

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3 C.A. # 89-30201-F

4 ALICE L. WARREN, ADMINISTRTRIX
5 OF THE ESTATE OF JOHN H. WARREN,
6 DECEASED

7 VS.

8 THE DOW CHEMICAL COMPANY, THE B.F.
9 GOODRICH COMPANY, UNION CARBIDE
10 COMPANY, AND CONTINENTAL OIL COMPANY

11 DEPOSITION OF: TERRY NELSON, taken before
12 Joanne Coyle, Certified Shorthand Reporter,
13 Notary Public pursuant to the Federal Rules of
14 Civil Procedure, at the offices of Morrison,
15 Mahoney & Miller, 1145 Main Street, Springfield,
16 Massachusetts, on May 8, 1990, commencing at
17 10:00 A.M.

18 APPEARANCES:
19 (PLEASE SEE PAGE 2)

20 Joanne Coyle
21 Certified Shorthand Reporter

22 PHILBIN & ASSOCIATES
23 Certified Shorthand Reporters
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Certificate of Merit

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RSV0022192

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12 the Defendants Dow Chemical, Union Carbide and
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14 BY: SHARON R. BURGER, ESQUIRE

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18 BY: ROBERT P. POWERS, ESQUIRE

19 *****

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I N D E X

WITNESSES: DIRECT CROSS REDIRECT RECROSS

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RSV0022194

S T I P U L A T I O N S

It is agreed by and between the parties that all objections except objections as to the form of the question are reserved to be raised at the time of trial for the first time.

It is further agreed by and between the parties that all motions to strike unresponsive answers are also reserved to be raised at the time of trial for the first time.

It is also agreed that the deponent will read and sign the deposition and that the filing of the said deposition will be waived.

It is further agreed by and between the parties that notification to all parties of the receipt of the original deposition transcript is also hereby waived.

RSV0022195

TERRY NELSON, Deponent, having been first duly sworn, deposes and says as follows:

MR. RENDINI: The witness has stated, prior to going on the record, that he will read and sign the transcript of this deposition and therefore, Mr. Nelson, as soon as you receive a copy through Mr. Powers, you have thirty days to read it and sign it and make any necessary corrections. I am sure Mr. Powers will instruct you on how to make those corrections by using the signature sheet that is provided.

If you do not return a signature sheet with any corrections you wish to make within thirty days of having received the transcript, it will be deemed as if you had approved it as it is written. Let's go off the record for a minute.

(Off record discussion)

MR. RENDINI: Let's mark these as Exhibit Number 1 and 2.

(Defendant's Exhibit
1&2 offered and marked
for identification)

DIRECT EXAMINATION BY MR. RENDINI

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Q. Let me begin with some background information. Mr. Nelson, my name is Joseph Rendini. I represent B.F. Goodrich, one of the defendants in this action brought by Mrs. Warren. If, at any time during this deposition, you don't understand or don't hear one of my questions, just ask me to repeat it and I will. If you need to have it rephrased, I will rephrase it. If, at any time, you would like to take a break, just let us know.

Have you ever had your deposition taken before, sir?

A. Yes.

Q. So you know that it is necessary that you keep your voice up and that you respond verbally rather than with nods of the head, et cetera?

A. Yes.

Q. Would you state your full name for the record, please, sir?

A. Terry L. Nelson.

Q. Your date of birth, sir?

A. May 22nd, 1944.

RSV0022197

1 Q. Your place of birth, sir?

2 A. Newport, Maine.

3 Q. Your current residence, please?

4 A. 2 Tall Timber Drive, Wilbraham,
5 Massachusetts.

6 Q. Are you presently employed, sir?

7 A. Yes.

8 Q. Who is your employer?

9 A. Monsanto Company.

10 Q. Is that the full name of Monsanto
11 Company, just Monsanto Company?

12 A. Yes.

13 Q. There is no "Inc." appended to that?

14 A. No.

15 Q. What is the address of your employer?

16 A. 730 Worcester Street, Springfield 01151.

17 Q. How long have you been employed by
18 Monsanto?

19 A. Approximately twenty-four years.

20 Q. Have you always worked -- are you working
21 now at 730 Worcester Street?

22 A. Yes.

23 Q. Have you always worked at 730 Worcester

RSV0022198

1 Street during your employment by Monsanto?

2 A. No.

3 Q. Where did you first work for Monsanto?

4 A. At that location.

5 Q. At any time, did the location change?

6 A. Yes.

7 Q. Where else did you work and during what
8 times did you work there?

9 A. I worked at the Trenton Resins Plant in
10 Trenton, Michigan between the years of 1976 and
11 1979.

12 Q. Anywhere else?

13 A. No.

14 Q. So your entire career at Monsanto has
15 been spent in either the Springfield address or the
16 Trenton Resins Plant?

17 A. Yes.

18 Q. Sir, can you tell me, when you were first
19 hired, what position you held at Monsanto?

20 A. I was a production supervisor.

21 Q. Do you remember the year in which you
22 were hired?

23 A. 1966.

RSV0022199

1 Q. What were your duties as production
2 supervisor?

3 A. Day-to-day management of some of the
4 manufacturing operations at that time, in the
5 Bircham Bend Plant.

6 Q. Can you spell Bircham Bend?

7 A. Bircham -- B-I-R-C-H-A-M; Bend --
8 B-E-N-D.

9 Q. Where is that plant located?

10 A. That is currently a part of the Monsanto
11 Indian Orchard facility. At one time, they were
12 separate manufacturing operations. As a matter of
13 fact, Monsanto purchased the Indian Orchard facility
14 from Shawinagin Resins of Canada in the early
15 1960's.

16 Q. When you refer to the Indian Orchard
17 plant, are you referring to the address in
18 Springfield that you gave us before?

19 A. That is correct.

20 Q. So that Monsanto facility is referred to
21 as Indian Orchard?

22 A. That is correct.

23 Q. Is Bircham Bend physically contiguous

RSV0022200

1 with Indian Orchard?

2 A. Yes.

3 Q. And they are both in Springfield?

4 A. Yes.

5 Q. What manufacturing operations did you
6 supervise starting in 1966, as a production
7 supervisor?

8 A. I supervised in the area known as the
9 Gelva Department -- G-E-L-V-A.

10 Q. What is the Gelva Department?

11 A. It is a polymerization area.

12 Q. At that time, when you began work, did
13 your work in the Gelva Department entail the use or
14 the supervision of the use of vinyl chloride
15 monomer?

16 A. No.

17 Q. After you were made a production
18 supervisor in 1966, did your position with Monsanto
19 ever change?

20 A. Yes.

21 Q. How long were you a production
22 supervisor, approximately?

23 A. Five years.

RSV0022201

1 Q. When your position changed, what did it
2 change to?

3 A. I became a training supervisor in the
4 Personnel Department.

5 Q. What were your duties as training
6 supervisor?

7 A. To develop training programs for wage
8 employees in the plant.

9 Q. Did you become involved in the production
10 process as a training supervisor?

11 A. Yes.

12 Q. What phases of the -- what was being
13 produced at this plant?

14 A. The basic raw material was vinyl acetate;
15 and the various departments at the Bircham Bend
16 plant used vinyl acetate as a basic hydrocarbon raw
17 material to produce a variety of resins which were
18 primarily used as adhesives and coatings.

19 Q. So you developed training programs as
20 training supervisor and those training programs were
21 used to train other employees?

22 A. Wage employees, primarily.

23 Q. Did you, yourself, become involved in

RSV0022202

1 directly supervising production processes while you
2 were a training supervisor?

3 A. No.

4 Q. Did you actually supervise any employees
5 as a training supervisor?

6 A. No.

7 Q. How long were you a training supervisor?

8 A. Approximately three years.

9 Q. So that would take us up to about 1974 or
10 so?

11 A. That is correct; yes.

12 Q. In 1974, did your position with Monsanto
13 change?

14 A. Yes.

15 Q. What did it change to?

16 A. I became a general personnel supervisor
17 in the Personnel Department at the same plant.

18 MS. BURGER: If I can ask for
19 clarification, when you say the same plant, you are
20 talking about the Bircham Bend plant?

21 THE WITNESS: Yes.

22 Q. (BY MR. RENDINI) As a further
23 clarification, what time did -- did Bircham Bend --

RSV0022203

1 strike that.

2 Did Bircham Bend ever become a part of
3 the Indian Orchard facility?

4 A. Yes; in 1983, officially the plants were
5 unified into one organization within the company
6 within Monsanto Chemical Company.

7 Q. When was Indian Orchard first acquired by
8 Monsanto?

9 A. Indian Orchard?

10 Q. Yes; Indian Orchard.

11 A. Well, the original two plants were -- the
12 Fiberloid Corporation built the Springfield facility
13 in the early 1900's and that was acquired by
14 Monsanto, to the best of my knowledge, in the 1930's
15 from Fiberloid Corporation. The original Bircham
16 Bend facility was built by Shawinagin Resins of
17 Canada in the 1930's and it became a wholly owned
18 part of Monsanto in the early 1960's but the two
19 plants remained separate in terms of operating
20 within different divisions of the -- at that time,
21 the Monsanto Polymers and Petrochemical Company
22 until 1983, when they were united into the Indian
23 Orchard facility.

RSV0022204

1 Q. You mentioned the Monsanto Polymers and
2 Petrochemical Company, correct?

3 A. Yes.

4 Q. Is that a separate corporate entity from
5 Monsanto Company?

6 A. That is a part of the corporation. The
7 corporation is divided into several operating
8 companies and subsidiaries and at that time, the
9 Monsanto Polymers and Petrochemical Company was
10 primarily the chemical manufacturing portion of the
11 Monsanto Corporation.

12 Q. Was it a subsidiary of Monsanto
13 Corporation?

14 A. I don't understand what the terminology
15 is in terms of being able to give you the right
16 answer to that.

17 Q. Let me see if I can make myself clearer
18 so you can understand. I believe you referred to --
19 and correct me if I am wrong -- I believe you
20 referred to operating divisions and subsidiaries, am
21 I correct?

22 A. Yes. There are some parts of the company
23 that are currently -- I can give you the terminology

RSV0022205

1 but I don't understand the business difference.

2 Q. Give me the terminology so we can use
3 it.

4 A. The operating companies are Monsanto
5 Chemical Company, currently; and that is comprised
6 of several parts of the business including what used
7 to be known as Monsanto Polymers and Petrochemicals
8 Company and several other chemical manufacturing
9 companies -- the industrial chemicals company,
10 rubber chemicals company and that is about all I can
11 recall at the time.

12 They were -- at various points in the
13 history, the organization has changed and it is
14 currently -- what plants used to be in Monsanto
15 Polymers and Petrochemicals Company included the
16 Springfield facility and the Bircham Bend facility
17 and they are, today, part of the Monsanto Chemical
18 Company which, as an operating company of the
19 corporation versus subsidiaries, as I understand it
20 from a business standpoint, would be wholly owned by
21 the corporation, whereas subsidiary may not be in
22 the same business agenda or business ownership
23 situation as the operating companies of the

RSV0022206

1 corporation.

2 Q. Let's leave this topic for a moment and
3 come back to it a little later. Let's go on with
4 your career.

5 In 1974, you became a general personnel
6 supervisor?

7 A. Yes.

8 Q. The way we got into that little
9 digression about the Monsanto corporate structure
10 was to ask you to get into your duties as general
11 personnel supervisor.

12 What were your duties as general
13 personnel supervisor?

14 A. I was responsible for supervision of
15 benefits and labor relations at the Bircham Bend
16 plant.

17 Q. When you were a training supervisor, were
18 you also at Bircham Bend?

19 A. Yes.

20 Q. Did you have actual supervisory
21 responsibility over any employees as general
22 personnel supervisor?

23 A. Yes; I had a secretary and a benefits

RSV0022207

1 clerk.

2 Q. Is this what would be referred to as a
3 back office function, if you understand the
4 terminology?

5 A. I don't understand the terminology.

6 Q. Were you involved -- were you, at any
7 time as general personnel supervisor, involved in
8 supervising any aspect of the production process?

9 A. No.

10 Q. So you were essentially doing personnel
11 paperwork?

12 A. It was a staff function to the
13 manufacturing operation; yes.

14 Q. That is the word I was searching for.
15 Staff. How long were you general personnel
16 supervisor?

17 A. Until 1976.

18 Q. At that point, you went out to Trenton
19 Resins?

20 A. Yes.

21 Q. That is in Michigan, correct?

22 A. Yes.

23 Q. What was your post at Trenton Resins?

RSV0022208

1 A. Personnel superintendent.

2 Q. What were your duties as personnel
3 superintendent?

4 A. Again, staff function responsibilities
5 for the administration of all personnel-related
6 items, labor relations, benefits, and safety.

7 Q. What sort of responsibility did you have
8 for safety?

9 A. The staff management, developing
10 programs, maintaining records, logs as required by
11 regulatory agencies, had day-to-day staff functions
12 for safety administration in support, again, of the
13 line operations and the manufacturing organization.

14 Q. What agencies -- you say regulatory
15 agencies, keeping logs for them, et cetera. What
16 sort of agencies are you talking about here? What
17 particular agencies?

18 A. Federal OSHA and Michigan OSHA -- MIOSHA
19 in the case of that state in the safety areas; and
20 the Office of Equal Opportunity Employment in the
21 federal sense for matters of personnel policy.

22 Q. In that function as personnel supervisor,
23 would you be responsible for keeping records such as

RSV0022209

1 accident records of employees?

2 A. Yes.

3 Q. Health records of employees?

4 A. Yes.

5 Q. Did you ever formulate or participate in
6 the formulation of safety guidelines?

7 A. Yes.

8 Q. What did those safety guidelines pertain
9 to, especially? We are talking about -- strike that
10 question. It is a bad question. Did those safety
11 guidelines pertain to the use of chemicals or
12 chemical compounds?

