UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF WEST VIRGINIA

BARBARA CANTWELL CHRISTMAN, et al., Plaintiffs, v. AMERICAN CYANAMID COMPANY, Defendant.	Civil Action No. 80-0024-P

DEFENDANT AMERICAN CYANAMID COMPANY'S FIRST RESPONSE TO PLAINTIFFS' THIRD INTERROGATORIES

Pursuant to Federal Rule of Civil Procedure 33, defendant provides the following responses to Plaintiffs' Third Interrogatories.*/

GENERAL OBJECTIONS

OBJECTION 1

Cyanamid objects to responding to Plaintiffs' Third Interrogatories because they require Cyanamid to respond long after the Court's deadline for completion of discovery. On

*/ Cyanamid will supplement these interrogatories only to the extent required by Federal Rule of Civil Procedure 26(e).

October 6 1982, Judge Haden ordered that all dicsovery shall be completed by July 25, 1983. See Order of October 6, 1982, Christman v. American Cyanamid Co., No. 80-0024-P (N.D. W.Va.). These interrogatories were served after the deadline for propounding written discovery ordered by Judge Haden had elapsed. Cyanamid should not be burdened with untimely discovery while it prepares its case for trial.

OBJECTION 2

Cyanamid objects to responding to these interrogatories on the ground that they exceed the maximum number of permissible interrogatories prescribed by Local Rule 2.06(b). That rule provides that "(u)nless otherwise permitted by the court for good cause shown, no party shall serve upon any other party, at one time or cumulatively, more than 30 written interrogatories, including all parts and subparts, pursuant to Rule 33, Federal Rules of Civil Procedure." Plaintiffs long ago exceeded the permissible number of interrogatories. Without even considering subparts as expressly required by the rule, plaintiffs have served Cyanamid with a total of one-hundred eight interrogatories. Plaintiffs have neither sought nor obtained Court approval and have not attempted to show good cause. Plaintiffs' Third Interrogatories alone includes twenty-six interrogatories and thirty subparts. Plaintiffs cannot show good cause why Cyanamid should be required to respond to these additional interrogatories.

OBJECTION 3

Cyanamid objects to definition 1 on page 2 of Plaintiffs' Second Interrogatories which plaintiffs incorporate by reference in Plaintiffs' Third Interrogatories. It defines "Cyanamid" or "defendant" to refer to American Cyanamid Company and all of its divisions or departments, predecessors or successors, corporate subsidiaries, and its agents, employees, servants or representatives. Defendant will use the term "Cyanamid" or "defendant" in the following response to refer to American Cyanamid Company, the only defendant in this action, and not to any other entity.

OBJECTION 4

Cyanamid objects to definition 3 of Plaintiffs' Second Interrogatories which plaintiffs incorporate by reference in Plaintiffs' Third Interrogatories to the extent it seeks identification of the custodian(s) of any documents identified in response to these interrogatories on the ground that it imposes an onerous and undue burden on defendant. Such information also is entirely irrelevant unless it is necessary for purposes of establishing the admissibility of a document at trial. To the extent custodian information is necessary to establish the admissibility of a document at trial, defendant will attempt to provide the information at the appropriate time.

OBJECTION 5

Defendant objects to any interrogatories that seek information protected by the attorney-client privilege or the work product rule.

OBJECTION 6

The Court has held that plaintiffs are entitled only to Willow Island plant-wide discovery and to any data used at corporate headquarters directly or indirectly to develop the medical policy at issue in this case as originally announced and/or applied at the Willow Island plant. Christman v. American Cyanamid Co., No. 80-0024-P(H), slip op. at 4, (N.D.W.Va. March 24, 1982). Therefore, unless otherwise noted, Cyanamid objects to any interrogatories seeking discovery on a broader basis than stated above on the ground that such information is irrelevant and unduly burdensome.

OBJECTION 7

Cyanamid objects to the extent these interrogatories seek information that duplicates information the parties necessarily will provide in preparation for pretrial. Cyanamid believes that providing the same information twice while it prepares for trial imposes an onerous and undue burden.

83. Identify each witness defendant expects to call to testify at trial and state the subject matter and substance of his or her testimony.

Answer: See Objections 1, 2 and 7.

84. Identify each witness defendant expects to call as an expert at trial, and as to each:

a. State the subject matter of which the expert is expected to testify, including but not limited to specification of any chemical substance included or considered for inclusion in the Female Production Worker Policy at any time and any other aspect of that policy.

Answer:

DARELL A. BEVIS

If called at trial, Mr. Bevis is expected to testify about the feasibility of respiratory protection equipment as an alternative to the exclusion of affected employees from positions in the Pigments Department at the Willow Island facility under the Company's medical protection policy. He is also expected to testify about protection factors of respirators, the respiratory protection program employed by Cyanamid, the effectiveness of different respirators in operation, the technological capability of different respirators, and other matters related to respiratory protection.

JOHN C. LUMSDEN

If called at trial, Mr. Lumsden is expected to testify about industrial hygiene, with particular emphasis on engineering controls. He will also testify about the

feasibility of engineering controls and work practices as an alternative to the exclusion of affected employees from positions in the Pigments Department at Willow Island under the Company's medical protection policy.

JOSEPH C. CAPOROSSI

If called at trial, Mr. Caporossi is expected to testify about the subject matter of industrial hygiene with emphasis on engineering controls and respiratory protection equipment. He may also testify about the effects of lead on the human body.

BERNARD R. SISKIN, Ph.D.

If called at trial, Dr. Siskin is expected to testify about the relevant labor market for entry level production positions at the Willow Island plant and about statistical data regarding the hiring of women into entry-level production positions at that plant.

J. JULIAN CHISOLM, M.D.

If called at trial, Dr. Chisolm is expected to testify about lead. He is expected to testify about general principles regarding human exposure to lead, the toxicity of lead, the toxicity of lead to the fetus from exposure during pregnancy, the available evidence regarding the effects of lead on male reproductive capability, and the scientific validity of Cyanamid's medical protection policy.

THOMAS H. SHEPARD, M.D.

If called at trial, Dr. Shepard is expected to testify about embryo and fetal development, exposure of the embryo and fetus during pregnancy to chemicals present in the work place, and the scientific validity of Cyanamid's policy.

Cyanamid believes that since lead was the only chemical in use at Willow Island to which its medical protection policy applied, scientific evidence with respect to the other chemicals in its policy is irrelevant to the issues in this case. If, however, plaintiffs seek to introduce and the Court allows evidence with respect to the other substances included in Cyanamid's policy or other substances considered by the company in connection with its policy, Dr. Shepard may provide testimony relating to the toxicity of such substances to the embryo and fetus from exposure during pregnancy and to the scientific validity of Cyanamid's policy.

DAVID BRUSICK, Ph.D.

If called at trial, Dr. Brusick is expected to testify about genetic toxicology including the test systems relating to mutagenic activity and the interpretation of data generated by such tests. Dr. Brusick is also expected to testify about the available data on the mutagenic activity of lead, and the scientific validity of Cyanamid's medical protection policy from a genetic toxicological perspective.

Cyanamid believes that since lead was the chemical in use at Willow Island to which its policy applied, scientific

evidence with respect to the other chemicals in its policy is irrelevant to the issues in this case. If, however, plaintiffs seek to introduce and the Court allows evidence with respect to the other substance included in Cyanamid's policy or other substances considered by the company in connection with its policy, Dr. Brusick may provide testimony relating to the genetic toxicology of such substances.

ROBERT M. CLYNE, M.D.

If called as an expert at trial, Dr. Clyne is expected to testify about occupational medicine and clinical toxicology and Cyanamid's medical protection policy.

JOHN F. NOBLE, Ph.D.

If called as an expert at trial, Dr. Noble is expected to testify about various aspects of toxicology including reproductive and genetic toxicology, evaluation of toxicological data, and the review of the chemicals by Cyanamid's Occupational Exposure Review Committee ("OERC").

