

Monsanto

PLAINTIFF'S EXHIBIT

MON-2779

FROM : P. G. Kenworthy
(NAME-LOCATION-PHONE)

DATE : May 23, 1984

SUBJECT : Proposed Contractor Safety
Program for Texas City

REFERENCE :

TO : R. C. Baca
Texas City

cc. R. A. Ringhofer
R. A. Stohr
W. W. Withers
M. Blankenship

I have reviewed the Contractor Safety Program, and have the following comments and recommendations:

1. I have made a few handwritten changes on the text.
2. I recommend that the following be added after the second sentence in paragraph B on page 3:

"When appropriate, Monsanto's purchase orders, signed by Contractor, may be used. Contracts drawn by Contractor must be reviewed and approved by Monsanto's Law Department."

3. I recommend that the following be added to the end of paragraph C on page 3:

"Monsanto will advise contractor of known safety, environmental, and health hazards associated with the workplace in order that the contractor may carry out his obligations. Monsanto will also advise on the appropriateness of special protective clothing and equipment specific to operating areas in which contractor personnel will work."

4. I recommend that the following be added to the end of paragraph J on page 6.

"The contractor will test each cylinder of breathing air for adequate oxygen content and ensure that the breathing air meets specifications in 29 CFR 1910.134 and grade D as described in the Compressed Gas Association Commodity Specification G-7.1-1966 prior to use."

5. I recommend that the following be added to the end of paragraph K on page 7:

"When the severity of an injury dictates immediate attention on-site, Monsanto may provide first aid treatment, but only to the extent necessary to stabilize the condition of the contractor's

SC

11215

employee for transport to the contractor's medical service or facility."

6. I recommend that paragraph M on page 7 be revised to read as follows:

→ "All contractor tools and equipment on site shall, as a minimum, be in safe working condition and conform to OSHA standards. Monsanto shall have the right to refuse or restrict the use of tools, equipment, or chemicals on the site. Contractor shall provide all tools, equipment and safety paraphernalia necessary to perform the work required. In no event shall Monsanto's tools, equipment or safety paraphernalia be used by contractor, contractor's employees, agents or subcontractors without obtaining Monsanto's prior written consent *unless otherwise specified by contract.*

- 7. I recommend that the following be added to the end of paragraph N on page 7:

"Each location shall institute an industrial hygiene approval system."

8. I recommend that the following be added to the end of paragraph O on page 8:

"Monsanto and contractor must agree in writing on whose responsibility it is to provide subsequent isolation, testing and fire watches before contract work commences."

9. I recommend that the following be added to the end of paragraph S on page 9:

"It must be emphasized that direct supervision of contractor's employees by Monsanto must be considered only as a last resort and be practiced only on an extremely limited basis."

SC

11216

The above provision is very important to preserve the independent contractor status of contractor's employees.

10. I recommend that the last sentence of paragraph W on page 11 be revised to read as follows:

"Hard hats and safety glasses will be issued and collected by the Security Department to service personnel who do not have this personal protection equipment."

LAM013243

As we discussed, the program should be incorporated into Exhibit B of the contract. In addition, the following indemnification provision should be included:

"Contractor expressly assumes all risk of and responsibility for any personal injury, including death (including, but not limited to, Contractor's employees), and/or property damage (including, but not limited to, Contractor's property) arising out of the condition or use by Contractor or his employees, agents or subcontractors of any of Monsanto's respiratory protective devices, breathing air for respirator usage, medical facilities, tools and equipment and Contractor shall indemnify and hold Monsanto harmless from and against any and all claims or suits asserted against Monsanto related to or arising from the use of Monsanto's respiratory protective devices, breathing air for respirator usage, medical facilities, tools and equipment."

If you have any questions, want to discuss these recommendations, or if I can be of further assistance in any way, please do not hesitate to contact me.



Patricia G. Kenworthy

pk5/23a:eb

SC

11217

LAM013244

Monsanto

FROM
(NAME-LOCATION-PHONE)

P. G. Kenworthy

DATE : May 23, 1984

SUBJECT : Proposed Contractor Safety
Program for Texas City

REFERENCE

CC: R. A. Ringhofer
R. A. Stohr
W. W. Withers
M. Blankenship

TO : R. C. Baca
Texas City

I have reviewed the Contractor Safety Program, and have the following comments and recommendations:

1. I have made a few handwritten changes on the text.
2. I recommend that the following be added after the second sentence in paragraph B on page 3:

"When appropriate, Monsanto's purchase orders, signed by Contractor, may be used. Contracts drawn by Contractor must be reviewed and approved by Monsanto's Law Department."

3. I recommend that the following be added to the end of paragraph C on page 3:

"Monsanto will advise contractor of known safety, environmental, and health hazards associated with the workplace in order that the contractor may carry out his obligations. Monsanto will also advise on the appropriateness of special protective clothing and equipment specific to operating areas in which contractor personnel will work."

4. I recommend that the following be added to the end of paragraph 5 on page 6.

"The contractor will test each cylinder of breathing air for adequate oxygen content and ensure that the breathing air meets specifications in 29 CFR 1910.134 and grade D as described in the Compressed Gas Association Commodity Specification G-7.1-1966 prior to use."

5. I recommend that the following be added to the end of paragraph K on page 7:

"When the severity of an injury dictates immediate attention on-site, Monsanto may provide first aid treatment, but only to the extent necessary to stabilize the condition of the contractor's

SC

11218

IN-1120

LAM013245

employee for transport to the contractor's medical service or facility."

6. I recommend that paragraph M on page 7 be revised to read as follows:

"All contractor tools and equipment on site shall, as a minimum, be in safe working condition and conform to OSHA standards. Monsanto shall have the right to refuse or restrict the use of tools, equipment, or chemicals on the site. Contractor shall provide all tools, equipment and safety paraphernalia necessary to perform the work required. In no event shall Monsanto's tools, equipment or safety paraphernalia be used by contractor, contractor's employees, agents or subcontractors without obtaining Monsanto's prior written consent."

7. I recommend that the following be added to the end of paragraph N on page 7:

"Each location shall institute an industrial hygiene approval system."

8. I recommend that the following be added to the end of paragraph O on page 8:

"Monsanto and contractor must agree in writing on whose responsibility it is to provide subsequent isolation, testing and fire watches before contract work commences."

9. I recommend that the following be added to the end of paragraph S on page 9:

"It must be emphasized that direct supervision of contractor's employees by Monsanto must be considered only as a last resort and be practiced only on an extremely limited basis."

The above provision is very important to preserve the independent contractor status of contractor's employees.

10. I recommend that the last sentence of paragraph W on page 11 be revised to read as follows:

"Hard hats and safety glasses will be issued and collected by the Security Department to service personnel who do not have this personal protection equipment."

As we discussed, the program should be incorporated into Exhibit B of the contract. In addition, the following indemnification provision should be included:

"Contractor expressly assumes all risk of and responsibility for any personal injury, including death (including, but not limited to, Contractor's employees), and/or property damage (including, but not limited to, Contractor's property) arising out of the condition or use by Contractor or his employees, agents or subcontractors of any of Monsanto's respiratory protective devices, breathing air for respirator usage, medical facilities, tools and equipment and Contractor shall indemnify and hold Monsanto harmless from and against any and all claims or suits asserted against Monsanto related to or arising from the use of Monsanto's respiratory protective devices, breathing air for respirator usage, medical facilities, tools and equipment."

If you have any questions, want to discuss these recommendations, or if I can be of further assistance in any way, please do not hesitate to contact me.



Patricia G. Kenworthy

pk5/23a:eb

SC

11220

LAM013247