

NO. 96-333

IRMA BUSTAMANTE, INDIVIDUALLY
AND AS PERSONAL REPRESENTATIVE
OF THE HEIRS AND ESTATE OF JOSE
PERALTA, DECEASED

VS.

OWENS CORNING (A/K/A OWENS
CORNING CORPORATION), ET AL

§ IN THE COUNTY COURT

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AT LAW NO. THREE

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EL PASO COUNTY, TEXAS

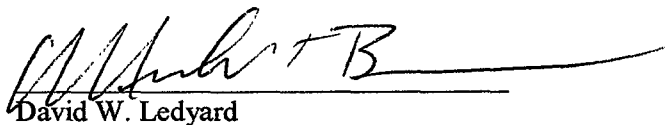
CHEVRON U.S.A. INC.'S RESPONSES
TO PLAINTIFF'S SECOND
REQUESTS FOR PRODUCTION
PROPOUNDED ON PREMISES DEFENDANT CHEVRON U.S.A., INC.

TO: Plaintiff by and through their attorney of record, Holly Huart, Baron & Budd, 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas 75219-4281.

NOW COMES CHEVRON U.S.A., INC., Defendant herein, and makes and files this its Response to Plaintiffs' Second Requests for Production Propounded on Premises Defendant Chevron, U.S.A., Inc.

Respectfully submitted,

STRONG, PIPKIN, NELSON,
BISSELL & LEDYARD, L.L.P.



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ATTORNEYS FOR DEFENDANT,
CHEVRON U.S.A. INC. PLAINTIFF'S

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing is being furnished to Plaintiffs' counsel by certified mail, return receipt requested, ~~and to all other counsel of record by regular mail~~, on this the 20 day of April, 2001.


Michael T. Bridwell

A. OBJECTIONS TO DISCOVERY

1. Defendant objects to the whole of Plaintiffs' discovery requests as so overly broad and unduly burdensome that Plaintiffs' discovery constitutes harassment. This suit involves a person employed by a finite number of employers at a finite number of locations during specific years. Plaintiffs' claim is that the injured party was exposed to asbestos containing products on Defendant's premises during the course and scope of his employment with known employers. Plaintiffs should be seeking production of records and information relevant to issues raised by that particular fact situation. Plaintiffs' attempts to expand discovery to include information regarding irrelevant time periods and irrelevant materials produced at irrelevant locations by irrelevant persons or entities constitutes an impermissible abuse of the discovery rules and general misuse of the laws of the State of Texas.

B. OBJECTIONS TO PLAINTIFFS' DEFINITIONS

1. Defendant objects to Plaintiffs' definitions of the terms "Defendant", "you", and "yours", and "your company". To the extent the terms could be read to refer to Defendant's attorneys, any request for production utilizing any of these terms necessarily invades the work product and/or attorney-client privileges embodied in Rule 192.5 of the Texas Rules of Civil Procedure and Rule 503 of the Texas Rules of Evidence. To the extent the terms are intended to include predecessors, divisions, subsidiaries, forms of subsidiaries, forms of subsidiaries of predecessors, and/or affiliates, as well as present and former officers, directors, agents, employees and other persons acting or purporting to act on behalf of the corporate Defendant, any request for production utilizing these terms is so overly broad and over burdensome as to make any requests utilizing the term virtually impossible to answer. Further, to the extent the definition is intended to include any merged, consolidated, or acquired predecessors, divisions, subsidiaries, forms of subsidiaries, forms of subsidiaries of predecessors, and/or affiliates, any request for production utilizing any of these terms is necessarily overly broad, unduly burdensome, and calls for material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Plaintiffs' apparent attempt to place upon Defendant the burden to seek information from former officers, directors, agents and employees over whom Defendant no longer has dominion or control.
2. Defendant objects to Plaintiffs' definition of the terms "document", "documents", "written materials", or "printed materials" as the definition of those terms renders any requests utilizing any of these terms overly broad, unduly burdensome, harassing, and reduces any such discovery requests to a "fishing expedition" in discovery. Defendant further objects to the definition of these terms to the extent it purports to include an obligation to locate and produce information or documentation which is no longer in the possession or control of this Defendant or from entities who are not parties to this cause of action.

