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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

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EMHART INDUSTRIES, INC. :

:

:

vs. --

: C.A. No. 02-053-ML

:

HOME INSURANCE COMPANY, et als. :

DEPOSITION OF KENNETH NERI, a Witness in the
above-entitled cause, taken on behalf of the
Defendants, before Angela M. Gallogly, RPR, Notary
Public in and for the State of Rhode Island, held at
the offices of Holland & Knight, LLP, One Financial
Plaza, Suite 1800, Providence, Rhode Island, on
December 18, 2002, at 2:00 P.M.

-APPEARANCES-:

FOR THE PLAINTIFF.....WILLCOX, PIROZZOLO & MCCARTHY
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1 -APPEARANCES CONTINUED:-

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1 I-N-D-E-X

2 WITNESS PAGE

3 KENNETH NERI

4 EXAMINATION BY MS. MAIN.....5
 5 EXAMINATION BY MR. WALLACH.....32
 EXAMINATION BY MR. BINDER.....40

6 E-X-H-I-B-I-T-S

7 NO. DESCRIPTION (NERI) PAGE

8 1 Subpoena Served Upon Kenneth Neri, dated
 12/2/02 (4 pgs.)..... 4

9 2 Administrative Deposition of Kenneth Neri
 10 taken on 6/30/99..... 4
 (71 pgs.)

11 2A (EXHIBIT CONTAINED WITHIN NERI EXHIBIT 2) -
 12 Sanborn Map of Metro-Atlantic
 (Bates Stamp BD 00831)..... 42

13 2B Site Map of Metro-Atlantic Area..... 50

14 3 Site Map of North Providence/Centerdale
 15 Area..... 11

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1 (DEPOSITION COMMENCED AT 2:00 P.M.)

2 (NERI DEPOSITION EXHIBITS 1 & 2

3 MARKED FOR IDENTIFICATION)

4 KENNETH NERI

5 Being duly sworn, deposes and testifies as follows:

6 THE REPORTER: Would you state your
 7 full name for the record, please.

8 THE WITNESS: Kenneth Neri.

9 MS. MAIN: Mr. Neri, my name is
 10 Robin Main, and I represent Liberty Mutual Insurance
 11 Company. Liberty is a defendant in a case brought
 12 against it, and several other insurance companies,
 13 by a company called Emhart. Emhart is alleged to be
 14 the successor of certain companies that operated at
 15 the Smith Street facility in the Centerdale area,
 16 being Metro-Atlantic and New England Container;
 17 okay?

18 THE WITNESS: Yes.

19 MS. MAIN: And I'm going to ask the
 20 other counsel here to identify themselves now, so
 21 you have a feel for who's in the room.

22 MR. WALLACH: Ian Wallach from Luce,
 23 Forward, Hamilton & Scripps, here on behalf of North
 24 River Insurance Company.

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1 MR. BINDER: Richard Binder, I
 2 represent Emhart.

3 MR. FARLEY: Michael Farley, and I
 4 represent Home Insurance Company.

5 EXAMINATION BY MS. MAIN

6 Q. Mr. Neri, I know you had an Administrative
 7 Deposition taken by the EPA about two years ago now,
 8 a little over that, but let me just give you some
 9 ground rules again. Because we are taking this down
 10 with a stenographer here, even though you may know
 11 the answer to my question right off the bat, please
 12 just let me finish it so she can get it down, and
 13 then you can go forward and answer.

14 A. Fine.

15 Q. Nods of the head, obviously, can't be taken down, so
 16 try to remember to say yes or no; we all fall into
 17 that trap sometimes. And you may hear at times
 18 where one of us, as the attorneys here, will object
 19 or make other statements on the record. You can
 20 just ignore that and keep going with your testimony,
 21 it's just to protect the record for that particular
 22 client; okay?

23 A. Fine.

24 Q. Would you please give me your current address, sir.

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Page 8

1 [REDACTED]
 2 [REDACTED]
 3 Q. And how long have you lived at that address?
 4 [REDACTED]
 5 Q. [REDACTED]
 6 A. Yes. --
 7 Q. Let me show you what we have marked as Neri Exhibit
 8 1, and I ask if you have ever seen that document
 9 before?
 10 (WITNESS REVIEWS DOCUMENT)
 11 A. I have it in my pocket.
 12 Q. So that's the Subpoena you received to come here
 13 today; correct, sir?
 14 A. Yes.
 15 Q. Prior to living [REDACTED] where
 16 did you live?
 17 A. I lived 11 Howe Street, North Providence, which
 18 is off of Atlantic Boulevard, which is off of
 19 Woonasquatucket Avenue, runs between the
 20 Woonasquatucket River.
 21 Q. And how long did you live at 11 Howe?
 22 A. Nineteen years.
 23 Q. So that brings us back to 1970?
 24 A. Yes.

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1 Q. And prior to 11 Howe Street, do you remember where
 2 you lived?
 3 A. Two years on 1 Warren Avenue, which is off
 4 Woonasquatucket Avenue, which is near the river.
 5 Q. And that's Warren Avenue in North Providence?
 6 A. North Providence, correct, that's off
 7 Woonasquatucket Avenue, that's up near the Lee
 8 Romano baseball field area, which is probably in
 9 this thing, too.
 10 Q. This is like a road trip through your life here,
 11 sir. Prior to 1968, and your residence at Warren
 12 Avenue, where did you live?
 13 A. 6 Amber Street, Johnston, Rhode Island, which is
 14 off George Waterman Road, approximately four streets
 15 up from 44, which is on the Woonasquatucket River.
 16 Q. And how long did you live on Amber Street?
 17 A. I lived there, I think it was 1955 we moved in,
 18 but my grandmother lived next door, which we used to
 19 visit all the time, so all my life I was in that
 20 area.
 21 Q. So you lived on Amber Street from 1955 to 1968?
 22 A. Correct, other than the service, but, yes.
 23 Q. How long were you in the service?
 24 A. I wasn't in long.

1 Q. What is your date of birth?
 2 A. [REDACTED]
 3 Q. So is it fair to say that from sometime [REDACTED]
 4 through 1968, you either lived on Amber Street or
 5 visited it?
 6 A. Yes, correct.
 7 Q. Mr. Neri, I brought with me a street map, it's
 8 called the Official Arrow Street Atlas for Rhode
 9 Island and Southeastern Mass. and Connecticut, and I
 10 have turned to the page which is North Providence,
 11 Page 43. I would like to show you that page and see
 12 if you can find Amber Drive on it, there is an
 13 index.
 14 (WITNESS REVIEWS DOCUMENT)
 15 A. Amber Street would be in Johnston, it wouldn't
 16 be in North Providence, it would be on the Johnston
 17 map.
 18 Q. Do you see it, though, I'm wondering?
 19 A. It would be in this side -- this is Route 44,
 20 Amber's right here.
 21 Q. Could you just make a dot or an X by Amber, please.
 22 (WITNESS COMPLIES)
 23 Q. What I'm going to do is I'm just going to leave the
 24 room very quickly and have somebody reduce this a

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1 little bit and copy it so everybody can follow
 2 along.
 3 (OFF THE RECORD)
 4 Q. Mr. Neri, are you currently employed?
 5 A. Yes, I am.
 6 Q. By which company?
 7 A. Bald Hill Dodge.
 8 Q. You are not just free advertising for Bald Hill
 9 Dodge?
 10 A. No.
 11 Q. And what do you do you at Bald Hill Dodge?
 12 A. Sales.
 13 Q. And how long have you been doing that?
 14 THE WITNESS: Sales?
 15 MS. MAIN: Yes, at Bald Hill.
 16 A. April of this year, 2002.
 17 Q. And prior to being at Bald Hill Dodge, were you
 18 employed?
 19 A. Midland Mazda, I was there about a year, and the
 20 rest is carpet, Ken's Carpeting.
 21 Q. Is it fair to say you had your own business for a
 22 number of years?
 23 A. Yes.
 24 Q. About how many years, do you know?