JOHN W. LARSEN, JR., M.D.

If called at trial, Dr. Larsen is expected to testify about the age range in which women are considered medically able to bear children; contraceptive use and efficacy; the ability of women to plan pregnancy; and how and at what stage of gestation pregnancy can be detected. He will also testify about risks to the health or viability of the fetus from

parental exposure to workplace chemicals and about matters relating to the assessment of fertility.

RONALD R. RINDFUSS, Ph.D.

If called at trial, Dr. Rindfuss is expected to testify about the age range at which women in the United States are capable of bearing children. He will also testify about the efficacy of contraceptive methods and the ability of women in the United States to plan pregnancy.

Cyanamid may also call a psychiatrist or psychologist as an expert rebuttal witness. A final decision on whether such testimony is necessary will be made on the basis of Dr. Callahan's deposition. If Cyanamid decides to call a psychiatrist or psychologist at trial, it will be either Dr. Julius Hoffman, M.D., Dr. Michael Mills, Ph.D., Dr. Anita Solomon, Ph.D., and/or Dr. Lawrence Raifmond. When Cyanamid makes its decision, the information requested by this interrogatory will, subject to pertinent objections, be provided.

b. State the profession, occupation or field in which defendant claims the witness is an expert; provide a summary of the expert's qualifications, including educational background, specialized training or experience, organizational memberships, past and present positions, the name and address of the employer for each position; and identify all publications, papers, speeches, technical writings or other documents authored or edited by the expert.

Answer: A curriculum vitae for each expert is supplied herewith.

c. Identify any depositions, trials, hearings, or agency proceedings at which the expert has testified or submitted comments whether orally, in writing or both, including the name of the deposition, trial, hearing, or agency proceeding, the court, committee, subcommittee or agency, and numerical designation or docket number of the trial, hearing, or agency proceeding, the issues involved and the substance of the expert's testimony or comments.*/

Answer:

DARELL A. BEVIS

(1) Secretary of Labor v. Conrail, OSHRC Docket No. 81-1025. Testimony on emergency use respirators around hazardous chemicals.

(2) Secretary of Labor v. RSR Corp., OSHRC Docket No. 79-6221. Testimony on the adequacy of respirators used by RSR for protecting employees against lead.

(3) Secretary of Labor v. PPG Industries, Inc., OSHRC Docket No. 77-2235. Testimony on the adequacy of respirators to protect employees against tetraethyl lead.

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*/ Although defendant has made a similar request for information that it believes is proper in its Interrogatory 2(c), it objects to providing any information not provided by plaintiffs in response to defendant's Interrogatory 2(c). For this reason defendant incorporates plaintiffs' objection to defendant's Interrogatory 2(c). Without waiving this objection, defendant will provide a short identifying statement regarding the subject matter of all prior testimony of its experts where available.

(4) OSHA Standard for Occuaptional Exposure to Lead, OSHA Docket No. H-049A. Written comments on the adequacy of qualitative fit-test protocols and of types of respirators for providing employee protection against lead.

(5) Standards Completion Program: Ketone Hearings, Docket No. SCP-1. Oral and written comments about protection factor studies at the informal hearings on the proposed ketone standard.

(6) OSHA Standard: Occupational Exposure to Acrylonitrile, Docket NO. H-108. Submitted oral and written comments on the adequacy of various respirators for protection against acrylonitrile.

(7) American National Standards Institute. Standard Z88.2-1980: "Practices for Respiratory Protection." Served as a committee member and submitted oral and written comments on all aspects of respiratory protection.

(8) OSHA Standard: Occupational Exposure to Benzene, Docket No. H-059B. Submitted comments concerning the adequacy of different respirators for protecting employees exposed to benzene.

(9) Amerata Hess Virgin Islands, union arbitration. Testimony on the necessity of respirator wearants to be clean shaven.

JOHN C. LUMSDEN

Defendant is still in the process of obtaining responsive information and will provide it as soon as it is available.

JOSEPH C. CAPOROSSI

Information responsive to this interrogatory is contained in Mr. Caporossi's deposition and other documents provided during discovery.

BERNARD R. SISKIN, Ph.D.

The following is the list of cases in which Dr. Siskin has testified or submitted comments. Information regarding numerical designations and docket numbers for these cases have not been retained by Dr. Siskin.

The issues in these cases generally involved alleged discrimination on the basis of age, national origin, race and sex relating with respect to a number of employment practices, including hiring, placement, promotion, compensation and termination. In these cases Dr. Siskin has provided expert testimony in the fields of statistics and labor economics, has performed labor market analyses to determine the availability of minorities or women in the relevant labor market and has reviewed the validity of testing procedures and the impact of testing procedures on minorities.

Government v. City of Philadelphia (Federal-Philadelphia)

Rivers v. Westinghouse (Federal-Philadelphia)

Scott v. University of Delaware (Federal-Wilmington)

Kunda v. Muhlenburg College (Federal-Philadelphia)

Dickerson v. U.S. Steel (Federal-Philadelphia)

Carter v. Newsday (Federal-New York)

Dylson v. VPI (Federal-Richmond)

EEOC v. DuPont (Federal-Wilmington)

Nath v. General Electric (Federal-Philadelphia)

Stalling v. Container Corp. (Federal-Wilmington)

Commonwealth v. Operating Engineers (Federal-Philadelphia)

Perez v. Pennsylvania State Policy (Federal-Philadelphia)

Boulden v. Pennsylvania State Police (Federal-Philadelphia)

Commonwealth v. Rizzo (Federal-Philadelphia)

Rechlicz v. Mars Industry (Federal-Scranton)

Wilmore v. Wilmington Fire Department (Federal-Wilmington)

EEOC v. Sears (Federal-Chicago)

Government v. Nassau County Police Department (Federal-New York)

Government v. North Carolina Highway Police (Federal-Raleigh)

Wadja v. Penn Mutual (Federal-Philadelphia)

Taylor v. Marshall (Federal-Philadelphia)

Harmon v. Septa (Federal-Philadelphia)

Government v. Virginia State Police (Federal-Richmond)

Rynski v. Price Waterhouse (Federal-Milwaukee)

Sharp, Lewis et al. v. Owen Corning Fiberglass (Federal-Toledo)

EEOC v. Garland Bank (Federal-Dallas)

EEOC v. Local 60 AFL-CIO (Federal-Pittsburgh)

Walton v. Eaton Corp. (Federal-Philadelphia)

Shipp v. TDES (Federal-Memphis)

Colbert v. Witchita (Federal-Witchita)

Wack v. Peabody-Wind (Federal-Philadelphia)

Commonwealth v. O'Neill (Federal-Philadelphia)

Moorhouse v. Boeing (Federal-Philadelphia)

Karan v. Nabisco (Federal-Pittsburgh)

Rinfort v. U.S. Steel (Federal-Chicago)

Hopf v. Merrill Lynch (Federal-Philadelphia)

Goodman v. Lukens Steel (Federal-Philadelphia)

Groves v. INA (Federal-Philadelphia)

Walker v. Robbins Hose No. 1 (Federal-Wilmington)

Dobry v. Eastern Stainless Steel (Federal-Baltimore)

Gramby v. Westinghouse (Federal-Philadelphia)

Douglas v. KYW (Federal-Philadelphia)

Alexander v. Ginos (Federal-Philadelphia)

Sinclair v. Trenton Times (Federal-Trenton)

PHRC v. Crown Cork & Seal (Admin.-Philadelphia)

PHRC v. Liquor Control Board (Admin.-Harrisburg)

Walker v. Smith (Federal-Philadelphia)

Backsalary v. Commonwealth (Federal-Philadelphia)

WDAS v. ARB (Federal-Philadelphia)

Sun Ship v. Grace Lines (Admin.-D.C.)

