

1 NO. 103,341

2 WALTER RAINES X IN THE 15TH JUDICIAL DISTRICT
3 VS. X COURT OF
4 DOW CHEMICAL AND FRANTZ X
COMPANY, INC. X GRAYSON COUNTY, TEXAS
5
6

7 APPEARANCES:

8 FOR THE PLAINTIFF:

9 Honorable Lenis William Pierce, III
Attorney at Law
10 Blake Bailey, P.C.
11 113 East Houston Street
Tyler, TX 75702

12 FOR THE DEFENDANT, DOW CHEMICAL:

13 Honorable Tom Henson
Attorney at Law
14 Ramey, Flock, Hutchins, Jeffus,
McClendon & Crawford
15 Citizens First National Bank Bldg.
P. O. Box 629
16 Tyler, TX 75710

17 FOR THE WITNESS:

18 Honorable Ronald Hurley Clark
Attorney at Law
19 Henderson, Bryant & Wolfe
Fifth Floor, M Bank Building
20 Sherman, TX 75090

21 DEPOSITIONS AND ANSWERS OF WALTER M. SCHULZ, a witness
22 who appeared and testified for the purpose of giving his
23 deposition at the instance of the Plaintiff herein; said
24 witness residing in Grayson County, Texas; said deposition
25 being taken on the 30th day of May A.D., 1985, before

R&SI66027

1 Debra H. Smith, a notary public in and for the State of Texas,
2 in the conference room of Henderson, Bryant & Wolfe, Sherman,
3 Texas, in accordance with the following agreement between
4 counsel for Petitioner and counsel for Defendant, Dow Chemical:
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A G R E E M E N T S

MR. PIERCE: Do you want to waive all
objections to the time of trial?

MR. HENSON: I will reserve them. I don't
want to waive them.

MR. PIERCE: Right.

Are you local counsel for Oscar Mayer?

MR. CLARK: Yes.

MR. PIERCE: Signature before any notary?

MR. HENSON: That's fine.

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WALTER M. SCHULZ

First having been duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows herein:

DIRECT EXAMINATION

BY MR. PIERCE:

Q Would you state your name for the record.

A Walter Schulz.

Q Where do you live?

A I live in Howe. The address?

Q Yes.

A Route 2, Box 214.

Q And how do you spell that?

A H-O-W-E (spelling). Right next door to Sherman -- a little town.

Q How are you employed?

A I am employed by Oscar Mayer Food Operations. I am Assistant Personnel Manager.

Q OK. Who is the Personnel Manager.

A The Personnel Manager is Thomas Murphy.

Q OK. How long have you been employed there?

A I have been with Oscar Mayer since August 29, 1977.

Q What did you do before that?

A Before that?

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1 Q Right.

2 A I was in college.

3 Q OK. How old are you now?

4 A I'm 32.

5 Q OK. Have you ever had your deposition taken before?

6 A No. I have not.

7 Q Have you had a chance to talk with your attorney,
8 Ron Clark, who is here with you today, about it?

9 A Yes, I have.

10 Q You understand that the court reporter will be
11 taking down everything you say and it will be typed into a
12 booklet form and you will be able to read the questions if
13 you want to?

14 A Yes, I do.

15 Q We will be able to use this in court as actual
16 testimony, although you are not there. We can read its
17 answers in as though you have been testifying in court.

18 A Yes.

19 Q I notice that you are answering out, which is what
20 you are supposed to do because she has trouble taking down
21 nods of the head and shakes and what not. And, I would like
22 to make a deal with you: If I ask you a question that is
23 vague or ambiguous, that you would ask me to re-phrase it or
24 re-state it and answer only questions you have sufficient
25 knowledge to answer. OK?

RS166031

1 A I understand.

2 Q All right. Where did you go to college?

3 A Texas A & M.

4 Q Did you receive a degree from there?

5 A Yes, I did. In business management.

6 Q OK. And you went directly from college to the

7 Oscar Mayer plant here in Sherman, Texas; is that right?

8 A Yes.

9 Q OK. Now, I've asked you to bring certain records

10 with you and you have furnished me with those copies. I am

11 going to ask you some questions about some of the products

12 that you use there at the plant. I'm specifically interested

13 in -- of course, you know, Walter Raines is the subject of

14 our suit?

15 A Yes.

16 Q And Walter Raines is a guy claiming against Dow

17 Chemical that he contracted certain diseases from the use of

18 products that they produce.

19 Now, this Saran 865 Resin -- would you tell me how

20 that is used in your profession?

21 A We use it, the blended Saran 865, for packaging

22 material. We extrude the powder into a packaging material

23 to wrap the product in for sale.

24 Q OK. This Saran 865 comes then with a -- comes in

25 a drum, I take it?

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1 A A paper drum.

2 Q OK. A paper drum. And attached to this drum,
3 I guess, there are certain insignias. Am I holding what is
4 attached to the drum?

5 A That is the label that is attached to the paper drum.

6 Q OK. Anything else on the paper drum?

7 A To my knowledge there is a little stamp on the
8 disposal of the drum after it is used.

9 Q Do you know what that stamp says?

10 A No. I don't. It's just --

11 Q OK. Later today we will be taking a tour of your
12 plant today and we will have an opportunity to see some of
13 these drums.

14 A Right.

15 Q I notice this is Saran 865 and I believe Walter
16 has testified earlier he used a component called 864 and
17 could you tell me the difference between the Saran 865 and the,
18 I guess it was Saran 864?

19 A To my knowledge, this was some years ago that
20 Walter worked for us, we used the Saran 864 that has been
21 either re-blended or this is a replacement product. I'm not
22 sure why they use 865, but they are very close. It is the
23 closest thing to 864 we could obtain.

24 Q Back when you were using Saran 864, did it come
25 with a similar package as this?

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1 A Yes.

2 Q That I am showing you now?

3 A To my knowledge, it did.

4 Q OK. And it had, I guess it had, the same statement
5 on the back regarding the disposal of the product?

6 MR. HENSON: I am going to object to leading.

7 BY MR. PIERCE:

8 Q Did it have any type of other insignias on the
9 container that you received -- Saran 864?

10 A I can't answer that because I really didn't pay
11 that much attention that long ago.

12 Q OK. Who's in charge of purchasing the different
13 products that are used at your plant?

14 A Ralph Bluemel. B-L-U-E-M-E-L (spelling).

15 Q And he handles all the purchasing there?

16 A That's correct. He is the Purchasing Manager.

17 Q OK. Do you have any idea about who he purchases
18 -- or any knowledge of who he purchases this Saran 865 from?

19 A The Saran 865, I assume, is purchased from Dow
20 Chemical.

21 Q Why did you assume that?

22 A Because that's basically what I remember seeing in
23 the plant is the Dow Chemical Saran.

24 Q Do you assume that because this has the insignia
25 or logo?

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1 A That reinforces my assumption.

2 Q OK.

3 A If you ask me to go back five years and remember
4 exactly what was on each barrel, I can not do that.

5 Q I understand.

6 MR. PIERCE: I would like to mark this as
7 Plaintiff's Exhibit Number 1.

8 (Whereupon, Plaintiff's Exhibit
9 Number 1 was marked for
identification.)

10 BY MR. PIERCE:

11 Q OK. I am handing you now what has now been marked
12 as Plaintiff's Exhibit Number 1 and that's what we have been
13 talking about here the last few minutes; is that correct?

14 A That's correct.

15 Q Now, would you just examine that briefly and tell
16 me what kind of warnings you find on there?

17 A Basically, there are no large warnings. It refers
18 to the Dow Chemical Safety Data Sheet, as do most products
19 that we have.

20 Q OK. Is there anything else on there that might
21 warn a potential user of the product other than the Dow
22 Safety Data Sheet?

23 A It mentions about do not reuse the container.
24 Dispose of empty container or liner by incineration if allowed,
25 or in an approved landfill.

1 Q OK.

2 A Most all chemicals would have the container that
3 would be marked for -- Not for reuse. That's -- generally,
4 that's the case.

5 Q What do you do with this drum after you get through
6 using it -- the Saran 865 comes in, or 864 did come in?

7 A Some of them are disposed of through the normal
8 trash compacting service for the landfills and some of them
9 are sold.

10 Q I see. Who do you sell those to?

11 A I'm not sure.

12 Q What other products -- now, I assume that this
13 product has been used in the making of the plastic sheets
14 that you've told us about that goes around the wrapping of
15 the food?

16 A Yes.

17 Q The product that you make?

18 A Yes.

19 Q OK. What else is -- you don't -- this is not the
20 sole product used for that, or is there other products that
21 are added in there?

22 A There are other blended powders that make up the
23 packaging material.

24 Q OK. What are they?

25 A For the C.W. or for the weiner production, the area

1 that Raines worked in?

2 Q What area did Walter Raines work in?

3 A He worked in, to my knowledge, what we would call
4 C.W.P., continuous wiener production.

5 Q OK. And is that also known as The Tunnel?

6 A The Wienie Tunnel. The Tunnel.

7 Q OK. Now, what other components were used in the
8 packaging?

9 A The package material also included other blended
10 powders. One that we would call P.V.C. 411. I think.

11 MR. HENSON: What was the name of it?

12 THE WITNESS: P.V.C. 411.

13 BY MR. PIERCE:

14 Q Now, let me stop you. Do you know what that stands
15 for -- the P.V.C.?

16 A Well, it would be the name polyvinyl chloride.

17 Q Who do you purchase that from?

18 A We don't purchase that from anybody at the Sherman
19 plant.

20 Q OK. How does that P.V.C. 411 arrive at your plant?

21 A From our corporate plant.

22 Q Where is that?

23 A Madison, Wisconsin.

24 Q OK. Does the purchasing agent or Ralph Bluemel --

25 A Bluemel.

1 Q Is he responsible for getting that to your plant?

2 A He may order the quantities needed from the Madison
3 plant. He would not be responsible for actually purchasing
4 the powder. It would be more like a request for transfer from
5 one plant to the other.

6 Q OK. Who -- do you know who purchases that product?

7 A No. I don't. I don't know. That is a plant
8 product in Madison.

9 Q What does it look like?

10 A It is a white powder.

11 Q OK. Is this 864 stuff, is this the Saran 864, is
12 it also a white powder?

13 A Yes, it is.

14 Q What kind of container does this P.V.C. 411 come in?

15 A It comes in a paper drum.

16 Q The same as the Saran?

17 A That's correct.

18 Q OK. And to your knowledge there are no insignias
19 on it of any kind?

20 A On the --

21 Q On the paper drum that the 411 P.V.C. comes in.

22 A No. Just what I have here, plus the little thing
23 of disposal.

24 Q Now, I'm talking specifically about the P.V.C.

25 A The P.V.C. Yes, there is a warning label on the

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1 P.V.C.

2 Q Do you know what it says?

3 A Word for word or in general terms?

4 Q Just the best you can remember.

5 A There is a stamp on that barrel that will say that
6 this may contain trace amounts of vinyl chloride, a cancer
7 suspect agent.

8 Q OK. And you don't have any knowledge one way or
9 the other if that product is manufactured by Dow Chemical
10 Company?

11 A I have no idea.

12 Q Is there anything else that you can think of that's
13 on the drum?

14 A You are talking P.V.C.?

15 Q The P.V.C. drum, yes.

16 A Basically just the label and that one stamp. It
17 may also have a little stamp for inspection of the drum.

18 Q You can't remember what the label says?

19 A It just says P.V.C. and then the type of P.V.C.
20 that it would be, the blend and the weight.

21 Q When we tour the plant today, we will be able to
22 see those.

23 A Yes.

24 Q You still purchase the P.V.C. 411 from the same --
25 is the same type of product it still comes from your Madison

1 plant?

2 A That's correct. We don't purchase the P.V.C. 411.
3 We blend it in Madison.

4 Q But nothing has changed since Walter Raines worked
5 there?

6 A To my knowledge -- I don't know of any changes.
7 I would not necessarily know of any changes, though.

8 Q Who in the plant did you say Madison?

9 A Madison, Wisconsin is corporate headquarters.

10 Q OK. Who in the Madison, Wisconsin, plant would know
11 where this material came from or who manufactured it?

12 A Oh, gee, I'm going to give you a name.

13 Q OK.

14 A Reggie Finn (phonetic) and I do not know if he is
15 the proper person to go to or not. He is more knowledgeable
16 on the subject than I would be.