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1 A. Well, 1967, when I opened my own business up.
 2 Q. Until 1999, 2000?
 3 A. Well, '98, '99. I'm sorry, I had one other
 4 place in there; I worked at New England -- they are
 5 out of business -- New York Carpet World was the
 6 name of it, sorry about that. --
 7 Q. That's all right.
 8 A. And I was there two years.
 9 Q. That was after you closed your business?
 10 A. Yes, because when you said 1988, 1999, it
 11 sounded wrong.
 12 Q. Okay, very good. What is your educational
 13 background, sir, do you have a high school degree?
 14 A. Yes, high school degree.
 15 Q. And you got that in --
 16 A. I graduated in '67.
 17 Q. And from which high school did you graduate?
 18 A. Johnston.
 19 Q. Mr. Neri, have you ever heard of a company called
 20 Metro-Atlantic Chemical Company?
 21 A. Yes.
 22 Q. How have you heard of Metro-Atlantic?
 23 A. Well, I mean I used to walk by it every day
 24 going to school, I knew it was there, there was a

1 A. Okay.
 2 Q. So have you found Amber Street again, Mr. Neri?
 3 A. Yes.
 4 Q. So if I give you a pen, and, again, maybe you might
 5 want to make a larger X by Amber Street so it could
 6 show up on that exhibit, please, and if you would
 7 put a circle by where Metro-Atlantic was located,
 8 vis-a-vis where you grew up.
 9 (WITNESS COMPLIES)
 10 A. Okay, this area right here, this white area,
 11 that was all -- that was just about all
 12 Metro-Atlantic. I would say about here, anyway,
 13 this was all Metro-Atlantic property.
 14 Q. Why don't we put an A in there, then, since you can
 15 fit that in.
 16 (WITNESS COMPLIES)
 17 Q. Great. Let's back up for a minute. Are we talking
 18 about elementary school here?
 19 A. Yes, St. Lawrence School. St. Lawrence School
 20 was on Woonasquatucket Avenue, and I'm going to say
 21 it's either George, I think it's -- it was on -- I'm
 22 going to make a mark here with the X, I think it was
 23 George Street, it was on Woonasquatucket Avenue, but
 24 two little streets ran parallel, I believe it was

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1 bunch of -- you are talking like 40 years now, but
 2 there used to be Metro-Atlantic and a bunch of
 3 stores, like a restaurant and a barroom, that was
 4 all in one building like, that's what I remember;
 5 used to be a warehouse behind that, it was
 6 Winkleman's, which it burned down, but used to be
 7 Winkleman's Warehouse behind that in Centerdale.
 8 Q. And so you saw the sign Metro-Atlantic as you were
 9 walking to school every day; is that a fair
 10 statement?
 11 A. Oh, yes, that's a fair statement.
 12 Q. Did you live in the vicinity of Metro-Atlantic?
 13 A. Yes, if you look at that map --
 14 MS. MAIN: Let me pause for a minute
 15 and get this marked as Exhibit 3.
 16 (NERI DEPOSITION EXHIBIT 3 MARKED
 17 FOR IDENTIFICATION)
 18 Q. So Amber Drive, again, to be specific, is located in
 19 Johnston, Rhode Island; correct?
 20 A. Yes, it's the fourth street up from 44.
 21 Q. Heading south, correct, or heading down from 44, you
 22 have Vacca Street --
 23 A. Well, 44 goes east and west.
 24 Q. So Amber should be south of 44, then?

1 George and Stevens. If you see the map there --
 2 Q. Great, go ahead.
 3 A. Along the river used to be the railroad tracks.
 4 Q. On which side, the Metro-Atlantic, or your side?
 5 A. No, our side, Johnston side, and if you cross
 6 44, that white -- I'm going to put B there -- that
 7 was the old train station, that's just about where
 8 it is, in that area there. I used to walk the
 9 tracks from there to go to school, and then the
 10 other way to Allendale Avenue, when I used to cut
 11 through, because there used to be a street there
 12 that used to cross the river, and all the guys I
 13 used to hang around with used to be in the plat,
 14 Centerdale plat where you see Peachtree and Alan
 15 Avenue, all those in there, so I kind of hung around
 16 in that area there, Centerdale area. I don't know
 17 if that's -- just wanted to tell you that.
 18 Q. No, very helpful. Is it true that the
 19 Woonasquatucket divides North Providence and
 20 Johnston?
 21 A. Yes.
 22 Q. Walking by Metro-Atlantic when you were in
 23 elementary school at St. Lawrence, did you ever
 24 happen to observe what was going on at the

1 Metro-Atlantic facility?

2 A. Yes.

3 Q. Explain to me the types of things you would see.

4 A. You asked me going to school, but more of that
5 stuff was coming back from school.

6 Q. Okay, then, on your way back home from school, you
7 would be able to see the Metro-Atlantic facility?

8 A. Correct.

9 Q. Tell me what you would see, Mr. Neri, during the
10 time period that you were in elementary school.

11 A. Okay, again, I was very shocked to find out
12 there was more than one shop at Metro-Atlantic,
13 because I always thought Metro-Atlantic was
14 Metro-Atlantic, that whole area, because I didn't
15 know anything about subdividing or anything like
16 that, so when I say Metro-Atlantic now -- I know you
17 say now there's a container place there, but like to
18 us, it was all Metro-Atlantic.

19 Q. Okay, I understand.

20 A. When we used to walk home from school, we used
21 to -- instead of going -- if you look at the map
22 here, where George Waterman Road is, I don't know if
23 you can see that or not, it goes all the way down
24 and comes back, we used to cut through and save us

1 between 5, 10 minutes' walk by cutting through the
2 railroad tracks to go home. So if the question ever
3 comes up, that's the reason why we used to do that
4 all the time was to save time, because we used to go
5 play and stuff, but as you used to come home in the
6 afternoons, there was a pipe that used to stick out,
7 there's a little water -- can't really make it out
8 up here, but it was a station, but it used to be a
9 little green, like box station as you got off the
10 bridge on 44, and took the left to go to the
11 railroad tracks -- and this is the bridge --

12 Q. Let me stop you for a second; on Allendale Avenue?

13 A. No, nope, Centerdale, 44 on Smith Street.

14 Q. All right.

15 A. There's Masonic Temple there on one side of the
16 bridge -- one side of 44, and the other side right
17 after that Masonic Temple, there was a bridge with a
18 waterway used to go underneath. When we crossed the
19 bridge, we used to take a left to go on to the
20 railroad tracks, and there was a little greenhouse
21 that was like a pumping station or whatever, I don't
22 know what the heck it was, it wasn't a house, it
23 looked like those things that you use outside to --
24 portable johns or whatever, that big.

1 Q. Like a little shack or something?

2 A. Right. After that, into the embankment, was a
3 pipe coming out, I would say between 2 inches and 3
4 inches in diameter, and around the time we used to
5 get out of school and walk by, we would see the
6 chemicals, various colors being poured into the
7 river.

8 Q. Was that pipe on Metro-Atlantic's property?

9 A. Yes, definitely.

10 Q. And was the pipe in proximity to any building on
11 Metro-Atlantic property?

12 A. No, it went underground, and it had just come
13 out at the river, so I don't even know where it
14 went, it just come out, it was -- as a matter of
15 fact, I don't know if they could even -- I know they
16 did, when they did it over, they did the embankment
17 over, but that pipe might still be there.

18 Q. And you would see this pipe with liquid coming out
19 of it during the time period you were coming home
20 from school -- from elementary school?

21 A. Correct.

22 Q. Did the liquid coming out of the pipe have any color
23 to it?

24 A. Yes, sometimes it was yellow, sometimes it was

1 purple, sometimes it was red; it was different
2 colors.

