PLAINTIFF'S EXHIBIT
tabbies
UC-1144

T D H
TEXAS DEPARTMENT OF HEALTH

Texas Department of Health

David R. Smith, M.D.
Commissioner

Randy P. Washington
Deputy Commissioner for Health Care Financing

Toxic Substances Control Division
1100 West 49th Street
Austin, Texas 78756-3199
(512) 834-6600

Carol S. Daniels
Deputy Commissioner for Programs

Roy L. Hogan
Deputy Commissioner for Administration

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 900-983

December 4, 1996

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

RE: Notice of Violation
Proposed Administrative Penalty Against: Mr. Andrew F. Jackson, Union Carbide Corporation

Notification No. 6091377
Union Carbide Corporation, 3301 5th Avenue South, Galveston, Texas

Dear Mr. Jackson:

On September 16, 1996, the Texas Department of Health (Department), Toxic Substances Control Division, Asbestos Programs Branch, received the notification form for the above referenced project. The form was postmarked on September 10, 1996, and the scheduled start date for the project was September 23, 1996.

The Department is authorized to enforce the Texas Asbestos Health Protection Act (Act) and the Texas Asbestos Health Protection Rules (Rules), [Title 25 of the Texas Administrative code (TAC), Chapter 295], and the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, Subpart M. Copies of the Act and Rules are available for your review at any of our regional offices. A copy of NESHAP can be found in the Federal Register.

After reviewing the submitted notification form, the Department has determined that the notification is in violation of the following provision of TAC and/or NESHAP.

Union Carbide trial exhibit UC-1144: Texas Department of Health (Claren J. Kotrla) to Andrew F. Jackson, Union Ca... Published by AsbestosClaims.Law
ACL Doc 16320 · Page 1 of 3 asbestosclaims.law/library/16320/1

VIOLATION: **FAILURE TO PROVIDE A TIMELY NOTIFICATION OF ASBESTOS RELATED ACTIVITIES. 25 TAC §295.61© AND 40 CFR PART 61, SUBPART M §61.145(b).**

Section 295.61© TAC states "Written notification of asbestos abatement activity or demolition must be hand delivered, express mailed, or postmarked at least 10 working days (not calendar days) before the start of activities which may disturb asbestos. Notifications must be delivered by United States Postal Service, commercial delivery service, or by hand delivery. Telephone facsimile (FAX) is not permitted . . . "

40 CFR Part 61, Subpart M §61.145(b) states "Each owner or operator of a demolition or renovation activity to which this section applies shall: . . . (3) Postmark or deliver as follows: (I) At least 10 working days before asbestos stripping or removal work or any other activity begins . . . If the operation is as described in paragraph (a)(2) of this section, notification is required 10 working days before demolition begins."

A review of the Department's records indicates that the notification form submitted for the demolition/renovation project at Union Carbide Corporation, 3301 5th Avenue South, Galveston, Texas, was not postmarked 10 working days prior to the scheduled start date.

Proposed Penalty: **Serious Violation, Severity Level II, First Occurrence - $1,000.00 per day. The notification was in violation for 1 days.**

The proposed penalty for the/all alleged violation(s) is $1,000. According to the Rules, the following three options are available:

1. The violation is acknowledged and the proposed penalty paid within thirty (30) days of receipt of this letter to Texas Department of Health Account #7C790-001; or

2. An Informal Settlement Conference is requested. If this option is selected and an agreement is not reached, a Formal Hearing will be requested; or

3. A Formal Hearing to contest this action is requested. In this case, a written request for such a hearing must be sent within thirty (30) days of receipt of this letter to Mr. Claren J. Kotrla, Director, Toxic Substances Control Division, Texas Department of Health, 1100 W. 49th Street, Austin, Texas 78756-3199.

UCTC 17659

If no response is received by the Department by the thirtieth (30th) day, the Commissioner of Health, or his designee, will issue an order assessing the penalty or requiring a hearing. Hearings are conducted in accordance with the provisions of the Administrative Procedures Act, Texas Government Code, Chapter 2001 and the Department's formal hearing procedures in Title 25, Texas Administrative Code, Sections 1.21 through 1.34.

Should you wish to discuss this action or have any questions concerning our intentions, please contact Mr. Horace A. Edison, R.S., Compliance and Enforcement Coordinator, Enforcement Program at (512) 834-6600 or (800) 572-5548 (in Texas).

Sincerely,

Claren J. Kotrla, Director
Toxic Substances Control Division

CW

cc: Texas Department of Health, Public Health Region 6 (Harvey Houng, P.E., Ph.D.)
EPA Region 6

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12-13-96 8:30 —
Talked to Mr. Edison, will reduce to $500 for 1st offense, but with NOT Exp.!

UCTC 17660

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