure to asbestos or asbestos-containing products, abatement or removal of asbestos-containing products, and transportation of asbestos containing waste from such removal or abatement activities.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. By way of further objection, Plaintiff's failure to identify: (i) any asbestos-containing products to which Plaintiff was allegedly exposed at the El Paso facility; and/or (ii) the locations within the facility where Plaintiff was allegedly exposed to such products; and (iii) in what capacity and by whom such products were put to use renders a precise response specific to the El Paso facility an impossibility. Furthermore, all relevant state and federal regulations, laws, statutes, mandates, or other authority pertaining to industrial hygiene, safety, and health that governed, controlled, or applied to exposure to asbestos or asbestos-containing products, abatement or removal of asbestos-containing products, and transportation of asbestos containing waste from such removal or abatement activities are as equally available to Plaintiff as to Defendant.

Subject to and without waiving the foregoing objections, and not confined to the relevant time period, ASARCO was aware of a multitude of state and federal regulations, laws, statutes, mandates, or other authority pertaining to industrial hygiene, safety, and health that governed, controlled, or applied to exposure to asbestos or asbestos-containing products, abatement or removal of asbestos-containing products, and transportation of asbestos containing waste from such removal or abatement activities including, but not limited to:

Texas Asbestos Health Protection Act  
Texas Asbestos Health Protection Rules  
OSHA Regulations  
National Emission Standards for Hazardous Air Pollutants

INTERROGATORY NO. 17:

For any of defendant's Premises At Issue, detail every occasion during the Time Period At Issue when any State, Federal, or local regulatory agency, commission, or other examiner inspected or visited any of your plants, facilities, locations, or premises where asbestos and asbestos-containing products were used, manufactured, assembled, installed, or removed to ascertain whether you were in compliance with relevant State, Federal, or local health and safety regulations.

**ANSWER:**

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it seeks information on inspections by regulatory agencies relating to substances other than asbestos.

Subject to and without waiving the foregoing objections, ASARCO states that asbestos-containing products were not manufactured at its El Paso facility. Moreover, it is currently unaware of any such inspections. ASARCO's investigation is ongoing, and the right to supplement this answer if and when responsive information is obtained is expressly reserved.

**INTERROGATORY NO. 18:**

If, before 1980, you had received notice that any individual or individuals had claimed for alleged injury against you resulting from exposure to asbestos, state for each:

- a. The name and address of the claimant
- b. A description of the claim.
- c. The name and address of the attorney representing such claimant.

**ANSWER:**

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information outside the time period during which Plaintiff allegedly worked at the El Paso facility, documents relating to facilities other than the El Paso facility, which is the subject of this lawsuit and claims which are unrelated to any alleged exposure at the El Paso facility or to asbestos-containing products that are different than those to which Plaintiff alleges exposure.

Subject to and without waiving the foregoing objections, ASARCO is aware that a number of suits were filed against it in the Superior Court of California, in late 1979, by Steven Kazan, Esq. of Kazan, McClain, Edises, Simon & Abrams, 171 12<sup>th</sup> St., 3<sup>rd</sup> Fl., Oakland CA. Each of these suits was later dismissed as to ASARCO. The suits are more specifically identified as follows:

| Case Name | Court | Docket No. Date Filed |
|-----------|-------|-----------------------|
|-----------|-------|-----------------------|

|                                  |                           |          |          |
|----------------------------------|---------------------------|----------|----------|
| Burris v. Johns-Manville Corp.   | Alameda Superior Court    | 519335-8 | 3/30/79  |
| Cochran v. Johns-Manville Corp.  | Contra Cos Superior Court | 198382   | 4/17/79  |
| Blakely v. Johns-Manville Corp.  | Alameda Superior Court    | 524856-8 | 8/24/79  |
| Brooks v. Johns-Manville Corp.   | Alameda Superior Court    | 519835-3 | 8/20/79  |
| Kelley v. Johns-Manville Corp.   | Alameda Superior Court    | 519337-6 | 8/20/79  |
| Stewart v. Johns-Manville Corp.  | Alameda Superior Court    | 521386-7 | 8/20/79  |
| Seymore v. Johns-Manville Corp.  | Alameda Superior Court    | 5248568  | 8/24/79  |
| Williams v. Johns-Manville Corp. | Alameda Superior Court    | 521580-9 | 9/5/79   |
| Lopez v. Pabco, Inc.             | Alameda Superior Court    | 515063-6 | 9/7/79   |
| Lyons v. Johns-Manville Corp.    | Alameda Superior Court    | 5248568  | 9/12/79  |
| Ortega v. Johns-Manville Corp.   | Alameda Superior Court    | 525446-8 | 9/17/79  |
| Wright v. Johns-Manville Corp.   | Alameda Superior Court    | 525535-5 | 9/19/79  |
| Fridell v. Johns-Manville Corp.  | Alameda Superior Court    | 526863-6 | 10/26/79 |

INTERROGATORY NO. 19:

If you contend that you did not own or operate or control the Defendants' Premises during the Time Period At Issue, or if you contend you are not liable in the capacity alleged in the most recent petition, describe in detail the facts supporting your contention and include a detailed corporate history of defendant and its ownership, sale, acquisition, or divestiture or any of defendant's Premises At Issue and any relevant mergers, acquisitions, consolidation, or other events of similar nature that you believe bear on the issue of ownership, control, or assumption of liabilities for acts occurring on Defendant's Premises At Issue during the Time Period At Issue and identify and state the experience and qualifications, if applicable, of every person known to you, your agents, or contractors as having knowledge of facts relevant to this issue.

ANSWER:

ASARCO objects to this Interrogatory on the ground that it is ambiguous in its use of the undefined terms "control" and "operate" and therefore not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO states that the El Paso facility, built in 1887, was owned and operated by Consolidated Kansas City. ASARCO purchased the facility in 1899 and has owned and conducted smelting and refining operations on it continuously since that time. Although, ASARCO has owned the facility since 1899, it expressly denies that it has ever "controlled" Plaintiff or the operations of Plaintiff's employers, to the extent such individuals were independent contractors.

INTERROGATORY NO. 20

If you contend that venue is not proper, identify by municipality and county the location you contend is your principal place of business within this state for purposes of venue, as well as your next three most significant business locations within this state. If you do not contend that any of your locations are a principal place of business, identify up to four of your places of business where your highest level decision makers within this state work.

ANSWER:

To the extent Plaintiff's Petition and/or discovery responses allege that Plaintiff worked at the ASARCO El Paso facility, this Interrogatory is not applicable. To the extent Plaintiff worked at an ASARCO facility other than El Paso, Defendant refers Plaintiff to Defendant's Motion to Transfer Venue.

INTERROGATORY NO. 21:

Identify by name each product containing asbestos fibers that Defendant or any of its predecessors or subsidiary companies manufactured, marketed or sold from 1969 to 1998.

RESPONSE:

ASARCO objects to this Interrogatory on the ground that it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Interrogatory to the extent it calls for information outside the periods during which Plaintiff worked at the ASARCO El Paso facility and for information from entities that are not parties to this litigation. Further, Plaintiff has failed to identify any asbestos-containing products with which Plaintiff worked or the locations in ASARCO's facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Interrogatory calls for an unduly burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO states that it has never manufactured, marketed or sold any asbestos-containing products at its El Paso facility.