Sun Oil v. Shippers (Federal-Philadelphia)

Achilles v. Westinghouse (Federal-Philadelphia)
Green, et al. v. U.S. Steel (Federal-Philadelphia)
AAUP v. University of Rhode Island (Federal-Providence)

DAVID BRUSICK, Ph.D.

1. United States Department of Labor, Occupational Safety and Health Administration Proposed Standard on the Identification, Classification and Regulation of Toxic Substances Posing a Potential Occupational Carcinogenic Risk. Testimony on test systems for assessment of carcinogenicity.

2. Statement before Food and Drug Administration regarding acrylonitrile.

3. Testimony before Food and Drug Administration regarding food dyes.

4. Joseph Schlitz Brewing Co. v. Burke Pest Control, Inc. and Superior Fertilizer and Chemical Co., Inc., No. 77-12244 (Div. A., Circuit Ct. 13th Judicial Circuit of State of Florida, Hillsborough County). Deposition on chloropicrin as residue in beer cans.

5. Northwest Coalition for Alternatives to Pesticides v. Block, et al., 83-6272-E, U.S. D.C., Ore. Testimony on phenoxy herbicides.

THOMAS SHEPARD, M.D.

Dr. Shepard has given testimony in several previous actions. The subject matter of that testimony has generally involved an assessment of the teratogenicity of various chem-

ical substances. Dr. Shepard, however, has not retained identifying information specifying the name, court, or docket number in the cases in which he has given testimony.

ROBERT M. CLYNE, M.D.

Information responsive to this interrogatory is contained in Dr. Clyne's deposition.

JOHN F. NOBLE, Ph.D.

Information responsive to this interrogatory is contained in Dr. Noble's deposition.

J. JULIAN CHISOLM, M.D.

Testimony on Regulation of Fuel and Fuel Additives before the EPA.

Testimony on Proposed National Ambient Air Quality Standard for Lead before the EPA.

Testimony before the Senate Committee on Public Workers, Subcommittee on Environmental Polution. Re: Hearings on health effects of automobile lead emissions.

Testimony before Senate Committee on Labor and Public Welfare, Subcommittee on Health. Re: Hearings on lead based paint.

Testimony before Senate Committee on Nutrition and Human Needs. Re: Hearings on lead poisoning in small children.

Testimony before Senate Committee on Labor and Public Welfare, Subcommittee on Health. Re: Hearings on lead based paint.

Testimony before Senate Committee on Banking and Currency, Subcommittee on Housing and Urban Affairs. Re: Urban Housing.

Testimony before House Committee on Banking and Currency, Subcommittee on Housing. Re: Hearings on lead based paint.

City of El Paso, et. al., v. Asarco, No. 70-1701, 41st District Judicial Court, El Paso, Texas. Testimony on exposure of children to lead.

Yoss, et. al., v. Bunker Hill Co. et. al., C.A. No. 77-2030 (U.S.D.C. Id.). Testimony on exposure of children to lead.

Schlebinski v. Asarco, C.A. No. 74-0347, (U.S.D.C. Neb.). Testimony on alleged effects of exposure of an adult to lead.

French v. California Dairymen's Assoc., et. al., Riverside County Superior Court, Indio No. 23347. Testimony on alleged effects of exposure to lead in a child.

Dr. Chisolm has also testified in numerous cases in the City of Baltimore and elsewhere regarding the effects on children from the ingestion of paint containing lead. Dr. Chisolm is unable to provide more specific information about the actions in which this testimony was given.

JOHN W. LARSEN, JR., M.D.

Slaughter v. Sibley Memorial Hospital, C.A. No. 7325-82 (Superior Court of the District of Columbia); Testimony on whether delay in delivering the plaintiff's child by cesarean section could have exacerbated the harm caused by an automobile accident.

RONALD R. RINDFUSS, Ph.D.

Testimony before the United States Senate Subcommittee on Health and Scientific Research Re: Health risks from the elective induction of labor.

Testimony before the Food and Drug Administration Hearing on Injestable Oxytoxic Drugs, Docket No. 78-N-0108. Re: Practice of inducing labor in pregnant women in the United States.

d. State the substance of the facts to which the expert is expected to testify at trial, including but not limited to specification of facts regarding any chemical substance included or considered for inclusion in the Female Production Workers Policy at any time and regarding any other aspect of that policy.

Answer:

DARELL A. BEVIS

Mr. Bevis will testify that he has been made aware of the exposure standards for lead under Cyanamid's medical protection policy, the types of respirators Cyanamid had considered in assessing the feasibility of respirators as an alternative to the exclusion of women from certain areas of the facility in order to comply with the policy, the protection factors associated with those respirators, and the reasons why Cyanamid determined respirators were not a feasible alternative. Mr. Bevis will also provide background facts on research done at the Los Alamos Scientific Laboratory to establish protection factors for respirators, research and other testing he has done since that time related to the ability to obtain in actual workplace operations the protection factors assigned to a particular respirator from laboratory tests and variables inherent in the use of respirators that affect the ability to obtain in a workplace setting the

protection factor assigned to a particular respirator or a given exposure limit.

JOHN C. LUMSDEN

Mr. Lumsden will provide testimony related to the engineering controls that were used or that were recommended for use in the Willow Island Pigments Department. He will also testify concerning various studies conducted by Cyanamid with respect to the Willow Island Pigments Department. He will also testify about Mr. Chamberlin's recommended changes in the engineering controls and other industrial hygiene practices in the Pigments Department at Willow Island. He will testify generally about the capability of engineering controls to reduce exposure to a hazard and will relate it to the circumstances presented in the Pigments Department at Willow Island.

JOSEPH C. CAPOROSSI

Mr. Caporossi will testify about his experience in industrial hygiene, including Cyanamid's industrial hygiene program and, in particular, its application at the Willow Island Pigments Department. He will testify about the adequacy of that program to protect worker health. He will testify about the ability to obtain a $50ug/m^3$ airborne lead level or a $50ug/m^3$ air-lead level behind the mask of a respirator in the Pigments Department at Willow Island through the use of engineering controls or a combination of engineering controls

and respirators. He will also testify about the ability to obtain a 30ug/m^3 blood-lead level in employees in the Pigments Department at Willow Island through the use of engineering controls, respirators and other industrial hygiene practices. Mr. Caporossi will testify about the effects of lead on the body and the blood-lead levels at which various effects may be documented in the literature.

BERNARD R. SISKIN, Ph.D.

Dr. Siskin will testify that there is no statistical evidence of discrimination by the Willow Island plant against women in the hiring of entry-level production employees at the plant after April 3, 1979. This testimony will be based on an analysis of actual hires, applicant flow data and relevant labor market data that will demonstrate that during the relevant period defendant hired women into such jobs at or about the rate at which women applied for such positions and at or above their availability in the relevant labor market.

Cyanamid believes that hiring data prior to April 3, 1979 is not relevant to the claim at issue in this case. If, however, plaintiffs offer evidence concerning earlier periods and the Court receives such evidence, Dr. Siskin will be prepared to testify that with the exception of the period in which Cyanamid's medical protection policy impacted the hiring of women into entry-level production positions, there is no statistical evidence that the Willow Island plant discriminated

against women in its hiring of employees in entry-level production positions since it first hired women into such positions. This testimony will be based on an analysis of actual hires, applicant flow data and relevant labor market data.

J. JULIAN CHISOLM, M.D.

Dr. Chisolm will testify that the fetus is exposed to lead during pregnancy and that such exposure presents a risk to the fetus, including a risk of neurobehavioral impairments. Dr. Chisolm will also testify about scientific evidence of impaired learning and behavior in young children exposed to lead and experimental evidence of similar effects in animals. Finally, Dr. Chisolm will testify about the ingestion, absorption, retention and excretion of lead, the biological measures of exposure to lead, and the relationship between lead exposure and toxicity.