13 A. Yes.

14 Q. What was the business of the Trenton
15 Resins Plant?

16 A. The major products of the plant were,
17 again, similar -- very similar to the Bircham Bend
18 facility -- adhesives and resins as well as -- that
19 were of a vinyl acetate chemical base composition --
20 and they also produced the styrene allyl alcohol
21 copolymer material that was used in paint
22 manufacture and the automobile industry.

23 Q. While you were at the Trenton Resins

RSV0022210

1 Plant, did you ever participate in the formulation
2 of any safety standards or procedures for the
3 handling of vinyl chloride monomer?

4 A. No.

5 Q. Was vinyl chloride monomer used at that
6 plant?

7 A. No.

8 Q. Did you ever participate in the
9 formulation of safety standards for polyvinyl
10 chloride?

11 A. No.

12 Q. Was polyvinyl chloride used in any form
13 at that plant?

14 A. Only in the form of pipes and as a final
15 product, we used the PVC piping for construction
16 purposes.

17 Q. So it wasn't used as part of the
18 manufacturing process?

19 A. No.

20 Q. You were at the Trenton Resins Plant
21 until 1979?

22 A. Yes.

23 Q. Did your duties at that time change

RSV0022211

1 again?

2 A. Yes.

3 Q. What happened to you in 1979?

4 A. I transferred back to the Bircham Bend
5 plant as safety and benefits supervisor in the
6 Personnel Department.

7 Q. What were your duties as safety and
8 benefits supervisor?

9 A. Staff function, supporting the
10 manufacturing organization in developing safety
11 programs for the plant and managing the day-to-day
12 administration of the benefits program as part of
13 the personnel function.

14 Q. How did your duties, when you transferred
15 back to the Bircham Bend plant in 1979, differ from
16 the duties that you held at Trenton Resins, if at
17 all?

18 A. They were narrower in scope. A larger
19 plant but it is not -- the duties were not the same
20 in terms of labor relations. I had no
21 responsibility for labor relations.

22 Essentially that was the major change --
23 and the size of the two different plants was

RSV0022212

1 considerably different.

2 Q. So you had a narrower scope of a
3 responsibility for a larger facility?

4 A. That is correct; yes.

5 Q. And the main difference was the
6 elimination of the labor relations function,
7 correct?

8 A. Yes.

9 Q. Did you participate at Bircham Bend,
10 starting in 1979, in the formulation of safety
11 standards?

12 A. Yes.

13 Q. Did any of those standards pertain to --
14 strike that.

15 When you returned to Bircham Bend in
16 1979, was polyvinyl chloride being used at Bircham
17 Bend as part of the manufacturing process?

18 A. No.

19 Q. Was vinyl chloride in any form being used
20 as part of the manufacturing process at that time?

21 A. No.

22 Q. Did you participate in the formulation of
23 any safety standards or safety procedures for either

RSV0022213

1 polyvinyl chloride or vinyl chloride monomer at
2 Bircham Bend in 1979?

3 A. No.

4 Q. After you became safety and benefits
5 supervisor at Bircham Bend in 1979, did your
6 title -- did your job title ever change
7 subsequently?

8 A. Yes.

9 Q. When did it change?

10 A. In 1983, I transferred to the
11 Transportation and Materials Handling Department at
12 the same time of the plant consolidation into the
13 Indian Orchard facility and I worked there as a
14 materials -- hazardous materials specialist.

15 Q. What were your duties as a hazardous
16 materials specialist?

17 A. I was responsible for knowing the
18 transportation regulations for hazardous materials
19 and for training our employees in compliance
20 procedures and also working with the community on
21 developing emergency response procedures.

22 Q. Did the physical -- strike that. Did you
23 change your offices physically? Did you move,

RSV0022214

1 physically, when you took this new position?

2 A. Yes.

3 Q. Did you change your address in any way --
4 your business address?

5 A. Well, at that time, as I mentioned, the
6 consolidated business address of the plants would
7 have been different than the previous address of the
8 two individual sites.

9 I moved physically from the old Bircham
10 Bend site to the old Springfield site so I moved
11 into what is today called the East Plant.

12 Q. What training or experience had you had
13 up to 1983 which qualified you as a -- or prepared
14 you to function as a hazardous materials specialist?

15 A. My safety training for one thing,
16 manufacturing knowledge and experience and general
17 experience in dealing with various types of
18 transportation vehicles as well as a considerable
19 amount of training in our corporate transportation
20 and materials handling group on regulatory
21 requirements and Monsanto transportation policies.

22 My background is a chemical engineer so
23 the other, professionally, that is the type of

RSV0022215

1 training that lines up with that type of a job
2 function.

3 Q. I will ask you a few questions about your
4 educational background in a moment. Let me finish
5 up your career path.

6 After you transferred into the
7 Transportation and Materials Handling Department in
8 1983, did your position ever change again?

9 A. Yes.

10 Q. When did it change?

11 A. 1985. I was made safety manager.

12 Q. Did your functions change at that time?

13 A. Yes.

14 Q. How did they change?

15 A. Again, I assumed a staff role for all
16 safety responsibilities in the now combined plants.

17 Q. Could you describe what the scope of
18 those safety responsibilities was?

19 A. Managing day-to-day support for the line
20 manufacturing operations as well as our research and
21 development operations at the site; insuring
22 compliance with regulatory agencies in the areas of
23 safety; and management of the worker's compensation

RSV0022216

1 program for the facility.

2 Q. Were you ever responsible for the
3 administration or the performance of any
4 environmental or safety testing?

5 A. Industrial hygiene testing, I think you
6 are talking about.

7 Q. Yes; exactly.

8 A. That was a separate function from my
9 own. The plant -- the staff areas were divided
10 between safety, environmental and industrial
11 hygiene.

12 I managed the safety part of the group
13 and there were two other managers who dealt with
14 industrial hygiene and environmental issues.

15 Q. Was that distinction -- can you define
16 for me what the relative roles of the safety, the
17 environmental and the industrial hygiene departments
18 were?

19 A. The safety function is more of a
20 physical -- let's see. It deals more with the
21 physical aspects of the workplace in terms -- and I
22 guess you could say the characteristics of the
23 workers -- in insuring that the types of programs

RSV0022217

1 that are put in place from a training standpoint and
2 a day-to-day maintenance standpoint preserve the
3 safety of employees, from more of a physical sense,
4 more of a mechanical sense -- mechanical is probably
5 a better word than physical.

6 Industrial hygiene actually looks more at
7 the physiological and the physical aspects of the
8 workplace and establishing the types of
9 characteristics of any exposure which may be present
10 in the workplace and monitoring that and insuring
11 that people -- number one, that the exposures are
12 within safe ranges to human beings or to the
13 community; and that, number two, that people
14 understand if emergency situations arise, what type
15 of protective equipment is available, how to use it
16 and that it is in good working order and so on and
17 so forth.

18 As for the environmental group, the third
19 portion of our department, that is primarily
20 concerned with waste generation and waste management
21 in the plant from either air, land or water-born
22 types of discharges, or waste development as a
23 manufacturing operation.

RSV0022218

1 Q. Did you say that these three --
2 organizationally, how would you refer to each of
3 these offices or departments? Would they be offices
4 or departments?

5 A. Departments.

6 Q. Would they be under -- you said that they
7 were all part of some larger organizational entity?

8 A. Well, the three departments reported to
9 one general superintendent who then reported to the
10 plant manager in the manufacturing organization.

11 Q. What was the title of that general
12 superintendent?

13 A. General superintendent of safety,
14 industrial hygiene and environmental operations.

15 Q. From 1983 when you transferred into
16 that -- was 1983 the time which you transferred into
17 that organization?

18 A. 1985.

19 Q. In 1985 you transferred out of
20 Transportation and Materials Handling?

21 A. Yes.

22 Q. And into this Safety Department?

23 A. Yes.

RSV0022219

1 Q. What was the name of the general
2 superintendent at that time?

3 A. George Lemos.

4 Q. After you became safety manager in 1985,
5 did your position with Monsanto ever change again?

6 A. Yes.

7 MR. POWERS: Can we go off the record
8 for a minute?

9 (Off record discussion)

10 Q. (BY MR. RENDINI) What was the position
11 that you held after you were safety manager in 1985,
12 sir?

13 A. Personnel superintendent.

14 Q. When did you become personnel
15 superintendent?

16 A. In 1989.

17 Q. What were your duties as personnel
18 superintendent?

19 A. I have a variety of special project work
20 in the plant and I still maintain responsibility for
21 worker's compensation.

22 Q. Is this a position that you hold at the
23 current time?

RSV0022220

1 A. Yes.

2 Q. Is the position of personnel
3 superintendent within the Safety Department that you
4 have just described to us a moment ago?

5 A. No.

6 Q. So you transferred out of that
7 department?

8 A. Yes.

9 Q. What department are you in now?

10 A. In the Personnel Department.

11 Q. Mr. Nelson, I am going to show you a
12 document that has been marked Exhibit Number 1 for
13 identification.

14 Could you look at that and tell me if you
15 have ever seen it before -- or a copy of it before?
16 (Indicating)

17 A. It appears to be the same document that
18 was sent to me on the date of 4, 26 or 4, 27 -- or
19 given to me by subpoena.

20 Q. How did you first come into possession of
21 that document?

22 A. When I returned from vacation it was
23 sitting on my desk.

RSV0022221

1 Q. So you don't know who gave it to you?

2 A. No; I do not.

3 Q. Did you ever receive any instructions
4 with regard to that document?

5 A. I don't understand your question.

6 Q. Well, did you ever find out how it got to
7 your desk?

8 A. I didn't question how it got to my desk.
9 It is not unusual for subpoenas to be delivered and
10 as a general plant administrator, if they are
11 related to either worker's compensation matters or
12 chemical exposure cases, then they are usually
13 directed to my attention for handling.

14 Q. So that is the normal course of business
15 at your office?

16 A. Yes; I will usually receive them, myself,
17 if I am in the plant.

18 Q. Let me show you another document that has
19 been marked -- one more question. Are you here,
20 today, in response to Exhibit Number 1?

21 A. Yes.

22 Q. Let me show you Exhibit Number 2, which
23 is another subpoena and ask you if you ever seen

RSV0022222

1 that before -- Exhibit Number 2, that is?

2 (Indicating)

3 A. Again, it appears to be what was
4 delivered to me earlier.

5 Q. Are you here in response to Exhibit
6 Number 2, as well?

7 A. Yes.

8 (Off record discussion)

9 MR. RENDINI: Let the record reflect
10 that we have conferred with counsel for the witness
11 for Monsanto and it has been determined that today
12 we will go forward only with this deposition insofar
13 as it pertains to the paragraphs two, three, four
14 and five of Schedule A which is attached to Exhibit
15 Number 1 and to Paragraphs C and D of Schedule B
16 which is attached to both Exhibits 1 and 2.

17 Mr. Nelson, did you do anything to
18 prepare for your testimony at this deposition
19 today?

20 THE WITNESS: Yes.

21 Q. (BY MR. RENDINI) Did you take those --
22 whatever steps you took to prepare, did you do so in
23 response to receiving the subpoenas that you have

RSV0022223

1 just described?

2 A. Yes.

3 Q. At this point, to whom do you report at
4 Monsanto?

5 A. The personnel manager.

6 Q. Did you receive any instructions from
7 either the personnel manager or from anybody else
8 above you on the chain of command with regard to
9 your response to Exhibits 1 or 2?

10 A. Not with my manager; no. I discussed the
11 subpoena with our legal department in St. Louis.

12 Q. Other than your legal department or your
13 counsel, did you discuss these subpoenas with anyone
14 else?

15 A. I made note of it to the personnel
16 superintendent but I didn't confer with him on any
17 action thereto.

18 Q. In order to obtain any information with
19 respect to your substantive response of your
20 subpoenas, did you confer with any other Monsanto
21 employees?

22 A. No.

23 Q. Did you take any other actions in order

RSV0022224

1 to comply with these subpoenas?

2 A. I reviewed the Warren file and also our
3 file on vinyl chloride on records and used that as
4 preparation information.

5 Q. Do you know if vinyl chloride or
6 polyvinyl chloride is in use in any form at this
7 time in the Indian Orchard facility?

8 A. Only as I mentioned, in the form of a
9 construction material -- PVC pipe -- but it is not
10 used in any raw term or finished good form as part
11 of the manufacturing operation.

12 Q. Were either of those two chemicals ever
13 so used as part of the production process at the
14 Indian Orchard plant?

15 A. Yes.

16 Q. Do you know when vinyl chloride was last
17 used at the Indian Orchard plant?

18 A. To the best of my knowledge, the use was
19 discontinued in 1975.

20 Q. What is the source of your knowledge for
21 that statement?

22 A. I have included as an attachment to some
23 of the deposition questions a record letter from the

RSV0022225

1 plant manager dated September 10, 1975 to Mr. Ludol
2 of Bayerle, Director of OSHA, stating that in
3 accordance with OSHA regulations regarding vinyl
4 chloride, information is hereby passed to OSHA that
5 the use of the material has been discontinued at the
6 Springfield plant.

7 MR. RENDINI: Would you mark this as
8 Exhibit Number 3, please.

9 (Defendant's Exhibit 3
10 offered and marked for
identification)

11 Q. (BY MR. RENDINI) Mr. Nelson, I am going
12 to show you Exhibit Number 3 for identification and
13 ask you if that is the letter to which you have just
14 referred? (Indicating)

15 A. Yes; it is.

16 Q. Where did you obtain this letter?

17 A. I obtained that letter from a file marked
18 D-12, as a matter of fact, from the Transportation
19 and Materials Handling Department.

20 Q. What was it that made you look in file
21 D-12 -- strike that.

22 Why was file D-12 one of the files that
23 you reviewed in response to the subpoena?

RSV0022226

1 A. Based on an earlier records review
2 involving vinyl chloride in the plant, there was
3 information that there were two file folders on the
4 storage of -- storage and handling -- of vinyl
5 chloride monomer that were present in the T & M
6 Department and I reviewed those in preparation for
7 this deposition.

