

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3 C.A. # 89-30201-F

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

7 VS.

8 THE DOW CHEMICAL COMPANY, ET AL

9
10 DEPOSITION OF: LAWRENCE GORMALLY, taken before
11 Joanne Coyle, Certified Shorthand Reporter,
12 Notary Public pursuant to the Federal Rules of
13 Civil Procedure, at the offices of Robinson
14 Donovan Madden & Barry, 1500 Main Street,
15 Springfield, Massachusetts, on February 25,
16 1991, commencing at 10:00 a.m.

17 APPEARANCES:

18 (PLEASE SEE PAGE 2)

19 Joanne Coyle
20 Certified Shorthand Reporter

21 PHILBIN & ASSOCIATES
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23 Certificate of Proficiency
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RSV0023091

APPEARANCES:

ROBINSON DONOVAN MADDEN & BARRY, 1500 Main Street,
Springfield, Massachusetts, representing the
Plaintiff.

BY: JAMES H. TOURTELOTTE, ESQUIRE

NUTTER, MCLENNAN & FISH, One International Place,
Boston, Massachusetts 02210, representing the
Defendants Dow Chemical, Union Carbide, and
Conico.

BY: SHARON R. BURGER, ESQUIRE and
SUSAN L. PARSONS, ESQUIRE

MORRISON, MAHONEY & MILLER, 250 Summer Street,
Boston, Massachusetts 02210, representing the
Defendant B. F. Goodrich.

BY: JOSEPH R. RENDINI, ESQUIRE

MELICK & PORTER, One Joy Street, Boston,
Massachusetts 02108, representing the
Defendant Monsanto.

BY: ROBERT P. POWERS, ESQUIRE

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I N D E X

WITNESSES: DIRECT CROSS REDIRECT RECROSS

Lawrence Gormally 6

EXHIBITS: DESCRIPTION PAGE

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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 further 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.

RSV0023094

1 LAWRENCE GORMALLY, Deponent, having been
2 first duly sworn, deposes and says as follows:

3 MR. TOURTELOTTE: Mr. Gormally has
4 indicated to me he would wish to read and sign.
5 This is a discovery deposition. I imagine the
6 lawyers would want to make objections but since it
7 is not a trial deposition, the objections will be
8 preserved for later and the later ruling and the
9 witness will be asked to answer over them. Any
10 other stipulations?

11 MS. BURGER: I am not quite sure I
12 followed. My understanding is what we will do is
13 object to the form of the question only and all
14 other objections and motions are preserved until the
15 time of trial.

16 MR. TOURTELOTTE: That is right.

17 MR. RENDINI: I have no objection to
18 that procedure.

19 MR. POWERS: No objection.

20 *****

21

22

23

RSV0023095

DIRECT EXAMINATION BY MR. TOURTELOTTE

Q. May we have your name, sir?

A. Lawrence S. Gormally.

Q. And your address, please?

A. 122 Newton Road, Springfield.

Q. Mr. Gormally, could you give us your age as well, please?

A. Seventy-two.

Q. By whom were you last employed, sir?

A. Monsanto.

Q. I don't mean self-employment. I know you have done some things after that.

A. I am also employed currently by Hampden County.

Q. What do you do for Hampden County?

A. I am a volunteer coordinator at the Hampden County jail and I work two days a week.

Q. When did you retire from Monsanto?

A. January of 1982.

Q. What was your job when you retired?

A. I was superintendent of Material and Handling and Purchasing.

RSV0023096

1 Q. How long had you held that job?

2 A. That particular job I had held since '79.

3 Q. Before you held that job, what was your
4 employment?

5 A. I was in Purchasing at Monsanto,
6 negotiating contracts and I was a contract
7 superintendent from 1969 to '79.

8 Q. When were you first employed at Monsanto?

9 A. 1936.

10 Q. When did you first begin working in
11 purchasing?

12 A. '51 -- '50; I am sorry, '50.

13 Q. Between, say, 1940 -- 1942 and 1950, what
14 did you do?

15 A. I was in the U.S. Army for almost four
16 years, two years in the South Pacific. I was an
17 infantry medic.

18 Q. After you left the Army and went back to
19 Monsanto, what did you do?

20 A. I was in Receiving when I went back to
21 Monsanto after World War II -- until '50.

22 Q. You did not know a man by the name of John
23 Warren personally, did you?

RSV0023097

1 A. No.

2 Q. Did you ever hear of John Warren before I
3 talked to you?

4 A. I don't think so; no.

5 Q. While you were employed by Monsanto in
6 Purchasing, did you ever come across a substance
7 known as vinyl chloride monomer?

8 A. Yes.

9 Q. What is your understanding of what that
10 substance is?

11 A. Vinyl chloride monomer is a raw material
12 which was used in the manufacture of vinyl products.

13 Q. Was that vinyl chloride monomer used at
14 Monsanto?

15 A. Yes.

16 Q. Was it used during the years when you
17 worked in Purchasing?

18 A. Yes.

19 Q. In what state is that material delivered or
20 was it delivered to Monsanto?

21 A. I think it is in a gas form. It comes in
22 in the tankers.

23 Q. Do you know whether Monsanto made any of

RSV0023098

1 that substance for its own use?

2 A. Yes.

3 Q. Where did it make the substance?

4 A. Texas City, Texas.

5 Q. Is that the only place, as far as you know,
6 where Monsanto made it?

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

8 Q. Where was the plant at which you worked?

9 A. I worked in four different Monsanto
10 locations.

11 Q. Can you tell us what those four locations
12 were?

13 A. I worked at the Springfield plant in
14 Springfield, Mass.; Cincinnati, Ohio; Trenton,
15 Michigan; and the Bircham Bend plant at Springfield,
16 Mass. -- separate plant.

