PLAINTIFF'S EXHIBIT
tabbies
UC-1143

Texas Department of Health

Patti J. Patterson, M.D., M.P.H
Commissioner

Randy P. Washington
Deputy Commissioner for Health Care Financing

1100 West 49th Street
Austin, Texas 78756-3199
(512) 458-7111

Carol S. Daniels
Deputy Commissioner for Programs

Roy L. Hogan
Deputy Commissioner for Administration

April 9, 1997

Mr. Andrew F. Jackson
Union Carbide Corporation
3301 5th Avenue South
Texas City, Texas 77592-0471

Re: In the Matter of administrative penalties on Union Carbide Corporation
Docket #: D725-1997-0008

Dear Mr. Jackson:

Enclosed please find the Order and Findings of Fact signed by the Commissioner of Health pertaining to the above matter. All correspondence and payments should be addressed to Texas Department of Health, c/o Horace Edison, Asbestos Program at the above address. Please include Budget # 7C790-001 on check to receive credit promptly. If you should have any questions, Mr. Edison can be reached at (512) 834-6600 or (800) 572-5548.

Sincerely,

Diana Wells

Diana Wells
Legal Secretary

Attachment

cc: Horace Edison - TDH Asbestos Program
Marti Moehlmann - Hearing Examiner's Ofc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this letter along with copies of the enclosed referenced documents were sent by U.S.mail to Mr. Andrew F. Jackson, Union Carbide Corp. 3301 5th Ave., Texas City, Tx. 77592-0471, the 9th day of April 1997.

Diana Wells

Diana Wells, Legal Secretary II
Office of General Counsel

OGC\SS\DOC#1215

Union Carbide trial exhibit UC-1143: Texas Department of Health Transmittal to Andrew F. Jackson of Agreed Orde...
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asbestosclaims.law/library/16319/1

DOCKET NO. D-725-1997-0008

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
UNION CARBIDE CORPORATION	§	DEPARTMENT OF HEALTH
	§	
TEXAS CITY, TEXAS	§	AUSTIN, TEXAS

AGREED ORDER

The undersigned Commissioner of Health, having reviewed and considered the information submitted in this matter, is of the opinion that an administrative penalty be assessed against Union Carbide Corporation in the amount of Five Hundred Dollars ($500.00), payable as herein Ordered. The penalty of Five Hundred Dollars ($500.00) is assessed for failure to provide a timely notification of asbestos related activities in violation of 25 TAC §295.61(c) and 40 CFR Part 61, Subpart M §61.145(b).

It is Ordered that Union Carbide Corporation, Texas City, Texas, be assessed an administrative penalty in the amount of Five Hundred Dollars ($500.00), payable within 90 days of receipt of this Order. Union Carbide Corporation shall henceforth comply with all applicable laws, rules and regulations. Failure to comply will result in additional penalties. Findings of Fact and Conclusions of Law are attached hereto and made a part hereof for all purposes.

Done at Austin, Travis County, Texas, on the 4th day of April, 1997.

Paul J. Patterson, M.D.
Commissioner of Health
Texas Department of Health

UCTC 17656

IN THE MATTER OF UNION CARBIDE CORPORATION
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Docket No: D-725-1997-0008

Finding of Fact No. 1:

On September 16, 1996, the Asbestos Programs Branch of the Texas Department of Health received a notification form for the demolition/renovation project at Union Carbide Corporation, 3301 5th Avenue South, Texas City, Texas. The notification form was postmarked September 10, 1996, and the scheduled start date for the project was September 23, 1996. It was determined that Union Carbide Corporation had failed to submit timely notification of asbestos related activities in violation of 25 TAC §295.61(c) and 40 CFR Part 61, Subpart M §61.145(b). Written notification must be received at least 10 working days before the start of the project.

Finding of Fact No. 2:

By Certified Letter #900-983 dated December 4, 1996, Claren J. Kotrla, Director of the Toxic Substances Control Division, notified Union Carbide Corporation of the Division's intent to assess an administrative penalty in the amount of One Thousand Dollars ($1,000.00). The proposed violation was classified as a serious violation, severity level II, first occurrence, penalty of One Thousand Dollars ($1,000.00) per day. The notification was in violation for one day.

Finding of Fact No. 3:

On December 18, 1996, a settlement conference was held to discuss the proposed administrative penalty. Those in attendance were Horace Edison for the Program and Andrew Jackson for Union Carbide Corporation. A settlement was reached to reduce the administrative penalty to Five Hundred Dollars ($500.00) based on evidence that Union Carbide Corporation was a first-time violator and showed good faith efforts to comply.

Finding of Fact No. 4:

The particular reason for assessing an administrative penalty in the amount of Five Hundred Dollars ($500.00) on Union Carbide Corporation is for failure to provide timely notification of asbestos related activities in violation of 25 TAC §295.61(c) and 40 CFR Part 61, Subpart M §61.145(b). This is a final disposition of all violations at the site with respect to Union Carbide Corporation.

Conclusion of Law No. 1:

All procedural requirements relative to notice, hearing and due process of law were met.

Conclusion of Law No. 2:

Union Carbide Corporation failed to comply with the provisions of 25 TAC §295.61(c) and 40 CFR Part 61, Subpart M §61.145(b).

Conclusion of Law No. 3:

On the basis of the evidence and the findings of fact, assessing the administrative penalty of Five Hundred Dollars ($500.00) on Union Carbide Corporation is the right and proper remedy.

UCTC 17657