8 Q. Are any parts or any of the contents of
9 those two file folders in the T & M Department not
10 including in your document production today?

11 A. Yes.

12 Q. Where are they located, sir, at the
13 Indian Orchard plant?

14 A. They are located in the Safety
15 Department.

16 Q. Is there an office that you can refer to,
17 please?

18 A. Yes; the safety superintendent's office.

19 Q. And a building, perhaps?

20 A. Building Eleven.

21 Q. What Monsanto employee has custody of
22 those two file folders?

23 A. I do.

RSV0022227

1 Q. What materials did you not bring with you
2 from those two file folders today?

3 A. Materials that, in my judgment, were not
4 related to the questions of the deposition regarding
5 storage of materials in particular, storage
6 containers.

7 The questions were framed in the
8 deposition in such a way I felt that some of the
9 documents that were there were not relative to the
10 question.

11 Q. Did any of the documents in that file
12 that you have not produced refer to the purchase of
13 vinyl chloride between 1947 and 1983?

14 A. To the best of my knowledge, no.

15 Q. Did any of them, for that same time
16 period, refer to the delivery of vinyl chloride to
17 the Springfield facility -- which is the Indian
18 Orchard facility?

19 A. Again, to the best of my knowledge, no.

20 Q. Did any of those excluded documents refer
21 to the storage of vinyl chloride -- again at Indian
22 Orchard between '47 and '83?

23 A. To the best of my knowledge, no.

RSV0022228

1 Q. Did any of those documents which have
2 been excluded from production refer to the
3 utilization or memorialize the utilization of vinyl
4 chloride at Indian Orchard between 1947 and 1983?

5 A. To the best of my knowledge, no.

6 Q. Aside from the D-12 file in the T & M
7 office, what other files did you search in response
8 to the two subpoenas?

9 A. Other files relating to vinyl chloride
10 cancer/allegations regarding other employees.

11 Q. Which files were those? Do they have
12 specific names or reference numbers?

13 A. The specific file I reviewed was
14 involving a former employee, Paul Cullinan and one
15 file that was not related to an employee but one
16 general file on vinyl chloride monomer.

17 Q. Where is the Cullinan file located at
18 Indian Orchard?

19 A. In the personnel superintendent's office.

20 Q. What building is that in?

21 A. Building Eleven.

22 Q. Were you the Monsanto employee with
23 custody of that file?

RSV0022229

1 A. Yes.

2 Q. The general file that is kept on vinyl
3 chloride monomer, which I will refer to as VCM from
4 now on, where was that kept?

5 A. At the same location in the personnel --
6 I am sorry; safety superintendent's office in
7 Building Eleven.

8 Q. Were there any documents in the Cullinan
9 file which you did not bring with you today?

10 A. The documents in the Cullinan file that I
11 referred to were previous answers to similar
12 interrogatories.

13 There were no documents relating
14 specifically to this case that I thought were
15 relevant.

16 Q. So there were no -- referring, if you
17 will, to Paragraph C of Schedule B on Exhibit
18 Number 2, are you saying, then, that in the Cullinan
19 file there were no documents which were responsive
20 to Paragraph C?

21 A. To the best of my knowledge, that is
22 correct.

23 Q. So none of the documents that you have

RSV0022230

1 brought with you today are from the Cullinan file?

2 A. That is correct; yes.

3 Q. Did you bring any documents with you from
4 the general file on VCM?

5 A. No; I don't believe so. No.

6 Q. Did you make the judgment that there were
7 no documents in the general file on VCM which were
8 responsive to Paragraph C of Schedule B?

9 A. That is correct; yes.

10 Q. What type of documents were in the
11 general file on VCM?

12 A. The general file has a booklet on the
13 handling of vinyl chloride monomer. It is a
14 booklet. It does not relate to actually, the
15 utilization.

16 As I read the question in the deposition,
17 it was one involving the manufacturing process and
18 this was a -- the booklet is more of an employee
19 manual than a description of the manufacturing
20 operation.

21 Q. Do you happen to remember what the
22 publication date of that booklet was?

23 A. I don't recall.

RSV0022231

1 Q. Do you know if it was before or after
2 1980?

3 A. I don't recall.

4 Q. Were there any other files, other than
5 the D-12 file, the Cullinan file and the general VCM
6 file that you examined in preparation for this
7 deposition?

8 A. Yes; there is a file -- several file
9 drawers -- of research modification procedures
10 regarding vinyl chloride production that I reviewed.

11 Q. What is research modification production?

12 A. They are specific procedures for how to
13 formulate products; and occasionally to satisfy
14 customer needs, the products would be -- the
15 formulation would be modified.

16 Q. So that pertains to the actual production
17 of -- the formulation of the products that you are
18 dealing with?

19 A. Yes.

20 Q. What information -- did you find any
21 information there or any documents there which were
22 responsive to the document production request?

23 A. Not in my judgment; no.

RSV0022232

1 Q. Did any of the research modification
2 production documents refer to or memorialize the
3 purchase, delivery, storage, utilization of vinyl
4 chloride at the Indian Orchard facility?

5 A. I suppose you could infer utilization to
6 an extent but again, I have no record that these
7 were taken into the manufacturing place and that is
8 what I would consider as utilization.

9 Q. Would it be fair to say that they
10 describe general procedures but they do not record
11 any actual procedures that were performed?

12 A. That is correct.

13 Q. Do you know where the -- how the
14 documents that were in the research modification
15 production file were generated?

16 A. (No response).

17 Q. Do you understand the question?

18 A. They were generated in the course of
19 normally someone in the -- I would assume -- in the
20 technical part of the organization at the time
21 working with customers to develop a formulation
22 change and then classifying or categorizing in terms
23 of a memo that would be approved by the

RSV0022233

1 manufacturing and the research organization before
2 it was produced in some form.

3 Q. So are all of these documents internal
4 Monsanto documents?

5 A. Yes.

6 Q. Again, apart from the D-12 file, the
7 Cullinan file, the general file on VOM and the
8 research modification production file, did you look
9 in any other files?

10 A. No.

11 Q. So those four groups of files are it?

12 A. Yes; to the best of my knowledge.

13 Q. Where is the research modification
14 production file kept at Indian Orchard?

15 A. They are in the second floor storage area
16 of Building Eleven.

17 Q. Are these documents -- this research
18 modification production file -- is that kept in your
19 custody?

20 A. Yes.

21 Q. In searching for documents which are
22 responsive to the document production request, did
23 you make any search aside from looking in these four

RSV0022234

1 files?

2 A. No; I did not. As I mentioned, I related
3 to an earlier request, that we had gone through a
4 similar search. I reviewed that and I again went
5 over those documents to make sure that we had not
6 missed anything in terms of previous
7 interrogatories. Any new information, I presented
8 here today.

9 Q. So everything that we have here is from
10 the D-12 file?

11 A. That is correct; yes.

12 Q. You say you have previously been faced
13 with a similar request for documents?

14 A. Yes.

15 Q. That was in connection with the Cullinan
16 case or something else?

17 A. Either the Cullinan case or the John
18 Warren case, either one; yes.

19 Q. So you don't know what it was in
20 connection with?

21 A. I don't recall.

22 Q. How did you know that there had been a
23 previous request?

RSV0022235

1 A. I was involved with the -- I would have
2 been involved with those cases.

3 Q. Did you keep notes of where the relevant
4 documents were kept?

5 A. Not specific notes; no.

6 Q. So your reference to the four files that
7 you have mentioned -- D-12, Cullinan, VCM and the
8 research modification production file -- your search
9 for those was as a result of receiving our subpoena
10 and your memory of where those would be?

11 A. Yes.

12 Q. Did you talk to -- strike that. In
13 responding to that previous document request, can
14 you describe the search that you made for documents
15 relevant to the storage or delivery or utilization
16 of VCM at Indian Orchard?

17 A. I didn't make the search personally. It
18 was made by the former personnel superintendent.

19 Q. Who was that?

20 A. Garland Fletcher.

21 Q. Is Mr. Fletcher still employed by
22 Monsanto?

23 A. No.

RSV0022236

1 Q. Is he retired?

2 A. Yes.

3 Q. When was he last employed by Monsanto, if
4 you know?

5 A. Approximately 1986 or '87 -- well, no; I
6 am sorry; strike that. He has been employed
7 temporarily.

8 He was working on a part time basis for
9 me on specific cases such as this as late as 1988, I
10 would guess.

11 Q. Do you know what his current address is?

12 A. No; I do not.

13 Q. Do you know in which municipality he
14 resides?

15 A. I believe he resides in the summer in
16 Holyoke and in the winter in Florida.

17 Q. When was the last time you saw Mr.
18 Fletcher?

19 A. Approximately a half a year ago.

20 Q. What was the occasion, if you recall?

21 A. He, as I mentioned, is doing some
22 consulting work for the personnel organization. He
23 does some training-type of responsibilities and he

RSV0022237

1 has done some file searches for me in the past in
2 situations such as this.

3 Q. So did you see him at Monsanto?

4 A. Yes.

5 Q. Do you have his address available to you?

6 A. It is available in the personnel office.
7 I don't have it currently.

8 Q. You don't have it with you?

9 A. Correct.

10 MR. RENDINI: Could we have his
11 address produced?

12 MR. POWERS: No problem.

13 Q. (BY MR. RENDINI) Do you know of anybody
14 else at Monsanto who was involved in the previous
15 document search that you have described?

16 A. Yes; my predecessor actually in the
17 Safety Department would have been Chester Strzepa.

18 Q. What did you say his position was?

19 A. He was the safety manager, also.

20 Q. Was he before or after Mr. Fletcher? I
21 didn't catch that.

22 A. He was after Mr. Fletcher, before me.

23 Q. So the succession is Fletcher Strzepa and

RSV0022238

1 yourself?

2 A. Right.

3 Q. Is Mr. Strzepa still employed by
4 Monsanto?

5 A. Yes; he is.

6 Q. Where is he?

7 A. At the Indian Orchard plant.

8 Q. What position does he hold?

9 A. He is the personnel superintendent.

10 Q. Does he work in Building Eleven as well?

11 A. No; he works in Building One.

12 Q. Mr. Nelson, let me direct your attention
13 to Exhibit Number 1, Schedule A.

14 (Pause in proceedings)

15 MR. RENDINI: Back on the record.

16 Let the record reflect that we took approximately a
17 ten minute break.

18 Mr. Nelson, I believe I left off by
19 referring you to Exhibit Number 1, Schedule A which
20 contains the description of topics to be inquired
21 into during this deposition. Referring you now to
22 paragraph number two, which is on page two of the
23 schedule, let me ask you, sir, have you read

RSV0022239

1 paragraph two with its subparts A, B, C and D?

2 THE WITNESS: Yes.

3 Q. (BY MR. RENDINI) I believe you stated
4 earlier that you received this deposition notice or
5 this subpoena on or about the twenty-fourth of
6 April, is that correct?

7 A. It would have been after the
8 twenty-sixth, I believe.

9 Q. After the twenty-sixth?

10 A. On or after the twenty-sixth. That is
11 when it is dated.

12 Q. Did you understand when you read -- did
13 you have a chance to review the subpoena, sir?

14 A. Yes.

15 Q. Did you review it with counsel at any
16 time?

17 A. Yes.

18 Q. What counsel did you review it with?

19 A. Both our corporate counsel and Mr. Powers
20 from Melick and Porter.

21 Q. Who is your corporate counsel?

22 A. Martin Liebman.

23 Q. Did you review it with Mr. Liebman and

RSV0022240

1 Mr. Powers close in time to the point when you
2 received it?

3 A. Within a matter of a few days; yes.

4 Q. After reviewing it with them, did you
5 understand that Exhibit Number 1, the subpoena,
6 requires Monsanto to designate individuals who have
7 the most knowledge of the topics that are set forth
8 therein, on Schedule A?

9 A. Yes.

10 Q. And that those individuals are to proceed
11 to a deposition?

12 A. Yes.

13 Q. Did you understand that?

14 A. Yes.

15 Q. Referring you again to paragraph number
16 two of Schedule A, who made the determination --
17 strike that.

18 Are you, sir, being produced today by
19 Monsanto as the individual who is most knowledgeable
20 with respect to the topics outlined in paragraph
21 number two?

22 A. Yes.

23 Q. Can you tell me who made the

RSV0022241

1 determination that you were the appropriate
2 individual to respond to paragraph number two?

3 A. That responsibility has been assigned to
4 the personnel manager over the years traditionally
5 and currently the plant is without a personnel
6 manager. I was given the responsibility to respond.

7 Q. Who gave you that responsibility?

8 A. Well, it is my -- my superintendent, my
9 personnel manager gave me the responsibility.

10 Q. I thought you said there was no personnel
11 manager at the present time?

12 A. I am sorry; I meant safety manager. In
13 the absence of the safety manager, per se, I am
14 following that responsibility.

15 Q. So in the absence of the safety manager,
16 you would be the person to reply to number two,
17 correct?

18 A. Yes.

19 Q. That determination was made by your
20 personnel manager?

21 A. Yes.

22 Q. What is the personnel manager's name?

23 A. Michael Starr.

RSV0022242

1 Q. Sir, in preparing to testify with regard
2 to topic number two of Schedule A, did you -- I
3 understand that you searched the records as you have
4 previously described -- and those are the files that
5 we have talked about before, correct?

6 A. Yes.

7 Q. Did you search any other documents with
8 regard to number two?

9 A. Not that I can recall.

10 Q. So the document search that you described
11 earlier in this deposition is the document search
12 that applies to paragraph number two here, correct?

13 A. Yes.

14 Q. And also, it is the same document search
15 with regard to paragraphs three, four and five, is
16 that correct?

17 A. That is correct.

18 Q. And that is all the document search that
19 you have done?

20 A. Yes.

21 Q. The documents that you have produced
22 today are all of those to which you have referred in
23 preparing to testify with regard to all of the

RSV0022243

1 topics in paragraph numbers two, three, four and
2 five?