3 Q. And would that pipe empty that colored liquid into
4 the Woonasquatucket River?

5 MR. BINDER: Objection.

6 A. Right into the river.

7 MS. MAIN: What's your objection?

8 MR. BINDER: It's leading.

9 MS. MAIN: Fine.

10 Q. Let me just ask you this: Would you notice whether
11 the river or part of the river itself changed color
12 because of that colored liquid coming in?

13 A. Correct.

14 Q. It would, okay.

15 A. The pipe, actually, it didn't even hit the
16 embankment, it went right into the river. It wasn't
17 like an embankment going up like in a 45, it was a
18 steep embankment, so it was almost a -- not a wall,
19 but like up and down, vertical.

20 Q. And you remember that your Administrative Deposition
21 was taken back in June of '99?

22 A. Yes.

23 Q. And I believe a map was used at that point as well,
24 and I've marked your Administrative Deposition from

1 June 30 of '99, as Neri 2, and I'm going to turn
2 your attention to the exhibit marked at your
3 deposition, Bates Number BD 00831, show you that,
4 and ask you first, do you remember being asked to
5 make some marks on a map at that deposition?

6 A. Yes. --

7 Q. Do any of the marks on the map I just showed you,
8 which is an exhibit to your deposition, show where
9 that pipe was that we were just discussing?

10 A. I have to find where I am now -- okay, this is
11 Johnston -- is this the river? This is the
12 Woonasquatucket River, this is the bridge. I
13 believe it was right around here. That's just about
14 where I was talking about.

15 Q. All right, let me show you a bit of a larger map of
16 the same thing. What I just showed you has been
17 reduced with a photocopier, see if this just helps
18 you orient yourself a little bit more. Here's
19 Smith Street.

20 A. This is the river, and this is the wall, and
21 this is around where the pipe was.

22 Q. Could you put a P where the pipe was, sir.

23 (WITNESS COMPLIES)

24 MS. MAIN: And let the record reflect

1 that Mr. Neri has marked in blue pen on Turcone
2 Exhibit 3, where the pipe was, and we are trying to
3 use the same map as much as possible, just to avoid
4 confusion.

5 Q. Do you recall, Mr. Neri, there being just one pipe
6 that would empty into the river?

7 A. Yes, that's all I can remember is one.

8 Q. So we've talked about the pipe that you would see
9 discharged into the river when you would be walking
10 home from elementary school. Do you remember seeing
11 anything else during that time period of elementary
12 school going on at Metro-Atlantic?

13 A. Later on in the afternoon, they would have a
14 bulldozer, and -- let's put it this way here, there
15 used to be trees on the thing so you would have to
16 look through the trees and stuff, it wasn't like it
17 was wide open, but they would have bulldozers, I'm
18 going to guess, you are talking like 40 years now,
19 I'm going to guess around 4 o'clock, 3, 4 o'clock to
20 around 6 o'clock, maybe.

21 Q. Was it before dinner mainly?

22 A. Yes, before supper. And what they used to do is
23 bring the barrels, and we would see them covering
24 them, they would be stacked, stacked, and put in

1 rows and then excavated.

2 Q. So was it your understanding that they were burying
3 those drums?

4 A. That's what I thought it was. I couldn't even
5 -- when they built these two places there, I'm
6 surprised they even got it -- it was allowed, it was
7 like swampland and stuff. Also, they used to do
8 fires, we used to actually see the barrels coming up
9 in the air from the explosions.

10 MR. BINDER: Move to strike the
11 portion about being surprised about the building
12 getting permits.

13 MR. WALLACH: The objection is noted.

14 MS. MAIN: You can ignore our
15 legalese and keep going.

16 Q. Mr. Neri, tell me about the barrel explosions that
17 you would see?

18 A. Well, like I said, there's trees there, I used
19 to have a friend that used to live on top of the
20 hill, we used to get a kick out of it, because we
21 used to sit there and watch them fly over the
22 treetops.

23 Q. Did you ever go on any kind of scavenge for some of
24 them after the explosions?

1 A. Once we did and we got thrown out, so we never
2 did it again, but we did go over one side because we
3 could walk across that side, but it was a no-no,
4 everybody knew that was private property, and we
5 kind of respected that, but we used to go do things
6 like that, we used to build rafts all the time and
7 go down the Woonasquatucket River into the cove,
8 which is a little near where Allendale Avenue is,
9 but there was the barrels sometimes in the water,
10 not where I lived, more or less where the -- if you
11 don't mind me using the map -- where the water
12 opened up, it's not there no more because the dam
13 broke, there used to be a place where -- there used
14 to be a cove further in where the two buildings are
15 now, and that's where we -- actually, that cove used
16 to freeze, and we could go skating on there when we
17 were kids, but you could actually see barrels
18 sometimes floating in the water.

19 Q. Do you see that cove on this Turcone Exhibit 3,
20 which is dated 12/16, December 16?

21 A. I don't know how far this map is supposed to go,
22 and I don't think it would be on this map, because I
23 don't know what this street is. What street is
24 this?

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1 Q. Steere Avenue.
 2 A. Steere, if you look at the big one, this one
 3 right here --
 4 Q. Which is Neri 3?
 5 A. Yes; you will notice on the map, if you follow
 6 Amber Street, and follow it down, you'll see where
 7 it opens up just about where it says, Falco, I don't
 8 know if you see that at all, Lyman Mill Pond,
 9 Allendale Mill Pond, that's where -- this is
 10 Allendale Mill Pond, would be near Allendale Avenue.
 11 So, see, that little cove that goes in there, that's
 12 where I'm talking about, Aldrich Street is there,
 13 and Centerdale.
 14 Q. Why don't you mark that with a C, then, for cove.
 15 (WITNESS COMPLIES)
 16 Q. And in that cove when you were in elementary school,
 17 you would see barrels floating?
 18 A. Certain times, yes, but they wouldn't go too
 19 far. I don't know if they sunk or what happened, we
 20 would see them all the time, I mean, it didn't stay
 21 there.
 22 Q. When we were talking about the barrels exploding, do
 23 you recall on how many occasions you saw that happen?
 24 A. I can't give like time things, but it was very

Page 23

1 frequent, I'm going to say frequent, you know, five
 2 times a week, two times a week, I can't say that,
 3 but I know it was frequent.
 4 Q. And this was when you were in elementary school?
 5 A. Correct.
 6 Q. Do you remember when you got older whether that
 7 still occurred when you were in junior high and high
 8 school?
 9 A. I can't recall.
 10 Q. Is it fair to say that you were playing in and
 11 around areas where you could see the Metro-Atlantic
 12 property more when you were in elementary school as
 13 compared to when you got older?
 14 A. Yes.
 15 Q. Do you know how many drums Metro-Atlantic would bury
 16 on any given occasion?
 17 MR. BINDER: Objection.
 18 Q. Let me strike that question, too. Did you ever
 19 count on one occasion how many drums were being
 20 buried at Metro-Atlantic?
 21 A. Actually, count, no, but I would see pallets of
 22 them. In other words, they would do it in pallets,
 23 I would see trucks in there, you know, they would
 24 bring the barrels in, and they would take the

Page 24

1 barrels, and they would have a forklift and put the
 2 pallets, and put them in there, and the bulldozer
 3 would cover them.
 4 Q. So they were burying them by pallets as opposed to
 5 burying each individual drum; is that correct?
 6 A. The times I seen it, yes.
 7 Q. And do you recall how many times you saw drums being
 8 buried?
 9 THE WITNESS: Actually seeing?
 10 MS. MAIN: Yes.
 11 A. A lot, but I can't say a number. If I had to, I
 12 heard the construction more than -- every night, but
 13 actually watch them do it, it was an everyday thing,
 14 it was so common that after a while even the
 15 bulldozers you hear them every night, but when you
 16 see something all the time you kind of --
 17 Q. Block it out?
 18 A. Block it out.
 19 Q. Did you ever see -- putting aside the barrel
 20 explosions -- did you ever see any fires at the
 21 Metro-Atlantic property?
 22 A. Well, yes, there were fires there, that's how
 23 the barrels used to explode; if they did it on
 24 purpose or not, I don't know.