INTERROGATORY NO. 22

If Defendant from 1969 to 1998 manufactured, marketed or sold a product that contained asbestos fibers, state as to each product the following:

- a. As to each product, state whether your product was manufactured, marketed, and/or sold.
- b. The trade or brand name of each of those products manufactured, marketed and/or sold.
- c. The date each of the named products, if any, was placed on the market.
- d. A description of the physical (chemical) composition of each of the named products, if any, including the type of asbestos contained in the product and the percentage of asbestos put in each product.
- e. The date Defendant stopped manufacturing such asbestos-containing product.
- f. The date each of the products was removed from the market and no longer sold or distributed and the reason or reasons therefore;
- g. The date asbestos was removed for such product, if ever, and the reasons for removing it.

RESPONSE:

Not applicable. See Defendant's response to Interrogatory No. 21.

INTERROGATORY NO. 23:

Before manufacturing, selling or placing the products listed in Defendant's response to interrogatory No 21 into the stream of commerce, were any tests conducted to determine the potential health hazards involved in the use of, or exposure to, the asbestos materials contained in that product or products?

RESPONSE:

Not applicable. See Defendant's response to Interrogatory No. 21.

INTERROGATORY NO. 24:

If the answer to interrogatory No. 22 is in the affirmative, state:

- a. The names of the products tested and the dates of such tests;
- b. The name, address and job title of each person who conducted those tests.
- c. The results or conclusions for those tests.
- d. Whether any products were removed from the market as a result of these tests.
- e. The name of all products removed from the market as a result of these tests.

RESPONSE:

Not applicable. See Defendant's response to Interrogatory Nos. 21 and 22.

INTERROGATORY NO. 25:

Identify by name and location each plant or manufacturing facility in which the products listed in Defendant's answer to interrogatory No. 21 were manufactured, assembled, or prepared for sale or marketing from 1969 to 1998, specifying which plants produced each item, the dates each plant is or was in operation, and the time span during which each named item was produced or manufactured.

RESPONSE:

Not applicable. See Defendant's response to Interrogatory No. 21.

**ASARCO INCORPORATED'S MASTER OBJECTIONS AND RESPONSES  
TO PLAINTIFFS' PREMISES SPECIFIC REQUEST FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:**

Please produce all ordering, sales, and shipping documents pertaining to the purchase or acquisition of asbestos-containing products for use at Defendant's Premises At Issue at any time.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks information relating to the purchase or acquisition of asbestos-containing products at "any time", and is not limited to those years during which Plaintiff alleges to have worked at the El Paso facility or to asbestos-containing products to which Plaintiff claims to have been exposed. ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's facility or the locations in ASARCO's facility in which he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Request calls for an unduly burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are available, responsive documents for the years during which Plaintiff alleges to have worked at the El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 2:**

Please produce all documents that relate to abatement of asbestos or asbestos-containing materials at Defendant's Premises At Issue and transportation of asbestos-containing waste.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that it is not limited to those periods during which Plaintiff alleges to have worked at the El Paso facility or to asbestos-containing products to which Plaintiff alleges to have been exposed. Moreover, it is overly broad in that it is not limited in scope to those independent contractors that Plaintiff has identified as his occasional employers. ASARCO further objects to this Request as Plaintiff has failed to adequately identify any asbestos-containing products with

which he worked at ASARCO's facility or the locations in ASARCO's facility where he worked with them. Plaintiff has also failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Request calls for an unduly burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are available, responsive documents for the years during which Plaintiff alleges to have worked at the El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 3:

Please produce all records identifying contractors and/or the employees of contractors who were on Defendant's Premises At Issue during the Time Period At Issue, including but not limited to gate records, sign-in logs, visitor's logs, identification badge or "brassing" procedures, fingerprinting, or other documents of a similar nature.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents relating to contractors for which Plaintiff did not work. It is also objectionable as vague and ambiguous in its use of the undefined term "brassing" procedure and, therefore, not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO's states that it is currently unaware of any gate records, sign-in logs, visitor's logs, identification badges or fingerprinting documents for its El Paso facility that relate to independent contractors.

Subject to and without waiving the foregoing objections, see the documents to be produced in response to Request No. 5.

REQUEST FOR PRODUCTION NO. 4:

Please produce all records pertaining to the methods and manner of identification of individuals entering and/or leaving Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents concerning independent contractors and others who did not employ Plaintiff.

Subject to and without waiving the foregoing objections, ASARCO states that the general practice at the El Paso facility was for the plant manager to send a letter to the security desk identifying the independent contractor and authorizing access to the facility to perform the contracted work. ASARCO's further states that it is currently unaware of any records pertaining to the methods and manner of identification of individuals entering and/or leaving ASARCO's El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 5:

Please produce the contract and work progress documents pertaining to the contractors who performed services at Defendant's Premises At Issue during the Time Period At Issue, including, but not limited to, invitations to bid, requests for proposals, bids, proposals, statements of scope of work, work orders, specifications, blueprints, plans, acceptances, contracts, amendments, addenda, change orders, inspection reports, work logs or contractor logs, including but not limited to all of the contractor documents referring to work to be done, underway, or completed by Plaintiff's employer at Defendant's Premises At Issue during the Time Period At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents concerning contractors other than those for which Plaintiff alleges to have worked at the El Paso facility. Moreover, it is objectionable because it requests documents relating to work performed, the location of work performed and products used in such work on Defendant's premises when Plaintiff has failed to adequately identify any asbestos-containing products with which he worked at ASARCO's facility and failed to state whether any such products were in place at ASARCO or brought in by outside contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to any contracts with the independent contractors for whom Plaintiff allegedly worked at ASARCO's El Paso facility, that were performed during the time Plaintiff alleges he worked at the El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 6:

Please produce all documents reflecting payments made to Plaintiff's employer for work contracted to do at Defendant's Premises At Issue during the Time Period At Issue, including but not limited to authorizations for payment, invoices, bills, check requests, requisitions, canceled checks, or other documents of a similar nature reflecting payment for services rendered by Plaintiff's employer.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it fails to specify the type of work, services or the location on the premises for which documents are requested and is not limited to work to which Plaintiff's employer, an independent contractor, assigned to Plaintiff.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to any payments to the independent contractors for whom Plaintiff allegedly worked at ASARCO's El Paso facility during the time Plaintiff alleges he worked at the El Paso facility. ASARCO's investigation is continuing and ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 7:

Please produce all photographs or videographic depictions or films depicting the use of any safety precautions (such as containment areas, warning signs, etc.) taken to protect bystanders from the hazards of airborne asbestos resulting from the use of asbestos-containing products at Defendant's Premises At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks materials that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks materials that are outside of the time period that Plaintiff alleges he worked at the El Paso facility. ASARCO further objects to

this Request to the extent it assumes there was an asbestos-related hazard at its El Paso facility.

Subject to and without waiving the foregoing objections, ASARCO states that it is presently unaware of any photographs, videographic depictions or films taken or used which depict safety precautions of the types identified in the Request. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 8:

Please produce all documents containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos.