3 A. And C and D of Schedule B; yes.

4 Q. Specifically with regard to topic number
5 two which refers to the purchase of vinyl chlorid
6 for use at Monsanto's facility in Springfield,
7 Massachusetts, did you, at any time, to prepare for
8 this deposition, consult or confer with any other
9 Monsanto employees?

10 A. Not at this time. As I mentioned, I
11 reviewed affidavits from other Monsanto officials
12 who had done previous searches for the same
13 information.

14 In reading those, I framed my response in
15 the appropriate manner.

16 Q. Do you understand what an affidavit is,
17 sir?

18 A. It is a written -- my understanding is
19 that it is a written notification of a statement.

20 Q. When you say affidavits, do you know what
21 affidavits you are referring to?

22 A. I am referring to written responses that
23 the general superintendent of accounting and the

RSV0022244

1 general superintendent of transportation and
2 materials handling had written several years ago in
3 response to similar requests for information
4 regarding the purchase of vinyl chloride for use at
5 Monsanto's facility in Springfield.

6 Q. So those affidavits are the source of
7 your knowledge with respect to the purchases of
8 vinyl chloride for use at Springfield?

9 A. Those are part of records that would have
10 been outside of the Safety Department; yes.

11 In other words, they would frame
12 information that may have been somewhere else in the
13 organization.

14 Q. Where are those affidavits located?

15 A. In the file previously referenced as the
16 vinyl chloride monomer file.

17 Q. You did not bring them with you, today?

18 A. No; I did not.

19 Q. Do you know who signed those
20 affidavits -- the names of the gentlemen who signed
21 those affidavits?

22 A. Yes; William McNichols and Thomas Nebel.

23 Q. Who was Mr. McNichols?

RSV0022245

1 A. The plant comptroller.

2 Q. Is he still employed by Monsanto?

3 A. Not at the Springfield facility; but yes,
4 he is still employed by Monsanto.

5 Q. Where is he now?

6 A. I believe he is in St. Louis, corporate
7 headquarters.

8 Q. Do you know what his present job title
9 is?

10 A. No.

11 Q. Could you tell me who Mr. Nebel is?

12 A. Mr. Nebel was the superintendent of
13 transportation and materials handling.

14 Q. Is he currently employed by Monsanto?

15 A. Yes.

16 Q. Where is he employed?

17 A. At 730 Worcester Street.

18 Q. What is his current title?

19 A. R & D site services superintendent.

20 Q. Sir, are you the employee of Monsanto who
21 is most knowledgeable with regard to the purchases
22 of vinyl chloride for use at the Springfield
23 facility between 1947 and 1983?

RSV0022246

1 A. I am the most knowledgeable current
2 employee based on my knowledge of having reviewed
3 the records and handled similar interrogatories and
4 having done previous file searches; yes.

5 Q. So all of your knowledge of the purchase
6 of vinyl chloride is from your review of documents?

7 A. And conversations with other employees
8 who have reviewed similar documents; yes.

9 Q. Who have you conversed with?

10 A. As earlier stated, Mr. Fletcher and Mr.
11 Strzepa.

12 Q. Did you speak to Mr. Nebel at any time?

13 A. No; I did not.

14 Q. Did you speak to Mr. McNichols at any
15 time?

16 A. No; I did not.

17 Q. Did you speak to anyone who had any
18 responsibility for the purchasing function at
19 Springfield?

20 A. I did not, directly, no.

21 Q. Did you speak to anyone who was
22 responsible at any Monsanto facility for purchasing?

23 A. No; I did not.

RSV0022247

1 MR. RENDINI: If you would mark this,
2 please?

3 (Defendant's Exhibit 4
4 offered and marked for
identification)

5 Q. (BY MR. RENDINI) Mr. Nelson, I am going
6 to show you a four-page document which has been
7 marked as Exhibit Number 4 for identification.
8 Could you look at this and tell me if you can
9 identify it? (Indicating)

10 A. Yes.

11 Q. Tell me what that is, please?

12 A. That is the document based on the court
13 deposition subpoena and the answers that we have
14 framed from Monsanto Company.

15 Q. Who prepared this document, Exhibit
16 Number 4?

17 A. I did.

18 Q. It appears to me to be a reprinting of
19 the list of topics which are included in Schedule A
20 plus the answers plus responses which you have made,
21 is that correct?

22 A. Yes.

23 Q. Did you produce this document this

RSV0022248

1 morning?

2 A. It was produced --

3 Q. (Interposing) Did you deliver that
4 document to us this morning?

5 A. Yes.

6 Q. Did you consult -- let me refer you to,
7 on Exhibit Number 4, Schedule A, item two. Do you
8 have a copy of Exhibit Number 4 with you?

9 A. I do.

10 Q. It would be easier if you consult that.
11 Let's go to the first response. I am just going to
12 draw your attention to it for a second, which is
13 under Schedule A, item two, A. Did you draft that
14 response?

15 A. Yes.

16 Q. In preparing for this deposition, did you
17 consult any purchasing records from the Purchasing
18 Department of Monsanto pertaining to the purchase of
19 vinyl chloride monomer?

20 A. As stated earlier, in a review of the
21 records to determine whether or not these had been
22 previously disclosed, I went to the statement by the
23 person who was in charge of those records who stated

RSV0022249

1 that they had all been destroyed.

2 Q. Who was the person in charge of those
3 records?

4 A. William McNichols.

5 Q. That statement is the affidavit that you
6 referred to a few moments ago?

7 A. Yes.

8 Q. Was that affidavit filed with respect to
9 any pending legal action?

10 A. To the best of my knowledge, it was filed
11 in response to previous deposition interrogatories
12 on similar situations involving vinyl chloride.

13 Q. Do you know if that was in association
14 with the current litigation or with previous
15 litigation?

16 A. It would have been the previous
17 litigation, I believe.

18 Q. Do you know what the name of that
19 previous litigation was?

20 A. It was either the case of John Warren or
21 Paul Cullinan, one or the other.

22 Q. Your response says, as reflected on
23 Exhibit Number 4, that "the Monsanto record

RSV0022250

1 retention policy requires purchasing and accounting
2 files to be destroyed after a time period which this
3 interrogatory exceeds." Have I read that correctly?

4 A. Yes.

5 Q. Do you know what the Monsanto record
6 retention policy is?

7 A. Yes.

8 Q. Could you explain it to us, please?

9 A. Well, based on what type of document is
10 involved, there are retention periods. In general,
11 all general documents have a one-year turnover time
12 from date of production to date of being destroyed.
13 In other types of records, in and including
14 accounting and purchasing records, to the best of my
15 memory at this point -- I don't have the document in
16 front of me -- but I recall a five-year retention
17 period.

18 To the best of my recollection also, the
19 only types of records that are maintained beyond
20 five years are personal and health records which is
21 termination plus thirty years I believe. I can
22 reproduce the document if you care to see it but I
23 don't have a copy with me.

RSV0022251

1 Q. When you say the document, you are
2 referring to --

3 A. (Interposing) The Monsanto records
4 retention manual.

5 Q. Is that in manual form?

6 A. Yes.

7 Q. Do you know how long the current manual
8 has been in effect?

9 A. I can only guess at longer than ten
10 years.

11 Q. You have produced certain records to us
12 today which all appear to be greater than five years
13 old. Can you explain to me why the records
14 produced, including Exhibit Number 3, are still in
15 existence?

16 A. Occasionally records are kept in the
17 departments where various responsibilities have
18 followed through.

19 In this particular case, as I noted
20 earlier, we had requested the Transportation and
21 Materials Handling Department, who had
22 responsibility for handling and storage of materials
23 such as vinyl chloride, to review their files and

RSV0022252

1 these came out of the files of a supervisor who had
2 retired and, in fact, is noted in the
3 interrogatories, Joseph Tierney.

4 MR. TOURTELOTTE: Did you say all of
5 these records came out of Joseph Tierney's file?

6 THE WITNESS: Yes; when we found
7 these two particular files, then we went through all
8 of the existing transportation and materials
9 handling files again to make sure that there were no
10 additional vinyl chloride references, and to the
11 best of our knowledge, this encompasses all of the
12 file.

13 Obviously once any file falls into the
14 concern of a litigation case, then we freeze it and
15 hold onto it until it is no longer needed by
16 anyone.

17 Q. (BY MR. RENDINI) Going back now to topic
18 number two, paragraph number two on page two, I
19 believe, sir, you have stated that all of your
20 knowledge with regard to the purchase of vinyl
21 chloride is based upon your review of the documents
22 that you have described, is that correct?

23 A. Yes.

RSV0022253

1 Q. Are you aware of anybody at Monsanto who
2 has personal knowledge of any of the purchases of
3 vinyl chloride made between 1947 and 1983?

4 A. Yes.

5 Q. Who are those people?

6 A. Well, as listed later in the responses,
7 there are two retired employees who, according to
8 our records, have knowledge because they would have
9 been employed at the time in the purchasing area --
10 Mr. Charles Smith of Somers, Connecticut and Mr.
11 Lawrence Gormally from Springfield, Massachusetts;
12 and an additional active employee who, at the time,
13 was in a supervisory capacity in the manufacturing
14 area, Mr. Robert Bourget of Wilbraham,
15 Massachusetts.

16 Q. Where were the names of -- strike that.
17 How did you determine that Mr. Smith, Mr. Gormally
18 and Mr. Bourget had personal knowledge?

19 A. As noted by earlier review of the
20 records, these names were included in previous
21 interrogatory information.

22 Q. Are those -- are you speaking now of
23 Cullinan interrogatories?

RSV0022254

1 A. As I mentioned, it is either in the case
2 of Paul Cullinan or John Warren.

3 Q. Did you make any effort to speak to
4 either Mr. Smith, Gormally or Bourget?

5 A. No; I did not.

6 Q. Do you know what Mr. Bourget's title is
7 at this time?

8 A. He is an R & D manager, I believe.

9 Q. That is at Indian Orchard?

10 A. Indian Orchard; yes.

11 Q. Let me run through some of this quickly.
12 Let's go now to topic number three.

13 Sir, have you had an opportunity to
14 review topic number three?

15 A. Yes.

16 Q. Are you the person at Monsanto who is
17 most knowledgeable with regard to the delivery of
18 vinyl chloride to and the storage of vinyl chloride
19 at the Springfield facility between January 1, 1947
20 and January 1, 1983?

21 A. I am the person who was most
22 knowledgeable of the records involving the delivery
23 of vinyl chloride to and storage of vinyl chloride

RSV0022255

1 but certainly not having been directly involved with
2 that, I would not be the expert.

3 Q. Are there any employees of which you are
4 aware, currently employed by Monsanto or not, who
5 would have personal knowledge of the delivery and
6 storage of vinyl chloride at the Springfield
7 facility?

8 A. Mr. Bourget would be an individual who
9 would fit that description and Mr. Joseph Tierney
10 who, at the time, was transportation and materials
11 supervisor and is now retired.

12 Q. The documents which form the -- strike
13 that.

14 So all of your knowledge with regard to
15 delivery and storage of vinyl chloride you derive
16 from documents, is that correct?

17 A. That is correct.

18 Q. And the documents that you derive it from
19 are the ones that you have produced here today,
20 correct?

21 A. That is correct.

22 Q. Other than the documents that you have
23 produced here today, are there any other documents

RSV0022256

1 which have formed what your knowledge is with regard
2 to the delivery and storage of vinyl chloride at the
3 Springfield facility?

4 A. To the best of my knowledge, there are
5 not.

6 Q. Let's go to Exhibit Number -- strike
7 that. Let's go to Exhibit Number 1, Schedule A,
8 paragraph number four which defines as a topic to be
9 inquired into the manufacture or production by
10 Monsanto or by any corporation or business entity
11 owned by, controlled by or affiliated with Monsanto
12 of vinyl chloride between January 1, 1947 and
13 January 1, 1983.

14 Mr. Nelson, are you the Monsanto employee
15 who is most knowledgeable with regard to said
16 manufacturing or production?

17 A. I am, again, the person who is most
18 knowledgeable of any remaining records to that
19 effect but certainly I would not be the most
20 knowledgeable person because I did not have any
21 direct involvement in said manufacture or
22 production.

23 Q. Do you know who would be -- who would

RSV0022257

1 have more knowledge than you?

2 A. Mr. Bourget, as previously mentioned,
3 because of his manufacturing responsibilities, would
4 have been -- is a knowledgeable person currently in
5 employment.

6 Q. Are there any other individuals that are
7 more knowledgeable than you?

8 A. There would have been a number of people
9 in the supervisory areas that, again, were involved
10 directly in the manufacturing that would be more
11 knowledgeable from a firsthand standpoint; yes. I
12 don't know all of the names.

13 Q. Do you know any of the names?

14 A. The only one that comes to mind is David
15 Gendron, who is a manufacturing supervisor in the
16 area.

17 Q. Is Mr. Gendron still employed by
18 Monsanto?

19 A. Yes.

20 Q. Where is he employed?

21 A. He is employed at 730 Worcester Street.

22 Q. What is his current title, if you know
23 it?

RSV0022258

1 A. Technical services superintendent.

2 Q. Which building does he work in at 730
3 Worcester Street?

4 A. Building 106.

5 Q. After receiving Exhibit Number 1, the
6 subpoena, did you make any inquiry to determine who
7 had more knowledge of the manufacture or production
8 of vinyl chloride than you might?

9 A. No; I did not.

10 Q. And your knowledge of the manufacture and
11 production is limited to your review of documents
12 which you have produced today, is that right?

13 A. That is correct; and discussions, as I
14 mentioned, with Mr. Fletcher and Mr. Strzepa,
15 previously.

16 Q. They were your predecessors as safety
17 manager?

18 A. Yes.

19 Q. Were they involved in the production
20 process, either of them?

21 A. Mr. Fletcher may have been. I do not
22 recall. He may have been involved directly. I
23 don't recall that fact.

RSV0022259

1 Q. So you do not know whether either of
2 those gentlemen had personal knowledge with regard
3 to the manufacture or production of vinyl chloride,
4 do you?