Page 25

1 Q. Did you ever see any of the buildings themselves on
 2 fire at the Metro-Atlantic property?
 3 A. The only one I remember is the big fire at the
 4 Winkleman's Warehouse. How it started, I really
 5 don't know.
 6 Q. But that wasn't Metro-Atlantic, again?
 7 A. No, but it abutted the property.
 8 Q. Looking at the exhibit we marked on Monday, December
 9 16, Exhibit 3 from Turcone, can you find on that
 10 location, sir, any areas where you saw drums being
 11 buried on Metro-Atlantic property?
 12 MR. BINDER: Objection.
 13 A. If you see Amber Street, see, this one doesn't
 14 really -- this is good, this is a better one, I can
 15 see this one better.
 16 Q. The one that I marked today as an exhibit in your
 17 deposition?
 18 A. Okay, yup. From Amber Street on, my friend used
 19 to live on Edna Street, which is one street over,
 20 they used to do it from there. From that point, I
 21 seen barrels buried all the way down to that fork,
 22 in that fork area.
 23 Q. Could you draw a line that covers that area, please.
 24 THE WITNESS: What do you mean, go

1 like this, when you say draw a line?

2 MS. MAIN: Do you mean from --

3 THE WITNESS: I mean from this area

4 right here, from Amber Street like that, this way.

5 (WITNESS INDICATING/DRAWING ON MAP)

6 Q. So on their own property, then, from that line that

7 you drew across the river heading down that you

8 depicted with the arrows; is that correct?

9 A. Correct.

10 Q. Could you circle your arrows, and then draw a line

11 even down to here and put "drum burial area,"

12 please.

13 (WITNESS COMPLIES)

14 Q. Great, thank you. Anything else you recall, Mr.

15 Neri, when you were in elementary school going home

16 and seeing at the Metro-Atlantic property that we

17 haven't already discussed?

18 A. I really don't know what you mean by that. I

19 don't want to be -- it was the chemicals in the

20 water, I seen that; I seen the barrels; I seen the

21 fires; I seen them burials. I don't know what else.

22 Q. Well, I was seeing if there's anything we hadn't

23 covered already. Mr. Neri, let me ask you, after

24 EPA took your Administrative Deposition, did they

1 A. Like I said, it's 40 years ago.

2 Q. No, I know, and I'm just trying to --

3 A. One pipe was there, was not the one that had the

4 stuff coming out, in other words, only one had the

5 fluid coming out of it, the other pipe I never saw

6 anything coming out of it.

7 Q. So the pipe that we marked on the exhibit today, is

8 the one pipe that you saw fluid coming out of?

9 A. Correct.

10 Q. If you turn to Page 12 in that Exhibit 2, please,

11 you have an answer that begins at line 2 and ends at

12 14. Would you please read that one to yourself.

13 (WITNESS REVIEWS DOCUMENT)

14 A. Okay.

15 Q. As we sit here today, is that testimony still

16 accurate?

17 A. Yes.

18 Q. If we can turn now to Page 18, on line 19, the

19 question appears, "Were the drums ever stacked?" Do

20 you see that, Mr. Neri?

21 A. Yes.

22 Q. And then you replied, "Yes." Is that accurate, to

23 the best of your knowledge today?

24 A. Yes.

1 ever provide with you a copy of it?

2 A. No.

3 Q. I think this is Neri Exhibit 2, which is your

4 deposition, and if you would, sir, the page numbers

5 are in the upper right-hand corner, if you would

6 turn to Page 8, and along the left-hand side there

7 are line numbers, so if you see your answer that

8 starts at line 15, would you please read that entire

9 answer, and it goes on to the next page.

10 A. "We used to walk the railroad tracks when we

11 used to get out of school and we used to go to

12 school, going out of school, when we'd walk in the

13 tracks" --

14 MS. MAIN: If you don't want to read

15 it out loud, that's okay, too, whatever you're

16 comfortable with.

17 MR. BINDER: Do you want him to read

18 it so he becomes familiar with it?

19 MS. MAIN: That's what I just said.

20 Q. Starting at line 15, just read it to yourself.

21 (WITNESS REVIEWS DOCUMENT)

22 Q. Do you see here that you refer to two pipes, sir, is

23 that your recollection, that there were two pipes or

24 one pipe?

1 Q. And then the attorney from EPA mentioned an Area 7,

2 and I'll show you the exhibit, again, from your

3 Administrative Deposition that you marked as Area 7

4 where the drums were stacked; do you see that, sir?

5 A. Yes.

6 Q. Is that accurate as we sit here today, to the best

7 of your knowledge?

8 A. Again, this doesn't show Amber Street, but

9 that's approximately where it is, yes.

10 MS. MAIN: Off the record.

11 (DISCUSSION OFF THE RECORD)

12 Q. When you moved to Amber Street, Mr. Neri, you were

13 approximately 8 years old; is that correct?

14 A. Yes.

15 Q. So you were going to elementary school at that point?

16 A. Yes.

17 Q. And so that would have been starting in '55, you

18 were living on Amber Street going to elementary

19 school; correct?

20 A. Correct.

21 Q. Do you remember what year you got out of that

22 elementary school?

23 A. I actually left there in 1963.

24 Q. So the activity that we have been discussing on the

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1 Metro-Atlantic property, you saw from approximately
 2 the years 1955 to 1963; is that correct?
 3 A. Yes.
 4 Q. Do you remember after 1963, whether you were still
 5 aware of the barrel explosions?
 6 A. Again, it was so common after a while, that you
 7 kind of grow up, and it's just -- when you're a kid,
 8 it's fun, but as you get older, you do other things,
 9 so I can't answer that question directly.
 10 Q. Do you recall at any time when you lived on Amber
 11 Street in Johnston, a situation where you suddenly
 12 realized, oh, they're not doing that anymore?
 13 A. No.
 14 Q. In your Administrative Deposition, you refer to, on
 15 Page 35, in your answer from lines 15 and 16, that
 16 there was no fish in this area; do you see that,
 17 sir?
 18 A. Yes.
 19 Q. What area were you talking about then, if you
 20 recall?
 21 A. Anywhere from the Centerdale Bridge to
 22 Allendale, Allendale Bridge. There's two bridges,
 23 Allendale Avenue and 44.
 24 Q. Did you ever see any dead fish in the

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1 Woonasquatucket River in the vicinity of your home
 2 growing up?
 3 A. No, because we lived more on the running water
 4 part than the still water part. In other words, the
 5 river used to run in and pocket near Allendale, but
 6 I lived more on the running water side, so you
 7 wouldn't see any dead fish. I could tell you that
 8 we used to collect turtle eggs and stuff like that,
 9 and they disappeared.
 10 Q. So there were turtles there for a time, and then no
 11 more turtles; is that what you're saying?
 12 A. Yes.
 13 Q. Do you remember what time frame?
 14 A. I remember going to grammar school, and we used
 15 to get the turtle eggs, they used to bury their eggs
 16 between the railroad tracks, and we used to dig them
 17 up when we were kids. As I said, when you get
 18 older, you don't do that stuff anymore, but I
 19 noticed that, because later on I used to walk the
 20 tracks and not see any, like in the '70s.
 21 Q. Did you have any family that ever worked at
 22 Metro-Atlantic?
 23 A. No.
 24 Q. How about any friends that worked there?