THOMAS H. SHEPARD, M.D.

Dr. Shepard will testify about the principles of embryology, prenatal development, and teratology. He will also testify about enhanced susceptibility of the embryo and fetus to injury from exposure to teratogenic and fetotoxic agents, the stages of embryo and fetal development, the events that take place in each and the exposure of the embryo and fetus to drugs and chemicals during pregnancy.

Cyanamid believes that since lead was the only chemical in use at Willow Island with respect to which its medical

protection policy applied, scientific evidence with respect to the other chemicals in its policy is irrelevant to the issues in this case. If, however, plaintiffs' seek to introduce and the Court allows evidence with respect to the other substances included in Cyanamid's policy or other substances considered by Cyanamid in connection with its policy, Dr. Shepard may also provide testimony about the teratogenicity and fetotoxicity of methotrexate, thiotepa, hydrazine hydrate and hydrazine sulfate and the scientific basis for Cyanamid's decision to establish exposure limits to protect the embryo and fetus from adverse effects from exposure to these substances during pregnancy. Finally, Dr. Shepard may also provide testimony about the available scientific evidence relating to other substances considered by Cyanamid in connection with its policy.

DAVID BRUSICK Ph.D.

Dr. Brusick will testify about the available data regarding the mutagenic activity of lead and the interpretation of such data in assessing the risk of heritable genetic changes in humans. He will also testify about different test systems utilized in ascertaining mutagenic activity, the type of data generated by such systems, and the appropriate principles for interpretation of such data. Finally, Dr. Brusick may also testify about matters relating to the assessment of adult reproductive capability.

Cyanamid believes that since lead was the only chemical in use at the Willow Island facility to which its medical

protection policy applied, scientific evidence with respect to the other chemicals in its policy is irrelevant to the issues in this case. If however, plaintiffs seek to introduce and the Court allows evidence with respect to the other substances considered by Cyanamid in connection with its policy, Dr. Brusick may also provide testimony about the available data regarding mutagenic activity of methotrexate, thiotepa, hydrazine hydrate and hydrazine sulfate and the interpretation of such data in assessing the risk of heritable genetic changes in humans. If necessary, Dr. Brusick may also provide testimony relating to the genetic toxicology of some of the other substances considered by Cyanamid in connection with its policy.

ROBERT M. CLYNE, M.D.

Dr. Clyne is expected to testify about his experience in occupational medicine and the occupational medicine program of American Cyanamid Company. He will also testify about the necessity for and the medical principles underlying the formulation of Cyanamid's medical protection policy. Dr. Clyne will also testify about evidence considered by Cyanamid's OERC in the course of its activities.

JOHN F. NOBLE, Ph.D.

Dr. Noble is expected to testify about his experience in toxicological testing, the interpretation of data generated in such testing, and its use in assessing the toxicity of chemical substances. He will also testify about the review of

the chemicals by the OERC, including the data reviewed by the OERC and its conclusions.

JOHN W. LARSEN, JR., M.D.

Dr. Larsen will testify that a woman is considered to be medically able to bear children until she goes through menopause and that the average age of menopause is 50. In addition, Dr. Larsen will testify about the various forms of contraception and the efficacy of each form; and the ability of women to plan when and if they will become pregnant. Dr. Larsen will testify regarding the effectiveness of pregnancy tests in detecting pregnancy after conception and that other factors besides the effectiveness of a pregnancy test determine when pregnancy is first detected. Dr. Larsen will also testify about adult reproductive capability and about the relationship, if any, between occupational exposure of male workers and risk to the health of the fetus or offspring.

RONALD R. RINDFUSS, Ph.D.

Dr. Rindfuss will testify, based on demographic data, regarding the fecundity of an average woman and the extent of unplanned pregnancies. Finally, he will testify as to the lack of reliability of contraception and of the use by women of less effective forms of contraception.

e. State the substance of the opinions or conclusions to which the expert is expected to testify and a summary of the grounds for each opinion or conclusion, including but not limited to specification of the grounds for each opinion or conclusion relating to any chemical substance included or considered for inclusion in the Female Production Workers Policy at any time and relating to any other aspect of that policy.

Answer:

DARELL A. BEVIS

Mr. Bevis will testify that he could not guarantee the consistent achievement of a 50ug/m^3 air-lead level behind the mask of respirators used in the Pigments Department at Willow Island. Mr. Bevis also will testify that the use of respirators on a full-time basis could not guarantee the consistent achievement of a 30ug/100ml blood-lead level in employees in the Pigments Department at Willow Island. Mr. Bevis will also testify that the use of respirators in conjunction with work practices or other administrative controls could not guarantee the achievement of a 50ug/m^3 air-lead level behind the mask of a respirator or a 30ug/100ml blood-lead level in employees in the Pigments Department at Willow Island. Mr. Bevis will testify that the use of respirators conjunction with any ventilation controls or other engineering controls that might be employed as part of a comprehensive

industrial hygiene program could not guarantee the consistent achievement of a 50ug/m^3 air-lead level behind the mask of a respirator or a 30 blood-lead level in employees in the Pigments Department at Willow Island. Mr. Bevis will also testify that the use of respirators on a full-time basis in the Pigments Department at Willow Island could not guarantee that an employee could, with counseling and instruction in the use of respirators and other methods of controlling exposure, consistently achieve a 50ug/100m^3 air-lead level behind the mask of a respirator or a 30ug/100ml blood-lead level if respirators were used on a full-time basis in the Pigments Department at Willow Island. Mr. Bevis will also testify that Cyanamid reasonably concluded that respirators, either alone or combined with other methods of control, could not guarantee the consistent achievement of the goal of protection of fetal health and that conclusion is one that shows a realistic attitude towards the capabilities of respirators.

JOHN C. LUMSDEN

Mr. Lumsden will testify that the consistent achievement of a 50ug/m^3 airborne lead level in the Pigments Department at Willow Island could not be guaranteed through the use of engineering controls. He will testify that the combination of engineering controls, work practices, and administrative controls could not guarantee the consistent achievement of a 50ug/m^3 airborne lead level in the Pigments Department at Willow Island. He will also testify that Cyanamid's conclusion

that engineering controls were not a feasible alternative to the implementation of the medical protection policy in the Pigments Department at Willow Island in October 1978 was reasonble.

JOSEPH C. CAPOROSSI

Mr. Caporossi will testify that the industrial hygiene programs in place at American Cyanamid, including in the Pigments Department at Willow Island, were protective of employee health. Mr. Caporossi will also testify that engineering controls were not a feasible means to obtain a 50ug/m^3 air-lead level in the Pigments Department at Willow Island on a consistent basis; that engineering controls were not a feasible means of obtaining 30ug/100ml blood-lead levels in all employees in the Pigments Department at Willow Island on a consistent basis; that the combination of engineering controls and respirators was not a feasible means of obtaining a 50ug/m^3 air-lead level behind the mask of the respirator in the Pigments Department at Willow Island; that the combination of engineering controls and respirators was not a feasible means of obtaining a 30ug/100ml blood-lead level in all employees in the Pigments Department at Willow Island on a consistent basis; and that work practices either alone or in combination with engineering controls and respirators and other industrial hygiene controls were not a feasible means of obtaining a 50ug/m^3 air-lead level or a 30ug/100ml blood-lead level on a consistent basis in the Pigments Department at Willow Island.

BERNARD R. SISKIN, Ph.D.

The response to this interrogatory already is provided in response to Interrogatory 84(d).