5 A. Mr. Strzepa, I am not quite sure did not
6 have. I think he was a member of the maintenance
7 organization prior to becoming safety manager but my
8 recollection is that Mr. Fletcher may have worked in
9 the vinyl chloride manufacturing area for a period
10 of time.

11 Q. When you say the vinyl chloride
12 manufacturing area, are you referring to an area at
13 the Indian Orchard plant?

14 A. I am referring to an area at the then
15 Springfield plant; yes.

16 Q. Was vinyl chloride monomer at some time
17 manufactured at the Springfield plant?

18 A. No; vinyl chloride monomer is the raw
19 material for the manufacture of polyvinyl chlorid .

20 Q. So when we have been saying vinyl
21 chloride, you have been referring to polyvinyl
22 chloride?

23 A. We are talking about the use of vinyl

RSV0022260

1 chloride monomer to manufacture polyvinyl chloride.

2 Q. So that is the manufacturing process that
3 you are referring to at the Springfield plant?

4 A. Correct; yes.

5 MR. POWERS: Off the record for a
6 second?

7 (Off record discussion)

8 Q. (BY MR. RENDINI) For purposes of
9 clarification, Mr. Nelson, let me ask you again:
10 Are you aware of anyone at Monsanto who has more
11 knowledge than yourself with regard to the
12 manufacture or production by Monsanto of vinyl
13 chloride monomer during the years stated in
14 paragraph number four?

15 A. No; I do not.

16 Q. What is the source of your knowledge with
17 regard to the manufacture or production by Monsanto
18 of VCM?

19 A. Only what I have read in the documents
20 and growing up with the corporation I was aware
21 that, as normal learning material for members of
22 management, that we have products manufactured at
23 various areas and I recall at the time I was new to

RSV0022261

1 Monsanto that we were manufacturing vinyl chloride
2 monomer at the Texas City plant.

3 Q. Where is the Texas City plant?

4 A. In Texas City, Texas.

5 Q. When you say you reviewed -- so your
6 knowledge of manufacture and production, is that
7 limited to your review of the documents that you
8 have produced today or is it -- does it come from
9 some other source, again with reference to VCM?

10 A. Well, it comes, again, from the
11 historical perspective of what the company's
12 business is, yes.

13 It comes from both that understanding and
14 a review of the documents that I looked at in
15 preparation for today's questions.

16 Q. So in addition to the documents that you
17 have produced today, there is also your general
18 background and knowledge of the company's activities
19 which you have gained throughout the years, correct?

20 A. Yes.

21 Q. With reference now to Exhibit Number 1,
22 paragraph five of Schedule A, which refers to the
23 corporate structure of Monsanto between January 1,

RSV0022262

1 1947 and January 1, 1983, are you, sir, the Monsanto
2 employee most knowledgeable with regard to the
3 corporate structure as set forth in topic number
4 five?

5 A. Well, at our location, I am probably as
6 knowledgeable as anyone else.

7 Q. Your location is the Indian Orchard
8 plant?

9 A. The Indian Orchard facility; right.

10 Q. (Do you have any other -- say, for
11 example, the Texas City plant. Do you have any
12 knowledge of the corporate structure or where the
13 Texas City plant fits in the Monsanto corporate
14 structure?

15 A. The Texas City plant is no longer owned
16 by Monsanto. It is part of the Sterling Chemical
17 Company.

18 Q. Was it at some point sold to Sterling
19 Chemical?

20 A. Yes.

21 Q. Prior to its sale to Sterling Chemical,
22 do you know where it fit in the Monsanto corporate
23 structure?

RSV0022263

1 A. I don't have a direct knowledge. I would
2 recall that it was part of the, at the time, I
3 believe the Hydrocarbons and Petrochemicals Company.

4 MS. BURGER: Can I have that last
5 question and answer back?

6 (Record read as requested)

7 Q. (BY MR. RENDINI) Is there anyone other
8 than yourself that would have more knowledge with
9 respect to the place that the Texas City plant held
10 within the Monsanto corporate structure?

11. A. I am not aware of an answer to that. No
12 one at the site that I am aware of. There may be
13 others but not at the Indian Orchard plant.

14 Q. So at the Indian Orchard plant, you are
15 the person with the most knowledge?

16 A. I can't answer that.

17 Q. Is it because you don't know the answer
18 to that question?

19 A. I don't know the answer to that, let's
20 say that.

21 Q. Sir, referring to Schedule B, paragraph
22 D, have you brought with you, today, any documents
23 responsive to the document request in paragraph D?

RSV0022264

1 A. No.

2 Q. Did you make any search for any such
3 documents?

4 A. Yes.

5 Q. Can you describe for me the search that
6 you made?

7 A. I requested from the plant manager's
8 secretary and the personnel manager's secretary any
9 records to this effect.

10 Q. Did you receive any records in response
11 to your request?

12 A. No.

13 Q. Were you given any explanation as to why
14 you did not receive any records?

15 A. The statement was that they could not
16 find any to reproduce.

17 Q. These people are -- where are they
18 located? In the Indian Orchard plant?

19 A. Yes.

20 Q. Do you know if any inquiry was made
21 outside the Indian Orchard plant with regard to
22 paragraph D.

23 A. I made no inquiry outside the Indian

RSV0022265

1 Orchard plant.

2 MR. RENDINI: Off the record.

3 (Off record discussion)

4 (Recess)

5 Q. (BY MR. RENDINI) Mr. Nelson, you
6 referred, this morning, to the fact that the
7 Monsanto's Texas City, Texas plant produced VCM, is
8 that correct?

9 A. Yes.

10 Q. Do you know when production of VCM began
11 at the Texas City plant?

12 A. No.

13 Q. From 1947 to the present, are you aware
14 of any other Monsanto facility which produced VCM?

15 A. No.

16 Q. Do you know for -- strike that. Do you
17 know that no other Monsanto facility produced VCM
18 from 1947 until the present?

19 A. No.

20 Q. You do not know?

21 A. I do not know.

22 Q. Are you familiar with an individual named
23 John H. Warren?

RSV0022266

1 A. Yes.

2 Q. Do you know when Mr. Warren first went to
3 work for Monsanto?

4 A. I don't have that information with me.
5 No; I am not familiar with that at the present time.

6 Q. In 1947, do you know what the proper
7 or -- strike that -- what the full corporate name of
8 the entity which owned the Bircham Bend plant was?

9 A. I don't have the precise name. It is my
10 recollection that it is the Shawinagin Resins
11 Corporation.

12 Q. Do you know how to spell Shawinagin?

13 A. S-H-A-W-I-N-A-G-I-N?

14 A. Do you know the full name of the
15 corporate entity which owned the Indian Orchard
16 plant in 1947?

17 A. No; I do not. My supposition, as stated
18 earlier I believe, was -- to the best of my
19 knowledge, Monsanto Corporation was the owner of the
20 Springfield facility in 1947.

21 Q. When you say Springfield facility, to
22 what facility are you referring?

23 A. The Springfield facility as identified in

RSV0022267

1 the deposition subpoena.

2 Q. Are you referring to something other than
3 the Indian Orchard plant?

4 A. Yes.

5 Q. Are you referring to something other than
6 the Bircham Bend plant?

7 A. Yes.

8 Q. What is the address of the facility to
9 which you are referring -- what was the address at
10 that time?

11 A. I do not recall what the address was at
12 that time.

13 Q. But there was a facility that Monsanto
14 Corporation owned other than Bircham Bend or Indian
15 Orchard in Springfield?

16 A. The Bircham Bend -- that is correct; the
17 Bircham Bend and the Springfield facilities were
18 consolidated into the Indian Orchard facility in
19 1983.

20 Q. But back in 1947, Monsanto had a plant --
21 Shawinagin had a plant --

22 A. (Interposing) It was called the
23 Springfield plant.

RSV0022268

1 Q. Monsanto had something called the
2 Springfield plant; Shawinagin had the Bircham Bend
3 plant?

4 A. Shawinagin Resins owned the Bircham Bend
5 plant.

6 Q. And who owned Indian Orchard?

7 A. There was no Indian Orchard plant at that
8 time.

9 MR. TOURTELOTTE: Just to clear it
10 up, there were two things -- Shawinagin and
11 Monsanto?

12 THE WITNESS: Yes.

13 MR. TOURTELOTTE: And geographically
14 they have never changed their location?

15 THE WITNESS: Geographically they
16 have always been adjacent to each other in Indian
17 Orchard in Springfield.

18 Q. (BY MR. RENDINI) When was the Indian
19 Orchard plant created?

20 A. In 1983.

21 Q. So that was just a name change?

22 A. Yes.

23 Q. The Monsanto Corporation's Springfield

RSV0022269

1 facility and the Bircham Bend plant were merged at
2 one time and at that point became the Indian Orchard
3 plant?

4 A. In 1983; that is correct.

5 Q. Now I understand. All right. When you
6 went to work in 1966 at Bircham Bend, that was a
7 Monsanto facility, correct?

8 A. Yes.

9 Q. What was the full corporate name of your
10 employer at that time?

11 A. The full corporate name was Monsanto
12 Corporation. As I recall, the operating company was
13 called Monsanto Polymers -- Plastics and Polymers
14 Company.

15 MS. BURGER: Plastics and Polymers,
16 did you say?

17 THE WITNESS: Yes; it was either
18 Plastics and Polymers or Polymers and Petrochemicals
19 and I don't recall which was the correct
20 terminology.

21 Q. (BY MR. RENDINI) What name -- which of
22 these names, if either, appeared on your paycheck in
23 1966?

RSV0022270

1 A. I don't know.

2 Q. Do you know if there was any relationship
3 between Monsanto Plastics and Polymers Company and
4 Monsanto Corporation?

5 A. Yes.

6 Q. Can you tell me what that relationship
7 was?

8 A. Monsanto -- the operating company was a
9 part of the corporation.

10 Q. When you say it was -- strike that. When
11 you say that the operating company was part of
12 Monsanto Corporation, do you mean -- strike that.

13 Do you know if the operating company --
14 Monsanto Plastics and Polymers Company -- had its
15 own officers distinct from the officers of Monsanto
16 Corporation?

17 A. No; I do not know.

18 Q. Do you know if Monsanto Plastics and
19 Polymers Company was incorporated at any time?

20 A. No; I do not know.

21 Q. What were the functions of Monsanto
22 Plastics and Polymers Company back in 1966?

23 A. Well, I can only speak for the Bircham

RSV0022271

1 Bend facility, and as I previously described, th
2 function was manufacture of resins and adhesives for
3 sale.

4 Q. That was the function that was performed
5 at Bircham Bend, correct?

6 A. As I mentioned, that is all I am familiar
7 with; yes.

8 Q. Do you know what purpose was served by
9 having an entity called Monsanto Plastics and
10 Polymers Company?

11 A. I am not familiar -- I am not an expert
12 in corporations or divisions of corporation and of
13 operating companies.

14 If you want that information, you really
15 should be talking to someone in our corporate legal
16 department, not a layman from one of the plant sites
17 such as Springfield. I do not know.

18 Q. Do you know whether or not Monsanto
19 Plastics and Polymers Company was a division of
20 Monsanto Corporation?

21 A. I would assume that to be true.

22 Q. Do you know?

23 A. I do not know.

RSV0022272

1 Q. Do you know if Monsanto Plastics and
2 Polymers Company issued any stock of its own?

3 A. No; it did not.

4 Q. It did not?

5 A. No.

6 Q. What is the source of your knowledge that
7 it did not?

8 A. I have owned Monsanto stock through the
9 years and there has never been an issuance of any
10 stock through the operating companies. It is all
11 issued through the corporation.

12 Q. Do you know if the ownership of the
13 Bircham Bend ever changed hands -- strike that.

14 You stated before, earlier today, that
15 Bircham Bend was sold by Shawinagin to Monsanto, is
16 that correct?

17 A. Yes.

18 Q. And if you would refresh my recollection,
19 when did that take place?

20 A. In the early 1960's, to the best of my
21 knowledge.

22 Q. Do you know if Bircham Bend was sold to
23 Monsanto Corporation?

RSV0022273

1 A. No; I don't know the particulars of the
2 sale.

3 Q. So when it changed hands at the time --
4 strike that.

5 Do you know what the name of the owner of
6 the Bircham Bend plant was after it changed hands in
7 the early 1960's?

8 A. I do not know. I would assume it would
9 be Monsanto Corporation.

10 Q. Do you know that of your own knowledge?

11 A. No; I do not.

12 Q. Do you know that from reviewing any
13 documents?

14 A. No.

15 Q. It is just an assumption on your part?

16 A. That is correct.

17 Q. Do you recall what the name on your
18 paycheck was at any time between the time you were
19 first employed and the time when Bircham Bend was
20 merged into the Indian Orchard facility?

21 A. I don't even recall what the name on my
22 paycheck is today.

23 Q. So at this point, you can't say for any

RSV0022274

1 period of time for which you have worked for
2 Monsanto whether or not the name of Monsanto
3 Corporation or some other corporate name may appear
4 on your paycheck?

5 A. Well, I am sure I would have recognized
6 if another corporate name appeared on a paycheck. I
7 don't recall seeing anything other than a Monsanto
8 entity of some type, either the corporation or the
9 operating company.

10 Q. Do you know at what time the Texas City
11 plant stopped producing VCM?

12 A. No; I do not.

13 Q. Do you know if it is producing VCM at
14 this time?

15 A. To the best of my knowledge, it is not
16 producing VCM at this time.

17 Q. At some point or another, whatever
18 Monsanto entity owned the Texas City plant, sold it,
19 is that correct?

20 A. Yes.

21 Q. Do you know when that sale took place?

22 A. I believe in the early 1980's; I don't
23 know specifically.

RSV0022275

1 Q. Prior to the time that the Texas City
2 plant was sold, do you know the name -- the full
3 corporate name -- of the entity which owned the
4 Texas City plant?