3. Defendant objects to Plaintiff's definition of the words "meeting" or "meetings" as any or request for production utilizing those terms is overly broad, and over burdensome in that it purports to require documentation or information concerning any casual or coincidental meeting.
4. Defendant objects to Plaintiff's definition of the terms "describe" or "description" as it is vague, ambiguous and requires Defendant to speculate on what identification rises to the level of sufficient particularity so as to enable one to "fully comprehend" or understand the place, thing or occurrence described.
5. Defendant objects to Plaintiff's definition of the term "medical advisory capacity" in that the definition renders any request for production utilizing the term overly broad, over burdensome, harassing and calling for information which is neither relevant or reasonably calculated to lead to the discovery of admissible evidence. The definition of the term utilizes the term "Defendant" which is, itself, defined in Plaintiff's definition No. 1. Please refer to Defendant's objection to Plaintiff's definition of the term "Defendant" which is incorporated herein the same as if fully set forth at length.
6. Defendant objects to Plaintiff's definition of the terms "medical department" and "safety department" in that the definition renders any request for production utilizing the term overly broad, over burdensome, harassing and calling for information which is neither relevant or reasonably calculated to lead to the discovery of admissible evidence. The definition of the term utilizes the term "Defendant" which is, itself, defined in Plaintiff's definition No. 1. Please refer to Defendant's objection to Plaintiff's definition of the term "Defendant" which is incorporated herein the same as if fully set forth at length.
7. Defendant objects to Plaintiff's definition of the terms "potential health hazards" or "health hazards" in that any request for production utilizing these terms is vague and ambiguous in that issues exists and minds differ with respect to impairments or disabilities and their associations with exposures to asbestos dust and fibers, if any.

C.

1. Many of Plaintiff's requests call for documents that "relate to", "refer to" or the like regarding various topics which necessarily call for documentation which is comprised of attorney work product and is exempted from discovery. Defendant objects to producing any such material and specifically reserves the right not to do so.

REQUEST FOR PRODUCTION NO. 1:

Produce the contract documents pertaining to the services performed by Defendant, at Defendant's premises during the years Plaintiff has indicated her father worked at Defendant's Premises, including, but not limited to, invitations to bid, requests for proposals, bids, proposals, statements of scope of work, specifications, blueprints, plans, acceptances, contracts, amendments, addenda, and change orders. In the alternative, if you can identify all of the specific jobs Plaintiff's father worked on for Defendant, you may produce those materials only.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Furthermore it constitutes a non- specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definitions of the terms "Defendant" and "you".

Furthermore, without waving said objections union contracts have been provided to Plaintiff's counsel in *Hermosillo*. Discovery thus far indicates that Mr. Peralta claims to have been working as a custodian in the Houdry Unit at various times from 1953 to 1957. Defendant has been unable to locate the contract, if any, relating to Mr. Peralta's services. Defendant's investigation is continuing and Defendant reserves the right to supplement this response as additional information is located.

REQUEST FOR PRODUCTION NO. 2:

Please produce all 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 received by you in the 1950s.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Further, Defendant objects to this request as the term "hazardous" is vague, ambiguous and subject to the multiple interpretations in the context of this suit. Furthermore it constitutes a non- specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "you".

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. This request calls for information which is in the public domain or is equally accessible to Plaintiff. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 54, the response to which is incorporated herein the same as if set forth at length; however, when any such material was received is unknown, unless receipt is reflected on the face of the document.

REQUEST FOR PRODUCTION NO. 3:

Please produce all books, pamphlets, memoranda, or written materials of any kind of character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings received by you in the 1960s.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Further, Defendant objects to this request as the term "hazardous" is vague, ambiguous and subject to the multiple interpretations in the context of this suit. Furthermore it constitutes a non-specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "you".

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. This request calls for information which is in the public domain or is equally accessible to Plaintiff. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 54, the response to which is incorporated herein the same as if set forth at length; however, when any such material was received is unknown, unless receipt is reflected on the face of the document.

REQUEST FOR PRODUCTION NO. 4:

Please produce all books, pamphlets, memoranda, or written materials of any kind of character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings received by you in the 1970s.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Further, Defendant objects to this request as the term “hazardous” is vague, ambiguous and subject to the multiple interpretations in the context of this suit. Furthermore it constitutes a non-specific “fishing expedition”. It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs’ definition of the term “you”.

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. This request calls for information which is in the public domain or is equally accessible to Plaintiff. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff’s First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 54, the response to which is incorporated herein the same as if set forth at length; however, when any such material was received is unknown, unless receipt is reflected on the face of the document.