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1 A. No, not that I know of, let me put it that way.
 2 MS. MAIN: I have no further
 3 questions. Thank you very much.
 4 EXAMINATION BY MR. WALLACH
 5 Q. Mr. Neri, my name is Ian Wallach, I'm here on
 6 behalf of North River Insurance Company, I have a
 7 few follow-up questions, most of them are really,
 8 really quick. You went to the St. Lawrence
 9 Elementary School?
 10 A. Correct.
 11 Q. Was that with a U or a W?
 12 A. L-A-R -- let me write it. Yes, L-A-W-R-E-N-C-E.
 13 Q. And going back to your discussion about the pipe by
 14 the green box, I think it was 44 and Smith Street;
 15 was that right?
 16 A. 44 is Smith Street.
 17 Q. You said that the fluid that came out of that pipe
 18 and went into the river had different colors?
 19 A. Correct.
 20 Q. How physically close did you ever get to that pipe?
 21 A. Like from the stairway to the wall.
 22 Q. So like 15 or 20 feet?
 23 A. Yes.
 24 Q. Do you recall what it smelled like, were there any

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1 special fumes?
 2 A. No fumes.
 3 Q. Did the fluid that came out into the river, do you
 4 recall if it floated on top of the -- if it ever
 5 floated on top of the water?
 6 A. With suds sometimes.
 7 Q. And then would you swim near that area?
 8 A. We were told not to. No, seriously, there was
 9 no way you could swim, the water was too low to
 10 swim, it was running water.
 11 Q. By the water was too low, do you mean it was too
 12 shallow?
 13 A. Shallow.
 14 Q. Did you ever wade in that water?
 15 A. Yes.
 16 Q. Right near where that pipe was?
 17 A. Yes.
 18 Q. You said once you -- if I recall correctly -- you
 19 said you were watching the barrels explode and fly
 20 over the treetops, and you went to investigate and
 21 you got thrown out; do you recall who threw you out?
 22 A. The gentlemen -- the guys that were working
 23 there.
 24 Q. At Metro-Atlantic?

1 A. Yes.
 2 Q. The Metro-Atlantic people told you to get off the
 3 property?
 4 MR. BINDER: Objection.
 5 A. Yes.
 6 MR. WALLACH: What's your objection
 7 on the record?
 8 MR. BINDER: Because you were talking
 9 about Metro-Atlantic, Inc., and the witness's
 10 testimony indicates he is not able to differentiate
 11 between Metro-Atlantic, Inc., the chemical company,
 12 and the barrel company.
 13 THE WITNESS: That would be true.
 14 Q. Just for the record, I'm only asking for information
 15 you recollect.
 16 A. Just people on the other side of that bank.
 17 Q. Do you recall how the barrels would fly up? I mean,
 18 if they projected, would the bottoms blow off, would
 19 the tops blow off, would another barrel blow up?
 20 A. There would be more than one barrel blowing up.
 21 In other words, we were looking at something in a
 22 split second, so I can't tell you if the sides blew
 23 out or anything like that.
 24 Q. Now, was there always fire present when the barrels

1 A. No.
 2 Q. I would like to go back to your deposition testimony
 3 for the EPA, and on Page 56, if you could read the
 4 paragraph beginning on line 8?
 5 A. Yes.
 6 Q. You mentioned individuals who might have knowledge
 7 about this, but didn't want to get involved, and
 8 that was back in 1999?
 9 A. Yes.
 10 Q. Do you know if that's still their position?
 11 A. I'm sorry?
 12 Q. Are you able to recall which individuals, not
 13 asking you to identify them, but do you remember
 14 which individuals to which you are referring, the
 15 individuals who didn't want to get involved?
 16 A. More than one person.
 17 Q. Do you know if any of those people would be willing
 18 to discuss this matter now, three years later after
 19 the deposition?
 20 MR. BINDER: Objection.
 21 A. No, I don't.
 22 Q. You don't know. Would you feel comfortable asking
 23 them?
 24 A. I did.

1 exploded?
 2 A. Yes.
 3 Q. And do you recall if there was smoke with that fire?
 4 A. Yes.
 5 Q. And do you recall the color of the smoke?
 6 A. No.
 7 Q. Or if it had any scent?
 8 A. No.
 9 Q. You don't recall, or it did not?
 10 A. No, I didn't smell any odor.
 11 Q. And you talked about watching pallets of barrels be
 12 buried; is that correct?
 13 A. Correct.
 14 Q. And then they were covered?
 15 A. Yes.
 16 Q. Were they covered with dirt?
 17 A. Yes.
 18 Q. Do you recall how many barrels were on a pallet?
 19 A. No.
 20 Q. What's the longest period of time that you watched
 21 the barrels be buried?
 22 A. Twenty-five minutes.
 23 Q. And in that 25 minutes, do you recall approximately
 24 how many barrels may have been buried?

1 Q. Recently?
 2 A. Yes.
 3 Q. And they said that they were not comfortable getting
 4 involved?
 5 A. Yes.
 6 Q. How many times were you able to get on the property
 7 provided by Metro-Atlantic or shared by
 8 Metro-Atlantic?
 9 A. We only attempted, maybe, twice.
 10 Q. And what happened both times?
 11 A. The first time we couldn't get across; the
 12 second time, we got thrown out.
 13 Q. Getting across?
 14 A. The river.
 15 Q. Because it was --
 16 A. Just the way the water was -- too high at the
 17 time.
 18 Q. Do you know what a landfill is?
 19 THE WITNESS: I'm sorry?
 20 MR. WALLACH: Do you know what a
 21 landfill is, when I use the term landfill?
 22 A. I think I do.
 23 Q. Do you recall seeing any landfills on the site?
 24 THE WITNESS: You mean, landfills,

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Page 40

1 you are talking about garbage?
 2 MR. WALLACH: Yes, a place that they
 3 put stuff.
 4 A. The only thing I saw them bury was barrels.
 5 Q. Are you aware of any injury or illnesses that
 6 occurred when you were in elementary-school, that
 7 people who you believe might have been related to
 8 disposal from those pipes?
 9 MR. BINDER: Objection.
 10 THE WITNESS: Do I know personally?
 11 MR. WALLACH: Yes.
 12 A. No.
 13 Q. Did your parents ever tell you anything about
 14 avoiding the river?
 15 A. Yes.
 16 Q. Which parents?
 17 A. My mother and father.
 18 Q. What would they tell you?
 19 A. "Stay away from there."
 20 Q. Why would they tell you?
 21 A. It wasn't safe.
 22 Q. And it wasn't safe because the river itself was
 23 dangerous or it wasn't safe because of the stuff put
 24 into the river, or both?

1 A. Probably both.
 2 Q. Lastly, are you aware of anyone other than the
 3 individuals, whom you have already spoken to, who
 4 might have some memories about this time and this
 5 area that you have testified to today?
 6 A. Could you repeat the question for me, please.
 7 Q. Sure. Are you able to recall or perhaps refer us to
 8 anyone, other than those individuals who you stated
 9 that you spoke to who don't want to be involved, who
 10 might have some information about --
 11 A. Yes, I did.
 12 Q. And who are those individuals?
 13 A. My brother and sister and my mother.
 14 Q. And your brother's name is?
 15 A. Paul.
 16 Q. And your sister's name?
 17 A. Bernadette.
 18 Q. And do we have contact information for Paul and
 19 Bernadette, just for the record?
 20 MS. MAIN: Why don't you put it on
 21 the record.
 22 Q. Just for the record, can you give us contact
 23 information?
 24 A. Yes, I think I already gave it to somebody else,