5 A. I don't recall specifically. I think I
6 mentioned earlier that I believe it was the
7 Hydrocarbons and Petrochemicals Company or
8 division. I am not sure what the proper terminology
9 was.

10 They are in the petrochemical business
11 and I would assume that that would cover their
12 operations and therefore they would have been
13 included in that operating entity.

14 Q. That operating entity that you have
15 mentioned -- the Monsanto Hydrocarbons and
16 Petrochemicals Division -- do you know if that
17 entity was a corporate entity?

18 A. I do not know.

19 Q. Do you know if it was a subsidiary of
20 Monsanto Corporation?

21 A. No.

22 Q. That is you don't know?

23 A. I don't know.

RSV0022276

1 Q. Do you know if Monsanto Hydrocarbons and
2 Petrochemicals Division had any relationship to
3 Monsanto Corporation?

4 A. No; other than hearsay that Monsanto is
5 Monsanto.

6 Q. When you say other than hearsay, you do
7 have some knowledge that there is some link?

8 A. From documents that I have read and
9 annual reports and other information that is made
10 public.

11 Q. Are you aware of any legal relationship
12 between the two entities?

13 A. I am not aware of any specifically; no.

14 Q. So you don't know whether it is an
15 operating division or a subsidiary -- I am talking
16 about Monsanto Hydrocarbons and Petrochemicals?

17 A. It was my understanding, again by reading
18 documents and common knowledge as an employee, that
19 it was an operating company.

20 Q. When you say a company, are you referring
21 to a separate corporate entity or simply -- strike
22 that.

23 Do you understand what I mean by a

RSV0022277

1 corporate entity?

2 A. An entity of the corporation. An
3 operating entity of the corporation, not separate
4 from the corporation but one of several parts of the
5 corporation.

6 Q. Do you know if Monsanto Hydrocarbons and
7 Petrochemicals Division had at any time its own
8 officers -- vice president, president, treasurer, et
9 cetera?

10 A. I do not know specifically. It is my
11 understanding that it did not; however, that they
12 would be members of the corporate structure, the
13 ranking senior officers.

14 MR. POWERS: Excuse me. Can we go
15 off the record for a second?

16 (Off record discussion)

17 MR. RENDINI: On the representation
18 of Monsanto's counsel --

19 MR. TOURTELOTTE: (Interposing)
20 Before you go on the record.

21 (Off record discussion)

22 MR. RENDINI: On the representation
23 of Monsanto's counsel that Mr. Nelson is not capable

RSV0022278

1 of responding to questions under topic five, we will
2 suspend the deposition with respect to topic number
3 five and await the production of documents under
4 Schedule B, paragraph D -- and that will be within
5 what time frame?

6 MR. POWERS: I will get them as fast
7 as possible.

8 MR. RENDINI: I will have to speak to
9 people back at my office to determine what they will
10 need and we will have to hammer it out.

11 MR. POWERS: Just tell me what you
12 need and we will get it to you.

13 MR. RENDINI: So the deposition is
14 suspended with respect to paragraph number five of
15 Schedule A and paragraph D of Schedule B. Mr.
16 Nelson, we have discussed previously, sir, the use
17 of vinyl chloride monomer at the Monsanto
18 Springfield facility.

19 Do you have any knowledge as to the
20 source of the vinyl chloride monomer that was used
21 at the Monsanto facility in Springfield between 1947
22 and 1983?

23 THE WITNESS: Yes.

RSV0022279

1 Q. (BY MR. RENDINI) What is the source of
2 your knowledge?

3 A. The source is based on a review of the
4 records and discussions of the previously mentioned
5 predecessors of mine in the safety organization as
6 to this information.

7 Q. Do any of the records which you have
8 produced today reflect the origin of any of the VCM
9 that was used at the Springfield facility?

10 A. Yes; they do.

11 Q. Could you show me, out of this set of
12 documents that you have produced, which ones reflect
13 the origin of materials of VCM?

14 A. Document noted --

15 Q. (Interposing) Just pass them to me and I
16 will have them marked.

17 A. (Witness handing documents).

18 MR. RENDINI: If we could mark these
19 sequentially?

20 (Defendant's Exhibit
21 5-12 offered and marked
for identification)

22 Q. (BY MR. RENDINI) Mr. Nelson, I am going
23 to hand you documents which have been marked numbers

RSV0022280

1 five through twelve for identification. Can you
2 tell me, sir, if those are the documents that you
3 have just picked out as referring to the origin of
4 VCM which was used at the Springfield facility of
5 Monsanto? (Indicating)

6 A. Yes.

7 Q. Are all of those documents those which
8 you have produced today in response to the subpoena?

9 A. Yes.

10 Q. I take it, thus, that all of these
11 documents originated from the D-12 file?

12 A. Yes.

13 Q. I refer to document Exhibit Number 5
14 which is dated February 28th, 1974. Can you tell us
15 what that is, sir?

16 A. It is titled "Supplemental VCM" and it
17 talks about sales projection or projection of needs
18 of vinyl chloride monomer and arrangements that have
19 been made between Monsanto and B.F. Goodrich at
20 Calvert City, Kentucky.

21 Q. I think that is enough for identification
22 purposes. Thank you. Exhibit Number 5 was a
23 two-page document, correct?

RSV0022281

1 A. Yes.

2 Q. I am going to show you a one-page
3 document which was is marked Exhibit Number 6 for
4 identification which bears the date January 7,
5 1972.

6 Can you tell me what that is, sir?
7 (Indicating)

8 A. This is a follow-up letter regarding the
9 vinyl chloride monomer regarding a tank car
10 incident.

11 Q. I will show you now an exhibit marked
12 Number 7, a two-page exhibit which is dated
13 December 10, 1971.

14 Can you tell me what this is?
15 (Indicating)

16 A. This letter references Dow vinyl chloride
17 monomer.

18 Q. Is that a letter, sir, or an internal
19 memo or what?

20 A. This is an internal memo.

21 Q. Of Monsanto?

22 A. Yes.

23 Q. Let me show you another document, Exhibit

RSV0022282

1 Number 8 for identification, which is one page and
2 which bears the date March 5, 1972.

3 Can you tell me what that is?

4 (Indicating)

5 A. This letter is in reference to the vinyl
6 chloride monomer testing and pumping and it is a
7 procedure clarification -- an internal document in
8 Monsanto.

9 Q. Again, another one-page document, Number
10 9 for identification dated October 24, 1968.

11 Can you tell me what that is?

12 (Indicating)

13 A. A letter on the Dow contract, vinyl
14 chloride monomer supply, an internal Monsanto
15 document.

16 Q. Again, another one-page document, Number
17 10 for identification, with the date June 3, 1968.

18 Can you tell me what that is, sir?

19 (Indicating)

20 A. It is a letter involving clearance of
21 vinyl chloride tank cars. It is an internal
22 Monsanto document.

23 Q. Number 11 for identification, February 9,

RSV0022283

1 1968, another one-page document.

2 Can you tell me what that is?

3 (Indicating)

4 A. It is a letter regarding vinyl chloride
5 monomer, off spec -- out-of-specification material,
6 and it is an internal Monsanto document.

7 Q. Finally, Exhibit Number 12 for
8 identification, another one-page document bearing
9 the date of October 5, 1956.

10 Can you tell me what that is, sir?

11 (Indicating)

12 A. This is a memo on vinyl chloride from
13 Goodrich.

14 Q. Is that an internal memo?

15 A. This is an internal document; yes --
16 internal Monsanto.

17 Q. Sir, do any of these documents which you
18 have referred to -- Exhibits 5 through 12 -- do any
19 of these memorialize or evidence any purchases of
20 vinyl chloride made by Monsanto?

21 A. They refer to shipments of material made
22 by a supplier to Monsanto of vinyl chloride monomer.

23 Q. Do you know if any of them reflect

RSV0022284

1 purchases of vinyl chloride monomer?

2 A. To the best of my recollection, they may
3 refer in some instances to swaps or exchanges but I
4 don't recall whether or not there is a direct
5 commentary on purchases.

6 Q. When you refer to swaps and exchanges,
7 would you tell me what you mean by swaps and
8 exchanges?

9 A. My understanding of such agreements in
10 the industry are business arrangements where
11 manufacturers of similar commodity chemicals will
12 exchange supplies based on their own supply and
13 demand situations and enter into agreements to carry
14 out this exchange.

15 Q. Do you know of any swap or exchange
16 agreements that were in effect between Monsanto and
17 any other corporation regarding VCM between 1947 and
18 1983?

19 A. Anything other than those -- the only
20 reference I would have are those that are in the
21 documents we have just discussed.

22 Q. So your understanding of any swap
23 agreements or your knowledge -- strike that. Your

RSV0022285

1 knowledge of any swap or exchange agreements are
2 limited to the information contained in Exhibits
3 Number 5 through 12?

4 A. Yes.

5 Q. In the course of performing your duties
6 at Monsanto since the time of your first employment
7 in 1966, have you ever participated in the formation
8 or the negotiation of any such swap or exchange
9 agreement?

10 A. No.

11 Q. Have you ever swapped or exchanged
12 materials pursuant to the terms of any such swap or
13 exchange agreement?

14 A. No.

15 Q. That is not part of your responsibility,
16 is it?

17 A. That is right.

18 Q. And it never has been, has it?

19 A. No.

20 Q. You don't know if any of the VCM which is
21 mentioned in Exhibits Number 5 through 12 was the
22 subject of a purchase or a swap or an exchange, is
23 that correct?

RSV0022286

1 A. That is correct.

2 Q. Going back to Exhibit Number 4 which is
3 the typewritten response, Schedule A, item 2,
4 response under small b, did you prepare the response
5 under small b, sir?

6 A. Yes.

7 Q. You mention in this response that
8 Monsanto's Springfield plant purchased vinyl
9 chloride monomer from Dow Chemical Company?

10 A. Yes.

11 Q. Is the source of your knowledge that --
12 what is the source of your knowledge that vinyl
13 chloride monomer was purchased from Dow Chemical
14 Company?

15 A. The records which we have just discussed,
16 Exhibits 5 through 12, plus information verbalized
17 to me from Mr. Strzepa and Mr. Fletcher in their
18 conversations with the employees and former
19 employees that had been identified in the purchasing
20 organization -- Mr. Smith and Mr. Gormally.

21 Q. So Mr. Smith -- what you are saying is
22 that you were told by Mr. Strzepa and Mr. Fletcher
23 that Mr. Smith and Mr. Gormally and Mr. Bourget

RSV0022287

1 could remember purchases of vinyl chloride coming
2 from Dow Chemical?

3 A. Yes.

4 Q. Are you aware of any documentation of
5 those purchases, other than Exhibits Number 5
6 through 12?

7 A. No; I am not.

8 Q. To your knowledge, was there ever
9 documentation of such purchases?

10 A. There would have been purchase agreements
11 at the time of purchase; yes. That is the formal
12 procedure of the company.

13 Q. What if there was a swap or exchange?

14 A. I can't answer that. I am not aware of
15 an answer for that or the handling of an exchange
16 agreement. I don't have information on that.

17 Q. Which of these documents evidence
18 purchases from Dow?

19 A. Exhibit Number 6, Exhibit Number 7,
20 Exhibit Number 8, Exhibit 9, Exhibit 10.

21 Q. In Exhibit Number 6, I see the mention of
22 Dow's name but I don't see anything on this document
23 reflecting VCM, itself or VCM passing from Dow to

RSV0022288

1 Monsanto. (Indicating)

2 A. Well, there are several references
3 concerning VCM car inspection in general. If you
4 read further in the note, it says "as far as I can
5 determine, the car went directly from Springfield to
6 Dow, thence to Texas City."

7 Dow should have inspected the car prior
8 to loading for Texas City, Dow referring to Dow
9 Chemical Company, Texas City referring to Monsanto
10 Texas City plant.

11 Q. So what you are saying there, Dow was
12 shipping to Texas City?

13 A. That is what the reference is.

14 MS. BURGER: I am going to object to
15 the form of the questions. It seems to me the
16 documents are going to speak for themselves and Mr.
17 Nelson is apparently not the person who is competent
18 to tell us what these documents say.

19 I would hesitate to have him be the
20 person who was going to be describing the contents
21 of documents.

22 MR. TOURTELOTTE: Off the record.

23 (Off record discussion)

RSV0022289

1 Q. (BY MR. RENDINI) Again, sir, with
2 reference to Exhibits Number 5 through 12, can you
3 tell me if any of those documents reflect purchases
4 of VCM from -- made by Monsanto from B.F. Goodrich?

5 A. Exhibit Number 5 references the B.F.
6 Goodrich inventory that was offered to us and a
7 description of handling of the billing, noting that
8 "this is essentially a pound-for-pound swap of
9 material."

10 It gives a contact referencing B.F.
11 Goodrich Chemical Company, 6100 Oak Tree Road,
12 Independence, Ohio, referencing vinyl chloride
13 monomer.

14 Q. Any other documents?

15 A. Exhibit Number 12 references vinyl
16 chloride from Goodrich, our purchase order T 31910.

17 Q. So Exhibit Number 5 and Exhibit Number
18 12, then?

19 A. Yes.

20 Q. Are you aware of any other documents in
21 Monsanto's possession which indicate that any VCM
22 from B.F. Goodrich was purchased by Monsanto?

23 A. Not any other direct documents, no, other

RSV0022290

1 than those that I have mentioned in terms of
2 previously answered interrogatories as we have
3 discussed throughout the deposition today.

4 Q. When you talk about previously answered
5 interrogatories --

6 A. (Interposing) Regarding the Cullinan and
7 Warren cases. They would not have included this
8 information, however, because this was just
9 discovered.