17 Q. What years did you work at the Springfield
18 plant?

19 A. Well, I worked in the Springfield plant
20 from '36 to '41; the latter part of 1945 to '51 --
21 or '50; Cincinnati, Ohio from '51 to '55; and
22 Trenton, Michigan, I think it was part of '57,
23 '58 -- about a year to a year and a half; back to

RSV0023099

1 the Springfield plant and then I was transferred to
2 Bircham Bend, July of '69.

3 Q. While you were working in the Springfield
4 plant, what was your specific job? What did you do
5 as a person involved in purchasing and contract
6 work?

7 MR. RENDINI: Objection.

8 MS. BURGER: Can I object a moment. I
9 am having a hard time hearing the end of Mr.
10 Tourtelotte's questions because I gather you are
11 anticipating what the end will be. If you wouldn't
12 mind, at least it would help me out, probably the
13 court reporter too, if we get the whole question
14 before you start answering, I would very much
15 appreciate it.

16 THE WITNESS: Sure.

17 MS. BURGER: Thanks.

18 THE WITNESS: Would you repeat the
19 question?

20 Q. (BY MR. TOURTELOTTE) Considering the period
21 of time you worked in the Springfield plant and
22 while you were working as a Purchasing Department or
23 Purchasing Division employee, what was the specific

RSV0023100

1 activity that you did in Purchasing? What was your
2 job?

3 MR. RENDINI: Objection.

4 THE WITNESS: When I first went into
5 purchasing, I was what they called a junior buyer.
6 I started out buying office supplies, different
7 supplies that we used in the plant. Within a few
8 years, I was promoted to senior buyer. I was in
9 charge of raw material procurement.

10 Let me -- I am sorry, let me just
11 backtrack. I was buying supplies until I was
12 transferred to Cincinnati, Ohio.

13 MR. RENDINI: Excuse me?

14 MR. TOURTELOTTE: He was buying
15 supplies until he was transferred to Cincinnati.
16 Okay.

17 THE WITNESS: And in Cincinnati, I was
18 purchasing superintendent and traffic manager until
19 late '55 when I went back to Springfield. Then I
20 got involved in procurement of new plant
21 construction.

22 In '57, we were building the new plant in
23 Trenton, Michigan and I was part of a four-man team

RSV0023101

1 that was sent to Trenton to build a plant. My
2 function was procurement and worked on the site for
3 about a year to a year and a half, came back to
4 Springfield in '57 or '58 and stayed in that for
5 some period of time -- a few years -- and then I was
6 promoted to assistant purchasing agent and I was put
7 in charge of procurement of raw materials and
8 packaging.

9 Q. (BY MR. TOURTELOTTE) When were you put in
10 charge of procurement of raw materials,
11 approximately?

12 A. '58, I think.

13 Q. Before 1959, did you have any familiarity
14 with the method of obtaining raw materials used by
15 the Monsanto Company plant in Springfield?

16 MS. BURGER: Objection.

17 MR. RENDINI: Objection.

18 THE WITNESS: No.

19 Q. (BY MR. TOURTELOTTE) Now after 1959 when
20 you became -- did you say purchasing agent?

21 A. Assistant purchasing agent at that time.

22 Q. What did you learn in regard to procurement
23 of raw materials?

RSV0023102

1 MS. BURGER: Objection.

2 MR. RENDINI: Objection.

3 THE WITNESS: What did I learn?

4 Q. (BY MR. TOURTELOTTE) Let me rephrase it.
5 It is an awful question. How were you initiated
6 into this process of buying raw materials? Was
7 there a training program?

8 A. Yes; I was trained by a man who had been in
9 that function.

10 Q. What was the function that you served?
11 What were you doing?

12 A. Well, one of the -- you would interview
13 salesmen from particular companies who were selling
14 raw materials. You would talk to plant personnel
15 about the requirements. You talked to research
16 people about quality problems, control people about
17 quality problems. You would review raw materials
18 specifications.

19 There was just a series of duties. You had
20 your regular plant meetings with plant personnel,
21 department personnel.

22 Q. When raw materials were purchased, were
23 they purchased pursuant to a contract?

RSV0023103

1 MS. BURGER: Objection.

2 MR. RENDINI: Objection.

3 Q. (BY MR. TOURTELOTTE) You may answer.

4 A. Normally.

5 Q. Do you know how -- let me ask you this,
6 first. I think you already gave the answer but I
7 will make sure.

8 Vinyl chloride monomer was considered to be
9 a raw product, is that right?

10 A. A raw material.

11 Q. Do you know how that was purchased?

12 A. That was purchased in our St. Louis office
13 by our raw material group in St. Louis.

14 Q. Do you know who was responsible for that
15 group?

16 A. Yes; R. H. Burnett -- B-U-R-N-E-T-T.

17 Q. Did you know when that was?

18 A. I would guess from the time we started
19 buying the product until we completed it. I never
20 had -- from the time we started until we completed
21 using the product.

22 Q. Do you know what period of years that would
23 be?

RSV0023104

1 A. No.

2 Q. Was vinyl chloride monomer being purchased
3 when you became assistant purchasing agent?

4 A. Yes.

5 MR. RENDINI: Objection.

6 Q. (BY MR. TOURTELOTTE) Was Mr. Burnett
7 responsible for its purchase at that time?

8 A. Yes.

9 Q. Was it still being purchased when you
10 left -- well, let's back up a little bit.

11 How long did you continue in a purchasing
12 function in the Springfield plant? Until what
13 year?

14 A. Until 1969.

15 Q. During that period from '59 to '69, was
16 vinyl chloride monomer still being purchased through
17 the contracting group in St. Louis?