RESPONSE:

ASARCO objects to this Request on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to the years during which Plaintiff alleges he worked at the El Paso facility, seeks documents regarding facilities other than the El Paso facility, and seeks documents regarding products which were not used by Plaintiff at the El Paso facility. Moreover, Plaintiff has failed to provide sufficient information such as, specific dates or periods during which Plaintiff alleges he worked at the El Paso facility, the nature and location of the work performed, or the products used to adequately investigate, let alone respond to this Request.

Subject to and without waiving these objections, ASARCO is presently unaware of any responsive documents containing any warnings concerning the possibility of injury resulting from the use of asbestos-containing products or exposure to asbestos at its El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 9:

Please produce all photographs of warning signs or warning statements which are or have been in place at Defendant's Premises At Issue in the vicinity of asbestos-containing products.

RESPONSE:

ASARCO objects to this Request on the ground that it is overly broad, unduly burdensome and seeks materials that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to the period during which Plaintiff alleges he worked at the El Paso facility and seeks materials regarding products which were not used by Plaintiff at the El Paso facility. Moreover, Plaintiff has failed to provide sufficient information such as, specific dates or periods during which Plaintiff alleges he worked at the El Paso facility, the nature and location of the work performed, or

the products allegedly used to adequately investigate, let alone respond to this Request. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving these objections, ASARCO states that it is presently unaware of any photographs of warning signs or warning statements, which are or have been in place, at the El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 10:

Please produce all documents that relate to any inspections by any regulatory agency for the purpose of ascertaining whether health or safety regulations were being followed or adhered to at any of your plants. This request specifically seeks any and all such documentation referring to dust hazards, including but not limited to asbestos in your plants.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it is not limited to documents concerning inspections relating to the alleged hazards posed by asbestos, not limited to inspections occurring at the El Paso facility, and includes inspections which were conducted outside of the time period Plaintiff he alleges he worked at the El Paso facility. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving these objections, ASARCO states that it is presently unaware of any documents relating to inspections of its El Paso facility for asbestos dust concentrations, by government regulatory agencies. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 11:

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, please 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:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it seeks documents relating to "dust level counts or measurements" which do not relate to the alleged hazards posed by asbestos, are outside of the time periods Plaintiff alleges he worked at the El Paso facility and which occurred at facilities where Plaintiff does not claim he was ever present. It is also objectionable insofar as it seeks production of documents which are privileged attorney-client communications or attorney work product. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which Plaintiff worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to any tests performed to count or measure quantity, quality or threshold limit values or concentrations of asbestos dust or particles at its El Paso facility during the relevant time period. ASARCO's investigation is continuing and ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 12:

Please produce all documents relating to inspections by labor inspectors, insurance company inspectors or anyone from your company or hired by your company, that included the taking or measuring of "dust counts".

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents relating to inspections that do not relate to the alleged hazards posed by asbestos, are outside of the time periods Plaintiff alleges he worked at the El Paso facility and which occurred at facilities where Plaintiff does not claim he was ever present. It is also objectionable insofar as it seeks production of documents which are privileged attorney-client communications or attorney work product. Moreover, Plaintiff has failed to adequately identify any asbestos-

containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to any tests performed to count or measure quantity, quality or threshold limit values or concentrations of asbestos dust or particles at its El Paso facility during the relevant time period. ASARCO's investigation is continuing and ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 13:

Please produce all documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents outside the periods during which Plaintiff allegedly worked at the El Paso facility, documents relating to facilities other than the El Paso facility and is not even limited to documents which are in ASARCO's possession. ASARCO further objects to this Request insofar as it assumes that any inhalation of asbestos fibers, however small or within limits promulgated by government regulatory agencies, poses a health hazard.

Subject to and without waiving these objections, see documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings which were previously produced in *Kinsey v. Owens-Corning (Corp.), et al.*, Brazoria County, No. 10346\*BH99.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings. ASARCO's investigation is continuing and ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 14:

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

RESPONSE:

ASARCO objects to this Request for Production as premature. ASARCO further objects to this Request insofar as it seeks documents protected by the attorney-client privilege or the attorney work product doctrine. ASARCO expressly reserves its right to amend and supplement this response as discovery continues and as the pertinent Rules of Civil Procedure and Evidence require.

REQUEST FOR PRODUCTION NO. 15:

If you contend that Plaintiff was not exposed to asbestos dust at Defendant's Premises At Issue, please produce the documents supporting your contention.

RESPONSE:

ASARCO objects to this Request for Production insofar as it presumes Plaintiff worked at the El Paso facility during a time period when ASARCO employees, or independent contractors, worked with asbestos-containing materials. Further, Plaintiff has failed to adequately identify any asbestos-containing products with which he claims to have worked at the El Paso facility, the locations where he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend this response throughout the continuing course of discovery.

REQUEST FOR PRODUCTION NO. 16:

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

RESPONSE:

ASARCO objects to this Request for Production as overly broad, unduly burdensome and not calculated to lead to the discovery of admissible evidence insofar as it seeks discovery of all documents that may have been "used" or "referred to" in the course of answering Interrogatories. Moreover, the Request is objectionable insofar as it may be construed to seek discovery of attorney work product.

Subject to and without waiving the foregoing objections, see all documents to be produced by ASARCO in response to Plaintiff's Requests to Produce Documents. See also

all documents which were previously produced *Kinsey v. Owens-Corning (Corp.), et al.*, Brazoria County, No. 10346\*BH99. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 17:

Please produce any and all documents and other tangible things which refer to the document retention (and/or destruction) policy of Defendant, including the following:

- a. Any document retention and/or destruction policies for Defendant that pertain to documents and records, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that referred to the stopping, suspending or resuming of such retention or destruction policies.
- b. Any record retention and/or destruction, dumping, or purging policies for Defendant that pertain to documents and records created, maintained or stored by electronic and/or magnetic means, including but not limited to records that have been microfilmed, microfiched, imaged, scanned, or stored on tapes, disks, diskettes, CD-ROM, databases, etc. or on or within any computer hardware, backup system, download system, file dumping or other system of information management, whether on-site or off-site, including but not limited to supplements, addenda, memoranda, operating bulletins, revisions, or any other superseding instructions that refer-red to the stopping, suspending or resuming of such retention or destruction policies.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents outside the periods during which Plaintiff allegedly worked at the El Paso facility.

Subject to and without waiving the foregoing objections, ASARCO's document retention program requires the retention of all asbestos-related documents. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 18:

Please produce all documents, including but not limited to lists, inventories, indices, databases or printouts thereof, archives, storage inventories, logs, or other search aids that refer or relate to the existence, extent, type, organization, filing system, method of access or retrieval, and/or location of Defendant's documents (maintained or stored on-site or off-site) pertaining to any of the subject matter areas of Plaintiff's Interrogatories.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents outside the periods during which Plaintiff allegedly worked at the El Paso facility and documents relating to facilities other than the El Paso facility. ASARCO further objects to this Request on the ground that it is vague, ambiguous subject to multiple interpretations and could be construed to call for the production of attorney work product.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, lists, inventories, indices, databases or printouts thereof, archives, storage inventories, logs, or other search aids that refer or relate to the existence, extent, type, organization, filing system, method of access or retrieval, and/or location of Defendant's documents (maintained or stored on-site or off-site) pertaining to any of the subject matter areas of Plaintiff's Interrogatories. ASARCO's investigation is continuing and ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 19:

Please produce all books, pamphlets, memoranda, or written materials of any kind or character that were received by you and that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents outside the periods during which Plaintiff allegedly worked at the El Paso facility and documents relating to facilities other than the El Paso facility. ASARCO further objects to this Request insofar as it assumes that any inhalation of asbestos fibers, however small or within limits promulgated by government regulatory agencies, poses a health hazard.