10 Q. This information from file D-12 is
11 information in addition to whatever was replied to
12 in the Cullinan case?

13 A. That is correct.

14 Q. From where would purchase orders
15 originate within Monsanto for VCM that was bound for
16 the Springfield plant?

17 A. They should originate from the
18 Springfield plant.

19 Q. Was there a purchasing organization
20 within the Springfield plant?

21 A. Yes.

22 Q. Are you aware of who was in charge of the
23 Purchasing Department at Springfield prior to your

RSV0022291

1 employment in 1966?

2 A. No; not specifically.

3 Q. Since 1966, do you know who has been in
4 charge of the Purchasing Department?

5 A. The two names which I included earlier
6 were those of Charles Smith and Lawrence Gormally.

7 Q. So the gentlemen who are reflected in
8 Exhibit Number 4, Mr. Smith and Mr. Gormally, were
9 in charge of the Purchasing Department?

10 A. Yes.

11 Q. Are you familiar with the procedures used
12 to purchase -- used in the Purchasing Department to
13 purchase VCM?

14 A. I have not executed those but I am
15 familiar with the -- I think familiar with the
16 procedure; yes.

17 Q. In general, what is the procedure?

18 A. It is to contact the supplier and
19 essentially provide a written order for the purchase
20 of the material, stipulating the quantity and price,
21 delivery requirements, timing. Essentially I
22 believe that is the general procedure.

23 Q. Are copies of those purchase orders sent

RSV0022292

1 to the suppliers?

2 A. Copies of the purchase orders are sent to
3 the suppliers; yes.

4 Q. In the case of a swap or an exchange,
5 does the Purchasing Department generate any
6 documentation of the swap or exchange?

7 A. I don't know.

8 Q. Do you know if any other department or
9 division within Monsanto, the Springfield facility,
10 would generate documentation reflecting a swap or
11 exchange of material?

12 A. No; I do not know.

13 Q. Did the Springfield facility ever
14 purchase VCM from the Texas City facility?

15 A. To the best of my knowledge, that was the
16 primary source of vinyl chloride monomer for the
17 Springfield plant.

18 Q. Would that have been in the form of a
19 purchase with a purchase order coming from the
20 Purchasing Department in Springfield?

21 A. To my understanding, it would have been
22 an internal bookkeeping transfer and not a formal
23 purchase order written between Monsanto and another

RSV0022293

1 company.

2 Whereas it is an internal exchange, it
3 would be an accounting transfer rather than a
4 purchase order.

5 Q. Do you know how that transfer would be
6 memorialized in documents?

7 A. Accounting ledgers would show that.

8 Q. Would those ledgers have been destroyed
9 in the course of the implementation of Monsanto's
10 document retention policy?

11 A. Yes.

12 Q. Where are accounting ledgers kept at this
13 time?

14 A. I believe they are all -- well, some of
15 them are in the plant and there is an external
16 storage site. I am not sure where that is, now. I
17 am aware that there is one but I do not know where
18 it is.

19 Q. Where is the Accounting Department in the
20 plant?

21 A. The Accounting Department is now located
22 in Building Fourteen.

23 Q. Is that where the ledgers would be

RSV0022294

1 stored?

2 A. Some of the ledgers would be stored th re
3 and some of the ledgers would be stored in Building
4 Eleven.

5 Q. When you say the primary source of VCM
6 was the Texas City plant, do you know what
7 proportion of VCM used at the Springfield plant
8 originated from the Texas City plant?

9 A. It is my understanding that between
10 eighty and ninety percent of the material consumed
11 at Springfield was provided from the Texas City
12 facility.

13 Q. What is your understanding based upon?

14 A. Discussions with Mr. Fletcher and Mr.
15 Strzepa and again, reading information from past
16 deliberations on the vinyl chloride manufacture.

17 Q. When you say reading information with
18 regard to past deliberations, are you referring to
19 any specific documents?

20 A. To the best of my knowledge, background
21 information for the Cullinan and Warren case.

22 Q. Where is that information located?

23 A. It is located in the safety

RSV0022295

1 superintendent's office, Building Eleven of the
2 plant.

3 Q. Is that part of the Cullinan file that
4 you referred to before?

5 A. Yes.

6 Q. Is any other part of that information
7 contained in any other file?

8 A. Not to my knowledge.

9 Q. So what you are referring to is all
10 Cullinan case material?

11 A. It could also be the John Warren case. I
12 am not -- I don't have a specific recollection of
13 where it came from.

14 Q. Do you have a separate file on the John
15 Warren case?

16 A. Yes.

17 Q. Where is that kept?

18 A. In the safety superintendent's office in
19 Building Eleven.

20 Q. Are both of those files, the Cullinan and
21 Warren files in your custody?

22 A. Yes.

23 Q. They have not been produced today, have

RSV0022296

1 they?

2 A. No.

3 Q. So it is your understanding that the
4 eighty to ninety percent of the VCM used at the
5 Springfield facility was Monsanto's -- was the
6 product of the Monsanto plant in Texas City,
7 correct?

8 A. Yes.

9 Q. And it would have been that ten to twenty
10 percent that would have been the subject of
11 purchases or swaps or exchanges with other
12 suppliers, is that correct?

13 A. Yes.

14 Q. You stated before that you did not know
15 when the Texas City plant began to produce vinyl
16 chloride, is that correct?

17 A. Yes.

18 Q. Do you know when the Texas City plant
19 began to ship vinyl chloride to the Springfield
20 facility?

21 A. No.

22 Q. Over what period of time did the Texas
23 City plant's shipments to Springfield comprise

RSV0022297

1 eighty to ninety percent of Springfield's supply of
2 VCM?

3 A. My understanding, it is over the life of
4 the manufacturing operation, whatever the extent of
5 that was, that Monsanto would have been the primary
6 supplier, which is common. Economically, that is
7 how you do your business. If you make it yourself,
8 then you use it yourself.

9 Q. So as long as the Texas City plant was in
10 operation, it was supplying eighty to ninety perc nt
11 of the Springfield plant's needs?

12 A. That question depends on -- the answer to
13 that question depends on when the vinyl chloride
14 operation was shut down at the Indian Orchard
15 facility -- or the Springfield facility -- so I
16 can't say that that was -- that that statement is
17 true.

18 Suffice it to say that as long as Texas
19 City was manufacturing vinyl chloride monomer and
20 the Springfield facility was using vinyl chloride
21 monomer to produce a product, then that was the
22 supplier of eighty to ninety percent of the raw
23 material.

RSV0022298

1 Q. So as long as Springfield was using vinyl
2 chloride monomer, eighty to ninety percent of it was
3 coming from Texas City?

4 A. That is correct.

5 Q. Providing, of course, that Texas City was
6 in operation at that time?

7 A. Yes.

8 Q. But you can't say what the beginning and
9 ending points were?

10 A. I can find the information but I don't
11 have it.

12 Q. Where would the information be located?

13 MR. POWERS: Can we go off the record
14 for a second?

15 (Off record discussion)

16 Q. (BY MR. RENDINI) Mr. Nelson, I understand
17 now after a short off the record colloquy with
18 counsel that your knowledge of the proportion of VCM
19 used by the Springfield plant and originating from
20 the Texas City plant is based upon your
21 conversations with Mr. Fletcher and with Mr. Strzepa
22 and also upon your review of interrogatory answers
23 in the Cullinan case, is that correct?

RSV0022299

1 A. And possibly the Warren case; yes.

2 MR. RENDINI: Let's go off the record
3 for a second.

4 (Off record discussion)

5 MR. RENDINI: Read back the last
6 question, please.

7 (Record read as
8 requested)

9 Q. (BY MR. RENDINI) Mr. Nelson, we have had
10 another short colloquy between counsel and we
11 referred to the D-12 file.

12 Could you tell me what the D-12 file is,
13 please?

14 A. The D-12 file was referenced in an
15 earlier discussion during the day. It is something
16 that evolved from a record search in the
17 Transportation and Material Handling Department.
18 The D-12 file was specifically the storage file of
19 the file which the retired supervisor, Joe Tierney,
20 kept on the storage and handling of vinyl chloride
21 monomer.

22 In reviewing this file for the deposition
23 today, I located information on storage and other
relevant pieces of information which I felt dealt

RSV0022300

1 with the purchase or at least the handling of vinyl
2 chloride monomer from a number of suppliers and
3 therefore brought this forth as evidence in today's
4 deposition.

5 Q. The D-12 file was a file kept by Mr.
6 Tierney?

7 A. Yes.

8 Q. The interrogatory answers that we
9 referred to before, the Cullinan interrogatory
10 answers which you have reviewed, do you know what
11 the source of the information was upon which those
12 answers were based?

13 A. (No response).

14 Q. Strike that. Did you participate in
15 drafting those answers?

16 A. Yes.

17 Q. Do you know what the source of
18 information reflected in those answers were?

19 A. The source, to the best of my knowledge,
20 was, as I mentioned, discussions with previous
21 safety superintendents, Fletcher and Strzepa -- and
22 their capturing verbalizations of people's
23 recollections, primarily.

RSV0022301

1 Q. So the interrogatory answers that you
2 have referred to -- the Cullinan interrogatory
3 answers -- reflect memories of Mr. Strzepa and Mr.
4 Fletcher, is that correct?

5 A. And the other people mentioned in those
6 particular interrogatories.

7 Q. Is that Mr. Smith and Mr. Gormally and
8 Mr. Bourget?

9 A. Yes.

10 Q. Would there be any individuals other than
11 Mr. Smith, Mr. Gormally and Mr. Bourget?

12 A. There may have been an interim
13 supervisor, David Gendron. Again, I don't
14 specifically recall whether he was in the
15 interrogatory. When these cases come up every
16 couple of years, it is hard to keep track of all of
17 the players.

18 Q. Where is Mr. Gendron now?

19 A. He was previously identified. He is the
20 technical services superintendent at the Springfield
21 facility.

22 Q. He is still employed by Monsanto?

23 A. Yes.

RSV0022302

1 Q. As I understand it, all of the documents
2 reflecting the purchase of VCM have been destroyed
3 by Monsanto, is that correct?

4 A. That is correct, to the best of my
5 knowledge.

6 Q. Other than what has been produced today,
7 is that correct?

8 A. To the best of my knowledge; yes.

9 Q. At the time that the Cullinan
10 interrogatory answers were prepared, had the
11 documents reflecting the purchase of PVC been
12 destroyed?

13 A. Yes; to the best of my knowledge.

14 Q. So those interrogatory answers do not
15 rest upon those documents?

16 A. Again, to the best of my knowledge, that
17 is correct.

18 Q. So all of the information that you have
19 with regard to the amount of VCM used by the
20 Springfield plant and the origin of the VCM used by
21 the Springfield plant are all based on the
22 recollections of the individuals we have mentioned
23 before, is that correct?

RSV0022303

1 A. That is correct, plus the information
2 introduced today in Exhibits 5 through 12.

3 Q. You did not speak to those individuals
4 whom we have mentioned just a few moments ago with
5 respect to this subpoena but with respect to some
6 prior investigation, is that correct?

7 A. I spoke to none of these individuals in
8 preparing for this deposition today. I simply
9 reviewed past records which have answered the same
10 questions.

11 Q. So the conversations that you had with
12 Mr. Fletcher and Mr. Strzepa occurred previous to
13 the subpoena in this case?

14 A. Yes.

15 Q. Do you know how long ago they occurred?

16 A. I would assume it would have been at the
17 time of the Cullinan deposition; and I don't recall
18 when that was.

19 Q. Do you know if it was more than a year
20 ago?

21 A. It was more than a year ago. I would say
22 several years ago, maybe 1986 to 1988. 1988,
23 probably.

RSV0022304

1 MR. POWERS: Cullinan was filed in
2 1985. You are talking probably 1987.

3 Q. (BY MR. RENDINI) Aside from the documents
4 that are Exhibits 5 through 12, do you have any
5 information with regard to the date of delivery of
6 any shipment of VCM to the Springfield plant?

7 A. I haven't been aware of any.

8 Q. Are you aware of any documentation that
9 exists in Monsanto's possession which would reveal
10 the dates of any shipments being delivered to
11 Springfield?

12 A. No.

13 Q. Are you aware of the manner in which
14 vinyl chloride monomer would arrive at the
15 Springfield plant?

16 A. I am aware of the transportation methods;
17 yes.

18 Q. Did you become aware of these
19 transportation methods in the course of performing
20 your own functions?

21 A. No.

22 Q. How did you become aware of these
23 methods?

RSV0022305

1 A. Through reading information such as was
2 done preparing for today's deposition, discussions
3 with Mr. Fletcher and Mr. Strzepa regarding past
4 preparations for similar information, and an
5 understanding of how you transport compressed
6 gasses.

7 Q. Have you ever spoken with or conferred
8 with any Monsanto employees who would have been on
9 the scene at the time of VCM deliveries?

10 A. Not about such deliveries; no.

11 Q. Do know who, at Monsanto -- present or
12 past -- would have knowledge of the delivery
13 process -- personal knowledge of the delivery
14 process?

15 A. Mr. Tierney, as I referenced, who was a
16 former tank farm supervisor would have personal
17 knowledge and Mr. Bourget and possibly Mr. Gendron,
18 who we mentioned as supervisors.

19 Q. Can you tell us how deliveries were made
20 of VCM?

21 A. Again, it is my understanding that they
22 were in bulk tank cars in a compressed gas form.
23 The majority of shipments I have read about through

RSV0022306

1 this information I would assume was transported in
2 this manner.

3 I believe, however, that they were also
4 transported by tank truck and by cylinder of
5 containers that were maybe a thousand pounds or
6 fifteen hundred pounds.

7 Q. How are cylinders transported?

8 A. By truck as well, I believe.

9 Q. But not by tank truck?

10 A. Well, not by tank truck, per se.

11 However, there is a specific term -- and I can't
12 recall the terminology in regards to the Department
13 of Transportation understanding -- but essentially
14 it is not a tank car -- it is not a tank truck per
15 se in that it is one container, but it may be a
16 group of several cylinders that are anchored on to a
17 bed and are transported on a multi-axle vehicle.