18 MR. RENDINI: Objection.

19 THE WITNESS: Yes.

20 Q. (BY MR. TOURTELOTTE) After 1969, where did
21 you go?

22 A. To Bircham Bend.

23 Q. And you stayed there until you retired?

RSV0023105

1 A. Yes.

2 Q. Were you in any way associated with the
3 purchase of raw materials at Bircham Bend?

4 A. Yes.

5 Q. Was vinyl chloride monomer among those raw
6 materials?

7 A. No.

8 Q. In addition to Mr. Burnett, do you know of
9 any other persons who worked in the contracting
10 group in St. Louis?

11 MS. BURGER: Objection.

12 MR. RENDINI: Objection.

13 MS. BURGER: Was your question
14 finished?

15 MR. TOURTELOTTE: Yes.

16 MS. BURGER: I stick with the
17 objection but I wanted to make sure you were
18 finished.

19 Q. (BY MR. TOURTELOTTE) Do you know any other
20 individuals who were working with Mr. Burnett?

21 MS. BURGER: Objection.

22 MR. RENDINI: Objection.

23 THE WITNESS: There were several

RSV0023106

1 people that worked with him over the years and I
2 knew all of them.

3 Q. (BY MR. TOURTELOTTE) Who worked as part of
4 Mr. Burnett's group in contracting for raw
5 materials?

6 MR. RENDINI: Objection.

7 MS. BURGER: Objection.

8 THE WITNESS: There was a Mr.
9 Neunebel; there was a Parsons; there was a Mr. --
10 there were a series of men, I just don't rememb r
11 all of their names.

12 Q. (BY MR. TOURTELOTTE) Do you know the names
13 of any specific individuals or any individuals who
14 were specifically involved with the purchase of
15 vinyl chloride monomer?

16 A. I think that was handled by Mr. Burnett.

17 Q. Himself?

18 A. Yes.

19 Q. What was his --

20 A. (Interposing) I am not sure if he delegated
21 it.

22 Q. What was his title, Mr. Gormally?

23 A. I think it was Director of Raw Material

RSV0023107

1 Purchases, I believe.

2 Q. Do you know whether Mr. Burnett is still
3 employed by Monsanto?

4 A. He has retired.

5 Q. Do you know how long ago he retired?

6 A. No.

7 Q. Do you know where he last worked for
8 Monsanto?

9 A. St. Louis.

10 Q. (In regard to the records involving -- that
11 were involved with purchases of raw materials, do
12 you know whether any records were made, first off?

13 A. Oh, yes.

14 Q. Do you know where those records were kept?

15 A. St. Louis.

16 Q. Were any --

17 A. (Interposing) You are talking specifically
18 of VCM?

19 Q. Yes.

20 A. Yes; St. Louis.

21 Q. Were any records at all generated in
22 Monsanto?

23 MS. BURGER: Objection.

RSV0023108

1 MR. RENDINI: Objection.

2 THE WITNESS: You mean Monsanto,
3 Springfield?

4 Q. (BY MR. TOURTELOTTE) Yes; Monsanto
5 Springfield.

6 A. What we would do, we would generate a
7 purchase order in the Springfield plant. The
8 purchase order would list the product and the raw
9 material spec number.

10 That was generated for the purpose of, in
11 turn, generating receiving reports.

12 Q. Let's go to the beginning of that process.
13 Were you familiar with the process for obtaining
14 vinyl chloride monomer in the Springfield plant?

15 A. I think I have already answered that
16 question. Because the contract was handled in St.
17 Louis, I wasn't familiar with the details; no.

18 Q. Can you tell us what was done in
19 Springfield in regard to obtaining and receiving
20 vinyl chloride monomer?

21 MR. RENDINI: Objection.

22 MS. BURGER: Objection.

23 THE WITNESS: We would generate a

RSV0023109

1 purchase order to, in turn, be able to produce
2 receiving reports. We would get information from
3 St. Louis -- I am just trying to think of how this
4 happened.

5 For any raw material that was purchased
6 from any specific vendor, we would issue a purchase
7 order to cover the receipt of the material in the
8 plant.

9 Q. (BY MR. TOURTELOTTE) What was your job in
10 regard to receiving those kinds of materials -- that
11 is VCM?

12 MS. BURGER: Objection.

13 MR. RENDINI: Objection.

14 THE WITNESS: My job would be to have
15 someone in my department generate the purchase order
16 and whatever file -- file whatever documentation
17 that we might get from St. Louis pertaining to a
18 specific contract.

19 There were a number of contracts for many
20 products that they would generate and they would
21 advise us of the products that they were buying. We
22 pretty well had a knowledge of what they handled as
23 opposed to what we handled locally.

RSV0023110

1 Q. (BY MR. TOURTELOTTE) How would you know
2 when to generate a purchase order?

3 MR. RENDINI: Objection.

4 MS. BURGER: Objection.

5 THE WITNESS: We would get
6 requisitions from people within the plant, for
7 example the using department would send us a
8 purchase requisition and that, in turn, would enable
9 us to generate a purchase order.

10 Q. (BY MR. TOURTELOTTE) When you received a
11 requisition from someone else in the plant asking
12 for VCM, what would you do?

13 MS. BURGER: Objection.

14 MR. RENDINI: Objection.

15 THE WITNESS: We would generate a
16 purchase order.

17 Q. (BY MR. TOURTELOTTE) What does that
18 involve? What would you do to generate it?

19 MR. RENDINI: Objection.

20 MS. BURGER: Objection.

21 THE WITNESS: It would be typed on an
22 eight-and-a-half by eleven piece of paper and copies
23 would go to various departments, including the

RSV0023111

1 receiving department.

2 Q. (BY MR. TOURTELOTTE) What would the form --
3 is it a form?

4 A. Yes; purchase order.

5 Q. What would the form say? What specific
6 items of information would it cover?

7 MS. BURGER: Objection.

8 MR. RENDINI: Objection.

9 THE WITNESS: It would have a purchase
10 order number. It would have the name of the vendor,
11 it would have the name of the raw material, the name
12 of the person requisitioning it, raw material
13 specification number and accounting codes.