Subject to and without waiving these objections, see documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings which were

previously produced in *Kinsey v. Owens-Corning (Corp.), et al.*, Brazoria County, No. 10346\*BII99.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents that indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings. ASARCO's investigation is continuing and ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 20:

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

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it seeks documents that do not refer to the alleged hazards posed by asbestos, are outside of the time periods Plaintiff alleges he worked at the El Paso facility and which relate to facilities where Plaintiff does not claim he was ever present. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's El Paso facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to communications between ASARCO El Paso and manufacturers of asbestos-containing products concerning or related to the asbestos contained in such products, during the time period in which Plaintiff alleges he worked at the El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 21:

Please produce all documents in your possession disseminated or published by any trade association that contain information relating to the hazards of asbestos and all documents which refer to such documents and any documents pertaining to meetings of such trade associations that were attended by any of your employees or representatives.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome, without time limitation and it seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of documents in its possession disseminated or published by the Industrial Hygiene Foundation during the time Plaintiff alleges he worked at the El Paso facility that contain information relating to the hazards of asbestos. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 22:**

Please produce all of Defendant's safety meeting minutes that refer to the dangers of asbestos.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it seeks documents that are outside of the time periods Plaintiff alleges he worked at the El Paso facility and which relate to facilities where Plaintiff does not claim he was ever present.

Subject to and without waiving the foregoing objections, ASARCO states that it is presently unaware of any "safety meeting minutes" that refer to the dangers of asbestos-containing products at its El Paso facility. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 23:**

Please produce all documents related to the installation of asbestos-containing materials at Defendant's Premises At Issue.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, vague, unduly burdensome, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence and seeks documents outside the time period during which Plaintiff alleges he worked at the El Paso facility. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's El Paso facility in which he allegedly worked with them or state whether any

such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to the installation of asbestos-containing materials by Plaintiff's employers at its El Paso facility during the time period in which Plaintiff alleges he worked there. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 24:

Please produce all documents related to the medical condition of Plaintiff at anytime during his work at Defendant's Premises At Issue. This request specifically includes any and all x-rays, x-ray reports, medical notes and/or medical records of any kind, annual physical forms, and any records relating to Plaintiff's health.

RESPONSE:

ASARCO objects to this Request for Production insofar as it assumes that ASARCO would possess the materials for which it calls. To the extent Plaintiff was an employee of independent contractors and was never employed by ASARCO; ASARCO would not have materials of the type called for in this Request.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to the medical condition of Plaintiff at anytime during his work at its El Paso facility, including x-rays, x-ray reports, medical notes and/or medical records or annual physical forms. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 25:

Please produce all documents related to Plaintiff, including but not limited to Plaintiff's work performance and/or personnel records at Defendant's Premises At Issue.

RESPONSE:

ASARCO objects to this Request for Production insofar as it assumes that ASARCO would have the documents for which it calls. To the extent Plaintiff was an employee of independent contractors and was never employed by ASARCO; ASARCO would not have materials of the type called for in this Request.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents

relating to Plaintiff's work performance and/or personnel records at its El Paso facility. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 26:

Please produce all documents that reflect or depict in any way the layout of Defendant's Premises At Issue, including the location and dimensions of all buildings and the location and placement of asbestos-containing products, and specifically including all photographs, plats, maps, diagrams, blueprints, drawings, specifications or other architectural renderings.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request insofar as it seeks documents for periods other than those during which Plaintiff alleges he worked at the El Paso facility. Further, Plaintiff has failed to adequately identify any asbestos-containing products with which he allegedly worked at the El Paso facility or the locations in ASARCO's facility in which he allegedly worked with them. Consequently, this Request calls for an unduly burdensome and non-specific search of potentially decades worth of documents. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, documents relating to the layout of the El Paso facility during the time Plaintiff alleges he worked at the El Paso facility.

REQUEST FOR PRODUCTION NO. 27:

Please produce all demonstrative aids Defendant plans to use at trial in this matter.

RESPONSE:

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

REQUEST FOR PRODUCTION NO. 28:

Please produce all photographs of asbestos products in place or asbestos-containing materials being installed, maintained, removed, replaced, repaired, or manipulated in anyway at Defendant's Premises At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it is not limited to asbestos-containing products to which Plaintiff claims exposure and seeks documents outside of the time periods Plaintiff alleges he worked at the El Paso facility. Moreover, Plaintiff has failed to provide sufficient information, such as specific dates or periods during which Plaintiff alleges he worked at the El Paso facility, the nature and location of the work performed, or the products used to adequately investigate, let alone respond to this Request. By way of further objection, use of the term "utilized" is vague, ambiguous and ill-defined and therefore not susceptible to a precise response.

Subject to and without waiving the foregoing objections, ASARCO states that it is not presently aware of any photographs of asbestos products in place or asbestos-containing materials being installed, maintained, removed, replaced, repaired, or manipulated in anyway at its El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 29:

Please produce all documents relating to any individuals' claimed injury as a result of exposure to asbestos at any facility of defendant, including, but not limited to, workers' compensation claim and any documentation going to or received from any insurance carrier pertaining to such claims, and any documentation pertaining to the disposition of such claims.

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents outside of the time periods Plaintiff alleges he worked at the El Paso facility and documents relating to facilities at which Plaintiff does not claim he was ever present.

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

1. *Hermosillo v. ASARCO, et al.*, El Paso County, 98-1338;
2. *Esparza v. Owens-Corning Fiberglas*, El Paso County, 98-559;
3. *Portillo v. Owens-Corning Fiberglas*, El Paso County, 97-1878;
4. *Lerma v. Asarco*, U.S.D.C. S.D. Tex., Houston Div. 98-0197, Transferred to E.D. Pa. (MDL);
5. *Glenn Biehl, et al. v AC & S, Inc., et al.*, El Paso County, No. 2000-3600;