J. JULIAN CHISOLM, M.D.

Dr. Chisolm is expected to testify that there is a substantial consensus in the scientific community that the fetus is at risk from exposure to lead during pregnancy at levels below those which present a risk to the health of adults and that, to protect the fetus, maternal blood lead levels should not exceed 30ug/100ml. He is also expected to testify that because the level of lead in blood continues to remain elevated after an employee is removed from exposure, removal of a female employee from occupational exposure to lead after pregnancy is detected is not adequate to protect the fetus. Dr. Chisolm is also expected to testify that the available scientific data is not sufficient to conclude that occupational exposure of males to lead presents a risk to reproductive capability at levels of exposure comparable to those at which the fetus is at risk. Finally, Dr. Chisolm may also testify, as necessary, to his opinions on matters relating to the ingestion, absorption, retention, and excretion of lead, the biological measures of exposure to lead, and the relationship between lead exposure and toxicity.

THOMAS H. SHEPARD, M.D.

Dr. Shepard will testify that, because it is a rapidly developing organism, the embryo-fetus is highly susceptible to injury from exposure to workplace chemicals. He will also testify that the embryo can be exposed to chemicals present in the workplace at critical periods in its development, and that removal of a woman after pregnancy is detected is not adequate to protect the fetus.

Cyanamid believes that since lead was the only chemical in use at the Willow Island facility to which its medical protection policy applied, scientific evidence with respect to the other chemicals in its policy is irrelevant to the issues in this case. If, however, plaintiffs seek to introduce and the Court allows evidence with respect to the other substances included in Cyanamid's policy, or other substances considered by Cyanamid in connection with its policy, Dr. Shepard may also give testimony that methotrexate, thiotepa, hydrazine hydrate and hydrazine sulfate pose a risk to the developing embryo and fetus, and that the exposure limits established by the OERC had a scientific basis. Finally, Dr. Shepard may also give testimony as to the reasonableness of the OERC's decisions regarding other substances considered by Cyanamid in connection with its policy.

DAVID BRUSICK, Ph.D.

Dr. Brusick will testify that the available data regarding the mutagenic activity of lead does not demonstrate that paternal occupational exposure to lead poses a risk of heritable genetic effects to the fetus or offspring. He will also testify that data relating to the effects of lead on adult reproductive capability must be distinguished from data relating to mutagenic activity and that the former should not be interpreted as being indicative of a genetic risk to the fetus or offspring.

Cyanamid believes that since lead was the only chemical in use at the Willow Island facility to which its medical protection policy applied, scientific evidence with respect to the other substances within its policy is irrelevant to the issues in this case. If, however, plaintiffs seek to introduce and the Court allows evidence with respect to the other substances included in Cyanamid's policy or other substances considered by Cyanamid in connection with policy statement, Dr. Brusick may also give testimony that the available data regarding the mutagenic activity of methotrexate, hydrazine hydrate and hydrazine sulfate does not provide a sufficient basis for concluding that paternal occupational exposure to these substances presents a significant risk of heritable genetic effects to the fetus or offspring. If necessary, Dr. Brusick may also give testimony as to his opinions regarding the genetic toxicology and carcinogenicity of other substances considered by Cyanamid in connection with

its policy; however, in light of the lack of specificity in plaintiffs' responses to Cyanamid's interrogatories regarding the testimony of their experts, Cyanamid is unable to determine whether such testimony by Dr. Brusick will in fact be necessary.

ROBERT M. CLYNE, M.D.

Dr. Clyne is expected to testify that Cyanamid had a comprehensive occupational medical program which monitored and maintained the health of Cyanamid employees, including employees occupationally exposed to lead. Dr. Clyne will also testify that, consistent with the overall objective of Cyanamid's medical program of assuring the health of all Cyanamid workers, its health professionals developed the medical protection policy applicable to substances which, in their opinion, could pose a risk to the fetus present in the workplace.

JOHN F. NOBLE, Ph.D.

Dr. Noble is expected to testify that the OERC's conclusions regarding the substances reviewed by it, including the five substances in Cyanamid's medical protection policy, are scientifically supportable. See also response to Interrogatory 84(d).

JOHN W. LARSEN, JR., M.D.

Dr. Larsen is expected to testify that a woman is capable of bearing children until she reaches the age of 50. He also is expected to testify that reliance by women of childbearing potential on contraceptives is not adequate to protect the fetus from potentially harmful exposure to work-place chemicals; that not all women use birth control or use the most effective methods of birth control; that pregnancies are often unplanned and also unexpected; and that there is a period after conception when a woman does not know whether she is pregnant. He is also expected to testify that paternal pre-conception occupational exposure to chemicals is not likely to be of significance to the health of a fetus or offspring. See also response to Interrogatory 84(d).

RONALD R. RINDFUSS, Ph.D.

Dr. Rindfuss is expected to testify that a woman is of childbearing potential until she reaches age 50. He is also expected to testify that women are not always able to plan when and if they will become pregnant.

f. Identify all reports, memoranda, scientific papers or publications, documents or other materials reviewed, considered or relied on by each expert in connection with this litigation.

Answer: Although defendant has made a similar request for information that it believes is proper in its Interrogatory 2(f), it objects to providing any information or documents not provided by plaintiffs to defendant in response to defendant's Interrogatory 2(f). For this reason, defendant incorporates plaintiffs' objections to defendant's Interrogatory 2(f) here. Without waiving these objections, defendant will, where possible, identify the references most relevant to the testimony of each of its experts.

BERNARD R. SISKIN, Ph.D.

This information is being compiled and will be provided to plaintiffs when it is available.

DARELL A. BEVIS

The following are the documents most relevant to Mr. Bevis' testimony and on which he may rely:

Memorandum from R.J. Clay to Willow Island Employees, dated December 19, 1977 re: Safety-Respiratory protection

Memorandum from G.R. Koehler to W.A. Fead, dated November 17, 1978 re: OSHA Lead Standard

Memorandum from G.R. Kunkle to F. Brown, dated August 2, 1979 re: Lead Exposure Standard Compliance Plan - August 1979.

Document #101289

Document #02369

Document #20306

Document #20302

Document #20326

Document #20230

Document #20234

Decision and Order in Marshall v. American Cyanamid Co., OSHRC Docket No. 79-2438, and Transcript in Marshall v. American Cyanamid at 685-750

Mr. Bevis also has reviewed:

ANSI, Practices for Respiratory Protection, Z88.2-1980.

NRC, Manual of Respiratory Protection Against Airborne Radioactive Materials, NUREG-0041 (Oct. 1976)

Comparison of Respirator Filter Penetration by Dioctyle Phthalate and Sodium Chloride

Progress Report #LA-5470-PR: Respirator Studies for the AEC Division of Operational Safety, January 1 through June 30, 1973

Progress Report #LA-5574-PR: Respirator Studies for the AEC, Division of Operational Safety, July 1 through December 30, 1973

Progress Report #LA5620-PR: Respiratory Studies for the National Institute for Occupational Safety and Health, July 1, 1972 through June 30, 1973

Progress Report #LA5612-PR: Respirator Studies Related to the AEC, Directorate of Regulatory Standards, January 1 through December 31, 1973

Progress Report #LA-5873-PR: Respirator Studies for the AEC, Directorate of Regulatory Standards, January 1 through June 30, 1974

Progress Report #LA-5758-PR: Respirator Studies for the AEC, Division of Operational Safety, January 1 through June 30, 1974

JOHN C. LUMSDEN

The following are the documents most relevant to Mr. Lumsden's testimony and on which he may rely:

Exhibit C-16 in Marshall v. American Cyanamid Co., OSHRC Docket No.79-2438

Document #101280

Document #01048

Document #100011-22

Document #101282

Document #100001-10

Document #20316

Document #20322

Document #101278

Document #101284

Answer to Interrogatory #1 in Marshall v. American Cyanamid Co., OSHRC Docket No. 79-2438

Decision and Order in Marshall v. American Cyanamid Co., OSHRC Docket No. 79-2438

Exhibit C-1 in Marshall v. American Cyanamid Co., OSHRC Docket No. 79-2438

JOSEPH C. CAPOROSSI

Mr. Caporossi has reviewed many documents provided as part of discovery in this case. The following are the documents most relevant to his testimony and on which he may rely:

Document #20326

Document #01047

Document #01068

Document #20316

Document #101281

Document #101282

Document #20322

Document #100001

Document #01063

Document #20302

Document #20306

Document #101289

Document #01048

Document #101280

Document #101284

Document #101278

Document #100011

Document #01046

Exhibits C-15 and C-16 in Marshall v. American Cyanamid Company, OSHRC Docket No. 79-2438

J. JULIAN CHISOLM, M.D.

In addition to his own research and work, the following are among the references most relevant to Dr. Chisolm's testimony and on which he may rely.