14 Q. (BY MR. TOURTELOTTE) That would go to
15 several different places within the plant?

16 A. Yes.

17 Q. Where would it go?

18 A. It would go to receiving; a copy would go
19 to T & M.

20 Q. T & M is what, sir?

21 A. Transportation & Materials Department. I
22 think a copy would go to the using department and I
23 believe -- that is it.

RSV0023112

1 Q. So it would be three?

2 A. Yes.

3 Q. And the using department -- what do you
4 mean by that?

5 A. The department that would use the raw
6 material to convert to the finished product.

7 Q. Would you retain a copy?

8 A. We would retain a copy of the purchase
9 order.

10 Q. Once you had generated that order which was
11 copied around the plant, where would the actual
12 direction to deliver the material, itself, be
13 routed?

14 A. It would be on the purchase order.

15 Q. The purchase order goes to St. Louis, have
16 I got that right?

17 MS. BURGER: Objection.

18 MR. RENDINI: Objection.

19 THE WITNESS: No; I don't think so.

20 Q. (BY MR. TOURTELOTTE) Where would it go?

21 A. It would go in the Springfield plant to the
22 various departments.

23 Q. What I guess I am having a problem with --

RSV0023113

1 A. (Interposing) It would go to the vendor.

2 Q. It would go to the vendor?

3 A. Yes.

4 MS. BURGER: I was looking for a
5 question before we got a response.

6 I will object because there was no question
7 before the witness.

8 MR. RENDINI: Objection.

9 Q. (BY MR. TOURTELOTTE) Mr. Gormally, once you
10 had actually generated the purchase order, where
11 would you send it as far as outside of the plant is
12 concerned?

13 A. Okay; we would send it to a vendor. That
14 would be the only copy that would go outside the
15 plant.

16 Q. So it would not go back to St. Louis?

17 A. No.

18 Q. How would you know whether there was a
19 contract in force for a particular product?

20 MS. BURGER: Objection.

21 MR. RENDINI: Objection.

22 Q. (BY MR. TOURTELOTTE) Or raw material, I
23 should say?

RSV0023114

1 MS. BURGER: Objection.

2 MR. RENDINI: Objection.

3 THE WITNESS: Some of the contracts I
4 negotiated, myself. Contracts that were negotiated
5 by a raw material procurement group in St. Louis,
6 they would send us notification of the contract.

7 Q. Do you recall receiving notifications of
8 contracts for VCM?

9 A. No.

10 MR. RENDINI: Objection.

11 Q. (BY MR. TOURTELOTTE) Can you tell me why
12 you don't recall those?

13 MS. BURGER: Objection.

14 MR. RENDINI: Objection.

15 THE WITNESS: I don't think we
16 received copies of the contracts generated or
17 negotiated by our corporate office.

18 Q. (BY MR. TOURTELOTTE) How would you know
19 whether a particular vendor was under contract to
20 Monsanto to deliver the thing that you were
21 purchasing?

22 MS. BURGER: Objection.

23 MR. RENDINI: Objection.

RSV0023115

1 THE WITNESS: They would send us an
2 abstract.

3 Q. (BY MR. TOURTELOTTE) Who would send you the
4 abstract?

5 MR. RENDINI: Objection.

6 MS. BURGER: Objection.

7 THE WITNESS: Our corporate Raw
8 Material Purchasing Department.

9 Q. (BY MR. TOURTELOTTE) That is the department
10 that Mr. Burnett ran in St. Louis?

11 A. Yes.

12 Q. When you said they would send you an
13 abstract, does that mean they sent the Purchasing
14 Department an abstract?

15 A. Yes -- you mean the Springfield
16 Purchasing?

17 Q. Yes.

18 A. Yes.

19 Q. Did anyone else in Springfield receive a
20 copy of that abstract?

21 A. No.

22 Q. You kept those on file in Purchasing?

23 A. Yes.

RSV0023116

1 Q. Once the order was generated -- that is the
2 purchase order that you previously referred to --
3 and it was sent out to the vendor with copies around
4 the plant as you have suggested, what would happen
5 next?

6 MS. BURGER: Objection.

7 MR. RENDINI: Objection.

8 THE WITNESS: The material would start
9 coming in at a specific time and that would be it.

10 Q. (BY MR. TOURTELOTTE) Who, in Springfield
11 in addition to yourself, was responsible for that
12 chain of events that you described, in Purchasing?

13 MS. BURGER: Objection.

14 MR. RENDINI: Objection.

15 THE WITNESS: I had, at different
16 times, different supervisors who supervised me, who
17 were in charge of that department.

18 Q. (BY MR. TOURTELOTTE) Were there also people
19 who worked for you?

20 A. Yes.

21 Q. Who was supervising that department when
22 you left it in 1969?

23 A. Charles Smith.

RSV0023117

1 Q. How long had he been supervising?

2 A. He had been supervising it for, I think
3 about five years.

4 Q. Before Mr. Smith?

5 A. Mr. John Duncan.

6 Q. How long had he been supervisor?

7 A. About ten years.

8 Q. Who worked -- I assume that those people
9 were your direct superiors?

10 A. Yes.

11 Q. Were there people who worked directly under
12 you?

13 A. Yes.

14 Q. Who was your first assistant in 1969?

15 A. At what plant?

16 Q. In Springfield at Monsanto?

17 A. I was not in charge -- I had -- I am trying
18 to think. I had a Walter Fleming working for me; a
19 Mr. Isold. I had several secretaries at various
20 times who worked for me. Did you want all of the
21 names?

22 Q. No; but I would like the names of any
23 individuals who still work at Monsanto and who

RSV0023118

1 worked for you or along side of you for one of the
2 supervisors during the period that you were involved
3 in?