18 Q. Did you ever become aware of -- strike
19 that.

20 Would the VCM coming to Springfield from
21 the Texas City plant -- would that come in tank cars
22 or tank trucks or by some other conveyance?

23 A. To the best of my knowledge, it would

RSV0022307

1 have been by tank car.

2 Q. So we are talking about railroad
3 transport?

4 A. Correct.

5 Q. Were the tank cars marked in any
6 particular way from Texas City?

7 A. I can't answer that. I never observed
8 them. If they were -- they were hazardous materials
9 and they were required to be marked in accordance
10 with Department of Transportation regulations.

11 Q. Would they be marked with their point of
12 origin -- and by origin, I mean the origin of the
13 VCM contained within?

14 A. That is difficult to say. There were
15 cars that were owned by Monsanto or leased by
16 Monsanto that would have been put in service for
17 that specific material.

18 I don't recall if it is a requirement
19 that the home port be assigned labeling on the tank
20 car. I don't recall that.

21 Q. You say you never observed the tank cars,
22 yourself, correct?

23 A. That is correct.

RSV0022308

1 Q. So how do you know -- what is the source
2 of the information that you have just described?

3 A. The source of information is my
4 background in hazardous material transportation.

5 Q. Are those DOT regulations that you are
6 referring to?

7 A. Some of them are and some of them are
8 Association of American Railroad Protocol
9 assignments. They are not specific regulations but
10 it is a type of communications that is expected of
11 rail transportation.

12 Q. So you are assuming that the rail cars
13 would be labeled as required by the professional
14 associations and by the DOT?

15 A. Yes.

16 Q. Did you ever see or observe or were you
17 ever in any other way informed about any railroad
18 cars or any trucks bearing VCM from some source
19 other than the Texas City plant?

20 A. I never observed those. Again, the
21 information in Exhibits 5 through 12 and discussions
22 with Mr. Fletcher and Mr. Strzepa would indicate
23 that there were shipments made from other companies.

RSV0022309

1 Q. But as to how those shipments may have
2 been marked or packaged, do you have any information
3 with regard to that?

4 A. I do not have any specific information
5 other than, again, the written reference to various
6 tank car quantities which are contained within
7 Exhibits 5 through 12 and the logical economic
8 significance of shipping in as large a bulk quantity
9 as you can from the standpoint of making ten
10 deliveries at a thousand pounds versus one delivery
11 at ten thousand pounds.

12 Q. So given the quantities that are
13 mentioned in Exhibits 5 through 12, you are assuming
14 that the only economic way to ship them would be by
15 tank car?

16 A. The most economically feasible way would
17 be by tank car.

18 Q. So it appears to you, then, that Exhibits
19 5 through 12 refer to rail shipments, correct?

20 A. Yes.

21 Q. Do you know if any tank cars, not limited
22 to VCM, from B.F. Goodrich were ever on the premises
23 of the Springfield plant?

RSV0022310

1 A. I am not aware of any; no.

2 Q. If tank cars from any outside source
3 including B.F. Goodrich were ever on the plant,
4 would their presence be reflected by any sort of
5 documentation?

6 A. There would be documentation in the
7 Traffic Department in terms of way bills and the
8 types of tracking documents that we would use inside
9 the plant while those carrying vehicles are on the
10 premises.

11 Q. Would that documentation be stored for
12 any length of time?

13 A. It would not exceed five years' storage,
14 according to the records retention manual.

15 Q. So by now, would that all be destroyed?

16 A. Yes.

17 Q. How are the provisions of the records
18 retention manual enforced?

19 A. There is a periodic audit. There is an
20 annual reminder that is issued by the -- usually by
21 the personnel manager of the site reminding
22 people -- and I don't recall when the last audit
23 was. It is not annual but it is periodically done.

RSV0022311

1 Q. Who performs the audit?

2 A. Many times it is performed as a part of
3 the comptroller's audit function. We do it
4 internally from our St. Louis group and the
5 corporation supplies people who, as a part of their
6 document research and financial research in each of
7 the sites, will also check on records retention.

8 Q. As part of the audit, are documents which
9 are over the age limit destroyed?

10 A. Unless they are a part of any litigation
11 or have been called upon by some legal action to be
12 retained; yes.

13 Q. Again with regard to the delivery of VCM
14 to the Springfield facility, are you aware of any
15 testing done to determine the contents of any tank
16 cars that arrive at the Springfield facility?

17 A. In general terms, the practice has been
18 to check quality or verify that the material in the
19 container is what was ordered. Specifically, I am
20 not aware of how this has been done but that is a
21 common practice with all incoming raw materials in
22 bulk quantity.

23 Sometimes, if we have a quality problem,

RSV0022312

1 we will do it in drum quantity -- smaller quantities
2 as well.

3 Q. Is that process of testing or checking
4 quality reflected in any of the documents that you
5 have brought with you today?

6 A. I believe it is referenced in this, which
7 isn't marked, but it is standard procedure for a
8 tank car.

9 MS. BURGER: Let's go off the
10 record.

11 (Off record discussion)

12 MR. RENDINI: Let's mark these as the
13 next exhibits.

14 (Defendant's Exhibit
15 13-23 offered and
16 marked for
17 identification)

18 Q. (BY MR. RENDINI) Mr. Nelson, I am going
19 to hand you an exhibit which has been marked Exhibit
20 Number 13. It is a five-page document entitled
21 "Monsanto Chemical Company Plastics Division,
22 Springfield, Massachusetts."

23 Can you tell me what this is, sir?
(Indicating)

A. It is entitled "Standard Procedure for

RSV0022313

1 Tank Car Unloading Vinyl Chloride" and it is an
2 internal Monsanto document.

3 Q. Did you produce that today?

4 A. Yes.

5 Q. Did that come out of the D-12 file?

6 A. Yes.

7 Q. Let me now show you Exhibit Number 14,
8 which is a two-page document. It is dated July 24,
9 1975 and it records its subject as being "Tank Farm
10 K-1 VCM Shutdown."

11 I am going to ask you, sir, if you have
12 seen this before? (Indicating)

13 A. Yes.

14 Q. What is it, please?

15 A. It is a document identifying tank farm
16 K-1 vinyl chloride monomer shutdown dated July 24th
17 and it is an internal Monsanto document.

18 Q. Was that produced by you today?

19 A. Yes.

20 Q. Did that come out of the D-12 file?

21 A. Yes.

22 Q. Again, a one-page document which has a
23 map on it entitled "Notice," and it is Exhibit

RSV0022314

1 Number 15 for identification.

2 Can you tell me what that is?

3 (Indicating)

4 A. I believe this is an addendum to the
5 previous document, I think, tank farm K-1. I
6 believe it is supposed to be an attachment to that.

7 Q. Let me show you Exhibit Number 16, which
8 is another one-page document? (Indicating)

9 A. Okay; I am sorry. These two documents go
10 together "Requirements for VCM Regulated Area" and a
11 notice with a map on it stating stipulations as to
12 the identification of the regulated area.

13 Q. The map -- what does the map purport to
14 show?

15 A. Portions of the polyvinyl chloride
16 manufacturing area.

17 Q. At Indian Orchard?

18 A. Yes.

19 Q. Do you know the approximate date of that
20 map?

21 A. No; I do not, but when it was provided to
22 you, it would have been in some sequence, I would
23 guess from Mr. Tierney's files and that would put it

RSV0022315

1 in the range of between 1975 -- in 1975, I would
2 guess.

3 Q. So in or about 1975?

4 A. It appears to be a shutdown definition of
5 what the area would be observed as in accordance
6 with OSHA requirements of identification.

7 Q. So you have produced both 15 and 16
8 today?

9 A. Yes.

10 Q. And those are both from the D-12 file?

11 A. Yes.

12 Q. Let me show you a three-page document
13 which is Number 17 for identification and it is
14 dated January 8, 1975, "Subject: VCM Storage
15 Loading and Storage Shipping."

16 Can you tell me what that is, sir?

17 (Indicating)

18 A. As you have mentioned, it is an internal
19 Monsanto memo on recovered vinyl chloride monomer
20 storage loading and shipping shipping. It was
21 produced as part of the shutdown procedure for
22 cleaning out the process.

23 Q. What is recovered VCM?

RSV0022316

1 A. Part of the system where material that is
2 not polymerized, vapors are recovered, condensed and
3 turned into a liquid and recovered and recycled into
4 the system.

5 It is my understanding from this document
6 that this was a procedure on how to handle that in
7 removing it from the system as part of the cleanout
8 upon shutdown.

9 Q. Was this document also produced by you
10 today?

11 A. Yes.

12 Q. And that document number 17, did it
13 originate from the D-12 file?

14 A. Yes.

15 Q. Let me show you a two-page document
16 marked Exhibit Number 18 dated October 2, 1973.

17 Can you tell me what that is?

18 (Indicating)

19 A. This is a discussion of removal of number
20 3, 4 and 5 tanks from vinyl chloride monomer
21 service. It is a two-page document and it deals
22 with the Central Engineering Department discussion
23 of the topic.

RSV0022317

1 It is an internal Monsanto document from
2 file D-12 which was produced today.

3 Q. A one-page document, Number 19?

4 (Indicating)

5 A. Flammable and dangerous articles.

6 Q. Is there is date on that, sir?

7 A. Yes; this was written December 6, 1971.

8 It is a discussion of the Department of
9 Transportation regulations regarding vinyl chloride
10 monomer and it was produced today. It is part of
11 file D-12.

12 Q. Exhibit Number 20 for identification?

13 (Indicating)

14 A. It is dated January 12, 1972. It deals
15 with relief valve inspections, it is in process
16 storage and other auxiliary vessels. It was
17 produced today and it is part of file D-12.

18 Q. Number 21 for identification, another
19 one-page document? (Indicating)

20 A. A memo dated June 7th, 1968 regarding the
21 use of thirty-eight thousand gallon vinyl chloride
22 monomer cars. It was produced today and it is part
23 of file D-12.

RSV0022318

1 Q. Number 22 for identification, another
2 one-page document? (Indicating)

3 A. That is a two-page document.

4 Q. Then I hand you Number 23 along with it.
5 (Indicating)

6 A. Okay; they are both parts of the same
7 thing. This is a permit pursuant to the cover
8 letter.

9 Q. Which is the permit and which is the
10 cover letter?

11 A. Number 22 is the permit issued by the --
12 I am sorry, is a discussion, a summary letter of an
13 Interstate Commerce Commission letter to the
14 Monsanto Company.

15 Item Exhibit Number 23 is a permit
16 dealing with the authorization to ship vinyl
17 chloride monomer to Monsanto or by Monsanto and
18 these are -- they were produced today and they are
19 parts of file D-12.

20 MS. BURGER: Can I add they are both
21 dated August 7, 1957, is that right?

22 THE WITNESS: Yes.

23 MR. RENDINI: Shall we suspend at

RSV0022319

1 this point?

2 MS. BURGER: Could you just clarify
3 that the exhibits starting with Exhibit Number 3
4 through 23 are the total of the documents that were
5 produced today?

6 Q. (BY MR. RENDINI) Mr. Nelson, aside from
7 the documents which have been marked -- strike that
8 question.

9 Mr. Nelson, the documents marked Exhibits
10 3 through 23, do those documents comprise all of the
11 documents which you brought with you this morning?

12 A. Yes.

13 MR. RENDINI: Okay; we will suspend
14 at this point.

15 (Deposition suspended.)

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RSV0022320

1 COMMONWEALTH OF MASSACHUSETTS

2 COUNTY OF HAMPDEN

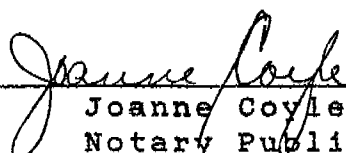
3 I, JOANNE COYLE, a Notary Public within and
4 for the Commonwealth of Massachusetts at large, do
5 hereby certify that I took the deposition of TERRY
6 NELSON, pursuant to the Federal Rules of Civil
7 Procedure on May 8, 1990, at the offices of
8 Morrison, Mahoney & Miller, 1145 Main Street,
9 Springfield, Massachusetts.

10 I further certify that the above named
11 deponent was by me first duly sworn to testify to
12 the truth, the whole truth and nothing but the truth
13 concerning his knowledge in the matter of the case
14 of ALICE L. WARREN, ADMINISTRATRIX OF THE ESTATE OF
15 JOHN H. WARREN, DECEASED vs. THE DOW CHEMICAL
16 COMPANY, ET AL, now pending in the United States
17 District Court for the District of Massachusetts.

18 I further certify that the within testimony
19 was taken by me stenographically and reduced to
20 typewritten form under my direction by means of
21 COMPUTER ASSISTED TRANSCRIPTION; and, I further
22 certify that said deposition is a true record of the
23 testimony given by said witness.

I further certify that I am neither counsel
for, related to, nor employed by any of the parties
to the action in which this deposition was taken;
and further, that I am not a relative or employee of
any attorney or counsel employed by the parties
hereto, nor financially or otherwise interested in
the outcome of the action.

WITNESS my hand and seal this 24th day of
MAY, 1990.


Joanne Coyle
Notary Public
Certified Shorthand Reporter

My commission expires
June 29, 1990

RSV0022321

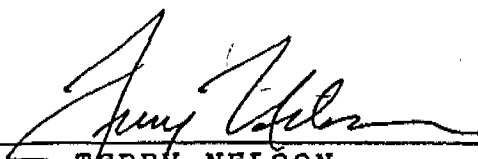
1 I, TERRY NELSON, hereby certify that I have read
2 the foregoing transcript of my testimony given on
3 May 8, 1990 in the above-captioned case and find the
4 same to be true and correct to the best of my
5 knowledge and belief.

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11 TERRY NELSON
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13 jc
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RSV0022322

1 I, TERRY NELSON, hereby certify that I have read
2 the foregoing transcript of my testimony given on
3 May 8, 1990 in the above-captioned case and find the
4 same to be true and correct to the best of my
5 knowledge and belief.

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12 TERRY NELSON
13 June 27, 1990

14 jc
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