6. *Jose Delaluz Mares, et al. v GAF Corp., et al.*, El Paso County, No. 2000-3841;
7. *William Earl Bowser, et al. v GAF Inc., et al.*, Dallas County, No. 00-04283;
8. *Juan Benitez, et al. v A.M.F. Inc., et al.*, County Court at Law No. 3, of El Paso County, No. 2000-1152;
9. *Daniel Alderete, Jr., et al. v Owens-Corning Fiberglas Corp., et al.*, Brazoria County, No. 6264\*RM98;
10. *Owens Ray Adams, et al. v A.M.F. Inc., et al.*, Brazoria County, No. 6354\*RM98;
11. *Harold Adkins, Jr., et al. v A.M.F. Inc., et al.*, Brazoria County, No. 7668\*JG99;
12. *James Isaacks, et al. v A.M.F. Inc., et al.*, Brazoria County, No. 9886\*JG99;
13. *Harold Erle Janssen, et al. v. A.M.F. Inc., et al.*, Jefferson County, No. E-0161739;
14. *Jose Rosendo Martinez, Sr. v. GAF Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-2591;
15. *Jose Angel Acevedo, et al. v Owens-Corning Fiberglass Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 97-1621;
16. *Cerros, et al., v. A.M.F. Inc. et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-4261;
17. *Aguilara, et al v. GAF Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-2113;
18. *Aguilar; et al. v. GAF Corp. et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-3418;
19. *Alva, et al. v. U.S. Gypsum Co., et al.*, County Court at Law No. 3 of El Paso County, No.: 2001-218;
20. *Diaz, et al. v. Foster Wheeler Energy Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2001-2086;
21. *Franco, et al., v. GAF Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-3546;
22. *Adams, et al. v AMF, Inc., et al.*, 149<sup>th</sup> Judicial District Court of Brazoria County, Texas, No.: 6534\*RM98

23. *Munoz, et al. v GAF Corp., et al.*, County Court at Law No. 3 of El Paso County, No.: 2000-3423;
24. *Pulido, et al., v. U.S. Gypsum Co., et al.*, County Court at Law No. 3 of El Paso County, No.: 2001-421;
25. *Parra, et al., v. Owens-Corning, et al.*, County Court at Law No. 5 of El Paso County, No.: 98-3836;
26. *Reza, et al.; v. Owens-Corning, et al.*, County Court at Law No. 5 of El Paso County, No.: Cause No. 99-060A;
27. *Sepulveda, et. al., v. Owens-Corning, et al.*, County Court at Law No. 3 of El Paso County Cause No. 99-2779.
28. *Burnett, et al. v. Alliedsignal, et al.*, 269<sup>th</sup> Judicial District, Harris County, Cause No.: 2001-36408;
29. *Cornejo, et al. v. A.M.F., et al.*, County Court at Law No. 3 of El Paso County, Cause No.: 2001-3547;
30. *Maria Franco v. ASARCO, et al.*, County Court at Law No. 3 of El Paso County, Cause No.: 2001-3323;
31. *Herrera, et al. v. Quigley Co., et al.*, 41<sup>st</sup> Judicial District, El Paso County, Cause No.: 2001-4252;
32. *Lopez, et al. v. Crown, Cork & Seal, et al.*, County Court at Law No. 3 of El Paso County, Cause No.: 2001-3840;
33. *Otto, et al. v. Air Products, et al.*, 239<sup>th</sup> Judicial District, Brazoria County, Cause No.: 10515\*JG99;
34. *Rodriguez, et al. v. Crown Cork & Seal, et al.*, County Court at Law No. 3 of El Paso County, Cause No.: 2002-726;
35. *Imai, et al. v. Quigley Co., et al.*, County Court at Law No. 3, El Paso County, Cause No. 00220-790;
36. *Ramirez, et al. v. U.S. Gypsum*, County Court at Law No. 3, El Paso County, Cause No. 2001-1518.

See also ASARCO's objections and response to Interrogatory 18. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 30:

Please produce all documents that in any way reflect corporate minutes, corporate records, departmental meetings or discussions, or meetings with agents or contractors that in any way discuss, note, or table a discussion of the hazards of asbestos or potential health hazards of asbestos. The documents sought in this request include those produced and/or maintained at a corporate level by those responsible for supervising or advising personnel at Defendant's Premises At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents that are outside of the time periods Plaintiff alleges he worked at the El Paso facility and which relate to facilities where Plaintiff does not claim he was ever present. ASARCO further objects to this Request to the extent Plaintiff and his employer were independent contractors, over whom ASARCO exercised no supervisory control.

Subject to and without waiving those objections, ASARCO states that it is presently unaware of any corporate minutes, corporate records, departmental meetings or discussions, or meetings with agents or contractors that in any way discuss, note, or table a discussion of the hazards of asbestos or potential health hazards of asbestos at its El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 31:

Please produce all documents of corporate, board of directors, Defendant Premises representatives, departmental persons, task force, or other meetings of members of defendant from 1940 until the last year of the Time Period At Issue that contain discussion or information concerning asbestos, asbestos-related health hazards, or asbestos-containing products.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents that are outside of the time periods Plaintiff alleges he worked at the El Paso facility and that relate to facilities where Plaintiff does not claim he was ever present. ASARCO further objects to this Request to the extent Plaintiff and his employer were independent contractors, over whom ASARCO exercised no supervisory control.

Subject to and without waiving the foregoing objections, ASARCO states that it is presently unaware of any corporate, board of directors, Defendant Premises representatives, departmental persons, task force, or other meetings of members of

defendant that contain discussion or information concerning asbestos, the use or hazards of asbestos, or asbestos-containing products at its El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 32:

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

RESPONSE:

ASARCO objects to this Request for Production as violative of the work product doctrine and premature. ASARCO's investigation is continuing and it reserves the right to amend and supplement this response as discovery continues and as the pertinent Rules of Civil Procedure and Evidence require.

REQUEST FOR PRODUCTION NO. 33:

Please produce documents between Defendant and any of its worker's compensation insurance carriers or any other insurance carriers regarding the hazards of asbestos and asbestos-containing products.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request for Production insofar as it could be construed to seek discovery of communications relating to the defense of asbestos-related lawsuits, which are privileged from disclosure pursuant to the work-product doctrine or as attorney-client communications.

Subject to and without waiving the foregoing objections, ASARCO is presently unaware of any responsive documents between it and any of its worker's compensation insurance carriers or any other insurance carriers regarding the hazards of asbestos and asbestos-containing products. ASARCO's investigation is continuing and it reserves the right to amend and supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 34:

Please produce documents between Defendant and any of its insurance carriers relating to any inspections carried out by the insurance carrier in which asbestos or dust in general was mentioned.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents relating to inspections that do not relate to the alleged hazards posed by asbestos, are outside of the time periods Plaintiff alleges he worked at the El Paso facility and which occurred at facilities where Plaintiff does not claim he was ever present. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the forgoing objections, ASARCO states that it is presently unaware of any documents between ASARCO's El Paso facility and its insurance carriers that relate to any inspections carried out by the insurance carrier in which asbestos dust was mentioned. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 35:**

Please produce a copy of all regulations, orders, rules and/or policies which have been used relating to the safety of the Defendant's Premises At Issue.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it is without time limitation, limitation to a specific subject, limitation to the El Paso facility or to a specific location at the El Paso facility. Further, the terms "all regulations, orders rules and/or policies" and "used" are vague, ambiguous and ill-defined and therefore not susceptible to a precise response.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of its orders, rules and policies which have been used relating to the use of asbestos-containing products at its El Paso facility during the time Plaintiff alleges he worked there. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 36:**

Please produce all documents which contain complaints by employees of defendant at the Defendant's Premises At Issue regarding safety conditions and work place conditions at the Defendant's Premises At Issue.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents that outside of the time periods Plaintiff alleges he worked at the El Paso facility and complaints which do not relate to asbestos dust conditions.