4 A. Jerry Nolet.

5 Q. What was Mr. Nolet's job?

6 MS. BURGER: Objection.

7 MR. RENDINI: Objection.

8 THE WITNESS: He was a chemical buyer.

9 Q. (BY MR. TOURTELOTTE) What does a chemical
10 buyer do?

11 A. Procures chemicals.

12 Q. When you say procures chemicals, what does
13 that mean?

14 A. Buys them -- he would do some contract
15 negotiation under my supervision. He would have --
16 he would perform the same functions as the regular
17 buyer.

18 Q. You indicated that there were records
19 routed around the plant of these purchases of vinyl
20 chloride monomer but in addition to the ones routed
21 around the plant, your own department kept its own
22 copy, is that right?

23 MS. BURGER: Objection.

RSV0023119

1 MR. RENDINI: Objection.

2 THE WITNESS: Correct.

3 Q. (BY MR. TOURTELOTTE) In what form did you
4 keep that record, Mr. Gormally?

5 A. It was kept in a --

6 MR. RENDINI: (Interposing)
7 Objection.

8 THE WITNESS: It was kept in a manila
9 folder, somewhat similar to this. You would keep
10 your purchase order in there.

11 You might keep any pertinent documents
12 relating to it. There might be some correspondence
13 and so forth might be in there.

14 Q. (BY MR. TOURTELOTTE) Would each purchase
15 order have its own manila folder?

16 A. Yes.

17 Q. Do you know what the retention program was
18 for those manila folders at the time you were
19 employed there?

20 A. We had -- at Monsanto we had a record
21 retention program which was put into effect years
22 before I retired. I am not sure when.

23 In the record retention program, it

RSV0023120

1 stipulated how long you would keep certain
2 documents. You would keep contracts X number of
3 years; you would keep purchase orders X number of
4 years; you would keep correspondence X number of
5 years. We would abide by the record retention
6 program to determine when to pitch material, how
7 long to save it.

8 Q. Did you know what the parameters were for
9 retaining material?

10 A. I remember correspondence was one year plus
11 the current year, as I recall.

12 Contracts I think were five years, but I am
13 not positive.

14 Q. Do you recall what the retention policy was
15 for purchase order folders such as those you
16 described a minute ago?

17 A. No.

18 Q. Once you -- what was the limit of your
19 responsibility in regard to seeing that the material
20 which was subject to the purchase order was received
21 by Monsanto?

22 MR. RENDINI: Objection.

23 MS. BURGER: Objection.

RSV0023121

1 THE WITNESS: I had responsibility for
2 that product until it was consumed in the plant, I
3 believe.

4 Q. (BY MR. TOURTELOTTE) Until it was consumed?

5 A. Yes.

6 Q. Does that mean --

7 A. (Interposing) Used. Actually -- let me
8 take that back.

9 Once it got into storage and was accepted,
10 my responsibility ended.

11 Q. So you were responsible until --

12 A. (Interposing) When it was accepted in the
13 plant and unloaded, then my responsibility would
14 end.

15 Although if there were problems later on
16 and they felt that there might have been a quality
17 problem, then the plant people would notify me so I
18 really never lost responsibility for the product if
19 there were later problems.

20 Q. Do you know how vinyl chloride monomer was
21 received?

22 MR. RENDINI: Objection.

23 MS. BURGER: Objection.

RSV0023122

1 THE WITNESS: It was received in tank
2 cars.

3 Q. (BY MR. TOURTELOTTE) Tank cars?

4 A. Yes.

5 Q. Who received it?

6 A. Our T & M Department -- Transportation &
7 Materials.

8 MR. RENDINI: Objection.

9 Q. (BY MR. TOURTELOTTE) During the years that
10 you were involved with this, which I understand was
11 the ordering and receipt of vinyl chloride monomer,
12 which I understand was '59 through '69?

13 MS. BURGER: Objection.

14 MR. RENDINI: Objection.

15 Q. (BY MR. TOURTELOTTE) Is that right?

16 MS. BURGER: Objection.

17 THE WITNESS: Yes; okay.

18 Q. (BY MR. TOURTELOTTE) Let me put it --

19 A. (Interposing) For the raw material
20 function.

21 Q. Have I got the years right?

22 A. I think so.

23 MS. BURGER: Objection.

RSV0023123

1 Q. (BY MR. TOURTELOTTE) During those years,
2 who was the person in Transportation & Materials who
3 received the product -- the raw material?

4 MR. RENDINI: Objection.

5 THE WITNESS: It may have been Mr.
6 Tierney. He was for some period of time but I am
7 not sure what number of years. He was in charge of
8 our tank farm and he was in charge of the unloading
9 function.

10 Q. (BY MR. TOURTELOTTE) Were you familiar with
11 how the tank cars arrived in Springfield,
12 Massachusetts?

13 A. Yes.

14 Q. How did they arrive?

15 A. Well, they came into West Springfield first
16 and then the Railroad would make up a train of the
17 cars that were coming to our plant. Somebody in the
18 Railroad in West Springfield would notify our
19 Traffic Department that X number of cars would be
20 coming into our plant that afternoon. The Railroad
21 had a switching crew and they would bring the cars
22 out to Indian Orchard and then switch them into our
23 plant.

RSV0023124

1 Q. Did you have any -- were you in any way
2 related to that process? Did you do anything
3 concerning that?

4 A. No.

5 Q. Did you receive any documents that were
6 generated as a result of that -- the arrival of
7 those tank cars?

8 A. I think sometimes we would get -- for
9 example tank cars, I think we would get copies of
10 the bills of lading from the vendor and then the
11 Railroad, itself, would give our T & M people a
12 delivery receipt.

13 Q. You mentioned a minute ago that you were
14 responsible for the quality of the material?

15 A. I was responsible --

16 MR. RENDINI: (Interposing) Objection.

17 THE WITNESS: I was responsible for
18 buying raw materials against a specification which
19 outlined a quality that we needed.