17 Q What is his job title?

18 A That, I don't know.

19 Q But he has a position there at Madison, Wisconsin,
20 with Oscar Mayer?

21 A That's correct.

22 Q Is the company called Oscar Mayer --

23 A Foods Corporation.

24 Q Food Corporation.

25 A Foods Corporation.

1 Q OK. Approximately how much of the P.V.C. 411 is
2 used in connection with the Saran 865 or 864?

3 A Ratios?

4 Q Approximately. If you know.

5 A I don't know. I don't know.

6 Q OK. Do you use a -- well, this comes in the same
7 size drum as the P.V.C.; is that right?

8 A Relatively.

9 Q OK. We'll see that when we go out to the plant.

10 A Right.

11 Q Any other chemicals you use out there in connection
12 with the making of the plastic sheet that goes over the product?

13 A Yes, it is.

14 Q OK.

15 A I am going to say E.V.A.

16 Q Ethyl vinyl acetate?

17 A Right.

18 Q Could you tell me who you get that product from?

19 A No. I don't know. I didn't check that either.

20 Q OK. Do you know what kind of drum that comes in?

21 A It comes in a large square box.

22 Q OK. And is it powder also?

23 A No. It is pellet form.

24 Q OK.

25 A And it would generally come in, probably, I would

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1 guess, about a thousand pound container.

2 Q Do you know what purpose it provides in the process
3 there?

4 A The three chemicals have, to my knowledge, three
5 separate functions. One is to provide strength, that would be
6 the blended powder, P.V.C. One is to adhere one packaging
7 substance to another and one would be for a light barrier.

8 Q A light varier?

9 A Barrier.

10 Q OK. I understand.

11 A If you expose the meat product to light without
12 some type of protection, it would discolor the meat.

13 Q OK. Now, you say three sheets, did you make --

14 A Three layers.

15 Q Did you make a layer out of each one of these
16 separate products and then blend them together?

17 A No. It's done at the extrusion. It's all done
18 at one time.

19 Q Start with the three powders -- the two powders
20 and the pellets and show me how that's mixed up. Could you
21 briefly describe that to me?

22 A The blended powders would come in and be fed
23 automatically into an extruder. The extruder would have three
24 components, three sections for each powder. It would go into
25 a common die and be extruded out as a packaging substance.

1 Q OK. Would that substance be heated?

2 A Yes.

3 Q Because it will be melted down; is that correct?

4 A Heat would be applied.

5 Q Do you know how much heat would be applied?

6 A Approximately 360 degrees, Fahrenheit, give or
7 take a little bit.

8 Q Do you know if any fumes would be emitted from
9 that process?

10 A I would think that you would always have fumes
11 from any heating process of anything you do.

12 Q Do you have the basis there to take care of the
13 fumes, to eliminate fumes from the area?

14 A Yes, we do.

15 Q So, it must emit some fumes?

16 A Yes, any time you heat substances. We will have
17 duct work.

18 Q Then, it comes out of the extruder, then what do
19 you do?

20 A It goes through the water tank where it is
21 immediately cooled.

22 Q OK.

23 A Then on the packaging line for the packaging
24 material.

25 Q When is it applied to the packaging material --

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1 how is it cut or separated from the sheet?

2 A It's automatic.

3 Q It's automatic. With what type of devices?

4 A We have production equipment that would automatically
5 feed on to the line. We have production personnel that would
6 automatically place the meat into the Saran. We have equip-
7 ment that would seal it, cuts it out and bands it.

8 Q OK. The equipment that seals it, does that heat
9 the item up again?

10 A It's generally -- the sealing is more or less a
11 warming. It keeps the matter warm. I don't know that it
12 would heat. I suppose the platter is.

13 Q The platter?

14 A The platter is warm.

15 Q What are the platters?

16 A The platters would be the film, the package substance
17 it is laid on to, then the film is pulled into the platters
18 for a form fit and then the meat is placed on the platters
19 and then another matter is placed on top of the meat and if
20 you have a variation in temperature, the film or the packaging
21 substance tends to wrinkle and that gives you packaging
22 problems, leakers.

23 Q I see. OK. Now, some of the products you make
24 out there are smoked products; is that correct?

25 A That's correct.

1 Q OK. Now, how -- Do you buy some kind of wood
2 product that you use to smoke these products?

3 A We buy hardwood, sawdust.

4 Q OK. And who did you buy that from?

5 A You're talking about during the years between '76
6 and '80?

7 Q Yes.

8 A I can't remember that.

9 Q Who do you buy it from now?

10 A We have, in the last few years, purchased it from
11 France Sawdust and also Big Sandy.

12 Q France Sawdust. Where are they located?

13 A I don't know.

14 Q OK. But I guess Ralph --

15 A Ralph Bluemel would know. He would also know what
16 sawdust was purchased during the time frame you were referring.

17 Q He would have the records for that too, I suppose?

18 A That's correct.

19 Q And you also purchased, I think you said, from
20 Big Sandy?

21 A Big Sandy. That would probably be more recent.

22 Q Big Sandy is more recent?

23 A Well, I'm trying to think. This sawdust comes more
24 or less in a brown paper bag.

25 Q And there is nothing on the outside?

1 A Well, there may be, but the way it comes in, it is
2 not noticeable. It's an unattractive package and it's not
3 something you would readily notice when you walk by.

4 Q But, then that product is taken into a room, I
5 suppose, and could you tell me briefly how that is used --
6 the wood product?

7 A The sawdust is dumped into a hopper and it is
8 automatically pulled into the smoking unit.

9 Q OK. What happens in the smoking unit?

10 A Gasoline is applied and the sawdust is burned at a
11 slow rate, creating smoke within the smoking unit. The product
12 goes in and out and receives smoke during the time that it
13 travels through the smoke.

14 Q OK. Also, you brought with you, I believe you said,
15 a Dow Data Safety Sheet --.

16 A Material Safety Data Sheet.

17 Q OK. This is the Material Safety Data Sheet for
18 the product Saran 864 Resin; is that correct?

19 A That's correct.

20 MR. PIERCE: OK. I'll have this marked as
21 Plaintiff's Exhibit Number 2.

22 (Whereupon, Plaintiff's Exhibit
23 Number 2 was marked for
identification purposes.)

24 BY MR. PIERCE:

25 Q OK. Under the ingredients, I see where it says

1 Vinylidene -- am I pronouncing that right? Vinylidene Chloride.

2 A I am going to guess it's vinylidene chloride.

3 Q OK. And then it has dash vinyl chloride copolymer.

4 A That's correct.

5 Q OK. Now, this safety sheet, I guess -- can you tell
6 me basically what it's purpose is?

7 A The purpose of a Material Safety Data Sheet is to
8 supply the user of any chemical, whether it be face cream, or
9 flammable liquid; certain information for fire fighting
10 purposes, for storage, for clean-up, disposal and any
11 safety recommendations from the manufacturer.

12 Q OK. Could you tell me -- would you review that
13 just briefly and would you tell me what kind of hazards you
14 would guard against, after you have reviewed over the Dow
15 Material Safety Sheet?

16 A The hazards listed could be eye -- getting foreign
17 objects in your eye, skin contact, which is listed here as
18 essentially non-irritating; skin absorption, not likely to be
19 absorbed; ingestion, which they suggest that it is a low single
20 dose toxicity; inhalation, possible nuisance dust.

21 Q OK. If I can stop you just a moment where it says
22 inhalation, do any of the representatives from Dow Chemical
23 Company ever come down and talk to you about their products,
24 sales personnel, anything of that nature?

25 A At our plant?

1 Q Yes. At your plant.

2 A To my knowledge, no.

3 Q Have any of them ever come to the Madison plant?

4 A I don't know. I don't know.

5 Q OK --

6 A You're talking about representatives that would

7 come out specifically in regard to 864, to the Sherman plant?

8 Q Or any Dow representative ever come out there to

9 your plant?

10 A I don't know. I can't answer that. We have

11 representatives that come out if we have a problem with the

12 product, if we have what we feel is a faulty product, un-

13 acceptable, they will come out and evaluate it.

14 Q Have you ever had a product like that?

15 A From Dow?

16 Q From anybody.

17 A Yes. We have.

18 Q Could you tell me some of their names, briefly?

19 A Union Carbide --

20 Q Union Carbide --

21 A Casings.

22 Q Casings. What is that?

23 A We would have to stuff our meats into a casing for

24 processing.

25 Q OK.

1 A We sometimes have products that are unacceptable
2 -- boxes. Boxes we would buy from various plants that would
3 be unacceptable. They would come out and take them back and
4 replace them with an acceptable product.

5 Q Have you ever had any trouble with Dow products?

6 A I don't know. I don't know.

7 Q Who would know out at various plants?

8 A Again, I am going to have to refer you to Ralph
9 Bluemel, the purchasing agent, because he would be probably
10 the one to make the contact with the vendors.

11 Q With the vendor direct?

12 A That's correct.

13 Q OK. If he had a problem with the product P.V.C.
14 411, he wouldn't make contact with the vendor, I suspect?

15 A That -- he would -- that would be the Madison plant.

16 Q Is that -- he would contact Reggie --

17 A Reggie Finn is a person in Madison who would know
18 more about this than I would know. That is not to say Reggie
19 would be responsible for production. He could probably,
20 certainly, direct you to the individual that would know.

21 Q OK.

22 A But since we're a thousand miles away, I don't
23 really.

24 Q Well, I understand that. When the Saran 864 comes
25 to your plant, do you have an idea of what its intended use is

1 A For packaging material.

2 Q OK. So, you know that it's going to be heated up
3 and used for your product?

4 A It will be extruded and used for packaging material.
5 That's the only use.

6 Q OK. Do you have any other chemicals out at the
7 plant that you might need to tell me about that you used?
8 Do you use any type of chemical for clean-up, as a solvent?

9 A Well, you're getting a little outside of my field
10 because I am not in the sanitation area. We have many chemicals
11 for cleaning, sanitation purposes.

12 Q OK. You are talking about, mainly, detergent and
13 things of that nature?

14 A That's correct.

15 Q What type of chemicals would Walter Raines be
16 exposed to throughout his career working there in the Wiener
17 Tunnel?

18 A The normal greases, oils, the blended powders,
19 various glues.

20 Q What type of glues would there be?

21 A We have a glue that we use for boxes. We have
22 box forms that will convert into boxes.

23 Q OK.

24 A Actually, he would be probably less inclined to be
25 exposed to that. The production people pretty much maintain

1 that only when he would have to possibly dismantle it for some
2 reason or other to put it back together.

3 Q Could you tell me when Walter Raines was first
4 employed by your company?

5 A Walter Raines started 2-25, 1976.

6 Q OK. Did he work there continuously or was there an
7 interruption?

8 A There was an interruption.

9 Q Could you tell me about that?

10 A He quit on 9-7-79.

11 Q OK. Could you tell me the reason for that or do
12 you know that?

13 A I don't really know the reason for that. I did
14 not talk to him.

15 Q OK. Do you know who would know about that? 1
16 guess his supervisor would know about that.

17 A His supervisor would know and probably the personnel
18 manager would know. I know that Walter was going through a
19 divorce right about that time.

20 Q OK. And then was he re-hired after that?

21 A Yes. He apparently changed his mind and re-applied
22 for employment. He was re-hired on 9-24-79.

23 Q OK. And then how long did he work after that?

24 A He worked then until 8-28, 1980 and he voluntarily
25 quit on that day.

1 Q OK. Was there any reason stated for his quitting?

2 A I have nothing in the file that would indicate any
3 reason, other than it was a voluntary quit.

4 Q OK. Did you know Walter Raines personally, or
5 just as an employee?

6 A Just as an employee. I recognize him. I knew him
7 by sight. I did not know his personal likes or dislikes.

8 Q I understand. Could you tell me who his immediate
9 supervisor was during the time he was out there? I have seen
10 his name several times in the documents, but I can't read them.

11 A OK. Well, if you will show me. I can't really
12 tell who his immediate supervisor was. Supervisors come and
13 go, as do employees, but I would be glad to.

