

MEMORANDUM

To: File and Keith Minoff
From: James Tourtelotte
Re: John Warren vs. Dow Et Al
Date: May 9, 1990

The deposition of Monsanto through its representative, Terry Nelson, Safety Superintendent of the Springfield plant was held at 1145 Main Street at the offices of Morris, Mahoney & Miller on May 8. Joseph Rendini of Morris, Mahoney & Miller representing BF Goodrich, Sharon Berger, of Nutter, McLellan & Fish, represented Dow, Conco and Union Carbide.

Before the deposition began, Mr. Nelson produced certain exhibits of which 5 through 12 showed various evidences of delivery of vinyl chloride to Monsanto from Dow and BF Goodrich. One referred to Carbide. From those documents and certain other documents which made up Exhibits 13 through 23 and Exhibit 3, I became curious about the following things about which we should inquire.

What company shipped vinyl chloride from Oyster Creek as per 3/5/71 Monsanto Memo?

How much do Smith Gormally and Bourget and Tierney know about receipt of vinyl chloride from chemical manufacturers other than Monsanto.

When did Monsanto first learn of the danger posed by vinyl chloride? (Note the 9/10/75 letter to OSHA. We should determine the date of the OSHA regulated area notice and other associated regulations.)

What was behind the 12/10/71 memo showing Dow VCM being shipped in Monsanto's name and Monsanto having assumed responsibility for VCM shipped from Dow on 1/1/69? What was the nature of that contract? (Was Texas City out of operation by 1/1/69.)

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What do Krsyp, Buehee and Uihlian know about transportation or purchase of VC?

What were the details of the Dow contract, referred to in the 10/24/68 letter or memo, which was to begin on 1/1/69.

What does the 6/3/68 memo mean about Freeport. Apparently Dow was going to ship from Freeport when that facility was ready to replace Plaquime, Louisiana.

Note the 2/9/68 Monsanto memo which says that Carbide VCM was off spec.

What does the abbreviation "gatx" mean? That would appear to be the marking on a tank car. Is that Goodrich VCM?

Note that the 10/18/55 memo states that the procedure for unloading tank cars include sampling of every fifth car.

As to the Nelson deposition itself, the following is an abbreviated summary.

The deponent was Terry Nelson, born 1944 who worked at Monsanto in Springfield from 1966. In 1974, he was a personnel supervisor at Monsanto. He went to Trent, Michigan from 1976 to 1979. He became a hazardous material specialist. He became the safety manager in 1985. While preparing to respond to the Morris, Mahoney & Miller request for production and notice of deposition, he noted a request about "storage." That is, a request for material from Monsanto regarding the storage of vinyl chloride. That lead him to the so-called D12 file kept by Joseph Tierney who worked as the Superintendent of Transport & Handling. The D12 file was marked "storage" and from the text file he abstracted Exhibits 3 through 23 less 4. That file also contains about twice as many pieces of paper as Nelson actually brought to the depo. He didn't think the

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remainder had much to do with the subject at hand. The file should be subpoenaed and reviewed. It escaped the Monsanto destruction process because it was privately kept by Superintendent Tierney. Tierney should be deposed. He has retired. The D12 file is in Terry Nelson's custody and is kept in Building 11. Among the materials in the VCM file is a booklet on the handling of VCM and description of the manufacturing process. That should be obtained as well. It is in Building 11 Safety Supervisor's office. Garland Fletcher was a predecessor safety supervisor. He made the search for the records in the Cullinan case. He retired but has worked as late as 1988 in searching for records and determining in these cases. He is a Holyoke native who lives winters in Florida and he has done file searches for Mr. Nelson as an independent contractor or consultant. His deposition should be taken. Another predecessor safety manager, Chester Strzepa, came after Fletcher and before Nelson. He now works as a personnel supervisor at Indian Orchard, Building 1. Martin Lieberman is corporate counsel to Monsanto in St. Louis and Michael Star directed Nelson to attend the deposition. I believe he is the Plant Manager. Nelson has reviewed affidavits from other Monsanto officials and those involved in the Transport Division or Department and the Accounting Division or Department as to the purchase of vinyl chloride. Those affidavits are in the vinyl chloride file but were not produced. William McNichols was the Accounting Department head and is now Plant Controller in Monsanto St. Louis. Thomas Nebel was the Super-