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Lane, R., The Care of the Lead Worker, 6 Br. J. Indus. Med. 125 (1949).

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In addition, some of the references relating to lead listed under Dr. Brusick may also be relevant to Dr. Chisolm's testimony as necessary. Dr. Chisolm also reviewed Documents 00986 and 20430.

THOMAS H. SHEPARD, M.D.

In addition to his own research and work, the following are among the references most relevant to Dr. Shepard's testimony and on which he may rely:

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Dr. Shepard has also reviewed documents produced in discovery, including but not limited to, 20009, 01858, 00982, 01869, 01859, 00986, 00987, 00988, and 00991 (without attachments).

DAVID BRUSICK, Ph.D

In addition to his own research and work, the following are among the references most relevant to Dr. Brusick's testimony and on which he may rely:

Assessment of the Safety of Lead and Lead Salts in Food. A Report of the Nutrition Foundation's Expert Advisory Committee, June 1982, Chapter V.*/

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Kantor, A., et al., Occupations of Fathers of Patients with Wilms's Tumour, J. Epid. Comm. Health 33:253 (1979).

Department of Labor, Occupational Exposure to Lead, Final Standard 43 Fed. Reg. 52952-53014 (November 14, 1978).

Department of Labor, Occupational Exposure to Lead, Attachments to the Preamble for the Final Standard 43 Fed. Reg. 54354-54509 (November 21, 1978).

International Commission for Protection Against Environmental Mutogens and Carcinogens, Committee 1 Final Report, Mut. Res. 114:117 (1983).

Dr. Brusick has also reviewed documents produced in discovery including but not limited to documents 00986, including references cited therein relating to mutogenic activity, and 84407-84729 -- some of which he may also rely on.

ROBERT M. CLYNE, M.D. AND JOHN F. NOBLE, Ph.D.

Drs. Clyne and Noble will rely on scientific materials identified and produced in discovery, see Cyanamid's responses to Interrogatory 25i and Request 1(h), as appropriate to their respective testimonies, and other documents identified or produced in discovery relating to Cyanamid's medical protection policy.

JOHN W. LARSEN, JR. M.D.

The following are among the references most relevant to Dr. Larsen's testimony and on which he may rely:

Zatuchni, G.I., Daly, M.J. and Sciarra, J.J. (eds.) Gynecology and Obsetetrics Vol. 6 (1982).

Hatcher, R.A. et. al., (eds.) Contraceptive Technology 1976-1977 (1976).

Hatcher, R.A. et. al., (eds.), Contraceptive Technology 1980 - 1981 (1980).

Hatcher, R. A. et. al., (eds), Contraceptive Technology 1980 - 1981 (1980).

RONALD R. RINDFUSS, Ph.D.

The following are among the references most relevant to Dr. Rindfuss' testimony and on which he may rely:

Vital Statistics of the United States Volume 1 - Natality. U.S. Department of Health Education and Welfare, Public Health Service, National Center for Health Statistics. (This is available on a yearly basis.)

Advance Report of Final Natality Statistics, 1979 Monthly Vital Statistics Report, Volume 30, Number 6, Supplement 2, September 29, 1981.

Advance Report of Final Natality Statistics, 1980 Monthly Vital Statistics Report, Volume 1, Number 8, Supplement, November 30, 1982.

Bongaarts and Potter, Fertility, Biology and Behavior. New York: Academic Press, 1983.

R.H. Gray, Biological Factors Other Than Nutrition and Lactation Which May Influence Natural Fertility: A Review. Leridon and Menken, Natural Fertility. Liege: Ordina Additions.

J. Trussell, Natural Fertility: Measurement and Use in Fertility Models Leridon and Menken, Natural Fertility. Liege: Ordina Additions.

John Bongaarts, Infertility After Age 30: A False Alarm Family Planning Perspectives, Line 14, Number 2, 1982.

John Bongaarts and Jane Menken, The Supply of Children: A Critical Asset, Population Council working papers, April 1983.

A. Cole & J. Trussell, Model Fertility Schedules: Variations in the Age Structure of Childbearing in Human Populations Population Index Vol. 40 pp. 185 - 258 (1974).

John Anderson, Planning Status of Marital Births, 1975-1976, Family Planning Perspectives, Volume 13, Number 2, 1981.

Centers for Disease Control, Abortion Surveillance 1979 - 1980, U.S. Department of Health and Human Services, Centers for Disease Control, May 1983. (Similar reports have been issued for earlier years.)

D. Burhnam, Induced Terminations of Pregnancy: Reporting States, 1979, National Center for Health Statistics Monthly Vital Statistics Report, Volume 31, Number 7, Supplement, October 25, 1982.

S. Henshaw and K. O'Reilly Characteristics of Abortion Patients in the United States, 1979 and 1980, family planning perspectives, Volume 15, Number 1, January/February 1983.

A. Schrim, J. Trussell, J. Menken, and W. Grady, Contraceptive Failure in the United States: The Impact of Social, Economic and Demographic Factors, family planning perspectives, Volume 14, Number 2, 1982.

B. Vaughan, J. Trussell, J. Menken, L. Jones and W. Grady, Contraceptive Efficacy Among Married Women Aged 15-44 Years, National Center for Health Statistics, Series 23, Number 5, May 1980.

W. Grady, M. Hirsch, N. Keen, and B. Vaughan, Contraceptive Failure and Continuation Among Married Women in the United States, 1970-1975, studies in family planning, Volume 14, Number 1, 1983.

W. Mosher, Contraceptive Utilization, United States, 1976, National Center for Health Statistics, Series 23, Number 7, March 1981.

The opinions and conclusions of these expert witnesses are also based on facts known to them by virtue of their extensive education, training, experience, and background as reflected in their curricula vitae.

g. Identify all reports, memoranda, notes or documents of any kind prepared in connection with this litigation by, for or under the direction or supervision of any witness whom plaintiffs expect to call as an expert at trial and identify any person in addition to such expert who participated in the preparation of such reports, memoranda, notes or documents.

Answer:

Although defendant has made a similar request for information that it believes is proper in its Interrogatory 2(g), it objects to providing any information or documents not provided by plaintiffs to defendant in response to defendant's Interrogatory 2(g). For this reason, defendant incorporates plaintiffs' objections to defendant's Interrogatory 2(g) here. Without waiving this objection, defendant will, where possible, provide to plaintiffs any reports that state the substance of the facts or opinions to which its experts are expected to testify or summarize the grounds for their opinions, if prepared, when available.

85. Identify each expert who has been retained by defendant in anticipation of litigation or preparation for trial but who is not expected to be called as a witness.

Answer: Although defendant has made a similar request that it believes is proper in its Interrogatory 2(b), it objects to providing information not provided by plaintiffs in response to defendant's Interrogatory 2(f) and, for this reason, incorporates plaintiffs' objections to defendant's Interrogatory 2(f) here.

Without waiving this objection, defendant will identify the following experts who have been retained in preparation for trial but who are not expected to be called as witnesses at trial:

Dr. Alexander Hollaender, Ph.D.
1717 Massachusetts Avenue, N.W.
Suite 600
Washington, D.C.