14 Here? Right here?

15 The last evaluation was from Mike Dempsey (phonetic).

16 Q OK. Is his -- I'm sorry. Go ahead.

17 A And Mike Dempsey is a maintenance supervisor.

18 Q OK. And was his immediate supervisor. I notice
19 his name was on there most of the time, Mike Dempsey.

20 A Well, when he worked day shift, the first time
21 around, he probably worked for Mike Dempsey. Mike Dempsey
22 was a first shift, mechanical supervisor.

23 Q I see. What shift did Walter Raines work?

24 A He worked, I think, the first shift and also the
25 third shift. He may have worked the second shift sometime,

1 but as a general rule, probably those two shifts. His mechanical
2 supervisor when he worked the third shift would, according to
3 the records, be Ron Adcock (phonetic).

4 Q Does Ron Adcock still work at your plant?

5 A Yes, he does.

6 Q Does Mike Dempsey?

7 A Yes, he does.

8 Q What exactly were Walter Raines' duties at the
9 plant for the position he had?

10 A During most of the time or do you want me to go
11 from start to finish?

12 Q Yes. From the start.

13 A He was hired as a production employee. He was
14 assigned to the shipping area where he had various loading
15 trucks filling orders. He worked in the shipping area until
16 4-26-76, where he was then transferred into maintenance and
17 he spent the remainder of his time in the maintenance area.
18 Maintenance is the group of people that would monitor the
19 production equipment, make fine tuning adjustments, change
20 overs if change overs needed to be made, major repairs if
21 major repairs would be made. He would work with the production
22 people outside of the shop in the production environment.

23 Q OK. So, he would actually keep the machinery
24 going. Was he basically assigned to one wiener tunnel?

25 A That's correct.

1 Q How many wiener tunnels do you have?

2 A We have basically one area, one room. We have two
3 lines in that one room.

4 Q OK. And that's the wiener tunnel that we have been
5 talking about, so he would be in there with the people in the
6 production crew?

7 A Right.

8 Q Supervising machinery?

9 A Right.

10 Q At the end of each shift or the start of the shift,
11 did you close down the machine, stop production? How do you
12 go from one shift to the other?

13 A Normally speaking, the third shift would start
14 production and if things go right, the third shift would shut
15 down the production.

16 Q OK. And if he worked third shift and was shutting
17 down the operation, what kind of duties would that involve?

18 A He would more or less -- well, there's more to it
19 than turning off the machine, but he would back the tempera-
20 tures down and prepare it for cool-down. Basically, that's
21 less complicated probably than anything else. As soon as the
22 last packages are done, we stop the film production and then
23 he goes in to other duties such as dismantling equipment and
24 things like that.

25 Q OK. Why would the equipment be dismantled?

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1 A For clean up.

2 Q OK. So, he would break the equipment down and then
3 your sanitation personnel would come in?

4 A Not the extruding equipment. He would go on to the
5 processing equipment.

6 Q Oh.

7 A We have many, many pieces of equipment that have to
8 be partial -- guards removed so sanitation personnel can get
9 in and adequately clean.

10 Q OK. Did he do any work in the smoke chamber --
11 what did you call that?

12 A The smoke shop. Normally not.

13 Q He would never have to break anything down?

14 A No. The doors open freely and the sanitation
15 people just go in there. It has also a special cleaning
16 system and they more or less turn it on to get it ready. He
17 would not normally have any mechanical repairs to that system.

18 Q What type of work to the extruder?

19 A On shut down?

20 Q On shut down or start up.

21 A You have to forgive me a little bit, because I
22 am not a mechanic.

23 Q Oh.

24 A He would normally come in in the morning -- I'm
25 sorry. He would work the third shift. If he worked the third

1 shift, he would normally, about an hour before the crew was to
2 arrive, he would start heating up the extruders and then he
3 would start the film for package material.

4 Q How?

5 A Just by turning the buttons on.

6 Q All automatic?

7 A Pretty much all automatic.

8 Q And he would never have to turn --

9 A Well, the film would start to extrude and we won't
10 run it down the line, we will return it into the water tank.
11 When he is satisfied that the profile of the film is correct,
12 he would put it on the line.

13 Q How does he put it on the line?

14 A You feed it through.

15 Q Grab it with your hands?

16 A Right.

17 Q Can you think of any other products that you
18 purchased from Dow Chemical Company during the time that Walter
19 Raines was employed there?

20 A I don't. I'm not in the position to really know
21 what chemicals were purchased from Dow Chemical. I just
22 thought that Saran would be the one in question.

23 Q OK. Now, I'm looking at an exhibit that you've
24 provided. It is a Zerox copy of Saran Resin 864 product
25 information. I believe it indicates that it is provided by

1 Dow Chemical Company.

2 MR. PIERCE: I will have that marked as
3 Plaintiff's Exhibit Number 3.

4 (Whereupon, Plaintiff's Exhibit
5 Number 3 was marked for
identification purposes.)

6 BY MR. PIERCE:

7 Q How did you come in possession of this document
8 right here?

9 A That would be something that is supplied to the
10 company by Dow Chemical.

11 Q OK.

12 A It's more or less a general information sheet.

13 Q OK. It was supplied -- was it supplied to the
14 company in Madison, Wisconsin, or the company in Sherman?

15 A We get those from time to time. When we request --
16 we will get something like that with the Material Safety Data
17 Sheet.

18 Q How do you request the Material Safety Data Sheet?

19 A Generally when the purchasing department orders a
20 chemical of any sort, we will request the Material Safety
21 Data Sheet.

22 Q OK.

23 A This is -- this is probably -- I have not been in
24 personnel for the whole time, so I can only speak for the
25 time that I've been in personnel.

1 Q OK.

2 A But when no new chemicals come into the plant, I
3 like to have a Material Safety Data Sheet for each chemical.

4 Q Why is that?

5 A For safety reasons. If there is something that
6 needs to be considered, I like to consider it for fire
7 prevention or any other reason.

8 Q I see. Who is in charge of safety at your plant?
9 Do you have a safety department, a safety engineer?

10 A Well, actually no. We have a person that is also
11 given safety and that is also me. I wear different hats.

12 Q When did you inherit that position?

13 A That comes with the title Assistant Personnel
14 Manager. So, I would be probably more prone to wonder about
15 a Material Safety Data Sheet than say someone in another
16 department would be.

17 Q So, in 1977, you started working there --

18 A As a production supervisor.

19 Q As a production supervisor.

20 A That's correct.

21 Q Could you tell me then what you did after that? I
22 mean: How long were you a production supervisor?

23 A Five and a half years.

24 Q So, for five and a half years -- so, that would
25 make it roughly about 1982 when you became Assistant Personnel

1 Manager?

2 A Well, probably -- I officially became Assistant
3 Personnel Manager, probably in April of '83.

4 Q OK. And who was the -- who was in charge of safety
5 there at your plant before that, during the time Walter Raines
6 was there, from '76 to 1980?

7 A I'm not sure. I would have to look at the record.
8 I'm about the fifth person in that job, so there has been
9 several.

10 Q Fifth since you started or since the plant opened?

11 A Since the plant opened.

12 Q How long has the plant been open?

13 A About ten years.

14 Q Would it be the Personnel Director?

15 A He would not be the safety -- he would not have
16 the title. He would not be the person that would carry the
17 title of Safety Director. Personnel Manager is also, is
18 generally responsible for every function in that office and
19 I am assigned to the office, so, therefore, he would have also.

20 Q Who held the position immediately prior to your
21 position?

22 A Jerry Burroughs (phonetic).

23 Q Do you know where he is now?

24 A He is the personnel manager for Frito-Lay.

25 Q Do you know who held the position immediately prior

1 to him having it?

2 A I am going to have to think here. Bruce Summers.

3 Q Bruce Summers. And can you think of the guy who
4 held it prior to that?

5 A Bill Jensen.

6 Q OK. Do you know where Bill Jensen is?

7 A Some where in Iowa, I think.

8 Q Do you know who he works for?

9 A No. I don't.

10 Q Do you know why he left?

11 A He was offered a job. He was promoted and he left.

12 Q So, he still works with Oscar Mayer?

13 A Right. In some other plant.

14 Q OK. The guy you mentioned just before that, what
15 was his name?

16 A Jerry Burroughs.

17 Q Where is he employed?

18 A He works for Frito-Lay, I think, in Dallas, or in
19 the general area.

20 Q OK. So you requested the Material Data Sheet and
21 then sometimes these documents come in from the main plant in
22 Madison?

23 A That is a general summary of the safety data sheet,
24 more or less.

25 Q Do you know who sent those to you?

1 A No. I don't.

2 Q Do you know when your company received this docu-
3 ment?

4 A No. I don't. Again, that is 864.

5 Q Right.

6 A We don't use 864.

7 Q When was 864 used?

8 A I don't know.

9 Q OK. There are two sheets on the back it has Safety
10 and Handling Considerations and under Handling and Processing,
11 it says OSHA Standards have regulated vinyl chloride a
12 carcinogen by inhalation, according to 1910.93, section g
13 vinyl chloride, recorded on May 28th, 1975, as sub part Z,
14 1910.17, which limits the amount of vinyl chloride monomer
15 to which a worker can be exposed.

16 Were you familiar, or are you now familiar with
17 the amount of or the part per million that the OSHA Standard
18 is for vinyl?

19 A Yes.

20 Q Can you tell me what that is?

21 A The limit is one part per million over the time of
22 an average of an eight hour day. The target action level
23 would be .5 parts per million.

24 Q When you say action level, that's what your company
25 tries to achieve?

1 A No. That's established by OSHA. If you have a
2 noticeable amount at or above that targeted level, you must
3 follow the guidelines prescribed by OSHA for the chemical.

4 Q OK. So you are aware in general that the chemical
5 vinyl chloride, when it is inhaled is a potential carcinogen

6 A Under certain conditions, yes.

7 Q What conditions are those?

8 A That would be over the designated exposures last
9 established by OSHA.

10 Q When did you become aware of this problem you could
11 have with vinyl chloride?

12 A The legislation started, I think, before our plant
13 was ever constructed.

14 Q OK.

15 A We were doing some sampling and monitoring of that
16 particular product before this plant even came on line.

17 Q OK. So, when this came on line in approximately
18 1975, I take it, this plant had been open for approximately
19 ten years?

20 A This is an OSHA law --

21 Q Right.

22 A We would have to comply with.

23 Q I understand. What type of safety programs were
24 instituted or what was done to make sure that you didn't have
25 a vinyl chloride problem there in the plant?

1 A When the law was first established, or there was
2 extensive testing to see if we did in fact have anything above
3 the targeted action level. We did not, according to OSHA, if
4 you can establish the fact that you have nothing above that
5 level, that's enough. Unless there is a major modification
6 or reason to suspect that there might be.

7 Q Who performed those tests?

8 A The tests were taken, probably, by the Assistant
9 Personnel Manager and the samples were evaluated in a labora-
10 tory in Dallas, for the Sherman plant.

11 Q OK.

12 A What we do, we monitor on an occasional basis, to
13 make sure that we are in fact still in compliance, well below
14 the targeted action level.

15 Q OK. How do you monitor that? How is that done?

16 A The monitoring is done with laboratory type test
17 tubes, I guess. Some people call them charcoal tube-type
18 samples. They're taken -- they are placed in the areas where
19 the blended powders are distributed. The samples are sent to
20 Dallas for laboratory analysis to determine the level, if
21 any vinyl chloride would be present.

22 Q OK. Does the service come in from Dallas? Do you
23 contract that out and have the samples taken?

24 A No. The samples would be taken --

25 Q By your own personnel.

1 A By our own personnel.

2 Q Could you tell me who takes those samples?

3 A Usually the Assistant Personnel Manager.

4 Q Have you taken any?

5 A Personally?

6 Q Yes.

7 A Well, I chose to do it a little differently. We
8 had an insurance company, Texas Employers, that has a very
9 nice facility in Dallas. When I take samples, I ask them to
10 come down with their equipment. I ask them to calculate it
11 and place it in place. Then we take the samples and ask them
12 to do an analysis for us.