20 Q. (BY MR. TOURTELOTTE) Where did you get the
21 specification?

22 A. From our control laboratory.

23 Q. Was that in Springfield or someplace else?

RSV0023125

1 A. In Springfield.

2 Q. Was there -- did the specification precede
3 your receiving the material?

4 A. Yes; when we knew we were going to be using
5 a certain product, we would meet with the control
6 lab people and review the specification with them
7 and then buy against it.

8 We would send a copy of the raw material
9 specification to the vendor and anybody else who
10 needed one.

11 Q. Do you know whether there were such
12 specifications for vinyl chloride monomer?

13 MR. RENDINI: Objection.

14 THE WITNESS: Yes; there were.

15 Q. (BY MR. TOURTELOTTE) Did you see those
16 specifications?

17 A. Yes; I did.

18 Q. Did you send those specifications out to
19 the various vendors?

20 A. I don't recall who we sent them to. We
21 would send it to, obviously, our Texas City plant
22 and products procured by our corporate office in St.
23 Louis, we would give them copies of our raw

RSV0023126

1 materials specifications so they, in turn, would
2 know what specifications were needed.

3 Q. As to vinyl chloride monomer, where was the
4 specification sent?

5 MS. BURGER: Objection.

6 MR. RENDINI: Objection.

7 THE WITNESS: I know our Texas City
8 plant specifically.

9 If we were getting material from other
10 vendors, we would send the copies to our raw
11 material department in St. Louis and they would
12 distribute them to any other vendors.

13 Q. (BY MR. TOURTELOTTE) Once the material was
14 received at Monsanto in Springfield, did you have
15 any further relationship to it in regard to whether
16 it met the specification or did not meet the
17 specification?

18 A. Our control lab would tell us if the
19 product did not meet a specification. We would get
20 notification -- for example, if a tank car came in
21 and it was supposed to have a color of 5 in the APAH
22 scale and the product was, say, 10, control lab
23 would call us and tell us that this car came in, it

RSV0023127

1 did not meet our specification and we could not
2 accept it. Then we would take it from there.

3 Q. Did you ever receive any information from
4 the control lab in regard to its testing samples of
5 vinyl chloride monomer?

6 A. I am sure that we did.

7 Q. You don't remember specifically at thi
8 time?

9 A. No.

10 Q. Are you familiar or were you familiar with
11 a process called "swapping" or "swaps"?

12 A. Yes.

13 Q. Can you tell us what that was?

14 A. Well, swaps in the chemical industry -- I
15 am speaking in general in the chemical industry --
16 people who manufactured this product arranged to
17 supply it to the customers of other manufacturers
18 under whatever contract arrangements that were made
19 between those two firms.

20 Q. Do you know whether that process -- that
21 swap process -- involved the supplying of vinyl
22 chloride monomer?

23 A. I think that it did, but again I was not

RSV0023128

1 involved in it so in all honesty, after all of th ee
2 years, I think that we did swap with other companie
3 but I am not absolutely positive.

4 MR. RENDINI: Move to strike.

5 Q. (BY MR. TOURTELOTTE) You said because you
6 were not involved in it, is that right?

7 A. Yes.

8 Q. Who would have been involved in that?

9 A. The Raw Material Procurement Group at St.
10 Louis.

11 Q. Do you know what the process -- now not
12 restricting you to vinyl chloride monomer but just
13 generally for other kinds of materials -- do you
14 know what the process was for arranging a swap?

15 A. No; probably generally, the two companies
16 would meet and go over conditions or go over -- for
17 example, go over quality would probably be one of
18 the most critical items that they would cover
19 because if that particular company didn't have a
20 product that met a specification, you wouldn't do
21 business with them.

22 That would be one of the major criterias --
23 and I think plant locations would be another

RSV0023129

1 criteria.

2 Q. You were talking about the control lab a
3 minute ago.

4 Do you know who was responsible for or
5 directed or ran the control lab?

6 MS. BURGER: Objection.

7 Q. (BY MR. TOURTELOTTE) During the years that
8 we are talking about, '59 to '69?

9 MR. RENDINI: Objection.

10 THE WITNESS: There were several
11 people who were in charge of the control lab. I
12 think the last one that I recall was a Mr. Laakso.
13 There was also a Mr. William Bilckens. There was a
14 Mr. William Hamilton.

15 I believe those three men over a period of
16 years were, at times times, in charge of the control
17 lab.

18 Q. (BY MR. TOURTELOTTE) How closely if you
19 know -- let me ask you this: Do you know what the
20 control lab's responsibility was for checking on
21 materials that were received?

22 A. Just in general. They were responsible for
23 getting the sample and the T & M Department as a

RSV0023130

1 rule, I believe, took the samples, maybe possibly
2 control lab people also took samples. I am not sure
3 of that. But in any event, they had the
4 responsibility for obtaining a sample of the raw
5 material and testing it against known
6 specifications.

7 Q. Do you know with what frequency they would
8 or in what quantities would require them to take a
9 sample?

10 MS. BURGER: Objection.

11 MR. RENDINI: Objection.

12 THE WITNESS: I think that probably if
13 it was a powder, probably half a pound or a pound.
14 If it was a liquid, a pint or a quart.

15 Again, it would depend, too, on a number of
16 qualities that they were testing on that
17 specification as to the quantity of the sample.
18 Usually the quantities I gave you were, I think,
19 fairly normal.

20 Q. (BY MR. TOURTELOTTE) How frequently would
21 they take a sample from the materials received?

22 MS. BURGER: Objection.

23 MR. RENDINI: Objection.

RSV0023131

1 Q. (BY MR. TOURTELOTTE) Or by what unit would
2 they take a sample?

3 MS. BURGER: Objection.

4 MR. RENDINI: Objection.

5 THE WITNESS: I think they tested
6 every tank car, but I am not sure.

7 Q. (BY MR. TOURTELOTTE) I believe you
8 testified that during the -- there were only
9 approximately ten years within which you were
10 involved in the receipt of raw materials from other
11 vendors at the Springfield plant, is that right?