REQUEST FOR PRODUCTION NO. 5:

Please produce all books, pamphlets, memoranda, or written materials of any kind of character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings received by you in the 1980s.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Further, Defendant objects to this request as the term “hazardous” is vague, ambiguous and subject to the multiple interpretations in the context of this suit. Furthermore it constitutes a non-specific “fishing expedition”. It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant

further objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "you".

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. This request calls for information which is in the public domain or is equally accessible to Plaintiff. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 54, the response to which is incorporated herein the same as if set forth at length; however, when any such material was received is unknown, unless receipt is reflected on the face of the document.

REQUEST FOR PRODUCTION NO. 6:

Please produce all books, pamphlets, memoranda, or written materials of any kind of character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings received by you in the 1990s.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Further, Defendant objects to this request as the term "hazardous" is vague, ambiguous and subject to the multiple interpretations in the context of this suit. Furthermore it constitutes a non-specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "you".

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. This request calls for information which is in the public domain or is equally accessible to Plaintiff. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 54, the response to which is incorporated herein the same as if set forth at length;

however, when any such material was received is unknown, unless receipt is reflected on the face of the document.

REQUEST FOR PRODUCTION NO. 7:

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

RESPONSE: Defendant objects to this request for production to the extent it is overly broad, vague, and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. Defendant further objects to this request as being duplicative of other discovery already requested in this case. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiff's claims against Defendant are based. Further, Defendant objects to the extent that it is not limited to the premises where Plaintiff allegedly was present. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "Defendant".

Defendant has not undertaken an effort to provide information or documentation which constitutes work product as that term is defined in the Rules of Procedure. Any such material arguably otherwise responsive to this request is withheld.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 70, the response to which is incorporated herein the same as if fully set forth at length; however, when any such material was received is unknown, unless receipt is reflected on the face of the document.

REQUEST FOR PRODUCTION NO. 8:

Produce all documents related to the installation of asbestos-containing material at Defendant's Premises in the 1950's.

RESPONSE: Defendant objects to this request for production to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks

information for time periods other than those upon which Plaintiff's claims against Defendant are based. Further, Defendant objects to the extent that it is not limited to the premises where Plaintiff allegedly was present. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "Defendant".

Defendant has not undertaken an effort to provide information or documentation which constitutes work product as that term is defined in the Rules of Procedure. Any such material arguably otherwise responsive to this request is withheld.

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 72, which response is incorporated herein the same as if fully set forth at length.

REQUEST FOR PRODUCTION NO. 9:

Produce all documents related to the installation of asbestos-containing material at Defendant's Premises in the 1960's.

RESPONSE: Defendant objects to this request for production to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiff's claims against Defendant are based. Further, Defendant objects to the extent that it is not limited to the premises where Plaintiff allegedly was present. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "Defendant".

Defendant has not undertaken an effort to provide information or documentation which constitutes work product as that term is defined in the Rules of Procedure. Any such material arguably otherwise responsive to this request is withheld.

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 72, which response is incorporated herein the same as if fully set forth at length.

REQUEST FOR PRODUCTION NO. 10:

Produce all documents related to the installation of asbestos-containing material at Defendant's Premises in the 1970's.

RESPONSE: Defendant objects to this request for production to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiff's claims against Defendant are based. Further, Defendant objects to the extent that it is not limited to the premises where Plaintiff allegedly was present. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "Defendant".

Defendant has not undertaken an effort to provide information or documentation which constitutes work product as that term is defined in the Rules of Procedure. Any such material arguably otherwise responsive to this request is withheld.

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 72, which response is incorporated herein the same as if fully set forth at length.

REQUEST FOR PRODUCTION NO. 11:

Produce all documents related to the installation of asbestos-containing material at Defendant's Premises in the 1980's.

RESPONSE: Defendant objects to this request for production to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiff's claims against Defendant are based. Further, Defendant objects to the extent that it is not limited to the premises where Plaintiff allegedly was present. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "Defendant".

Defendant further objects to this request as being unduly burdensome, involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 72, which response is incorporated herein the same as if fully set forth at length.

REQUEST FOR PRODUCTION NO. 12:

Produce all documents related to the installation of asbestos-containing material at Defendant's Premises in the 1990's.

RESPONSE: Defendant objects to this request for production to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiff's claims against Defendant are based. Further, Defendant objects to the extent that it is not limited to the premises where Plaintiff allegedly was present. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "Defendant".