13 Q You have been doing that since your position in
14 1973?

15 A Yes.

16 Q More than -- how many times?

17 A One time for vinyl chloride in all parts of the
18 plant.

19 Q Do you have the results of those tests?

20 A My testing? No. Not on mine. I do have some
21 results on tests taken between '76 and '80.

22 Q Between '76 and '80. OK. Would you provide me
23 with those?

24 A Let me -- I guess you are talking a little bit in
25 general terms. Are you interested in the time frame from

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1 1976 to the present or from 1976 to 1980, only?

2 Q I would be most interested in '76 to '80.

3 A OK.

4 Q So, if you can, confer with your attorney and see
5 if you want to provide me with those figures.

6 MR. CLARK: You described tests for various
7 kinds of things.

8 MR. PIERCE: I am only interested in the test
9 for vinyl chloride.

10 MR. CLARK: Between 1976 and 1980?

11 MR. PIERCE: Would that be hard -- difficult
12 to obtain?

13 THE WITNESS: They're available.

14 BY MR. PIERCE:

15 Q OK. Would you?

16 A Any objection?

17 MR. CLARK: Do you have any objection?

18 THE WITNESS: No.

19 MR. HENSON: What is he being asked to do
20 now? I'm confused.

21 MR. PIERCE: I'm asking him to provide --
22 in other words, his company has taken samples and had
23 them analyzed in Dallas for the years 1976 to 1980 and
24 they specifically tested for vinyl chloride and I'm
25 asking him to produce the results of that test.

1 MR. HENSON: To be attached to the deposition?

2 MR. PIERCE: Yes. That would be great.

3 MR. HENSON: OK. That's fine.

4 MR. PIERCE: OK. Thank you.

5 THE WITNESS: Let me see if I've got some of

6 them right here. I might add that sampling by OSHA

7 standards is not required because we are below the OSHA

8 targeted level. We do this as an added measure.

9 MR. PIERCE: I think I have seen the OSHA

10 reports and citations for violations of your company.

11 I think they have been relatively --

12 MR. CLARK: I am going to object to your

13 testifying.

14 MR. PIERCE: OK. I was just going to

15 compliment --

16 BY MR. PIERCE:

17 Q Do you have any documents you have brought as the

18 result of the subpoena that you have not shown me so far?

19 A To my knowledge, I have just about everything I

20 have rounded up.

21 Q What are you looking at now?

22 A This is not normally a part of the file. This is

23 the chemical analysis of the testing that we did from 1976 to

24 1980. I think I have got only two.

25 Q Also, you have those with you here today?

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1 A Right. I didn't know if you were going to need
2 those or not.

3 Q OK. You've handed me some documents which come
4 from Allied Analytical Research Laboratories and one is dated
5 or it was submitted 3-1-78. There is also one that was
6 submitted on 2-4-80. Do you know what the V.C.M. stands for?

7 A That's the vinyl chloride monomer.

8 Q OK. Parts per million.

9 A Parts per million.

10 Q OK. Then would -- if I look down here and saw
11 where it said .2 or 0.2, would that be over an eight hour
12 period? Is that how parts per million over an eight hour
13 period -- is that how that's done?

14 A The samples are placed, I guess it could be longer
15 than eight hours. It might be shorter than eight hours, but
16 it would be -- it would be determined by the number of strokes
17 and the time frame. If it's not exactly eight hours, it would
18 -- it can be projected over the eight hour period by these
19 pumps.

20 Q Have you seen the types of devices that they use?

21 A Yes.

22 Q Can you describe that to me, generally.

23 A It's basically a pump with a recorder. It records
24 the number of strokes and it has a filter connected to the
25 pump.

1 Q And it sucks the air through there?

2 A It pulls the air through there with a designated
3 flow.

4 MR. HENSON: Are you going to mark those?

5 MR. PIERCE: Yes. Let's mark those.

6 (Whereupon, Plaintiff's Exhibits
7 Numbers 4 and 5 were marked for
identification purposes.)

8 THE WITNESS: If I might add, as you can see,
9 we are well under the OSHA targeted level.

10 BY MR. PIERCE:

11 Q OK. When it says the sample locations, it has
12 different locations indicated here that would be, I assume
13 where a person would be standing, I take it -- or how did you
14 choose the locations, is what I am trying to get at?

15 A Well, we have different places in the plant that
16 we would have our blended powders, different extruding areas
17 and this would be samples of various extruding areas. The
18 part you are concerned with would be C.W.P.

19 Q And that stands for?

20 A Continuous Wiener Production.

21 Q OK. And that -- where would that be placed in the
22 room?

23 A It would be in the extruding area. I generally
24 place it on the hood above the dyes.

25 Q OK. And this Continuous Wiener Production Number

25 Q OK. Do you have any data that would establish that

1 there were any warnings, other than we have seen today,
2 provided with the Dow Chemical or that you know Dow Chemical
3 provided to you?

4 A The product that you would be concerned with would
5 be the Saran 864, and, to my knowledge, I have given you
6 everything that I know in the form of labels or warnings.

7 Q OK. Do you have any picture films, documents, or
8 anything of that nature of any of the containers that would be
9 used of the product 864 during the time that Walter Raines
10 worked there?

11 A No. But you will have an opportunity to see the
12 containers.

13 Q OK. And I think we have established the fact that
14 you are the safety director out there; is that correct?

15 A I am the Assistant Personnel Manager and the
16 Safety Manager. I wear two hats.

17 Q OK. What exactly do you do as being safety
18 director -- do you have different safety programs that you
19 institute out there and put them through different indoctrina-
20 tions?

21 A Right. We would have the normal ongoing safety
22 program and that goes hand in hand with accident prevention,
23 that type of thing. We look for things such as guards out of
24 place, things like that. We try to comply to OSHA standards
25 as we know how to comply to OSHA standards. And we do, if

1 it's -- if we have anything that would require testing, such
2 as noise, or whatever, we do the required testing.

3 Q OK. And that testing is carried out at your
4 direction; is that correct?

5 A That's correct. It -- again, I talk as safety
6 person for the last two years.

7 Q Correct.

8 A It's hard for me to say what exactly occurred
9 between 1976 and 1980 because I have no knowledge of that.

10 Q Specifically, what do you have with the specific
11 reference to the vinyl chloride -- potential problem that you
12 may have out there? What kind of program have you designed
13 to inform your employees about that?

14 A We don't have any potential problems with vinyl
15 chloride as our testing indicates.

16 Q OK.

17 A We are not at our plant questioned that we have a
18 problem based on our sampling, based on the company's history
19 of vinyl chloride use. This is a blended product that we use.
20 Not straight vinyl chloride.

21 Q I understand that. What is the company's history
22 on the use of the product vinyl chloride as you know it?

23 A When did they first start extruding physically, or
24 packing material?

25 Q I don't know. You said basically you all have

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1 understood you haven't basically had a problem with vinyl
2 chloride. Is that how you were informed about it?

3 A Well, we have never -- never to my knowledge, had
4 any major problems with vinyl chloride. If we would have had
5 major problems with vinyl chloride, certainly we would have
6 been heavily involved with precautionary steps. You have
7 to understand that plants generally are concerned with their
8 operations. We have operations here that may be unique to our
9 plant and Madison, Wisconsin, would have many more operations
10 than we because they are a much larger plant than we.

11 Q OK. So, Walter Raines -- well, of course, we can't
12 talk about Walter because you don't know exactly what he
13 received.

14 A Pardon.

15 Q You don't know specifically what chemicals he would
16 come in contact with there at your plant.

17 A I did not give Walter Raines' orientation, so, I
18 don't know.

19 Q Do you know who did give him orientation?

20 A No. I don't.

21 Q If he got oriented, what would this consist of?

22 A Basically, the rules and the policies of the plant.
23 General safety rules. General plant rules.

24 Q Specifically, with reference to the chemicals that
25 you would be exposed to, would that have anything to do with

1 that? Would there be anything like: You are going to be
2 exposed to polyvinyl chloride or Saran 864 and it contains
3 a certain product?

4 A I have no knowledge if he had any counseling on
5 the various things he would be using or not.

6 Q Have you ever counseled people on that?

7 A Vinyl chloride?

8 Q Yes.

9 A No.

10 Q Was there any program instituted when you took your
11 position where someone would be instructed on the potential
12 hazards of vinyl chloride, if there were any?

13 A To my knowledge, no.

14 Q Do you warn any of your employees of any chemical
15 that you have out there that there could be a potential problem?
16 You don't have a basic -- I'm trying to find out if you have
17 a specific -- this is the product we have and these are some
18 of the potential problems we might have?

19 A We, as required by law, we do from -- again, we're
20 talking 1976 to 1980.

21 Q OK.

22 A Or are we talking up to the present?

23 Q How about 1976 to 1980.

24 A OK. To my knowledge, I know of -- I know of none,
25 but I would not have been involved in the program at that point

1 Q How about from the time you have taken the position
2 until now, to the present?

3 A Well, right now there is legislation in the process
4 for arduous communication of all chemicals.

5 Q OK.

6 A Including white out for the secretaries.

7 Q Well, that stuff might be very dangerous.

8 A Could be, so we are going to get into that in a
9 big way.

10 Q Do you have any warnings posted around the area
11 where Walter Raines would have been working, cautioning for
12 the use of respirators or any equipment of that nature, or
13 were there any warning signs there at all?

14 A None because there was none required or indicated
15 that would be needed.

16 Q OK.

17 A We do have safety equipment in the plant as
18 required, but not -- not as a matter of in every room. Only
19 where it's needed.

20 Q I understand. Have you ever given your statement
21 in regard to any potential exposure that Walter Raines may
22 have to polyvinyl chloride or any vinyl chloride, or its
23 derivative?

24 A A prior statement?

25 Q Yes.

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1 A No. I have not. Well, let's see. During the
2 worker's compensation claim, I think the carrier came down
3 and collected some information, but I did not personally
4 give any testimony.

5 Q Do you know what -- Is your company, the Oscar
6 Mayer Company, a member of any type of associations or anything
7 of that nature?

8 A Such as?

9 Q Such as the Meat Packer's Association or is there
10 something --

11 A Oh. We are members of the National Safety Council.

12 Q Any others?

13 A Probably the -- I would guess, Texas Association
14 of Business.

15 Q Any others?

16 A But again, I talk about now. I don't know what
17 we were back in 1976, 1980.

18 Q I understand. Do you know what kind of publications,
19 periodicals that your company receives that you are aware of
20 that your company would be a subscriber of?

21 A Pertaining to -- gosh, we get junk mail on a
22 regular basis.

23 Q That you solicit.

24 A We probably --

25 Q In the nature of Texas Monthly, but you would get

1 it -- but it would be pertaining to business or to safety.

2 A We get --

3 Q Or to health.

4 A We have -- we receive publications from organizations
5 developing meat processing equipment. We get the magazine
6 Occupational Hazards.

7 Q OK.

8 A I can't think of really anything else.

9 Q Does that magazine Occupational Hazards come to
10 your attention?

11 A Oh. Yes. It comes to my office.

12 Q And you maintain a file on that?

13 A No. Most of the time Occupational Hazards is
14 trying to sell you equipment --

15 Q OK.

16 A Lighting. It's a free publication sponsored by
17 the vendors and it's more or less to let you know techniques
18 that are being developed.

19 Q OK. Do you all have a research and development
20 division there at your plant?

21 A No.

22 Q In Sherman. Do you have one at Madison?

23 A Yes. We do.

24 Q OK. Do you know who's in charge of that?

25 A No. I don't.

1 MR. PIERCE: I'll pass the witness.

2
3 CROSS EXAMINATION

4 BY MR. HENSON:

5 Q Mr. Schulz, I understand that since you have been
6 an assistant personnel manager, you've had the full responsi-
7 bility or the primary responsibility of your Sherman plant
8 for safety within the plant; is that correct?

9 A Yes, sir.

10 Q And whoever filled that job before you had the
11 same duty, would that be correct, or do they have it divided?

12 A To my knowledge, they did, because when I assumed
13 the job, that's the way I -- now, it may have been altered
14 over the years, but to my knowledge, I would think that they
15 still have the same type of responsibility for safety.

16 Q When you did some research in preparing for this
17 deposition, did you look at your company's record there in
18 Sherman regarding air samples or whatever might have been done
19 by safety directors before you during the time from 1976 to
20 1980?