12 MR. RENDINI: Objection.

13 THE WITNESS: There was a period after
14 I went down to Bircham Bend when they consolidated
15 the purchasing of the two departments and we had
16 what we call a contract section.

17 People in my group -- I was in charge of
18 the contracting phase of it for a few years. That
19 would include products in both Springfield and
20 Bircham Bend.

21 Q. (BY MR. TOURTELOTTE) Raw material?

22 A. Yes; and packaging.

23 Q. You say that was a contracting group?

RSV0023132

1 A. Yes.

2 Q. Is that different than a purchasing group?

3 A. It was part of Purchasing.

4 Q. Part of Purchasing?

5 A. It was just the function was isolated.

6 Q. What years were those, Mr. Gormally?

7 A. Let me think. I think it was '71 to '79, I
8 think, but somewhere, a few years in that area.

9 Q. You went to Bircham Bend, if I understood
10 your testimony, in 1969?

11 A. Yes.

12 Q. You are indicating that this coordinated or
13 combined purchasing contracting group came into
14 existence in '71?

15 A. Yes.

16 Q. So what were you doing in the two years
17 between '69 and '71?

18 A. I was a purchasing superintendent at the
19 Bircham Bend plant and I retained that same function
20 until I retired. I had this additional function as
21 well.

22 Q. And the additional function was?

23 A. Contracting.

RSV0023133

1 Q. Did that have anything to do with purchase
2 orders for and receipt of raw materials over in
3 Springfield?

4 A. No; what they did, they had what they call
5 a service function in Purchasing. Each plant had a
6 service department and in that service department,
7 they handled all of the documentation for the
8 specific plant. The two plants were still separate.

9 Q. So did you have anything at all to do with
10 the purchasing or receipt of vinyl chloride monomer
11 from '71 through your retirement?

12 A. No; that would be Mr. Smith had that
13 responsibility. I mentioned his name before.

14 Q. Mr. Smith replaced you over at Springfield
15 as a purchasing person?

16 A. Yes.

17 Q. What was his first name?

18 A. Charles.

19 Q. Do you know when he left Monsanto?

20 A. Sometime in the eighties -- the early
21 eighties.

22 Q. He retired?

23 A. Yes; he retired.

RSV0023134

1 Q. Does he live in this area?

2 A. Yes.

3 Q. Do you know where he lives?

4 A. Somers, Connecticut.

5 Q. During the ten years in which you did
6 order, among lots of other things, I am sure --
7 during those ten years when you were involved with
8 the Purchasing Department in the purchase orders for
9 and receipt of vinyl chloride monomer, do you
10 remember any of the companies from which that
11 material was purchased?

12 MS. BURGER: Objection.

13 MR. RENDINI: Objection.

14 THE WITNESS: I have a general
15 impression that we got materials from other than
16 Monsanto but I cannot specifically tell you that we
17 got them from one or the other company. I have an
18 impression that we got it from some of the other
19 suppliers.

20 Q. (BY MR. TOURTELOTTE) You don't remember
21 which ones?

22 A. No; I don't.

23 Q. Do you know whether there would be any

RSV0023135

1 records existent today that would disclose what
2 other companies furnished this material?

3 A. I have no idea.

4 Q. I think in the answers to the questions I
5 asked you, the only documents which your departm nt
6 was responsible for were the purchase orders and the
7 specifications?

8 A. That is correct.

9 MS. BURGER: Objection.

10 MR. RENDINI: Objection.

11 Q. (BY MR. TOURTELOTTE) And the specifications
12 for VCM were done in St. Louis?

13 MS. BURGER: Objection.

14 MR. RENDINI: Objection.

15 THE WITNESS: The specifications for
16 VCM were generated by the control lab in the
17 Springfield plant. We would have sent them to St.
18 Louis if that was necessary.

19 If we were -- for any raw material that
20 they were procuring, buying, we would send them the
21 specifications. Again, when you asked about
22 documentation, I would have to again recall our
23 record retention program.

RSV0023136

1 Q. (BY MR. TOURTELOTTE) What documents, if
2 any, were there in the plant besides the purchase
3 order that you have referred to earlier and which
4 was generated in your department?

5 A. The only thing that was generated by my
6 department would be the purchase order; and any
7 correspondence relating to quality or anything else
8 relating to the specific raw material, we generated
9 correspondence, obviously.

10 Q. Do you know of any documentation outside of
11 your department that would have been generated?

12 MS. BURGER: Objection.

13 MR. RENDINI: Objection.

14 THE WITNESS: The T & M Department
15 would be generating documents of some type and they
16 would be receiving documents from the Railroad; and
17 they might have correspondence that they had
18 generated, themselves, to me or to others in
19 Monsanto between the T & M, the control lab, for
20 example.

21 Q. (BY MR. TOURTELOTTE) Where did the
22 Purchasing Department keep its records?

23 A. In the Purchasing Department.

RSV0023137

1 Q. Right there?

2 A. Yes.

3 Q. And they were kept in file drawers, I
4 assume?

5 A. Yes.

6 Q. Was this a large filing capacity that you
7 have there?

8 A. Yes.

9 Q. Or had?

10 A. Yes; we did. Fairly large.

11 Q. What would you say? What would your
12 estimate be of the number of file drawers available
13 to you?

14 A. We probably had, I would gather, about
15 thirty -- either three or four drawer -- thirty-
16 three-or-four drawer filing cabinets. Twenty-five
17 to thirty.

18 Q. How were they arranged?

19 A. There was one group that was arranged only
20 for purchase orders. There was another group that
21 would be for correspondence. That would be about
22 it, I think.