Dr. William H. Cooper, M.D.
825 New Hampshire Avenue, N.W.
Washington, D.C. 20037

Dr. William L. Russell, Ph.D.
Biology Division
Oak Ridge National Laboratory
Oak Ridge, Tennessee 37830

86. Identify each document defendant expects to introduce into evidence at the trial of this action, and if any such document is a representation, summary, abstract, compilation, graph, or chart of information reflected in other documents, identify the sources from which such document was compiled or derived.

Answer: See Objections 1, 2, 4 and 7.

87. For each document identified in response to Interrogatory 86, identify the witness(es) whose testimony at trial will authenticate, support, depend on, or relate to that document.

Answer: See Objections 1, 2 and 7.

88. Identify any present or former employee of defendant or other person having knowledge of facts relevant to this lawsuit with whom defendant, or its attorneys, agents, representatives, or experts acting on their behalf, have corresponded or communicated in any fashion, other than by deposition in this action, since January 29, 1980 and for each:

a. Describe each such communication in detail, indicating with particularity its nature and purposes.

b. Identify all persons who were present at any meetings or participated in each such communication and identify all documents containing, describing or relating to each communication.

c. State the date(s) on which each such communication occurred.

Answer: See Objections 1, 2, 4, 5 and 6. In addition, this interrogatory imposes an onerous and undue burden on Cyanamid by seeking information about conversations with any person having knowledge of facts relevant to this lawsuit. As written, it encompasses even communications with the Court.

89. State each fact on which defendant intends to rely in support of any denials contained in Paragraphs 20-24, 27-31, 37, 43, 44, 47, 50, 51, 53 and 72 of its Second Amended Answer.

Answer: See Objections 1, 2 and 7.

90. With reference to Paragraph 2 of the Second Amended Answer, state whether defendant will assert at trial that the Court lacks jurisdiction of some or all of plaintiffs' claims. If so, identify each such claim and, for each, state the basis on which defendant will assert lack of jurisdiction and the facts it will rely on in support of that assertion.

Answer: See Objections 1, 2 and 7.

91. With respect to the Sixth Defense set forth in the Second Amended Answer, identify each "other time limitation" which defendant will assert is a bar to the claims of plaintiffs and members of the class and state each fact defendant will rely on in support of this aspect of its Sixth Defense.

Answer: See Objections 1, 2 and 7.

92. With respect to the Seventh Defense set forth in the Second Amended Answer, state in what respect defendant has been prejudiced by plaintiffs' alleged delay in bringing this action and state each fact defendant will rely on in support of this defense.

Answer: See Objections 1, 2 and 7.

93. State the basis for the claims set forth in the Eighth, Ninth, Fourteenth, and Twenty-First Defenses set forth in the Second Amended Answer and state each fact defendant intends to rely on in support of each such defense.

Answer: See Objections 1, 2 and 7.

94. With respect to the Nineteenth Defense set forth in the Second Amended Answer, identify each and every claim which defendant asserts is covered or coverable by the West Virginia Worker's Compensation Act.

Answer: See Objections 1, 2 and 7.

95. State each fact defendant intends to rely on in support of the Tenth and Thirteenth Defense set forth in the Second Amended Answer.

Answer: See Objections 1, 2 and 7.

96. Identify by geographical area, skills, job category, industry, and/or any other factor or form of measurement on which defendant will rely, the labor pool or market which defendant will claim is relevant or appropriate for the purpose of determining whether it discriminates against women in hiring into entry-level labor positions.

Answer: See Objections 1, 2, and 7.

In addition, plaintiffs easily could have sought this information during the discovery period in this case. Moreover, to the extent any of the information requested by this interrogatory may be relevant to the testimony of an expert Cyanamid expects to call as a witness at trial, it will be provided to plaintiffs in connection with discovery of the appropriate expert.

97. Identify specifically each source (e.g., census data, studies, etc.) from which defendant derives the relevant labor pool(s) identified in response to Interrogatory 96, supra.

Answer: See Objections 1, 2, 4, and 7.

In addition, plaintiffs easily could have sought this information at any time during the discovery period in this case. Moreover, to the extent any of the information requested by this interrogatory may be relevant to the testimony of an expert Cyanamid expects to call as a witness at trial, it will be provided to plaintiffs in connection with discovery of the appropriate expert.

98. State whether any male workers have been barred from exposure to any substance used or produced by American Cyanamid on the sole ground that such exposure would affect their reproductive systems and/or their offspring. If so, identify each such substance(s) and state:

a. The level above which exposure was not permitted.

b. The number of men affected;

c. Whether the affected men were offered alternative jobs; and,

d. Whether the affected men were permitted to exercise the right to "bump" less senior employees in unrestricted jobs.

Answer: See Objections 1, 2, and 6. Plaintiffs easily could have sought this information with respect to Willow Island during the three and one-half years discovery period in this case.

99. State whether, for the year 1978, Cyanamid's Personal Protection Program as applicable to hourly production and maintenance workers at the Willow Island facility covered any expenses for elective surgery not prescribed for illness or injury. If so, describe such coverage and identify documents where such coverage is set forth.

Answer: See Objections 1, 2 and 4.

In addition, Interrogatory 99 appears to ask for precisely the same information plaintiffs sought in Interrogatory 14. Interrogatory 14 asked Cyanamid to:

> (a) Identify all documents which contain or describe benefits available to P & M employees at the Willow Island facility since 1974 for temporary physical or medical disability, and (b) state whether all elective surgery and the period of recovery therefrom has been covered and, if not, indicate in what instances and to what extent it has not been covered.

Cyanamid responded to this interrogatory and produced all documents identified in its response in February 1981.

100. Identify the author(s) of the following statements:

a. 00972

b. 00973

c. 44265 (excluding typewritten portion)

Answer: To the best of Cyanamid's knowledge, Dr. John Tobin is the principle author of documents 00972 and 00973. He wrote them with the assistance of Joseph Caporossi and may have consulted with Dr. Boyd Schaffer and Dr. Robert M. Clyne. Marilyn H. Martin is the author of the handwritten portions of document 44265.

101. Describe in detail the protocol or procedure established in the late 1970's for treatment of suspected work-place carcinogens referred to at pages 131 and 132 of the deposition of Dr. Robert Clyne and identify all documents in which this protocol or procedure is defined, described or set forth.

Answer: See Objections 1, 2, 4 and 6.

Cyanamid also objects to this interrogatory on the ground that Dr. Clyne's deposition was completed a month before the discovery cut-off. Plaintiffs cannot now burden Cyanamid with follow-up discovery while Cyanamid prepares for trial. In addition, Cyanamid previously produced a document defining the procedure referred to in this interrogatory pursuant to Request for Production 5 in February 1981. In response to Plaintiffs' Request 33 (November 1982), plaintiffs were advised that this document had previously been produced pursuant to Request 5. Further discovery on this matter is unnecessary, untimely, harassing and beyond the scope of discovery as defined by the Court's prior orders in that it relates to a policy and procedure unrelated to the policy at issue in this case.

102. Describe in detail the "system of listing materials which have been screened and certain test for mutagencity . . . . information gathered centralized, available to a requestor in terms of listing of materials. . ." referred to in the deposition of Dr. Noble at page 391 including, but not limited to (a) the corporate department, division or group responsible for collecting the information; (b) the purpose and intended use of the information; (c) the means by which the information was centralized and available, whether by computer or other means: (d) the date on which the centralized system was set up; and (e) the tests performed to determine mutagenicity.

Answer: See Objections 1, 2 and 6.

Cyanamid also objects to this interrogatory on the ground that Dr. Noble's deposition in fact was completed within the discovery period. Plaintiffs cannot now burden Cyanamid with follow-up discovery while it prepares for trial.