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1 the investigator.
 2 Q. Can we get it on the record to be safe.
 3 A. Yes.
 4 Q. Let me rephrase it, to make it clear. What is the
 5 contact information for Paul?
 6 A. He's living with my mom, which is in one of the
 7 buildings that we were talking about today.
 8 Q. And is there a phone number?
 9 A.
 10 Q. And for your sister?
 11 A. She lives in
 12 Q. What's her name?
 13 A. I think LeBlanc, either LeBlanc or Neri.
 14 Q. Are they older or younger?
 15 A. Younger. My brother is 13 years younger, and my
 16 sister is three years younger.
 17 MR. WALLACH: I think that's it for
 18 me. Do you have any follow-up questions?
 19 MR. BINDER: I have a few follow-up
 20 questions. Do you mind if we take a short break?
 21 (BRIEF RECESS)
 22 EXAMINATION BY MR. BINDER
 23 Q. Mr. Neri, when Ms. Main was asking you some
 24 questions, she asked you questions about

1 Metro-Atlantic?
 2 A. Correct.
 3 Q. When you answered those questions, did you view
 4 Metro-Atlantic as equaling both Metro-Atlantic
 5 Chemical Company and the Barrel Company?
 6 A. I thought it was the same place.
 7 Q. That was what you thought as you were answering the
 8 questions?
 9 A. That's what I thought when I was living there.
 10 Q. And, also, when you were answering the questions? I
 11 just need this for the record.
 12 A. Yes.
 13 Q. Now, if we could take a look at Turcone Exhibit 3.
 14 Do you notice that on one side of Metro-Atlantic
 15 there's the Woonasquatucket River?
 16 A. Woonasquatucket, yes.
 17 Q. And on the other side is the tailrace?
 18 A. Correct.
 19 Q. And the pipe that you referred to, when Ms. Main was
 20 asking you questions, was that discharged into the
 21 tailrace or Woonasquatucket River?
 22 A. Woonasquatucket River.
 23 Q. Now, do you recall that when your Administrative
 24 Deposition was taken, you were asked to make various

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1 marks on a Sanborn map, similar to what is Turcone
 2 Exhibit 3?
 3 A. On this particular one in red, yes.
 4 Q. Do you recall whether during that deposition you
 5 marked with a Number 4, the area where the pipe
 6 discharged?
 7 A. Yes.
 8 MR. BINDER: I'm going to ask the
 9 reporter to mark as Exhibit 2A, within Exhibit 2,
 10 the copy of the Sanborn map that was marked as
 11 Exhibit 1 to Mr. Neri's deposition.
 12 (NERI DEPOSITION EXHIBIT 2A MARKED
 13 FOR IDENTIFICATION)
 14 Q. Is area 4 discharged into the tailrace?
 15 THE WITNESS: This is the Johnston
 16 line, what's this here?
 17 Q. This here, it says, "Woonasquatucket River" over
 18 here, and on this side, the tailrace, do you see
 19 from the compass there, the tailrace is to the east,
 20 and the Woonasquatucket is to the west; do you see
 21 that?
 22 A. Yes.
 23 Q. And is Number 4, does that discharge into the
 24 tailrace?

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1 MR. FARLEY: Objection.
 2 A. That was crossed out.
 3 Q. Is that discharged into the tailrace?
 4 MS. MAIN: Objection.
 5 MR. FARLEY: Objection.
 6 Q. Number 4 that you say is crossed out, was that
 7 discharged into the tailrace?
 8 MS. MAIN: Objection.
 9 MR. FARLEY: Objection.
 10 A. That is not the Woonasquatucket River, that's
 11 part of -- what did you call that?
 12 Q. It's called a tailrace here.
 13 A. This here, we started to do it and put the
 14 thing, and it's crossed out.
 15 Q. You think Number 4 is crossed out?
 16 A. Yes.
 17 Q. Can you show us on Neri Exhibit 2A where the pipe
 18 was that you saw?
 19 MS. MAIN: Objection, asked and
 20 answered.
 21 MR. BINDER: It's not marked on
 22 Exhibit 2A.
 23 MS. MAIN: Well, it's marked on
 24 another exhibit, and I'm objecting to you doing

1 this, because it will just create more confusion.
 2 MR. BINDER: I think it is more
 3 confusing to not have him mark it on a site map.
 4 Q. Do show us on Exhibit 2A where the pipe was that you
 5 saw discharged liquid.
 6 A. Around here (indicating).
 7 Q. Could you mark that with a Number 100.
 8 MR. FARLEY: Objection.
 9 MR. BINDER: What's the basis of the
 10 objection?
 11 MR. FARLEY: Witness has already
 12 stated that he could better locate it with reference
 13 to the Johnston side of the Woonasquatucket River,
 14 and the map which you are showing him does not give
 15 him the information.
 16 Q. Now, if you want to at any point, when I ask you to
 17 mark on Neri Exhibit 2A, if you want to look at the
 18 map to make sure your bearings are correct, feel
 19 free to do so.
 20 A. Okay, I'll do that now. I would say right
 21 around this area right here (indicating).
 22 Q. Is the area you marked 100 on Neri 2A, a correct
 23 location?
 24 A. Again, I could go there and show it to you

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1 better than doing this.
 2 MR. WALLACH: Let the record reflect
 3 there's three different maps all with three
 4 different dimensions. The one that he is being
 5 asked to point to is the smallest of the three. If
 6 it is confusing, you need not answer that.
 7 MR. BINDER: He need respond; you can
 8 do whatever your objections are.
 9 A. First of all, that's wrong, I'm very sorry, this
 10 is the river here -- these are the pipes.
 11 Q. Can you please show us as accurately as you can,
 12 where the location of the pipes are?
 13 A. These are two pipes right here, approximately.
 14 Q. Do you want to mark the pipes 101 and 102?
 15 (WITNESS COMPLIES)
 16 A. Approximately.
 17 Q. And you mentioned in response to Ms. Main's
 18 questions, that there was liquid discharged from one
 19 pipe but not the other?
 20 A. Correct.
 21 Q. Which is the pipe from which the liquid discharged?
 22 You can either refer to it as 101 or 102, if that's
 23 easier for you.
 24 A. The 101, the one near the bridge.

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- 1 Q. Was that pipe extending from a building?
 2 A. It was on the ground.
 3 Q. And how far from that -- from the nearest building
 4 was that pipe?
 5 A. Probably 100 yards, 75 yards, something like
 6 that. --
 7 Q. Now, with the fluid that you saw being discharged
 8 from one of the pipes, did you see that only during
 9 afternoons?
 10 A. Yes, I don't know how long it was. Like I said,
 11 we used to go in the mornings and then in the
 12 afternoon we used to notice it.
 13 Q. And in the morning you didn't see it?
 14 A. No.
 15 Q. You were asked some questions about the drums that
 16 you saw being buried; do you recall that?
 17 A. Yes.
 18 Q. And did you see the drums being -- did that take
 19 place during the period 1957 to 1963?
 20 A. In that area, yes.
 21 Q. And I believe at your EPA deposition, you were able
 22 to show the location where the drums were being
 23 buried; is that correct?
 24 A. Correct.