Subject to and without waiving these objections, ASARCO states that it is presently unaware of any documents which contain complaints by its employees at the El Paso facility regarding asbestos-related issues. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 37:**

Please produce all documents which contain complaints by Union representatives of Defendant's Premises At Issue regarding safety conditions and work place conditions at the Defendant's Premises At Issue.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks documents that are outside of the time periods Plaintiff alleges he worked at the El Paso facility and complaints which do not relate to asbestos dust conditions.

Subject to and without waiving these objections, ASARCO states that it is presently unaware of any documents which contain complaints by Union representatives at the El Paso facility regarding asbestos-related issues.. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 38:**

Please produce all documents, organizational charts or rosters which identify the members of the management at the Defendant's Premises At Issue and their areas of responsibility during the Time Period At Issue.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent that they exist and are available, all organizational charts or rosters which identify the members of the management at the El Paso facility and their areas of responsibility during the time period Plaintiff alleges he worked there. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 39:

Please produce all documents which evidence Defendant's net worth, including, but not limited to, all "10-K" forms filed for the last five (5) years.

RESPONSE:

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

REQUEST FOR PRODUCTION NO. 40:

Please produce all documents which evidence Defendant's purchase, acquisition, sale, or transfer of ownership or of liabilities relating to Defendant's Premises At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it seeks documents relating to years other than those during which Plaintiff alleges to have worked at the El Paso facility.

Subject to and without waiving these objections, ASARCO states that it owned the El Paso facility from 1899 through the present. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 41:

If you contend that you are not liable for any dangerous condition or activity taking place at Defendant's Premises At Issue during the Time Period At Issue, please produce all title documents supporting this contention.

### RESPONSE:

ASARCO objects to this Request for Production because it is overly broad, unduly burdensome and not likely to lead to the discovery of relevant evidence in that it is not limited to the conditions and activities complained of in Plaintiff's Petition. It is also objectionable because ASARCO has no information that Plaintiff, to the extent he was the occasional employee of independent contractors who was not subject to ASARCO's control, was present at any specific work site at the El Paso facility. Even if he was, ASARCO has no information as to whether Plaintiff was present where asbestos-containing products were being used. ASARCO further objects to this Request on the ground that it presumes that Plaintiff worked at the El Paso plant during a time period when ASARCO employees worked with asbestos-containing materials and that a "dangerous condition or activity" existed on the premises. The Request is also ambiguous in its use of the undefined phrase "title documents."

Subject to and without waiving the foregoing objections, see ASARCO's objections and responses to Request for Production Nos. 40, 42 and 44. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend this response throughout the continuing course of discovery.

### REQUEST FOR PRODUCTION NO. 42:

If you contend that you did not own or control the facility(ies) during any portion of the time Period At Issue, please produce all documentation that supports your contention, including but not limited to documentation pertaining to the purchase, sale, acquisition, merger, or divestment of corporations, subsidiaries, divisions, or other corporate entities or assets that included the purchase, sale, acquisition, merger, or divestment of the facility(ies); such documentation to include, by way of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

**RESPONSE:**

ASARCO objects to this Request for Production because it is vague and ambiguous in its use of the undefined term "control" and therefore not susceptible to a precise response. ASARCO further objects to this Request to the extent Plaintiff and his employer were independent contractors, over whom ASARCO exercised no supervisory control.

Subject to and without waiving this objection, ASARCO's states that it purchased the El Paso facility in 1899 and has owned it since that time. See also ASARCO's objections and response to Request for Production No. 40. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 43:**

If you contend that you have not been sued in the proper capacity as set forth in Plaintiff's latest petition, produce all documentation that supports your contention, including but not limited to documentation pertaining to the history of defendant and any relevant purchase, sale, acquisition, merger, or divestment of corporations, subsidiaries, divisions, or other corporate entities or assets that included the purchase, sale, acquisition, merger, or divestment of the facility(ies), such documentation to include, byway of example and not limitation, purchase or sale agreements, minutes, resolutions, annual reports, 10K reports or other state or federal agency filings, or deposition, trial testimony or affidavits of your corporate representatives who are the most knowledgeable individuals with respect to such matters.

**RESPONSE:**

ASARCO objects to this Request for Production because it is vague and ambiguous in its use of the undefined term "capacity" and therefore not susceptible to a precise response. Subject to and without waiving this objection, ASARCO does not contend at this time that it has not been sued in the proper capacity. But as set forth more fully in its Answer, ASARCO denies all liability for the harm alleged by Plaintiff.

**REQUEST FOR PRODUCTION NO. 44:**

Please produce all indemnity agreements, assignments of liability, subrogation agreements and other similar documents relating to Defendant's Premises At Issue and liabilities arising from said ownership.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it seeks documents relating to years other than those during which Plaintiff alleges he worked at the El Paso facility and which relate to potential liability for harms that are not in issue in this case.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent that they exist and are available, indemnity agreements, assignments of liability, and/or subrogation agreements with the independent contractors Plaintiff identified as his employers during the time period he alleges he worked at the El Paso facility. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 45:**

If you contend Defendant's Premises At Issue was asbestos-free during the Time Period At Issue, please produce all documents which support your contention.

**RESPONSE:**

ASARCO objects to this Request for Production because it is vague and ambiguous in its use of the undefined term "asbestos-free". It is also objectionable because Plaintiff has failed to adequately identify specific locations at ASARCO's El Paso facility at which he allegedly worked with asbestos-containing products, or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Requests for Production No. 2 and Interrogatory No. 6. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 46:**

If you contend that some or all of Defendant's Premises At Issue are asbestos-free, please produce all documents, including but not limited to, specifications, blue prints and drawings supporting your contention.

**RESPONSE:**

ASARCO objects to this Request for Production because it is vague and ambiguous in its use of the undefined term "asbestos-free". It is also objectionable because Plaintiff has failed to adequately identify specific locations at ASARCO's El Paso facility at which he allegedly worked with asbestos-containing products, or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery. ASARCO further objects to this Request for Production insofar as it seeks documents relating to the present state of the El Paso facility.

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Requests for Production No. 2 and ASARCO's objections and answer to Interrogatory No. 6. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

**REQUEST FOR PRODUCTION NO. 47:**

Please produce all documents relating to your manufacturing of any asbestos or asbestos-containing products, or products to which any amount of asbestos was added, for use at any of defendant's facilities or for sale to others.

**RESPONSE:**

This Request is inapplicable. ASARCO never manufactured or sold asbestos-containing products.

**REQUEST FOR PRODUCTION NO. 48:**

Please produce all documents relating to your use of any asbestos containing materials, asbestos-containing products or tools with which asbestos is used, for any process taking place at any of Defendant's facilities.