Defendant further objects to this request as being unduly burdensome,

involving unnecessary and unreasonable expense and hardship, and made for the purposes of harassment or annoyance. Defendant further objects to this request as being duplicative of other discovery already requested in this case.

Without waiving the foregoing, see Plaintiff's First Set of Interrogatories , Requests for Admission and Request for Production, Request for Production 72, which response is incorporated herein the same as if fully set forth at length.

REQUEST FOR PRODUCTION NO. 13:

Please produce all documents related to Plaintiff's father's work performance and personnel record at Defendant's Premises.

RESPONSE: Defendant has not undertaken an effort to provide information or documentation which constitutes work product as that term is defined in the Rules of Procedure. Any such material arguably otherwise responsive to this request is withheld.

Without waiving foregoing objections. Defendant has no documents related to Plaintiff's father work performance, nor does Defendant have a "personnel" file for Plaintiff's father from Defendant's premises.

REQUEST FOR PRODUCTION NO. 14:

Please produce all photographs of Defendant's Premises.

RESPONSE: Defendant objects to this request for production as overly broad and burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as not limited in time nor scope to periods or locations of Plaintiff's alleged work on the premises. Further, Defendant objects to this request to the extent that it seeks confidential and/or proprietary information and/or trade secrets. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "Defendant".

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates"; then to seek this material from all such persons.

Without waiving the foregoing, please refer to the 1956 photograph of the facility and 1956 contour aerial diagram provided in response to Plaintiffs' Request for Production No. 12 in Cause No. 98-1338; *Mary Hermosillo vs. Owens Corning, et al*; In the District Court, El Paso County, Texas, County Court at Law No. 2.

REQUEST FOR PRODUCTION NO. 15:

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

RESPONSE: Defendant objects to this request for production as overly broad and unduly burdensome. Defendant objects to this request as harassing and it seeks information, the subject of which is protected from disclosure by the attorney work product privilege.

Without waiving the foregoing, expert reports will be provided in accordance with the Rules of Procedure and Standing Order No. 1.

REQUEST FOR PRODUCTION NO. 16:

Please produce all documents of corporate, board of directors, Defendant Premises representatives, departmental person, task force, or other meetings of members of Defendant from 1940 until the last year that Plaintiff indicated he worked at Defendant's Premise that contain discussion or information concerning asbestos, asbestos-related health hazards, or asbestos-containing products.

RESPONSE: Defendant objects to this request for production as overly broad and unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in scope to the time periods when Plaintiff allegedly worked on Defendant's premises nor to the areas within Defendant's premises where Plaintiff allegedly worked and constitutes a non-specific "fishing expedition". Defendant objects to this request as irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term "Defendant".

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of

predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waving said objections none have been located from the El Paso refinery.

REQUEST FOR PRODUCTION NO. 17:

Produce documents between Defendant and any of its insurance carriers regarding the hazards of asbestos and asbestos-containing products.

RESPONSE: Defendant objects to this request for production as overly broad and unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request as it is not limited in scope to the time periods when Plaintiff allegedly worked on Defendant’s premises nor to the areas within Defendant’s premises where Plaintiff allegedly worked and constitutes a non-specific “fishing expedition”. Defendant objects to this request as irrelevant, harassing, and virtually impossible to answer given Plaintiffs’ definition of the term “Defendant”.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waiving the foregoing, Defendant has located no such material generated from 1953-1957.

REQUEST FOR PRODUCTION NO 18:

If you contend that you did not own Defendant’s Premises or are not liable for any dangerous condition or activity taken place at Defendant’s Premises during the time period Plaintiff has indicated he worked at Defendant’s Premises, please produce all documents supporting this contention.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Furthermore it constitutes a non-specific “fishing expedition”. It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as argumentative and insofar as it purports to place the burden of proof regarding liability on Defendant. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs’ definition of the term “Defendant”, and as such the burden of

discovery out weighs its benefits, TRCP 192.4.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waiving the foregoing, the El Paso Refinery opened in approximately 1927 as PASOTEX. PASOTEX was a Delaware corporation which was one hundred percent owned by the California Company, a California corporation. In July of 1935, PASOTEX changed its name to Standard Oil of Texas which was merged into the California company in December of 1960. At that time the company's name was changed to California Oil Company. California Oil Company's name was changed to Chevron Oil Company effective July 1, 1965.