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intendent of Transportation and Material Handling at Monsanto in Springfield and now is R&D Site Services Supervisor. Nelson talked to Strzepa and Fletcher but not to Nebel or McNichols. He did not speak to any purchasing people when he prepared the Monsanto answers to interrogatories. The record retention policy calls for one year retention of accounting and purchasing records, five years for products and lab records, and personnel and health records - 30 years. This is all pursuant to a record retention or destruction manual which is in effect at this time and has been for longer than 10 years. Those who would have known about purchases of vinyl chloride in Springfield between 1947 and 1983 include Charles Smith of Somers, Larry Gormally of Springfield, Robert Bourget of Wilbraham. Bouget is still employed as R&D Manager in Indian Orchard and would have personal knowledge. Tierney was Transportation Supervisor at the time from 1945 to 1983 or some period within that period of years. Bouget was in charge of manufacturing production. David Gendron was Manufacturing Supervisor. He is now Technical Services Supervisor in Building 106. Fletcher also may have had some personal knowledge or may have been involved in production for some period of time at Indian Orchard. Shawinigan was sold to Monsanto in the early 60s. He believes John Warren worked for Shawinigan at the beginning. (R.G. says this is wrong. Warren worked only for Monsanto. She seems to be right based on the departmental record Monsanto furnished for him.) Nelson said that the Texas City vinyl chloride manufacturing facility was sold in the

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1980s. Keith believes that Texas City, at least according to Ruth Griffith, a chemical industry periodical, stopped producing vinyl chloride sometime before Monsanto phased out its vinyl chloride manufacturing operation in 1973 or 1974. (The Dow 1/1/69 contract to produce VC for Monsanto correlates with the chemical industry magazine which said in December that Monsanto was shutting down Texas City in January 1969.)

The key exhibits as to receipt or purchase of vinyl chloride by Monsanto from Dow, Goodrich and Carbide are in the documents which Nelson brought with him. They have been marked for the deposition as follows:

- Exhibit 5 - 2/28/74 - To Monsanto from BF Goodrich
- Exhibit 6 - 1/7/72 - Monsanto document
- Exhibit 7 - 12/10/71 - Monsanto memo re Dow
- Exhibit 8 - 3/5/71 - Monsanto memo
- Exhibit 9 - 10/24/68 - Monsanto memo
- Exhibit 10 - 6/3/68 - Monsanto memo
- Exhibit 11 - 2/9/68 - Monsanto memo
- Exhibit 12 - 10/5/56 - an internal Monsanto document

Mr. Nelson believes that Exhibits 5 through 12 reflect exchange agreements among the chemical manufacturers. Strzepa and Fletcher told Nelson that Smith and Gormally told them that the Monsanto purchasing department bought vinyl chloride from Dow Chemical. There would have been purchase agreements so reflecting but accord-

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ing to Nelson they have been destroyed. Nelson represented that Fletcher and Strzepa told him that 80% to 90% of the vinyl chloride used at Monsanto in Springfield was manufactured and furnished by the Texax City plant and he seemed to think that that was a constant proportion over time. He believes the only documents concerning the transfer or sale or exchange of vinyl chloride which exist at Monsanto are the D12 documents which he produced to us on May 7. Note these documents tend to indicate a huge tonnage of vinyl chloride monomer was delivered even though it may have been only 10% to 20% of the total vinyl chloride monomer used by Monsanto at the Springfield plant. Joseph Tierney was the Tank Farm Supervisor.

The Traffic Department did list the incoming tank cars but would only have kept the records for five years. (Would any of the Traffic Dept. people have private records like Tierney's?) Exhibit 13 is the standard procedure for handling vinyl chloride. Exhibit 14 is a 7/24/75 document. Exhibits 15 and 16 belong together and indicate what the VC regulated area is and what the regulations are: These originated after the VCM phase-out was begun to reflect OSHA regulations. Exhibit 17, 1/8/75, has to do with recovering VCM. Exhibit 18 is a 10/2/73 memo. Exhibit 19 is a 12/6/71 letter. Exhibit 20 is a 1/12/72 memo and Exhibit 21 is a 6/7/68 memo.

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