23 Q. Were the purchase orders filed by number or

RSV0023138

1 by name?

2 MS. BURGER: Objection.

3 THE WITNESS: By name.

4 MR. RENDINI: Objection.

5 THE WITNESS: The company name.

6 Q. (BY MR. TOURTELOTTE) The company name of
7 the vendor?

8 A. Yes; vendor name, I should say.

9 Q. How about the correspondence?

10 A. Correspondence was by product as a general
11 rule.

12 Q. By product?

13 A. Yes.

14 Q. Did you have occasion to generate any
15 correspondence in regard to vinyl chloride monomer?

16 A. I can just tell you in general, I had
17 occasion to generate correspondence on all of th
18 raw materials that we used, and the vinyl chloride;
19 yes.

20 Q. Who would you write to?

21 MS. BURGER: Objection.

22 THE WITNESS: I would write to
23 vendors.

RSV0023139

1 MR. RENDINI: Objection.

2 THE WITNESS: I would write to plant
3 people. I would write to research people, to St.
4 Louis -- corporate purchasing, St. Louis.

5 Q. (BY MR. TOURTELOTTE) Do you remember
6 writing any particular correspondence to any
7 particular vendors?

8 MS. BURGER: Objection.

9 MR. RENDINI: Objection.

10 THE WITNESS: Yes.

11 Q. (BY MR. TOURTELOTTE) Can you tell us who --
12 and I am talking about VCM, now?

13 A. No.

14 Q. How about St. Louis?

15 A. Yes.

16 Q. Did you ever write to them?

17 A. Oh, yes.

18 Q. Did you write to them concerning VCM?

19 MR. RENDINI: Objection.

20 THE WITNESS: Yes.

21 Q. (BY MR. TOURTELOTTE) What was -- what kind
22 of correspondence would you write to St. Louis about
23 VCM?

RSV0023140

1 MR. RENDINI: Objection.

2 THE WITNESS: Quality problems;
3 delivery problems.

4 Q. (BY MR. TOURTELOTTE) Why to St. Louis?

5 A. Let me take that back. If it was
6 specifically coming from Monsanto, Texas City, yes;
7 we would probably send it to both, Texas City and
8 St. Louis.

9 Q. Let's assume it is not from Texas City.
10 Who would you write to?

11 MS. BURGER: Objection.

12 MR. RENDINI: Objection.

13 THE WITNESS: St. Louis.

14 Q. (BY MR. TOURTELOTTE) Do you recall
15 corresponding to St. Louis in regard to VCM?

16 MS. BURGER: Objection.

17 MR. RENDINI: Objection.

18 THE WITNESS: I think that I did but,
19 again, I can't remember.

20 Q. (BY MR. TOURTELOTTE) You can't really
21 remember the specifics?

22 A. No.

23 MR. TOURTELOTTE: I think that is all

RSV0023141

1 I have for you.

2 MS. BURGER: I would like to suggest
3 that we take a few minute break.

4 (A recess was taken.)

5 MS. BURGER: I don't have any
6 questions for Mr. Gormally.

7 MR. RENDINI: I have no questions.

8 (The deposition was concluded.)

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RSV0023142

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
6 LAWRENCE GORMALLY, pursuant to the Federal Rules of
Civil Procedure on February 25, 1991, at the offices
of Robinson Donovan Madden & Barry, 1500 Main
Street, Springfield, Massachusetts.

7 I further certify that the above named
8 deponent was by me first duly sworn to testify to
9 the truth, the whole truth and nothing but the truth
10 concerning his knowledge in the matter of the case
11 of ALICE L. WARREN, ADMINISTRATRIX OF THE ESTATE OF
JOHN H. WARREN, DECEASED vs. THE DOW CHEMICAL
COMPANY, ET AL, now pending in the United States
District Court for the District of Massachusetts.

12 I further certify that the within testimony
13 was taken by me stenographically and reduced to
14 typewritten form under my direction by means of
COMPUTER ASSISTED TRANSCRIPTION; and, I further
certify that said deposition is a true record of the
testimony given by said witness.

15 I further certify that I am neither counsel
16 for, related to, nor employed by any of the parties
17 to the action in which this deposition was taken;
18 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.

19 WITNESS my hand and seal this 5th day of
20 MARCH, 1991.

21 Joanne Coyle
22 Joanne Coyle
Notary Public
Certified Shorthand Reporter

23 My commission expires
June 13, 1997

RSV0023143

SIGNATURE PAGE - ERRATA SHEET

To be signed by deponent and returned to counsel
within thirty (30) days

I, the undersigned, LAWRENCE GORMALLY, do hereby
certify that I have read the foregoing transcript of
my testimony given in the matter of Alice L. Warren,
Administratrix of the Estate of John H. Warren vs.
Dow Chemical Company, et al, taken on February 26,
1991 and that to the best of my knowledge, said
transcript is true and accurate (with the exception
of the following corrections listed below:)

Page : Line:

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DEPONENT'S SIGNATURE: _____

DATE _____

jc

RSV0023144

SIGNATURE PAGE - ERRATA SHEET

To be signed by deponent and returned to counsel
within thirty (30) days

I, the undersigned, LAWRENCE GORMALLY, do hereby
certify that I have read the foregoing transcript of
my testimony given in the matter of Alice L. Warren,
Administratrix of the Estate of John H. Warren vs.
Dow Chemical Company, et al, taken on February 25,
1991 and that to the best of my knowledge, said
transcript is true and accurate (with the exception
of the following corrections listed below:)

Page : Line:

8 : 22 : word is TAXICABS, Not TAXIERS

14 : 20 : insert "responsibility" after had

DEPONENT'S SIGNATURE: Lawrence J. Gormally

DATE March 15, 1991

jc

RSV0023145