The name of Chevron Oil Company was changed to Chevron U.S.A., Inc. effective January 1, 1977. Chevron U.S.A. Inc., a California Corporation, was merged into Gulf Oil Corporation, a Pennsylvania Corporation, on July 1, 1985. On the same date, Gulf Oil Corporation changed its name to Chevron U.S.A., Inc., a wholly owned subsidiary of Chevron Corporation. Chevron Products Company is a division of Chevron U.S.A. Inc. and is the current operator of the El Paso Refinery.

Without waiving the foregoing, please refer to Defendant’s pleadings, all medical records, fact and expert depositions and all documents produced by Defendant to Plaintiff’s counsel in this or prior litigation.

REQUEST FOR PRODUCTION NO. 19:

If you contend Defendant’s Premises was asbestos-free when Plaintiff believes he was present, please produce all documents which support your contention.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Furthermore it constitutes a non-specific “fishing expedition”. Defendant objects to this request as it is not limited in scope to the area on Defendant’s premises where Plaintiff contends he worked. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs’ definition of the term “Defendant”, and as such the burden of discovery outweighs its benefits, TRCP 192.4.

REQUEST FOR PRODUCTION NO. 20:

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

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Furthermore it constitutes a non-specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs' definition of the term "Defendant", and as such the burden of discovery outweighs its benefits, TRCP 192.4. Defendant objects to this request as overly broad in that it is not limited in time nor scope to the times Plaintiff alleges he worked there nor to the location on Defendant's premises where he claims to have worked. Furthermore, Defendant objects to this request to the extent that it seeks confidential and/or proprietary information and/or trade secrets.

Without waiving the foregoing, please see documents produced in response to Plaintiff's Request for Production No. 7 in Cause No. 98-1338; *Mary Hermosillo vs. Owens Corning*, et al; In the District Court, El Paso County, Texas, County Court at Law No. 2. Defendant reserves the right to supplement this response as additional information is located. See also Bates numbers CHEV BB 0010128-0010141, 010161, 010163-010232, 010391, 010398- 010403, 010423-010425, 010436-010453, 010483, 010515-010521, 010525-010527, 010536-010545, 010733-010739, 010820, 011001- 011002, 011018, 011046-011047, 011097, 011195-011211, 011224-011228, 011338-011382, 011480-011518, 011589-011641, 011726, 011728-011733, 011742-011761, 011892-011902, 012025, 0102026, 012031, 011287-011097, 011001-011002, 011046-011047.

REQUEST FOR PRODUCTION NO. 21:

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: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Furthermore, it constitutes a non-specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as it is not limited in time nor scope to the time Plaintiff alleges he worked at the El Paso refinery nor to the refinery in El Paso where Plaintiff alleges he worked. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs' definitions of the

terms “Defendant” and “you”, and as such the burden of discovery out weighs its benefits, TRCP 192.4. Defendant objects to this request to the extent that it seeks confidential and/or proprietary information and/or trade secrets.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waiving the foregoing, Defendant did not manufacture asbestos containing products at the El Paso refinery.

REQUEST FOR PRODUCTION NO. 22:

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: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. It is not limited in scope by time or location and constitutes a non-specific “fishing expedition”. It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as it is not limited to times when Plaintiff alleges he worked at the El Paso refinery nor to areas within the refinery where Plaintiff alleges he worked. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs’ definitions of the terms “Defendant” and “your”, and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waiving any of the foregoing, we have located a number of purchase orders, invoices and work orders from the El Paso facility which contain information regarding the use or purchase of such products. (Some of the documents produced may not reflect actual use of such products because we may have located and produced information received from manufacturers and suppliers from whom we purchased no products.) Please refer to our response to Plaintiffs’ Request for Production No. 19 provided in Cause No. 98-1338;

Mary Hermosillo vs. Owens Corning, et al; In the District Court, El Paso County, Texas, County Court at Law No. 2. See also Bates numbers CHEV BB 010391, 010483, 010820, 011018, 011097, 011195-011211, 011224-011228, 011338-011382, 011480-011518, 011589-011641, 011726, 011728-011733, 011742-011761, 011892-011902, 012025, 012026, 012031, 012087-012097.

REQUEST FOR PRODUCTION NO. 23:

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

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Furthermore it constitutes a non-specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as it is not limited to times when Plaintiff alleges he worked at the El Paso refinery nor to areas within the refinery where Plaintiff alleges he worked. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs' definitions of the terms "Defendant" and "your", and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates"; then to seek this material from all such persons.