**RESPONSE:**

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it seeks documents relating to "any process taking place at any of Defendant's facilities", that are outside of the time periods Plaintiff alleges he worked at the El Paso facility, which relate to processes to which Plaintiff has not claimed exposure and includes facilities where Plaintiff does not claim he was ever present. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which Plaintiff worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request

for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Request for Production No. 1. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 49:

Please produce all documents relating to your use, manipulation or handling of asbestos in any industrial processes at Defendant's Premises At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, in that it seeks documents relating to the use of asbestos "in any industrial processes at Defendant's Premises", and documents that are outside of the time periods during which Plaintiff alleges he worked at the El Paso facility or which relate to processes to which Plaintiff has not claimed exposure. Moreover, Plaintiff has failed to adequately identify any "industrial process" to which he claims to have been exposed, any asbestos-containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Request for Production Nos. 1, 2 and 35. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 50:

Please produce all marketing and advertising materials related in any way to your manufacturing of asbestos or asbestos containing materials or your use of asbestos or asbestos-containing materials in your industrial processes.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to time periods during which Plaintiff alleges he worked at the El Paso facility or to asbestos-containing products which to which Plaintiff alleges exposure. Moreover, Plaintiff has failed to adequately identify

any asbestos-containing products with which Plaintiff worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, ASARCO did not manufacture asbestos or asbestos-containing products. ASARCO further states that it did not market or advertise its alleged use of asbestos or asbestos containing materials in its industrial processes. ASARCO's investigation is continuing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 51:

Please produce all documents relating to boilers at Defendant's Premises At Issue. This request includes owner manuals, maintenance manuals, purchase orders, and invoices.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents relating to time periods other than those during which Plaintiff alleges to have worked at the El Paso facility. Moreover, Plaintiff has failed to adequately identify any boilers to which he claims to have been exposed, any asbestos-containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO, or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of documents relating to boilers at its El Paso facility during the time Plaintiff alleges he worked there. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 52:

Please produce all documents relating to any audits you conducted or caused to be conducted at Defendant's Premises At Issue in order to review some aspect of Defendant's safety program.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ASARCO further objects to this Request to the extent it seeks documents relating to years other than those during which Plaintiff alleges to have worked at the El Paso facility. Moreover, Plaintiff has failed to adequately identify any asbestos-containing products with which he worked, the locations in ASARCO's facility in which he allegedly worked with them or state whether any such products were in place at ASARCO, or brought in by independent contractors. Consequently, this Request for Production calls for an unduly burdensome and non-specific search. Such a fishing expedition is outside the scope of permissible discovery.

Subject to and without waiving the foregoing objections, see ASARCO's objections and response to Request for Production No. 12. ASARCO's investigation is continuing and ASARCO reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 53:

Please produce all documents provided by you to other plants or facilities relating to safety in the industry, audit procedures or means to eliminate dust exposure, including, but not limited to asbestos dust, at industrial facilities.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents relating to periods other than those during which Plaintiff alleges to have worked at the El Paso facility and documents relating to facilities other than the El Paso facility. It is also overly broad insofar as it is not limited to ASARCO facilities and in that it seeks documents relating to the elimination of exposures to dusts which do not contain asbestos. Moreover, it is objectionable as ambiguous in its use of the undefined phrase "safety in the industry" and therefore not susceptible to a precise response.

REQUEST FOR PRODUCTION NO. 54:

Please produce depositions and trial transcripts of your current or former employees or other corporate representatives taken in any matter involving an alleged injury or claimed property damage due to asbestos or insurance coverage for claims related to asbestos injury or property damage.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents relating to insurance coverage, entities that are not parties to this litigation or cases in which the claims were not for alleged asbestos-related injuries or related to alleged asbestos exposure at the El Paso facility.

Subject to and without waiving the foregoing objections, see the deposition testimony previously taken in *Hermosillo v. ASARCO, et al.*, El Paso County, No. 98-1338 of the following persons:

1. Peggy Munsell
2. Stanley Cotlirin
3. James P. Sleverson
4. Michael O. Varner
5. Douglas H. Soutar
6. Leroy Bates
7. Jeffrey Braun
8. John B. Richardson

Subject to and without waiving the foregoing objections, see the deposition and trial testimony previously taken of the following persons in the matters as noted:

Donald A. Robbins:

Deposition - April 19, 2002 and April 20, 1999 taken in *Alverson, et al. v. Beasley, et al.*, 10<sup>th</sup> Judicial Circuit of Jefferson County, AL, CV96-700-TAW;

Kenneth W. Nelson:

(a) Deposition - November 11, 1985 taken in *Mann, Administrator of the Estate of Elizabeth Frances Mann, Deceased v. H.K. Porter Co., Inc., et al.*;

(b) Deposition - November 12, 1985 taken in *Mann, Administrator of the Estate of Elizabeth Frances Mann, Deceased v. H.K. Porter Co., Inc., et al.* (as well as exhibits Vol. I & 11);

(c) Videotape Deposition - November 13, 1985 taken in *In Re: All Maine Asbestos Litigation* (as well as exhibits);

- (d) Deposition - November 26, 1990 taken in *In Re: Joint Eastern District and Southern District Asbestos Litigation and Brooklyn Navy Yard-Phase I Trial*;
- (e) Trial - November 28, 1990 taken in *In Re: New York Asbestos Litigation*;
- (f) Deposition - February 7, 1991 taken in *In Re: New York- City Asbestos Litigation*;
- (g) Deposition - April 8, 1993 and April 9, 1993 taken in *In Re: Asbestos Personal Injury Cases, Jackson County, Mississippi*;
- (h) Deposition - December 6, 1993 taken in *In Re: Kanawha Mass III, Kanawha County, West Virginia*;
- (i) Deposition (Vol. 1) - April 21, 1999 taken in *Alverson, et al. v. William H. Beasley, et al.*, 10<sup>th</sup> Judicial Circuit of Jefferson County, AL, CV96-700-TAW, and
- (j) Deposition (Vol. 11) - April 22, 1999 taken in *Alverson, et al. v. William H. Beasley, et al.*, 10<sup>th</sup> Judicial Circuit of Jefferson County, AL, CV96-700-TAW.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of depositions and trial transcripts of its current or former employees or other corporate representatives previously taken in matters involving an alleged injury or claimed property damage due to asbestos. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 55:

Please produce exhibit lists produced to you by any other counsel for Plaintiff in other cases involving claim of injury or property damage alleged to have been caused by asbestos exposure.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad, unduly burdensome and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents relating to litigation involving claims of property damage and asbestos-related personal injury filed by persons other than Plaintiff and which involve locations other than the El Paso facility.

REQUEST FOR PRODUCTION NO. 56:

Please produce all correspondence from you to Plaintiff's employer and from Plaintiff's employer to you during the Time Period At Issue.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents relating to facilities other than the El Paso facility and to work to which Plaintiff's employer, an independent contractor, did not assign to Plaintiff.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of correspondence from ASARCO to Plaintiff's employer and from Plaintiff's employer to ASARCO relating to work performed by Plaintiff at the El Paso facility. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 57:

Please produce all documents that indicate or reference in any way any decision or discussion related to the cessation of the use of asbestos or asbestos-containing products in any of your facilities.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information relating to periods other than those during which Plaintiff alleges to have worked at the El Paso facility, products to which Plaintiff does not claim exposure, and facilities at which Plaintiff does not claim he was present.