21 A Yes. I did.

22 Q Are you confident from what you saw and what you
23 know otherwise that your company has either taken samples
24 itself and had them analyzed or had others come in and do so
25 since the time the plant was opened and I'm talking about for

1 vinyl chloride content.

2 A Yes; I am. I am satisfied that samples were taken
3 and that they were under the -- well, under the OSHA targeted
4 action level.

5 Q Let's talk about OSHA now. That's the government
6 -- federal government agency called Occupational Safety and
7 Health Administration; is that correct?

8 A That's correct.

9 Q And that organization is charged with the duties
10 of overseeing safety in the workplace; is that correct?

11 A That's correct.

12 Q They have a book of regulations that's published
13 and I take it you, as a safety director, and perhaps your
14 predecessors as safety directors, would obtain copies of those
15 books as they might pertain to your particular plant.

16 A That's correct.

17 Q And I believe you're testifying that your company
18 has followed the course of staying within or below OSHA
19 requirements regarding vinyl chloride content in the air
20 where the people work; is that correct?

21 A That's correct.

22 Q What was the company's reason for wanting to take
23 air samples, Mr. Schulz, to your knowledge, during those
24 years that we're talking about?

25 A We wanted to be absolutely certain that our process

1 was acceptable with the standards that OSHA specified.

2 Q When we talk about parts per million, are we not
3 talking about the amount of that particular substance that
4 might be in the air that a person would breathe if he is in
5 the area where your samples are taken?

6 A That's right. That would be airborne particles.

7 Q When you speak in terms of one part per million,
8 can you explain what you understand that to mean?

9 A A very, very small amount of either particle or
10 gas that would be the amount that OSHA would feel or the
11 government agency, OSHA, would feel contents that people
12 would be exposed to and not be harmed by that.

13 Q So, according to the OSHA regulations, between
14 1976 and 1980, one part per million in the workplace, of
15 vinyl chloride, would be safe; correct?

16 A According to OSHA, if you have not had more than
17 one part per million over a time average of an eight hour day,
18 that would be a safe workplace.

19 Q OK. Then, you speak in terms of a targeted figure
20 which you said was .5 parts per million, which I think would
21 be one half of this figure of one part per million; is that
22 correct?

23 A That's correct.

24 Q And the concept of a target figure means that if
25 you are at that level or below, you don't have to take any

1 precautions; is that correct?

2 A That's correct.

3 Q If you are at .5, up to one part per million, there
4 would be some guidelines to be followed; is that correct?

5 A That's correct.

6 Q And do you know what those guidelines are, in
7 general terms?

8 A It would be a regular sampling program of the
9 air actually, as well as probably training and training so
10 far as the chemical and the use of equipment, possible use
11 of equipment. If we would have a level above the targeted
12 level, but below the one part per million, we would be required
13 by OSHA to monitor on a regular basis. It is kind of a yellow
14 zone or a zone of caution. We know that it's there, but it's
15 well below the one part per million, but it is still enough
16 to be concerned and sampling would be required.

17 Q From the standpoint of your company's experience
18 here in the Sherman plant, has your company ever had more
19 than .5 parts per million of vinyl chloride airborne in the
20 workplace?

21 A No.

22 Q You've exhibited two sampling reports for us and
23 one of those indicates point zero parts per million in the
24 C.W.P. area which, I believe, you said is the Continuous
25 Wienie Production area?

1 A Right. That's correct.

2 Q All right. And then the other one shows 0.2 parts
3 per million; is that correct?

4 A That's correct.

5 Q I take it from what you've said that there were
6 other samples taken through the years, but you just do not
7 have the reports in your file; is that correct?

8 A Up to the present? Or from the years 1976 through
9 1980?

10 A There were samples taken. We -- of the samples
11 taken in those years, that's probably -- I would probably
12 say that is just about all of the samples in the Continuous
13 Wiener Processing area.

14 Q All right. Now, is the Continuous Wiener Processing
15 area the place where the extruder is located?

16 A Yes.

17 Q To your knowledge, Mr. Schulz, has the air volume
18 or the environment around the extruder ever exceeded 0.5 parts
19 per million of vinyl chloride?

20 A To my knowledge, it has never exceeded that.

21 Q Do you know approximately when your company began
22 using Saran 865 resin?

23 A No, sir. I don't.

24 Q The exhibit that has been offered here, which has
25 been marked by the reporter as Plaintiff's Exhibit Number 3,

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1 pertains to Saran Resins 864. Do you know when your company
2 ceased using 864 resin?

3 A No, sir. I don't.

4 Q Do you know which resin was used here in Sherman
5 between 1976 and 1980?

6 A 864. At least for part of that time. Now, I'm
7 not -- I'm not absolutely certain it was used completely all
8 of the time, but I know that it was in use in part of those
9 years.

10 Q Exhibit Number 2, which is a Material Safety Data
11 Sheet that you provided to us for this deposition, is dated
12 October the 23rd, 1981; is that correct?

13 A That is correct.

14 Q Do you know if you obtained Material Safety Data
15 Sheets from Dow Chemical regarding Saran 864 Resin before
16 October 23, 1981? By you, I mean your company there in Sherman.

17 A I don't know. Material Safety Data Sheets would
18 be updated. If we would receive a new one, we would discard the
19 old one and replace it with the new one.

20 Q That's my next question. Your procedure would be
21 you would keep the one that's current?

22 A That's correct.

23 Q And when a new one would come in, with a new date,
24 a more current date, you would discard the previous Material
25 Safeta Data Sheet; is that correct?

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1 A Yes.

2 Q Would it be a fair statement then, Mr. Schulz, to
3 say that your company here in Sherman has obtained and kept
4 Material Safety Data Sheets from Dow Chemical or that have been
5 provided by Dow Chemical that would be current for the time
6 period that these products, such as Saran 864, would be in use?

7 A We try to keep the Material Safety Data Sheets as
8 current as possible. If there would be some minor changes,
9 generally, we would receive some new data sheets.

10 Q What I'm really asking and perhaps I didn't make my
11 question clear enough: Before October, 1981, and going back to
12 1976, to your knowledge, did your company follow sampling
13 procedures as you have outlined today?

14 A Yes. Yes. I say that because when I came into
15 this position, we had a logging of Material Safety Data Sheets.

16 Q Was your procedure the same for instruments that
17 would be similar to Plaintiff's Exhibit Number 3, which is the
18 Information -- Product Information Sheet?

19 A Some of those items that would come in with Material
20 Safety Data Sheets are kept and some of them are discarded.
21 Primarily, we are concerned with Material Safety Data Sheets.

22 Q Plaintiff's Exhibit 3 does not contain a date that
23 I have noticed, except it says copyright 1979, Dow Chemical
24 Company.

25 A I don't know what date that would have on it.

1 Again, that would be general information.

2 Q You have no records, I take it, of any purchase
3 by your company from Dow Chemical Company of polyvinyl chloride;
4 is that correct?

5 A To my knowledge, our plant has not purchased any
6 polyvinyl chloride from Dow Chemical. We have purchased the
7 Saran 864 and 865, as well as other Sarans for other extruders
8 from Dow Chemical.

9 Q There is a difference in the product polyvinyl
10 chloride and the product Saran 864 or Saran 865; is that
11 correct?

12 A That's correct.

13 Q And you -- in your company, your plant mixes the
14 two products, as well as these pellets you described, in
15 making the ultimate sheet which is used to wrap around the
16 meat?

17 A That's correct.

18 Q And you have no idea of where the P.V.C. or
19 polyvinyl chloride resin comes from, or who purchases it
20 rather; is that correct?

21 A The powders are received from the corporate
22 headquarters, Madison, and we have a plastics operation there
23 that will blend powders to our needs. Now, they are raw
24 supplies -- come from various vendors and I am not sure who
25 supplies them with their needs, but when we get it, it is a

1 blended product, probably a product that has been processed
2 in the blending operation and then sent to us.

3 Q Mr. Schulz, to your knowledge, has your company,
4 Sherman plant, used products from other manufacturers that
5 would be used in place of the Saran 864 or 865, in the
6 extruding area there where you're making the sheet that wraps
7 around the meat?

8 A I don't know. I would say we have used generally
9 Dow Chemical Saran, but there may have been instances where
10 we have tried other brands or used other brands. I can't
11 say that Dow Chemical is the only one.

12 Q Regardless of whose Saran you used or similar
13 products, your testimony is that the airborne content of
14 vinyl chloride has never reached or exceeded 0.5 parts per
15 million; is that correct?.

16 A Yes.

17 Q As Plaintiff's Exhibit 1 that we've been talking
18 about, is a label taken off of a drum; is that correct?

19 A That's correct.

20 Q There are many of these labels that come in from
21 time to time on the various drums or packages of Saran 865;
22 is that correct? That's not the only one you've ever had?

23 A Oh, no. No.

24 Q That's just a sample.

25 A Just a sample.

1 Q Regardless of whether there is any precautionary
2 language regarding the inhalation of vinyl chloride on the
3 Material Safety Data Sheet identified as Plaintiff's Exhibit
4 2, your company was aware during 1976 to 1980 that there was
5 a danger if the airborne content of polyvinyl chloride in the
6 workplace exceeded a certain level that could be a danger?

7 A According to the explanation and the sampling, I
8 would have to say yes.

9 Q But, your point is, the levels never reached the
10 level that would exceed a safe workplace; is that correct?

11 A That's correct.

12 Q But, whether it's in the Material Safety Data
13 Sheet or not, you were aware, and your company was aware at
14 some point, there would be a danger if the airborne content
15 got too heavy?

16 A Yes. That's correct.

17 Q All right. The same would be true with many
18 chemicals or many substances, would that be a fair statement?

19 A Too much of anything is not necessarily healthy.

20 Q All right. By the same token, something can have
21 some dangerous characteristics, but, if kept at a safe level,
22 would not be dangerous. Is that a fair statement?

23 A That's a fair statement.

24 Q You would agree with that?

25 A I would agree with that.

1 Q In your mind, is Saran 864 a safe product if the
2 airborne content is kept at a proper level?

3 A In my mind, it is.

4 Q You work around it all the time, do you not?

5 A Personally or as a --

6 Q Well, let's talk about the time when you worked on
7 the production area, you worked around it for what -- how many
8 years?

9 A I worked in many areas of the plant. I did work
10 in the C.W.P. area for two years and I was around it constantly.

11 Q Looking back on it, are you satisfied it was safe
12 to work around the Saran 864?

13 A Yes. I am.

14 Q As safety director of your company's Sherman plant,
15 are you still satisfied that the use of Saran 864 or Saran
16 865 is safe, if used at the proper levels?

17 A Yes. I am.

18 Q Are you satisfied that your company, during the
19 period 1976 to 1980, was using that product at safe levels?

20 A Yes, I am, because Saran has a unique characteristic.
21 If you don't use it at the prescribed operating levels, it's
22 not very productive. You have a lot of problems with it, so
23 we would have to keep it within the manufacturer's specifications
24 in lieu of the testing that was done, in lieu of the product
25 itself. I would feel comfortable with the product.

1 Q And you're still using it today?

2 A Yes. Well, we are using the 865 today, yes.

3 Q And that's made by Dow Chemical?

4 A That's correct.

5 Q With regard to Walter Raines, do you know what
6 shift he usually worked on, most frequently worked on?

7 A I would think Walter worked several years of day
8 shift. He came in at an early time when it was possible for
9 people to develop enough seniority to obtain a day shift job.
10 That wouldn't be the same today, but Walter was there at an
11 opportune time to achieve day shift, so, he would have been
12 able to advance with his career with Oscar Mayer on the day
13 shift.

14 Q Now, what would he, as a mechanic, do on the day
15 shift that would be different from the third shift, which you
16 were describing for Mr. Pierce?

17 A The first shift man and the second shift man would
18 be more or less a trouble shooter. If the machines ran
19 according to plan, they would have very little to do. They
20 may walk around -- well, wait, they would make any immediate
21 repairs necessary. They would make slight adjustments. But,
22 more or less, if things were running properly, they would
23 just listen for strange noises, potential problems and this
24 would not be in the extrusion equipment. That would be on
25 the whole front end of the line. Their time would be very

1 divided between the machines; not necessarily the extruder.
2 It was my experience as a C.W.P. supervisor to have mechanical
3 personnel not at the extruders, but at the packaging line
4 itself as much as possible to examine the end product for
5 any possible defects.