Without waiving any of the foregoing, Defendant did not manufacture asbestos containing products at its El Paso facility. We have located a number of purchase orders, invoices and work orders from the El Paso facility which contain information regarding the use or purchase of such products. (Some of the documents produced may not reflect actual use of such products because we may have located and produced information received from manufacturers and suppliers from whom we purchased no products.) Please refer to our response to Plaintiffs' Request for Production No. 19 provided in Cause No. 98-1338; *Mary Hermosillo vs. Owens Corning, et al; In the District Court, El Paso County, Texas, County Court at Law No. 2. See also Bates numbers CHEV BB 010391, 010483, 010820, 011018, 011097, 011195-011211, 011224-011228, 011338-011382, 011480-011518, 011589-011641, 011726, 011728-011733, 011742-011761, 011892-011902, 012025, 012026, 012031, 012087-012097.*

REQUEST FOR PRODUCTION NO. 24:

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: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. Furthermore it constitutes a non-specific “fishing expedition”. It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as it is not limited to times when Plaintiff alleges he worked at the El Paso refinery nor to areas within the refinery where Plaintiff alleges he worked. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs’ definition of the term “your”, and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waiving the foregoing, Defendant did not manufacture asbestos containing products at the El Paso refinery.

REQUEST FOR PRODUCTION NO. 25:

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

RESPONSE: Defendant objects to this request as it is overly broad, irrelevant and overly burdensome. Defendant further objects to this request as it is overly broad in that it is not limited in time nor scope either to time periods when Plaintiff allegedly worked on Defendant’s premises, to the premises on which Plaintiff allegedly worked, nor the area(s) within any of Defendant’s premises where Plaintiff allegedly worked. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs’ definition of the term “Defendant”, and as such the burden of discovery out weighs its benefits, TRCP 192.4. Defendant further objects to this request as it constitutes a non-specific “fishing expedition”.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of

predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waiving the foregoing, see attached documents, Bates numbers CHEV BB 011383-011387, 011734.

REQUEST FOR PRODUCTION NO. 26:

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

RESPONSE: Defendant objects to this request as it is overly broad, irrelevant and overly burdensome. Defendant further objects to this request as it is overly broad in that it is not limited in time nor scope either to time periods when Plaintiff allegedly worked on Defendant’s premises, to the premises on which Plaintiff allegedly worked, nor the area(s) within any of Defendant’s premises where Plaintiff allegedly worked. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs’ definitions of the terms “You” and “Defendant”, and as such the burden of discovery out weighs its benefits, TRCP 192.4. Defendant further objects to this request as it constitutes a non-specific “fishing expedition”.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waiving the foregoing, see Bates numbers. CHEV BB 0010064, 0010066, 0010099-0010105, 0010113-0010127, 010269,010270, 010476-010481, 010570-010575, 010578-010580, 010582-010587, 010740, 010783, 011705.

REQUEST FOR PRODUCTION NO. 27:

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: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. It is not limited in time or location and constitutes a non-specific “fishing expedition”. It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as it is not limited to times when Plaintiff alleges he worked at the El Paso refinery nor to areas within the refinery where Plaintiff alleges he worked. Defendant further objects to this

request as it is not limited to asbestos, which is the subject of this suit. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs' definition of the term "you", and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Without waiving the foregoing, we are unaware of any such record supplied by the El Paso refinery to other plants from 1953 to 1957.

REQUEST FOR PRODUCTION NO. 28:

Please produce depositions and trial transcripts of your corporate representatives taken in any matter involving an alleged injury or claimed property damage due to asbestos.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, and constitutes a non-specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as it is not limited to the El Paso refinery nor to relevant time periods or matters germane to this case. It further calls for the production of record in the public domain and which are accessible to Plaintiff and Plaintiff's counsel. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs' definition of the term "your", and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Without waiving the foregoing, please refer to the deposition of Jack Spence, which has already been provided to Plaintiff's counsel.

REQUEST FOR PRODUCTION NO. 29:

Please produce exhibit lists from other cases involving claim of injury or property damages caused by asbestos.

RESPONSE: Defendant objects to this request as it is overly broad, unduly burdensome, vague and ambiguous. It is not limited in time or location and constitutes a non-specific "fishing expedition". It calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request as it is not limited to the El Paso refinery nor to relevant time periods or matters germane to this case. It further calls for the production of record in the public domain and which are accessible to Plaintiff and Plaintiff's counsel.