Furthermore, plaintiffs questioned Dr. Noble and received answers on the very matters that are the subject of this interrogatory such as the department responsible for collecting the information, the means by which the information was made available, the date the system was established and the types of tests involved. See Noble Dep. Tr. at 390-400.

103. State whether defendant has performed any tests for mutagenicity or for mutagenic activity of any of the substances listed on document 01856. If so, identify the test(s) performed, and, for each such test, state the date of testing, the test results, and whether these results were entered into the centralized system described in response to Interrogatory 102, supra, and identify all documents in which these results can be found.

Answer: See Objections 1, 2, 4 and 6.

In addition, Cyanamid produced document 01856 in February 1981. Without conceding its relevance, plaintiffs clearly could have sought this information at any time since the document was produced; further discovery at this time therefore is not only untimely, but also unduly burdensome and harassing.

104. State whether defendant will contend at trial that its "Female Production Worker" policy was adopted in whole or in part in order to limit potential financial liability to children of female workers for injuries, caused to such children in utero. If so,

a. Identify each instance in which the Company has been sued by the child of an employee of the Company for injuries allegedly caused by the parent's workplace exposure or activities, providing complete information as to the nature of the alleged injury, the alleged cause, the date, the sex of the parent, the job title and description of the parent's occupation, and the disposition of the claim.

b. Identify fully any instance in which the Company has been notified, other than by the commencement of a lawsuit, that a child of an employee of the Company alleges that s/he has suffered injury as a result of his/her parent's workplace exposure or activities, providing complete information as to the nature of the alleged injury, the alleged cause, the date, the sex of the parent, the job title and description of the parent's occupation, and any action taken by the Company in response to the allegation.

c. State whether defendant has any reason whatsoever to believe that any child or a Company employee has ever been injured by his/her parent's workplace exposure or activities and, if so, identify each such instance, providing complete information as to the nature of the injury, its cause, the date, the sex of the parent, the job title and description

of the parent's occupation, and any action taken by the Company in response.

d. State whether defendant has ever performed a risk analysis[1/] for any or all perceived sources of potential liability? If so, describe in detail the nature of each such analysis, stating, without limitation, the types of risks for which it was performed (always, almost always, rarely, etc.), any criteria used in deciding when or how to perform it, who performed it; and identify documents in which the analyses are contained or reflected.

e. State whether defendant has performed the analysis identified in (d) above with regard to the potential liability of the Company for injury to the future children of both i) female and ii) male workers. If so, describe in detail the results of the analysis and identify all documents containing or reflecting the analysis. If not, explain in detail why the analysis was not performed.

f. State whether defendant believes any potential liability for injury to the future children of its workers is covered by any insurance it carries, and if so, for each policy state the amount of the deductible, whether the insurance is written on a claims made or occurrence basis, the extent of

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1/ For purposes of this Interrogatory, "risk analysis" means an assessment or evaluation of the existence of a source of potential future liability, the likelihood that a claim will be made, the potential financial exposure, the availability and cost of insurance, the extent of protection afforded by insurance, or any combination of these elements.

coverage under the policy, and the annual premium for the policy.

g. Identify each and every perceived potential liability for which defendant does not carry insurance.

h. State whether defendant is aware of any instance in which the child of an employee of another company has claimed that the parent's workplace exposure or activities has caused it injury and, if so, described fully the nature of the alleged injury, the nature of the claim, the cause of the alleged injury, the date, the sex of the parent, the job title and description of the parent's occupation.

i. If defendant contends that insurance offers inadequate protection with regard to potential liability to the future children of women workers, identify all facts defendant will rely on in support of such contention.

Answer: See Objections 1, 2, 4 and 6.

In addition, plaintiffs already asked for detailed information about Cyanamid's insurance policies in Plaintiffs' Second Interrogatories. Interrogatory 69(d) and Interrogatory 70 appear to have sought information similar to the information plaintiffs now appear to seek in response to subpart (f) of this interrogatory. Cyanamid objected to providing some of that information and incorporates herein by reference the objections set forth in Defendant's First Confidential Responses to Plaintiffs' Second Interrogatories 69-73. Plaintiffs should not be permitted to circumvent the normal

practice of filing a motion to compel simply by making the same request in a later request for written discovery especially when that request is not timely filed.

Also, to the extent this interrogatory seeks new information, Cyanamid reasserts the objections raised in its responses to Interrogatories 69-73. This interrogatory is extremely burdensome, calls for legal conclusions not properly the subject of written discovery, and, seeks irrelevant information.

Moreover, subpart (g) of this interrogatory asks Cyanamid to identify any possible liability for which it does not carry insurance. This is an absurd and extremely burdensome request which essentially requires Cyanamid to hypothesize about possible situations in which the company possibly may be held liable.

105. Identify and describe in detail any study performed by defendant of its employees to ascertain:

a. The rate at which they bear children.

b. The existence of birth defects among children born to employees.

c. The rate of miscarriage or stillbirth among workers and/or their wives.

d. The existence of infertility among workers.

Answer: See Objections 1, 2, 4, and 6.

106. State whether defendant will rely on any studies, statistics or compilations of statistics relating to the pregnancy rate among women and, if so, identify each such study or compilation and the source of any such statistics.

Answer: See Objections 1, 2, 4 and 7.

Moreover, to the extent any of the information requested by this interrogatory may be relevant to the testimony of an expert Cyanamid expects to call as a witness at trial, it will be provided to plaintiffs in connection with discovery of the appropriate expert.

107. If defendant is unable to locate the documents identified in Requests 107 - 108 of Plaintiffs' Third Request for Production of Documents, state whether such documents were in possession of defendant at any time and the reason why they cannot now be produced.

Answer: See Objections 1 and 2.

Requests 107 and 108 call for the production of all notes taken of meetings of the Occupational Exposure Review Committee (OERC) by Marilyn Martin and all draft minutes of those meetings prepared by her. To the best of Cyanamid's knowledge, all responsive documents have been produced pursuant to earlier document requests well in advance of the discovery cutoff.

To the extent such documents were not produced, it is because they no longer exist. Ms. Martin generally took notes at OERC meetings, dictated draft minutes and disposed of her notes and drafts after the minutes were approved.

108. State the date on which documents 02346 - 02349 were prepared and their effective date, and identify the person(s) and/or corporate division(s), department(s) or group(s) responsible for their preparation. Identify and state effective dates for all subsequent versions of these documents.

Answer: Documents 02346-02349 were issued on June 4, 1981 and took effect on that date. The Occupational Health Committee (OHC) is responsible for setting the standards set forth in those documents and Corporate Industrial Hygiene is responsible for compiling the standards and distributing them to the appropriate persons within the company. Individual standards have been revised by the OHC since documents 02346-02349 were prepared. The most current complete list of permissible exposure limits was issued on September 30, 1982 and took effect on that date. That list will be produced in response to Request 102.

Respectfully submitted,

Of Counsel:

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Counsel for Defendant
American Cyanamid Company

AFFIDAVIT

The undersigned, being first duly sworn states as follows:

My name is H.M.D. Utidjian. I am Corporate Medical Director of American Cyanamid Company. The information in the foregoing Defendant American Cyanamid Company's First Responses to Plaintiffs' Third Interrogatories is based on my personal knowledge, or on the records and files and knowledge of personnel in appropriate Cyanamid offices and departments, or knowledge of Cyanamid's agents. I am informed and believe that the matters stated in those answers are true, and on that basis, I aver that they are true to the best of my knowledge, information and belief.

H.M.D. Utidjian

Sworn to before me this
24th day of August, 1983.

Katina Chirichella
Notary Public

KATINA CHIRICHELLA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires October 19, 1985

N41703.01

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant American Cyanamid Company's First Response to Plaintiffs' Third Interrogatories was mailed, first class, postage prepaid, this 22nd day of August, 1983 to:

Joan E. Bertin, Esquire
American Civil Liberties
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Colleen P. Mahoney 8/25/83
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