6 Q In your opinion, would that be the area where
7 Walter Raines most frequently would have worked then?

8 A If he was the extruder type workman, that would be
9 the area that he would work in. He would be responsible for
10 film or the packaging material all the way through and also
11 the equipment that would use the film.

12 Q But, you said it was customary to have mechanics
13 at the far end of the production line rather than up at the
14 extruder itself.

15 A I had a lot of trouble in the C.W.P., not so much
16 with the film, but some of the package machinery and I tried
17 to have the mechanic out there where he could supervise the
18 machinery if there was a problem with the film. The employees
19 are quickly trained to let the mechanic know if there is a
20 problem with the packaging material.

21 Q Are there any fumes emitted, to your knowledge
22 by the Saran or the film after it leaves the extruder? Now,
23 you said there would be some fumes in the area of the extruder.

24 A No. No. The fumes would be at the extruder level
25 only. Immediately after the film is extruded, it enters a

1 chill tank of 40 degrees, where it is solidified like that
2 and it goes on the line for packaging. At that point it is
3 just a regular packaging material.

4 Q When we're talking about the Saran, we're talking
5 about something similar to Saran wrap that a housewife would
6 buy at the grocery store?

7 A That's correct.

8 Q Are you telling me then there are no fumes emitted,
9 vapors emitted from the Saran or this wrap after it leaves the
10 extruder and goes into the cooling process?

11 A That's correct. After it leaves the extruder and
12 the chill tank would be a finished product like a sheet of
13 plastic would be, or any plastic material.

14 Q Now, in the area of the extruder itself, you said
15 there would be some vapor emitted?

16 A I think. I would think that any time you would
17 heat anything, whether it is soup on a stove or anything,
18 you are going to emit some type of vapor.

19 Q What type of exhaust do you have -- removal system
20 do you have to take fumes or the vapor -- I'm saying fumes
21 and that is probably incorrect -- the vapor away from the
22 area where it is being produced?

23 A We have hoods, vented hoods that come down over
24 the dies where the melted material leaves the machine and
25 enters the water and the fumes will be taken away for the

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1 most part by this vacuum system that pulls it on up. We also
2 have these machines located in large open areas and we have
3 the areas regulated to maintain temperatures of between 40 and
4 50 degrees and there is considerable air mass movement in
5 those areas so the rooms would be well vented, ventilated.
6 There is no one little room that is located off as an extruder
7 room. It is open to other areas.

8 Q What is the exact date when the Sherman plant went
9 into operation?

10 A I can't tell you. I think the first employee was
11 hired in about 1975. The first operation would have been the
12 -- probably the C.W.P.

13 Q You testified earlier that at some point you used,
14 leased the services of Texas Employer's Insurance Association
15 to either take the air samples or come down and pick them up
16 after they had been taken and take them back to Dallas for
17 testing; is that correct?

18 A That's correct.

19 Q Texas Employer's Insurance Association was your
20 worker's compensation carrier at that time?

21 A Recently. Now, we're not talking about 1976 and
22 1980, we're talking --

23 Q More recent years.

24 A More recent, as my experience as safety director.

25 Q Between 1976 and 1980, what procedure was followed

1 for taking air samples and having them tested? Who did it
2 and where was it done?

3 A The -- I can't say for sure who did it. I would
4 assume the Assistant Personnel Manager and safety manager
5 would go out with equipment and take samples, then send it
6 into the lab for an analysis.

7 Q Between the years of 1976 and 1980, did OSHA
8 representatives visit your plant at any time?

9 A We've had OSHA inspections, but I don't know,
10 exactly, the dates.

11 Q Has your company ever been cited by OSHA for
12 exceeding the safe limits of the vinyl chloride in the
13 air?

14 A To my knowledge, no.

15 Q You made a comment earlier about your company not
16 having any problems with vinyl chloride; is that a correct
17 statement?

18 A Yes.

19 Q And you made a distinction between Saran 864 or
20 865 and purer, more straight vinyl chloride.

21 A That's correct.

22 Q All right. What is the difference? Perhaps
23 you're not testifying as a chemist, but what is your knowledge
24 between straight vinyl chloride and the form you would find
25 it in, such as 864 or 865 Saran?

1 A The main concern, as I understand it, with vinyl
2 chloride, stems from the manufacturers of vinyl chloride, but --

3 Q What I'm asking is: Is Saran 864 or 865 diluted,
4 or blended down?

5 A Oh. Yes it is. All our powders are blended. They
6 contain some polyvinyl chloride, but they certainly are not
7 straight by any means. They are a blended, watered down
8 version, if you will, of vinyl chloride. However, since they
9 do contain the product vinyl chloride, we have to consider
10 them as potentially hazardous and we have to monitor them.

11 Q Now, you used the phrase polyvinyl chloride a
12 moment ago. You are not saying that Saran 864 is polyvinyl
13 chloride?

14 A No. I'm not.

15 Q You meant to say vinyl chloride; I take it?

16 A Whatever is on the Material Safety Data Sheet. It
17 does contain some vinyl chloride for the shipping, but it is
18 not a pure vinyl chloride product.

19 Q And you said earlier that your employees are not
20 counselled on the potential hazards of vinyl chloride. Why
21 is that? Why do you as a safety director or why do your
22 predecessors not counsel your employees about the hazards of
23 vinyl chloride?

24 A Vinyl chloride is not seen to be as a hazard at
25 our plant. We would certainly counsel employees if they were

1 exposed to any hazardous chemical, but in our opinion, based
2 upon our evaluations, it's not a reason enough concern. It
3 is not a chemical that would require special training
4 sessions based upon the current laws. Now, the laws, as I said,
5 are going to change and this would mean training programs
6 that would come into effect as a result of the new hazardous
7 communications rule, but at this time, we are doing what is
8 required. Now, the Material Safety Data Sheets are available
9 for anyone, if they have a concern.

10 Q Even if the law did not require it, Mr. Schulz,
11 if you thought there was some hazard to your employees out
12 there in the workplace, at Oscar Mayer in Sherman, you would
13 caution them about it; would you not?

14 A Yes. We would.

15 Q You wouldn't wait for the federal government to
16 pass law; would you?

17 A Our safety programs are in effect that way we
18 have people who expose themselves to danger by improper lifting,
19 by trying to lift too much. We go out and we recognize these
20 hazards too, even though there is not a law that requires us
21 to step in, we would counsel these people on these potential
22 hazards, because we feel that potential harm may result if
23 that practice or action is not modified.

24 Q Your company's Madison, Wisconsin, plant is much
25 larger than the one here in Sherman?

1 A Yes, sir.

2 Q And I believe you said earlier that your company
3 -- by that I mean mean Oscar Mayer does have hygienists and
4 people on staff or at least who consult with them to make
5 certain all of their plants throughout the country are
6 operated in a safe manner?

7 A That's correct. The machines are developed in
8 Wisconsin and sent to our plant and set up according to the
9 specifications of the research and development program.

10 Q Now, the company in Madison, Wisconsin, has material
11 available to you, as well as resource people, to keep you up
12 to date on safety matters within the entire company; is that
13 correct?

14 A That's correct.

15 Q And you would receive communications from your
16 Madison, Wisconsin, office if there were any dangers about
17 the use of vinyl chloride, or the use of Saran 864 or 865 in
18 this plant here in Sherman?

19 A I would certainly feel that they would inform us
20 of any potential dangers.

21 Q So, you're not limited to what resources you may
22 presently have here in Sherman --

23 A That's correct.

24 Q In making that decision. What I'm getting at --

25 A That's true.

1 Q You would also have the opportunity, if you felt
2 it necessary, to contact a company such as Dow Chemical, who
3 might also have industrial hygienists and others specialized
4 in the field of these particular products you're using,
5 could you not?

6 A They are readily available. I think the number is
7 available on the safety data sheet.

8 Q All right. I was going to ask you about that.
9 On Plaintiff's Exhibit 2, which is the Material Safety Data
10 Sheet, is given an emergency phone number; is there not?

11 A That's correct.

12 Q And then on Plaintiff's Exhibit Number 3, on the
13 second page, is there not some information given that Dow
14 Chemical has Industrial Hygienists available for consultations
15 on a broad range of subjects?

16 A That's true.

17 Q Particularly those involving the safe use of Dow
18 safety products and they were available to visit plants on a
19 contractual basis for monitoring and consulting activities?

20 A That's right.

21 Q I take it, Mr. Schulz, that even in view of this
22 lawsuit that has been filed by Mr. Raines, you have no
23 complaints as the safety director for the Sherman plant about
24 any safety factors associated with the Dow products that were
25 in use between 1976 and today, such as Saran 864 or 865?

1 A Based on the information, I have no complaints.

2 MR. HENSON: OK. Pass the witness.

3

4 RE-DIRECT EXAMINATION

5 BY MR. PIERCE:

6 Q OK. On the information you have, are you referring
7 to the two documents, Plaintiff's Exhibit Number 5 and Number
8 4? Is that what you're basing your opinion on?

9 MR. CLARK: Wait a minute. He has testified
10 as previous safety director, he has the documents, he
11 has the past history, he didn't just talk about that.
12 That's not the only information he's had.

13 BY MR. PIERCE:

14 Q Well, what information are you basing your opinion
15 on, is all I want to know?

16 A I'm basing my information on the sampling that
17 we've done at this plant, as well as the sampling that is
18 done at the corporate office, as well as the sampling that
19 is done at the other plants.

20 Q Is there sampling done at the corporate office in
21 Madison, Wisconsin?

22 A Yes.

23 Q And are you made aware of those samplings?

24 A No. Because it's different types of operations.

25 Q OK. If the plant here in Sherman has been in

1 existence for ten years, it was started in 1975, how many
2 tests for vinyl chloride have been performed to the present
3 date?

4 A I would have to go back and look at the records.
5 Again, I thought we were talking between '76 and 1980.

6 Q Well, there is one here from 1978 and then one
7 again in 1980, so I take it there were none between 1976 and
8 1978, because you would have pulled that and brought that to me?

9 A I think I would have looked on the -- at the C.W.P.
10 operations because the other areas, the extruders --

11 Q In the C.W.P.

12 A OK. Gee, to my knowledge --

13 Q These were the only two?

14 A Right.

15 Q And to your knowledge how many have been performed
16 after 1980, after this one performed 2-4-80?

17 A I know I did one myself in 1983. There may have
18 been one between these samples.

19 Q OK.

20 A And again, these are precautionary type measures.

21 Q Could you say with reasonable accuracy that
22 during the ten years that Oscar Mayer in Sherman has been
23 in existence, it has been tested for vinyl, the vinyl chloride
24 level has been tested at least three times?

25 A In the C.W.P. area?

1 Q In the C.W.P. area.

2 A At least three times and possibly more.

3 Q Possibly four times?

4 A Potential. Yeah. I can't -- I'm guessing, if
5 that's what you want me to do. I can do that, but I'm guessing.
6 If I tell you --

7 Q OK. What experience do you have or training do
8 you have in the way of a chemical background? Do you have
9 any training in chemistry?

10 A No. Limited. Little to none.

11 Q Do you have any training, specialized, in the line
12 of hazardous materials, at all?

13 A I've been to the OSHA Training Institute, National
14 OSHA Training Institute.

15 Q What do they do there?

16 A They more or less covered broad topics, but if you
17 are talking about specialized training, where I could talk
18 about, no, we have experts available in the company for that.

19 Q OK. So, it would be safe to assume that you are
20 not an expert in the use of different chemical compounds?

21 A Personally? Me?

22 Q Yes.

23 A No. No. I'm not an expert at all. I never claim
24 to be. But, I think when I did the analysis, the last time
25 I had some experts come in, it was from the Texas Employer's

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1 Insurance.

2 Q Do you know their name?

3 A Charles Reed (phonetic).

4 Q And he works for --

5 A Texas Employer's Insurance.

6 Q Right now?

7 A He is the assistant -- I'm not sure what position
8 he's in, but he is a supervisor of some sort, in the laboratory
9 in Dallas.

10 Q OK. Do you know another expert from Texas Employer's
11 that came down? You said there was a couple, I didn't know
12 if there was two.