Defendant specifically objects to this request as it invades the work product privilege embodied in Rule 192.5 of the Texas Rules of Civil Procedure and Rule

503 of the Texas Rules of Evidence. Therefore, Defendant has not undertaken an effort to provide information or documentation which constitutes “work product” as that term is defined in the Rules of Civil Procedure. Any such material arguably otherwise responsive to this request is withheld.

REQUEST FOR PRODUCTION NO. 30:

Please produce all correspondence from Plaintiff's employer during the years Plaintiff has stated he worked at Defendant's Premises.

RESPONSE: None have been found at this time but Defendant's investigation is continuing and Defendant reserves the right to supplement this response as additional information is located.

REQUEST FOR PRODUCTION NO. 31:

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: Defendant objects to this request for production to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiff's claims against Defendant are based. Further, Defendant objects to the extent that it is not limited to the premises where Plaintiff allegedly was present. Defendant objects to this request as overly broad, unduly burdensome, irrelevant, harassing, and virtually impossible to answer given Plaintiffs' definition of the term “your”. Furthermore, it constitutes a non-specific “fishing expedition”.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.

Defendant has not undertaken an effort to provide information or documentation which constitutes work product as that term is defined in the Rules of Procedure. Any such material arguably otherwise responsive to this request is withheld.

Without waiving the foregoing, see documents produced in response to Plaintiff's Request for Production No. 8,7,9 and 27 in Cause No. 98-1338; *Mary Hermosillo vs. Owens Corning, et al*; In the District Court, El Paso County, Texas, County Court at Law No. 2. and the documents produced in response to Plaintiffs' Request for Production Request No. 3; in Cause Number 2000-757; *Ignacio Serafin, et al v. Chevron U.S.A. Inc.*; In County Court at Law Number 3, El Paso, County, Texas. Specifically Bates numbers CHEV BB 7335-7359. Defendant reserves the right to supplement this response as additional information is located. See also attached documents, Bates numbers CHEV BB 012129-012216 as well as other documents produced in response to Plaintiff's discovery in this case.

REQUEST FOR PRODUCTION NO. 32:

Please produce all documents in your possession as a result of attending the Saranac Symposium. These documents should include, but are not limited to, those received after the Symposium was completed but sent to you as a result of your attendance at the Saranac Symposium.

RESPONSE: Defendant objects to this request to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiffs' claims against Defendant are based. Defendant objects to this request as it assumes Defendant attended the Saranac Symposium. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs' definitions of the terms "you" and "your", and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates"; then to seek this material from all such persons.

Without waving said objections none have been found at this time.

REQUEST FOR PRODUCTION NO. 33:

Please produce all documents in your possession as a result of attending the New York academy of Science meetings. These documents should include, but are not limited to, those received after the meeting were completed but sent to you as a result of your attendance at same.

RESPONSE: Defendant objects to this request to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiffs' claims against Defendant are based. Defendant objects to this request as it assumes Defendant attended the New York Academy of Science meetings. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs' definitions of the terms "you" and "your", and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates"; then to seek this material from all such persons.

Without waving said objections none have been found at this time.

REQUEST FOR PRODUCTION NO. 34:

Please produce all documents in your possession as a result of attending the Texas Chemical Council meetings. These documents should include, but are not limited to, those received as a result of the meeting but not during the meeting.

RESPONSE: Defendant objects to this request to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiffs' claims against Defendant are based. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs' definition of the term "your", and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all "merged, consolidated, or

acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.

Without waving said objections none have been found at this time.

REQUEST FOR PRODUCTION NO. 35:

Please produce all minutes of the API meeting and its subcommittee meetings during the time period you were a member of API.

RESPONSE: Defendant objects to this request to the extent it is overly broad, vague, unduly burdensome and calls for information or material which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request for production because it seeks information for time periods other than those upon which Plaintiffs’ claims against Defendant are based. In addition, Defendant objects to this request as harassing and virtually impossible to answer given Plaintiffs’ definition of the term “you”, and as such the burden of discovery out weighs its benefits, TRCP 192.4.

Defendant has not undertaken to conduct historical research to identify and locate all present and past agents or employees of all “merged, consolidated, or acquired predecessors, divisions, subsidiaries, foreign subsidiaries of predecessors, and/or affiliates”; then to seek this material from all such persons.