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- 1 Q. Was that at the point marked 7 on Neri Exhibit 2A?
 2 A. Yes, this one here, you can see it much better.
 3 Q. I'm trying to correlate it to a site plan so we have
 4 a consistent record.
 5 A. Yes, that area, because I would say this right
 6 here is -- this right here (indicating).
 7 Q. And there was another area where the barrels were
 8 being stored before they were buried; is that
 9 correct?
 10 A. Stored?
 11 Q. Yes, did you see the barrels being --
 12 A. Piled, you mean piled.
 13 Q. Yes, at someplace other than exhibit -- other than
 14 the point marked 7?
 15 A. No, they were in that area the whole time.
 16 Q. Don't you recall at your deposition that you
 17 testified that they were stored in one place, and
 18 then they were moved to another place when they were
 19 buried?
 20 A. Yes, from there to here. It wasn't that you
 21 moved it from another location. Okay, if you want
 22 to do it by the map, I'll do it this way; if you
 23 take Amber Street, that's the key, they would be on,
 24 approximately, around this area right here, they

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- 1 would bring it to this area right here.
 2 Q. And you talked about the distance being -- what
 3 would your estimate be of the distance from where
 4 they were piled to where they were buried?
 5 A. A hundred yards.
 6 Q. And were they piled north or south of where they
 7 were buried?
 8 MR. FARLEY: Objection.
 9 THE WITNESS: North being this way
 10 and south being this way?
 11 MR. BINDER: Why don't you go by the
 12 compass which is shown on Exhibit 2.
 13 A. Yes, it would be north of where they were
 14 buried.
 15 MR. WALLACH: Just to clarify, that's
 16 by reference to the compass that's shown on Exhibit
 17 2A; is that correct?
 18 THE WITNESS: Yes.
 19 MR. WALLACH: Thank you.
 20 (DISCUSSION OFF THE RECORD)
 21 Q. Mr. Neri, I'm going to show you what appears to be a
 22 more complete copy of what was shown to you as
 23 Exhibit 1 from your EPA deposition during questions
 24 from Ms. Main.

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- 1 MS. MAIN: Why don't you put on the
 2 record what you think is missing.
 3 MR. BINDER: I think we can see that
 4 the Area 5, which he indicated during his prior
 5 deposition, was the drum burial area, is not shown
 6 here, it's to the south of the exhibit, south of the
 7 exhibit that you put in front of him, and it's cut
 8 off from the copy that you gave him.
 9 MS. MAIN: That's all I got from your
 10 production, it's copied from your production.
 11 MR. WALLACH: It says from the Black
 12 & Decker production.
 13 MS. MAIN: So it's different Bates
 14 numbers on that exhibit.
 15 MR. WALLACH: The record reflect on
 16 what we have been using as 2A, is BD 00831, and that
 17 the document being presented by Mr. Binder at this
 18 time is not bearing a Bates Number.
 19 MS. MAIN: So how do we know that's
 20 even from the Administrative Deposition?
 21 MR. BINDER: We also can see that
 22 what you have is cut off.
 23 Mr. Neri, I put in front of a
 24 document and I'll ask the reporter to mark that as

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1 Exhibit 2B.
2 (NERI DEPOSITION EXHIBIT 2B MARKED
3 FOR IDENTIFICATION)
4 MR. FARLEY: Objection.
5 MS. MAIN: I'll object for the
6 record, because I'm not certain that the document
7 being marked as 2B was actually the exhibit used at
8 Mr. Neri's deposition; moreover, because it doesn't
9 bear a Bates Number, I question whether it was even
10 produced to us.
11 Q. On Exhibit 2B, do you recognize your handwriting?
12 A. Yes.
13 Q. And is that Area 5 in your handwriting?
14 A. Yes, and it's north of where I said it was, you
15 asked me north.
16 Q. Yes, I'm trying to have a complete copy.
17 A. Yes, that's why I said I liked this one before,
18 I said this is more like it.
19 MR. WALLACH: Let the record reflect
20 that the map that he is referring to as being more
21 complete, is the document that's been presented as
22 Neri Exhibit --
23 MR. BINDER: Could we not have
24 interruption in the middle of the question?

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1 MR. WALLACH: We do need
2 clarification.
3 MR. BINDER: We'll get clarification.
4 MR. WALLACH: I'm sorry, the map to
5 which you used as a point of reference, that bears
6 Exhibit 3.
7 MR. BINDER: You will have a chance
8 to ask questions, please don't interrupt me.
9 Q. Now, do you understand Area 5 that you marked on
10 Exhibit 2B, is where the drum burial took place?
11 A. Yes.
12 Q. And Area 7 is where the drums were located before
13 they were buried in the area marked 5?
14 A. I can't answer that question, because I don't
15 remember what the question was for Area 7.
16 Q. Fair enough. Let me show you -- direct you to a
17 page of your deposition -- that's fine. Do you want
18 to turn to Page 18 of your deposition. Do you see
19 on line -- you were asked on line 4, "Do you know
20 where the drums, which were sat at the edge of Area
21 5 on Exhibit 1, do you know where those drums were
22 coming from?" And you then identified that location
23 where the drums were coming from as being Area 7?
24 A. Seven.

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1 Q. Please answer audibly for the record.
2 A. Yes.
3 Q. And is that testimony correct?
4 A. Yes.
5 Q. If you can look, if we go from Page 18 to Page 19 of
6 your deposition, you were asked were the drums ever
7 stacked, and you answered yes, and then you said
8 they were stacked in Area 7; is that right?
9 A. Yes.
10 Q. And were the drums also stacked in Area 5?
11 A. Where's Area 5 -- where they were digging, yes.
12 Q. In Area 7, were the drums located vertically?
13 THE WITNESS: I'm sorry?
14 MR. BINDER: Were the drums piled
15 vertically?
16 THE WITNESS: On 7?
17 MR. BINDER: No, on 5.
18 THE WITNESS: Vertically, you mean
19 this way?
20 MR. BINDER: Vertically means
21 straight up.
22 A. No.
23 Q. Were they vertical in Area 7?
24 A. Yes.

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1 Q. And were they horizontal in Area 5 when they were
2 buried?
3 A. I don't know how they were buried. In other
4 words, like put them in the hole, I didn't see them
5 put in the hole.
6 Q. You don't know whether they were located vertically
7 or horizontally when they were buried?
8 A. Correct. I mean, I have seen barrels up
9 vertical and up horizontal.
10 Q. You saw barrels both vertical and horizontal in Area
11 5?
12 A. Yes.
13 Q. Now, did you see some kind of -- the barrels being
14 moved from Area 5 to Area 7, with the forklifts?
15 I don't want to suggest --
16 A. Yes.
17 Q. How were they moved?
18 A. On pallets.
19 Q. By a forklift?
20 A. Yes.
21 Q. And did you recognize the people who moved the
22 barrels?
23 THE WITNESS: What do you mean by
24 recognize?

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1 MR. BINDER: Did you know their
2 names?
3 A. No.
4 Q. How many different people did you see moving the
5 barrels?
6 MS. MAIN: Objection, go ahead. --
7 A. I can't give a number.
8 Q. Did you see more than one person?
9 A. Seen more than one.
10 Q. Can you give us a description of any of those people?
11 A. No, I cannot.
12 Q. And do you know by whom any of those people were
13 employed?
14 A. No, I do not.
15 Q. And do you recall speaking to your father about the
16 activities you saw with the barrels in Areas 5 and
17 Area 7?
18 THE WITNESS: Did I speak with my
19 father?
20 MR. BINDER: Yes.
21 A. Probably.
22 Q. Did you ask him questions about what was going on
23 there?
24 A. I can't remember.

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1 Q. And do you recall asking him what went on there, and
2 do you recall him telling you that the people were
3 just doing their job, you know, that's the type of
4 deal, you're on your land, that type of deal; that's
5 correct?
6 A. Yes.
7 Q. And at the time you saw these barrels being buried,
8 did you discuss that with anybody other than your
9 father?
10 A. My friends.
11 Q. Anybody else?
12 A. My family.
13 Q. Anybody else?
14 A. Not that I can think of.
15 Q. And did you discuss anything about the liquid
16 flowing through the pipe with anybody other than the
17 members of your family?
18 A. Friends.
19 Q. Anybody else?
20 A. No.
21 Q. Would you turn to Page 42 of your deposition,
22 please. If you could read to yourself the area
23 starting with the question on line 12 and continuing
24 to the answer on line 3 at Page 43, and let me know

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1 when you have finished, and I'll put a question to
2 you.
3 (WITNESS REVIEWS DOCUMENT)
4 Q. In that series of lines I asked you to read, there's
5 reference to your telling the attorney that there
6 was a building shown on the Sanborn map that you
7 didn't remember seeing, if you look at lines 15 and
8 16?
9 A. Yes.
10 Q. Could you point to us on Neri Exhibit 2B, the
11 location of that building that you did not recall
12 seeing at the time of your EPA deposition?
13 A. I don't really remember what building she was
14 talking about. Probably this one or this one.
15 Q. Could you mark as Number 103, the building you think
16 you were referring to at the time?
17 MR. FARLEY: Objection.
18 MS. MAIN: I object, speculation.
19 MR. WALLACH: And do you want to let
20 him clarify the area of the transcript --
21 MR. BINDER: Sure, absolutely. He
22 has it in front of him, he just read it, but if he
23 wants to take a look at it, please feel free to do
24 so, so he can mark it as accurately as possible.