13 A Well, I had the local people, but he wasn't the
14 expert. He was --

15 Q Who were the local people?

16 A The local people were from the local office here
17 in Sherman and again, we're talking about 1983 forward, not
18 between 1976 and 1980.

19 Q Could you tell me what a smoke hog is?

20 A Well, I don't know what you're referring to exactly.
21 If we had something that we referred to as a smog hog, maybe
22 that's what you're talking about.

23 Q Oh, I'm sorry. A smog hog.

24 A It's a filtering device made on top of our smoking
25 units to filter out the plant of the particles in the smoke

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1 before it goes to the atmosphere.

2 Q If a person was a mechanic, such as Walter Raines,
3 would he have the opportunity or job duty to do any work on
4 this smog hog?

5 A Oh. I suppose he would have an opportunity from
6 time to time to go up there and do the work if he --

7 Q And what type of work would that entail? Would
8 that be --

9 A Possibly changing the filter, what not.

10 Q How often would the filters have to be changed?

11 A I'm not sure. It would run a long time -- large
12 rolls that would be changed.

13 Q Have you ever been around when the changing of the
14 filters was done?

15 A I've -- from start to finish, no.

16 Q Have you seen them start it?

17 A I've seen them work in the area.

18 Q Is that a fairly dusty area when they're changing
19 these filters?

20 A No.

21 Q Did it have any smell to it, whatsoever?

22 A It would have the odor of smoke. The unit itself
23 is above the building.

24 Q Right. It's on top of the building.

25 A It's on top of the roof.

1 Q It would be emitting some vapor back and you would
2 be able to smell it; is that correct?

3 A I would say so. It is a wash too. It is a chain
4 wash type solution. I don't know exactly what would be --
5 it would be a combination of odors.

6 Q When you are in the wienie tunnel, could you
7 basically describe to me what that smells like in there?

8 A We have three sections. Which are you referring to?

9 Q What is the first section?

10 A The first section would be the stuffing operation
11 where the meat is placed into the casing. That would be a
12 refrigerated area.

13 Q Is there --

14 A The second area would be the processing areas. The
15 heat zone, as well as the smoke zone. That would be an
16 area that would require no one to stay in there all the time.
17 It would just be an area -- the kitchen so to speak. And then
18 the third area would be the packaging area where the product
19 comes out of the heating, comes into the chill zone and out
20 for packaging.

21 Q Is the smell different in the three areas?

22 A Yes, it would be because the middle area, the
23 back smell would be raw meats, spices. The center area would
24 be the cooking process. You would smell some smoke and the
25 final product would be -- you would have a meat-type aroma,

1 smoked meat.

2 Q OK. Is there any part in the plant where you would
3 have the smell of plastic or any type of plastic smell?

4 A I wouldn't think so, not in the area.

5 Q Not in the area where Walter Raines worked?

6 A Right.

7 Q Is there any area where you might smell that?

8 A I don't -- I don't think that we would have any
9 areas where you would have melting plastic.

10 Q Let me show you what has been marked as Plaintiff's
11 Exhibit Number 1. You mentioned it had a number on there to
12 call. Now, I think we're talking about --

13 A Let me say that the packaging area would have many
14 machines. You would have some steam assisted machinery. You
15 would have some air assisted machinery. There would be a
16 combination of odors. I don't know that you could go in there
17 and notice one particular odor.

18 Q I understand. Thank you. You mentioned earlier
19 there was a number you can call Dow Chemical and get any
20 information you might need to have. Have you ever done that
21 in the past?

22 A Dow Chemical? No.

23 Q If you ever received a warning placed on the Saran
24 864 or 865 that would bring it to your attention that there
25 might be some potential danger, would you then call and ask

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1 for answers?

2 A If there was some -- I didn't understand. I would
3 call --

4 Q But you looked at the problem, but there has
5 never been anything to arouse your suspicion enough to make
6 that call; is that a correct statement?

7 A That's true. I have never been concerned with the
8 Saran 864.

9 MR. PIERCE: I pass the witness.

10 MR. HENSON: No further questions.

11 MR. CLARK: May I ask a question.

12

13 EXAMINATION BY MR. RONALD CLARK

14 Q You were asked earlier and you said something about
15 -- in regard to safety, you do what is required. Is that the
16 minimum you do?

17 A No. I think we do much more than that.

18 Q Just for the jury's satisfaction, so there is no
19 confusion, could you explain what you mean when you say you
20 do much more than that?

21 A We have a safety program that we feel is fairly
22 good at protecting our employees from the things that we can
23 see, but because we're not experts in chemicals or other
24 things, we rely heavily on the extensive research that OSHA
25 would provide in establishing these limits and we use those

1 limits as guidelines.

2 Q In fact, the limits you have been tested at is not
3 required to do any of these monitoring tests; right?

4 A That's correct. We do it because we feel it is
5 just a precautionary measure that we want to know that every-
6 thing is fine. We are not required to do it.

7 Q The hoods over every single one of these machines,
8 are they required in every instance by some regulation?

9 A Probably not.

10 MR. CLARK: Pass the witness.

11

12 RE-DIRECT EXAMINATION

13 BY MR. PIERCE:

14 Q The safety program you're talking about, does that
15 have -- I think we talked about that does not have any induction
16 to chemical areas in it or things of that nature. It is mainly
17 a lifting job, safety as opposed to sticking your hands in it?
18 There is nothing about chemicals in your safety program so
19 to speak?

20 A There is nothing in our program right, that would
21 be the chemical levels that we require testing are, I guess
22 the carcinogens that would be suspect would be something that
23 we would test for our own benefit, for our own self-satisfaction.
24 But that would not necessarily be incorporated in the safety
25 program.

1 Q They would not necessarily be, but are they?

2 A Do we sit people down and tell them you are going
3 to be exposed to this chemical and that chemical and you are
4 -- we are not under any obligation because of -- we haven't
5 done this in the past because I guess we felt there was no
6 reason to. The chemicals exist. You have plastics everywhere.
7 You're exposed to plastics everywhere. When you buy a new car,
8 you have the odor that could be considered sickening; it is
9 to my wife when we buy a new car. But, these levels are not
10 toxic and not dangerous to the person, based on the research
11 we have available so we have not expanded the safety program
12 to include everything that might be out there. We will, if
13 it has any -- if there is any doubt in our mind that the
14 chemical may be dangerous.

15 MR. PIERCE: I'll pass the witness.

16 MR. HENSON: Nothing further.

17 MR. CLARK: It's my understanding that I'll
18 make a copy of this entire personnel file and bill each
19 of you then for the cost.

20 MR. PIERCE: That's correct. Yeah.

21 MR. HENSON: Correct.

22 MR. CLARK: I have each of your cards on that.

23 MR. HENSON: You are going to attach a copy
24 of the original to the deposition, so you want three
25 copies, one to the court reporter and one to each of you.

1 I think that would be the proper way to attach one to the
2 original and I would like to buy a copy in addition to that.

3 MR. PIERCE: And I would like to buy a copy,
4 too.

5

6

WALTER M. SCHULZ

7

8 SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned
9 notary public, on this the _____ day of _____ A.D., 1985.

10

11

Notary Public, State of Texas

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1 THE STATE OF TEXAS X

2 COUNTY OF GRAYSON X

3

4 I, DEBRA H. SMITH, Official Court Reporter, in and for
5 Grayson County, Texas, do hereby certify that the facts stated
6 by me in the caption hereof are true, and that the said witness
7 did make the above and foregoing answers in response to
8 questions propounded as shown, and that I did, in shorthand,
9 report said proceedings, and that the above and foregoing
10 typewritten pages contain a full, true and correct transcription
11 of my shorthand notes taken on said occasion.

12 Witness my hand this the 17th day of July, 1985.

13

14

Debra H. Smith

15

16 Certification Number of Reporter: 2723

17 Date of Expiration of Current
18 Certification: 12-31-87

19 Business Address: Grayson County Justice Center

20 200 South Crockett

21 Sherman, TX 75090

22 Telephone Number: 214-868-9515, ext. 339

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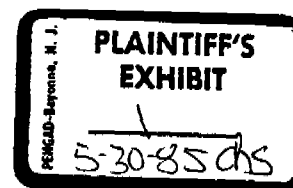
PLAINTIFF'S EXHIBIT 1

R&SI66109



SARAN * 865

RESIN



275 LBS / 124.7 KGS

LOT MM

850423100

22

For additional information, consult the Dow Material Safety Data Sheet for this product.

CONTENTS DISPOSAL: When disposing of unused contents, comply with applicable state and local procedures. Consult The Dow Chemical Company for further information.

CONTAINER DISPOSAL: DO NOT REUSE CONTAINER. Dispose of empty container and liner by incineration if allowed, or in an approved landfill, or by other procedures approved by state and local authorities.

THE DOW CHEMICAL COMPANY

Midland, Michigan 48640 U.S.A.

* Trademark of THE DOW CHEMICAL COMPANY

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PLAINTIFF'S EXHIBIT 2

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M A T E R I A L S A F E T Y D A T A S H E E T P A G E : 1
DOW CHEMICAL U.S.A. MIDLAND MICHIGAN 48640 EMERGENCY PHONE: 517-636-4400

EFFECTIVE DATE: 23 OCT 81

PRODUCT CODE: 74158

PRODUCT NAME: SARAN (R) 864 RESIN

MSD: 0746

INGREDIENTS (TYPICAL VALUES-NOT SPECIFICATIONS)	:	%	:
VINYLDENE CHLORIDE/VINYL CHLORIDE COPOLYMER	:	90	:
ADDITIVES (PLASTICIZER/STABILIZER)	:	10	:

SECTION 1

PHYSICAL DATA

BOILING POINT: N/A	:	SOL. IN WATER: 0
VAP PRESS: N/A	:	SP. GRAVITY: 1.65
VAP DENSITY (AIR=1): N/A	:	% VOLATILE BY VOL: 0.1% MAX (WT.) WATER

APPEARANCE AND ODOR: WHITE GRANULAR SOLID

SECTION 2

FIRE AND EXPLOSION HAZARD DATA

FLASH POINT: N/A	:	FLAMMABLE LIMITS
METHOD USED: ----	:	LFL: N/A UFL: N/A

EXTINGUISHING MEDIA: WATER FOG, CARBON DIOXIDE.

SPECIAL FIRE FIGHTING EQUIPMENT AND HAZARDS: POSITIVE PRESSURE
BREATHING APPARATUS TO PROTECT AGAINST HYDROGEN CHLORIDE IF RESIN IS
EXPOSED TO FIRE CONDITIONS.

SECTION 3

REACTIVITY DATA

STABILITY: SARAN RESIN WILL DECOMPOSE UNDER FIRE CONDITIONS GIVING
OFF HYDROGEN CHLORIDE GAS.

INCOMPATIBILITY: CONTACT WITH IRON, ZINC, COPPER AND STRONG BASES SHOULD
BE AVOIDED.

HAZARDOUS DECOMPOSITION PRODUCTS: HYDROGEN CHLORIDE WHEN RESIN IS
EXPOSED TO HIGH TEMPERATURE AS IN FIRE CONDITIONS.

HAZARDOUS POLYMERIZATION: WILL NOT OCCUR.

(CONTINUED ON PAGE 2)

(R) INDICATES A TRADEMARK OF THE DOW CHEMICAL COMPANY



PA5166112

EFFECTIVE DATE: 23 OCT 81
PRODUCT (CONT'D): SARAN (R) 864 RESIN

PRODUCT CODE: 74158
MSD: 0746

SECTION 4 SPILL, LEAK, AND DISPOSAL PROCEDURES

ACTION TO TAKE FOR SPILLS: SWEEP UP,
AND DISPOSE IN ACCORDANCE WITH LOCAL, STATE AND FEDERAL REGULATIONS.

DISPOSAL METHOD: BURN IN AN INCINERATOR EQUIPPED TO HANDLE HYDROGEN
CHLORIDE FUMES OR BURY IN AN APPROVED LANDFILL. PROCEDURES MUST
COMPLY WITH APPROPRIATE GOVERNMENTAL REGULATIONS.

SECTION 5 HEALTH HAZARD DATA

EYE: POSSIBLE MECHANICAL INJURY.