Subject to and without waiving the forgoing objections, ASARCO's will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of documents that indicate or reference a decision or discussion related to the cessation of the use of asbestos or asbestos-containing products at the El Paso facility during the relevant time period. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 58:

Please produce all documents that indicate or reference in any way any the catalog or index or subscriptions or holdings of any library or other research repository of Defendant containing magazines, journals, books, publications or other documents relating to asbestos (including, but not limited to, the effects of exposure to asbestos, industrial hygiene measures relating to asbestos dust, and medical information or research relating to asbestos or its effects on animals or humans, populations at risk, etc.).

RESPONSE:

ASARCO objects to this Request on the ground that it is overly broad, unduly burdensome and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, insofar as it is limited neither to the El Paso facility nor to the time period in which Plaintiff allegedly worked there. ASARCO objects to any request for documents relating to facilities which are not at issue in this case. Such facilities are irrelevant to this litigation. Moreover, such a request would require an unduly burdensome search through records at ASARCO's facilities located throughout the United States. Further, Plaintiff fails to identify any asbestos-containing products to which Plaintiff was exposed or the locations in ASARCO's facility in which Plaintiff alleges to have been exposed to such asbestos-containing products. Plaintiff has also failed to state whether any such products were actually in place at ASARCO or brought in by outside contractors.

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

REQUEST FOR PRODUCTION NO. 59:

Please produce a inventory, stock-on-hand, warehouse or other documents pertaining to asbestos-containing products that were stored, maintained, stockpiled, or kept by Defendant for use at any facility of Defendant, including Defendant's Premises At Issue, at any time.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information relating to periods other than those during which Plaintiff alleges to have worked at the El Paso facility, products to which Plaintiff does not claim exposure, and facilities at which Plaintiff does not claim he was present.

Subject to and without waiving the foregoing objections, ASARCO's will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of documents pertaining to asbestos-containing products that were stored, maintained, stockpiled, or kept by ASARCO at its El Paso facility during the relevant time period. ASARCO's investigation is ongoing and it reserves the right to supplement and/or amend its response to this Request as discovery continues.

REQUEST FOR PRODUCTION NO. 60:

Please produce any letters, affidavits, or stipulations concerning authenticity of any of defendant's documents provided by you in any other case involving claim of injury or property damage alleged to have been caused by asbestos exposure.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information relating to periods other than those during which Plaintiff alleges to have worked at the El Paso facility, products to which Plaintiff does not claim exposure, claims of property damage and facilities at which Plaintiff does not claim he was present.

REQUEST FOR PRODUCTION NO. 61:

Please produce all workers' compensation policies which were in effect during the years that Plaintiff claims to have been on your premises. Please be sure to include the information page of the policy which describes who is covered by the policy.

RESPONSE:

ASARCO objects to this Request for Production on the ground that it is overly broad and seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence insofar as it seeks information relating to periods other than those during which Plaintiff alleges to have worked at the El Paso facility.

Subject to and without waiving these objections, ASARCO will produce at a mutually convenient date and time, to the extent they exist and are responsive, copies of the relevant workers' compensation policies in effect during the time of plaintiff's alleged work at the El Paso facility.

Respectfully submitted,  
RAY, VALDEZ, McCHRISTIAN  
& JEANS, P.C.  
A Professional Corporation  
5822 Cromo Drive  
El Paso, Texas 79912  
(915) 832-7200  
(915) 832-7333 Facsimile

Date: August , 2002.

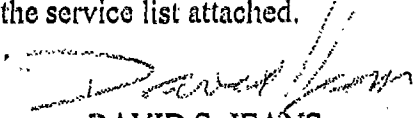
By: \_\_\_\_\_

DAVID S. JEANS  
State Bar No. 10597400

Attorneys for Defendant  
ASARCO, Incorporated

**CERTIFICATE OF SERVICE**

I hereby certify that on the above date, a true and correct copy of the foregoing instrument was delivered by certified mail and facsimile to Elizabeth R. Schick, Esq., Baron & Budd, P.C., 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281 by facsimile and certified mail and to all counsel of record on the service list attached.

  
DAVID S. JEANS

**SERVICE LIST**

|                                                            |                     |
|------------------------------------------------------------|---------------------|
| <b>Elizabeth Schick and Scott Frost (Plaintiffs' atty)</b> | <b>214-520-1181</b> |
| Jerry Kacal (AC&S)                                         | 713-529-8161        |
| Gary Elliston (CCR)                                        | 214-210-2500        |
| David Taylor (3M)                                          | 214-871-8209        |
| Patricia Kelly (WRG)                                       | 956-428-2954        |
| John Hill/J.Hall (Met-Life)                                | 713-223-3717        |
| Frank Harmon (CC&S)                                        | 713-752-8618        |
| Jim Harris (Flint)                                         | 409-833-4240        |
| Lewis Miltenberger (Harbison)                              | 817-820-0373        |
| Thomas Dougall (Proko Ind.)                                | 803-788-6767        |
| Joe Spencer                                                | 532-7535            |
| Robert Bass                                                | 214-953-6503        |
| D. Ferguson McNeil                                         | 713-615-5493        |
| Thomas Taylor                                              | 713-220-4285        |
| Rambin                                                     | 469-227-8004        |
| M. Willingham                                              | 713-426-1717        |
| Donald Godwin                                              | 214-760-7332        |
| David Fisher                                               | 936-598-7712        |
| Steve Rice                                                 | 713-655-9212        |
| Peter Moir                                                 | 214-953-6503        |
| Todd Wade/Kevin Leahy                                      | 512-479-1101        |
| Ferrell/Mahoney                                            | 512-476-7832        |
| David Ledyard and M. Bridwell                              | 409-981-1010        |
| Crouch/Ponti                                               | 214-922-4177        |
| J. Tompkins                                                | 713-355-7600        |
| Alex Gomez                                                 | 713-220-4285        |
| Carlos Ricon                                               | 544-8544            |
| Michael Stell/Jeff Alley                                   | 546-8333            |

|                       |              |
|-----------------------|--------------|
| Ruben Robles          | 544-1288     |
| Mark Allen            | 713-655-7727 |
| Edward M. Carstarphen | 713-647-6884 |
| Elizabeth Kamin       | 713-951-5660 |
| John Bissell          | 713-651-1920 |
| Raymond Palmer        | 834-8401     |

AUG. 28.02\*054599

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Attorneys and Counselors at Law  
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August 26, 2002

**CERTIFIED MAIL/RRR**  
**and FACSIMILE**

Mr. Scott Frost  
Baron & Budd  
3102 Oak Lawn, Suite 1100  
Dalals, TX 75219

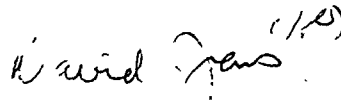
Re: Martinez v. ASARCO; Cause No. 2000-2591

Dear Mr. Frost:

Enclosed is ASARCO's Objections and Responses to Plaintiffs' Premises Specific Interrogatories and Request for Production filed in the In Re Asbestos Litigation matter, Cause No. 96-333.

If you have any questions, please do not hesitate to contact me.

Sincerely,

  
David S. Jeans

DJ:gme  
Enclosure  
cc: All counsel of record by facsimile