SKIN CONTACT: ESSENTIALLY NON-IRRITATING.

SKIN ABSORPTION: NOT LIKELY TO BE ABSORBED.

INGESTION: LOW SINGLE DOSE TOXICITY.

INHALATION: POSSIBLE NUISANCE DUST.

SYSTEMIC & OTHER EFFECTS: NONE KNOWN.

SECTION 6 FIRST AID

EYES: IRRIGATION OF THE EYE IMMEDIATELY WITH WATER FOR 5 MINUTES IS
GOOD SAFETY PRACTICE.

SKIN: WASH OFF IN FLOWING WATER.

INGESTION: LOW IN TOXICITY. INDUCE VOMITING IF LARGE
AMOUNTS ARE INGESTED.

INHALATION: REMOVE TO FRESH AIR IF EFFECTS OCCUR.

NOTE TO PHYSICIAN:

EYES: MECHANICAL INJURY ONLY. STAIN FOR EVIDENCE OF CORNEAL
INJURY. AFTER EYES ARE WASHED, CONSIDER USE OF ANTIBIOTIC STEROID
PREPARATION.

SKIN: INJURY IS UNLIKELY. NO EFFECT EXPECTED.

RESPIRATORY: MECHANICAL INJURY ONLY.

ORAL: MECHANICAL INJURY ONLY.

SYSTEMIC: MECHANICAL INJURY ONLY.

SECTION 7 SPECIAL HANDLING INFORMATION

VENTILATION: GOOD ROOM VENTILATION USUALLY ADEQUATE FOR MOST OPERATIONS.

RESPIRATORY PROTECTION: IF REQUIRED, USE AN APPROVED DUST RESPIRATOR.

(CONTINUED ON PAGE 3)

(R) INDICATES A TRADEMARK OF THE DOW CHEMICAL COMPANY

R&S166113

EFFECTIVE DATE: 23 OCT 81
PRODUCT (CONT'D): SARAN (R) 864 RESIN

PRODUCT CODE: 74158
MSD: 0746

SECTION 7 SPECIAL HANDLING INFORMATION (CONTINUED)

PROTECTIVE CLOTHING: NONE REQUIRED.

EYE PROTECTION: NOT NORMALLY NECESSARY.

SECTION 8 SPECIAL PRECAUTIONS AND ADDITIONAL INFORMATION

PRECAUTIONS TO BE TAKEN IN HANDLING AND STORAGE: ----

ADDITIONAL INFORMATION: 23 OCT 81 - REVISION OF ENTIRE MSDS.

LAST PAGE

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EXPRESSED OR IMPLIED, IS MADE. CONSULT THE DOW CHEMICAL COMPANY
FOR FURTHER INFORMATION.

PLAINTIFF'S EXHIBIT 3

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**SARAN
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SARAN Resin

Saran 864 Resin

for Film and Sheet Food Packaging Applications

Vinylidene Chloride/
Vinyl Chloride Copolymer

Properties

- Good Oxygen Barrier
- Excellent Water Vapor Barrier
- FDA Compliance



Properties ¹	Test Method	Value
Resin Properties		
Specific Gravity, g/cm ³	ASTM D1505	1.71
Extruder Melt Temperature Range °C (°F)		170-190 (338-374)
Film Properties		
Oxygen Permeability	ASTM D1434	0.8-1.1
cc·mil/100 in ² ·24 hr·atm @ 50% RH, 73° F ..		(4.5-6.0) × 10 ⁻¹³
cc·cm/cm ² sec·cmHg @ 50% RH, 23° C		
Water Vapor Transmission Rate,	ASTM E96-E	0.2
g·mil/100 in ² ·24 hr @ Δ90% RH, 100° F		2.6
g·30 μ/m ² ·24 hr @ Δ90% RH, 37.8° C		
Gloss	ASTM D2457	121
Haze, %	ASTM D1003	0.43
Ultimate Tensile Strength, lbf/in ²	ASTM D882	8,000-16,000
kfg/cm ²		562-1125
Ultimate Elongation, %	ASTM D882	60

¹Typical properties; not to be construed as specifications.

Fabrication

Suggested extrusion conditions are as follows:

Zone	Hopper	Cylinder No. 1	Cylinder No. 2	Torpedo	Nosepiece & Die
Temperature °C	130	140	160	175	175

High nickel alloys are recommended for all heating zones of fabrication equipment.

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See "Safety Considerations," reverse side

NOTICE: This information is presented in good faith, but no warranty, express or implied, is given nor is freedom from any patent owned by The Dow Chemical Company or by others to be inferred. Inasmuch as any assistance furnished by Dow with reference to the proper use and disposal of its products is provided without charge, Dow assumes no obligation or liability therefor.

DOW CHEMICAL U.S.A. • DESIGNED PRODUCTS DEPARTMENT • MIDLAND, MICHIGAN 48640



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Form No. 190-295-79

R&SI66115

SAFETY AND HANDLING CONSIDERATIONS

The information following is pertinent to those Saran resins marketed by the Designed Products Department of The Dow Chemical Company. Material Safety Data sheets, essentially similar to OSHA Form 20, are available on Saran resins and should be read and understood by customers. A facsimile of such an MSD sheet is inserted in the rear pocket of this bulletin. Customers should be certain their work force is familiar with proper, safe handling practices *prior* to working with Saran resins.

Handling and Processing

Most commercial Saran resins for extrusion, molding, and powder applications are vinylidene chloride/vinyl chloride copolymers. OSHA Standard has regulated vinyl chloride as a carcinogen by **inhalation** according to 1910.93q vinyl chloride, recorded on May 28, 1975, as sub part Z, 1910.1017, which limits the amount of vinyl chloride monomer to which a worker can be exposed. The maximum level allowed without the use of respirators is 1.0 part per million, time weighted average (TWA). For vinylidene chloride there is a published value of 10 parts per million, TWA, adopted by the American Conference of Industrial Hygienists (ACGIH).

Dow has made engineering improvements resulting in low concentrations of residual (unreacted) monomers in Saran resins. Good manufacturing practice as recommended herein should not lead to hazardous levels of these monomers.

Any residual monomers will concentrate in the head space at the top of storage containers or blending equipment. Adequate ventilation should be provided, and workers should not inhale the air released when containers or equipment are first opened.

The **thermal degradation** of Saran during melt processing will lead to hydrogen chloride (HCl) gas evolution, particularly in the presence of metals such as iron, copper, zinc, and tin. HCl gas can be injurious to workers' health. The time weighted average for HCl adopted by ACGIH is 5 parts per million.

In the case of finely subdivided (**micronized**) Saran resins, there is an applicable OSHA air contaminant standard, The Federal Register, May 28, 1975, sub part Z, 1910.1000, air contaminants. The standard states that the total inert or nuisance dust is not to exceed 15 milligrams per cubic meter. If this limit is exceeded, a dust respirator must be worn. The NIOSH certified equipment book is a good information source concerning a suitable dust respirator.

The **ingestion** of Saran resin in amounts incidental to industrial handling would not be expected to cause injury. If Saran resin should come in contact with the **eye**, slight irritation, usually of a mechanical nature, may occur. Rinse the eye with low pressure flowing water for at least five minutes and provide medical attention. Most individuals experience no **skin irritation** from contact with Saran resin;

however, some workers may experience irritation from prolonged or repeated contact. Such individuals should wear gloves. In rare cases, it may be necessary to remove the worker permanently from areas where exposure to the resin may occur.

The Dow Chemical Company has Industrial Hygienists available for consultation on a broad range of subjects, particularly those involving the safe use of Dow products. These hygienists visit customers' plants on a contractual basis for monitoring and consulting activities.

Combustion Characteristics

Saran resins contain chlorine as an integral part of the polymer molecule. The chlorine affects the ignition and combustion characteristics of the polymer in a manner similar to that of halogen-containing fire retardant chemical additives used to modify combustion properties of other resins. Specimens of Saran resin, when contacted with a gas flame in small scale laboratory tests, will cease to burn after the flame is removed. **However, when exposed to excessive heat or flame, such as in real fire situations, Saran resins will burn and generate hydrogen chloride as one of the combustion products.**

Dust Hazard

Dust of Saran resin (alone) is nonexplosive. However, there are known to be potentially dangerous situations when Saran resin is blended with a powdered metal such as aluminum. Good housekeeping practice to assure minimal dust collection and/or minimal dust in air is recommended.

Storage, Spills, Disposal

To extend their useful shelf life, Saran resins should be **stored** out of contact with direct sunlight and extreme heat. Cold temperatures will not harm the resins.

Spills should be cleaned up immediately because the small particles can act as a lubricant and make the floor slippery. A vacuum cleaner is preferred for cleaning up spills.

Saran resin **waste** can be disposed of by burial in an approved landfill or by burning in an approved scrubber-equipped incinerator.

Saran resins are not water leachable or biodegradable. In landfill disposal therefore, they do not affect soil stability nor do they evolve gases or leachates known to pollute water resources. In burial, slow evolution of hydrogen chloride may occur; however, it will be neutralized by soil components.

If waste Saran is incinerated, it should constitute less than 10% of the total materials charged to the incinerator. Effluent gases should be scrubbed to avoid hydrogen chloride contamination of the air. Improper incineration can result in air pollution and in corrosion of incinerator parts.

In any disposal of wastes, be certain that all applicable federal, state, and local regulations are met.

PLAINTIFF'S EXHIBIT 4

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3031 Glenfield
P. O. Box 24330
Dallas, Texas 75224

ALLIED ANALYTICAL & RESEARCH LABORATORIES

Chemists
Consultants & Technologists
March 6, 1978

214/337-8998

SAMPLE PVC

DATE SUBMITTED 3-1-78

IDENTIFYING MARKS See Below

ANALYTICAL REPORT NO. 54005

SUBMITTED BY Oscar Mayer
Attn: Bill Jensen

ADDRESS P. O. Box 100
Sherman, Texas 75090

ANALYSIS

On March 1, 1978 four (4) samples of PVC monomer absorbed on charcoal tubes were submitted for analysis. The samples were analyzed according to OSHA procedures and the results are given below.

RESULTS

Sample	VCM, ppm	Total VCM, microgram
1. Smokie Link Area	0	0
2. CWP #2 Area	0	0
3. Flex Line Area	0	0
4. Plastic Mfd. Area	0	0

Distribution:

Mr. N. Ottens, Madison
Mr. P. Richter, Madison

Sherman:

Mr. W. Bond
Mr. R. Mayer
Mr. J. Pfeiffer
Mr. J. Riddiough
~~Mr. J. Riddiough~~ 2



H. Morris Weller, Exec. V-P, M

ALLIED ANALYTICAL & RESEARCH LABORATORIES, BY H. Morris Weller

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PLAINTIFF'S EXHIBIT 5

R&SI66119

3031 Glenfield
P.O. Box 24330
Dallas, Texas 75224

ALLIED ANALYTICAL & RESEARCH LABORATORIES

Chemists

Consultants & Technologists

March 20, 1980

214/337-8996

SAMPLE rcoal Tube Samples

DATE SUBMITTED 2/4/'80

IDENTIFYING MARKS See Below

ANALYTICAL REPORT NO. 56226

SUBMITTED BY Oscar Mayer & Company
Attn: Bruce A. Somers
P. O. Box 100
Sherman, TX 75090

ADDRESS

ANALYSIS



Six (6) charcoal tube samples plus blanks were submitted for VCM analysis. The results are shown below.

RESULTS

<u>SAMPLE</u>	<u>DATE</u>	<u>VCM, p.p.m.</u>	<u>TOTAL, VCM micrograms</u>
(1) CWP #2	2/11/80	0.2	1.42
(2) SNS Flex	2/12/80	0.1	0.59
(3) Smokie Link	2/12/80	0.1	0.88
(4) Warehouse	2/12/80	0.0	0.14
(5) Variety Pak	2/12/80	0.0	0.22
(6) Bacon #1	2/12/80	0.2	1.15

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RASt 66120

CORRECTION PAGE

If there are any corrections to your deposition, indicate them on this sheet of paper, giving the change, page number, line number, and reason for the change.

<u>Page No.</u>	<u>Line No.</u>	<u>Change</u>	<u>Reason for Change</u>
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DEPONENT