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1 (WITNESS REVIEWS DOCUMENT)
2 A. I don't know what building we were talking
3 about. I think they pointed to this building here.
4 Q. Why don't you mark as 103 the building you think she
5 pointed to so we can have it on the record.
6 MS. MAIN: I still object.
7 MR. BINDER: Objection, go ahead.
8 A. Either this one or this one.
9 Q. You said a minute ago it was either this one or this
10 one. Could you mark the two buildings?
11 A. No, I'm talking about this right here, these two
12 blocks. I don't know whether she was pointing to
13 this or this. I'll mark this one.
14 Q. Why don't you mark the one you think she was
15 pointing to as 103.
16 A. Is this a building? I don't know if this is a
17 building.
18 Q. I believe it is a building, but I don't --
19 MS. MAIN: No testimony from the
20 attorneys on the record, please.
21 MR. BINDER: If she doesn't want to
22 help you, that's fine, Mr. Neri, we'll do the best
23 we can.
24 (WITNESS MARKING ON MAP)

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1 Q. You also mentioned another building you may have
2 been referring to, would you mark that with 104.

3 MR. FARLEY: Objection.

4 MS. MAIN: Objection.

5 A. You are putting buildings in something that I
6 don't know. In other words, I don't know if this
7 was a building or this thing was a building when she
8 asked me the question. She might have pointed to
9 this particular rectangle or this particular
10 rectangle, I don't know.

11 Q. One of those rectangles that you might have been
12 pointing to is 103?

13 A. Yes.

14 Q. Now, you have referred to another one. Could you
15 mark that as 104?

16 A. I don't know if there was another one.

17 Q. You said "this building" a moment ago, you were
18 pointing to.

19 A. Correct.

20 MR. FARLEY: Objection.

21 MS. MAIN: Objection.

22 Q. When you said "this building" in answer to my prior
23 question, what was the number of the building on
24 that map?

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1 A. This block -- she said it was a building, and
2 she pointed to this building. I don't remember
3 which block it was.

4 Q. When you were pointing to this block, you were
5 pointing to 103?

6 A. Yes, she said it was a building there, I don't
7 remember a building there.

8 Q. Did you ever work at a company called D & S Screw
9 Company?

10 A. Yes, I did.

11 Q. And is the location of D & S Screw Company shown on
12 Exhibit 2B?

13 THE WITNESS: This is 2B?

14 MR. BINDER: Yes, it is.

15 A. Again, I have to look at it. I would say from
16 this particular one, there's two areas marked 9 and
17 8, but this 9 looks like a building, so I would say
18 that would be it. On this, if you want, I can show
19 you better on this map.

20 Q. Why don't we take just a second, and if you want to
21 refresh your recollection, you can take a look at
22 your deposition on Page 46.

23 A. I'm all set. This is the building, this is
24 where they dumped it.

1 Q. When you said "this is the building," you were
2 pointing to Number 9?

3 A. That's D & S Screw Products. Again, you are
4 making buildings here, and I circled Number 9, and
5 the question must have been circle D & S Screw
6 Products, and I did, and, Number 8, I say that,
7 because I started down here; 8 is the area that they
8 dumped the stuff in, so I'm assuming that's 9 and 8.

9 Q. When you said 8 is the area they dumped the stuff
10 in, what are you referring to?

11 A. The water.

12 Q. Who is "they"?

13 A. D & S Screw Products.

14 Q. What is the stuff they dumped in?

15 A. Raw findings, whatever you want to call it,
16 liquid.

17 Q. Was that the wastewater from their operations that
18 they dumped in there?

19 A. Yes.

20 Q. How did they dump that?

21 A. In barrel, from barrels.

22 Q. Did they dump from the barrels directly into the
23 river?

24 A. Yes.

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1 Q. Did they pour the contents of the barrel into the
2 river?

3 A. Yes.

4 Q. And do you recall, approximately, when you saw D & S
5 Screw Company engaging in those activities?

6 THE WITNESS: The time?

7 MR. BINDER: Yes.

8 A. Around 6 o'clock.

9 Q. No, I'm sorry, the time in terms of the year?
10 Excuse me, I should have said the date, time
11 period.

12 A. I worked there, I had to be in high school,
13 somewhere around '64 to '67.

14 Q. Now, if you could turn to Page 50 of your
15 deposition, please. Actually, I'm going to ask you,
16 just so you have enough perspective, to take a look
17 beginning on line 16 of Page 49, and continuing
18 through line 11 on Page 50.

19 (WITNESS REVIEWS DOCUMENT)

20 A. Okay.

21 Q. Now, is your answer to the question, which was asked
22 at line 4 of Page 50, continuing through line 11 on
23 Page 50, an accurate answer?

24 A. What I can recollect, yeah.

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1 Q. And lines 9 to 11, when you said, "we are talking
2 about stuff that we observed that was done on a
3 day-to-day basis that nobody even questioned," were
4 you referring to the activities of D & S Screw
5 Company?
6 A. Yes. --
7 Q. And, now, the activities at the time you observed
8 them of the Metro-Atlantic/New England Container
9 Company location, are those also activities which
10 you observed that was done on a day-to-day basis
11 that nobody even questioned at the time?
12 A. Yes.
13 Q. Now, do you recall awhile ago Ms. Main asked you
14 about testimony on Page 35 of your deposition, and
15 she read to you an area where you said that there
16 was no fish in this area?
17 A. Okay.
18 Q. And what time period was it when you observed that
19 there was no fish in that area?
20 THE WITNESS: What it says here?
21 MR. BINDER: Well, is what it says
22 there correct?
23 A. To my knowledge.
24 Q. And what does it say there? What is that time

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1 period when you say that there was no fish in the
2 area?
3 A. From the '50s to the late '60s.
4 Q. Well, didn't you say in your deposition that the
5 time you saw there was no fish in the area was
6 around '72?
7 MS. MAIN: Objection, that's not what
8 it says.
9 MR. WALLACH: Objection.
10 MR. BINDER: There should not be
11 speaking objections during the deposition. You
12 should say the word "objection," you will be allowed
13 to ask questions after.
14 MS. MAIN: They do allow you to
15 explain it, so you can clarify your question.
16 MR. BINDER: Trying to suggest the
17 testimony of the witness, that's inappropriate.
18 THE WITNESS: Do you mind if I read
19 this whole page?
20 MR. BINDER: Sure.
21 (WITNESS REVIEWS DOCUMENT)
22 (QUESTION PG. 63, L. 4 - 6 READ)
23 MR. WALLACH: Objection.
24 A. Okay, I don't understand what you are trying to

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1 get on that. It was the water was polluted in the
2 '60s, yes, it was, that's what I said.
3 Q. Didn't you say that it was around 1972 or so in this
4 area that you saw there was no fish in this area?
5 MR. WALLACH: Objection.
6 MS. MAIN: Objection.
7 A. I did -- I answered the question yes, I did say
8 '72, but that's not what I'm saying here. It was an
9 incident where my next door neighbor, who was going
10 fishing, and I was laughing because he was taking
11 the fish out of the water, and that happened to be
12 around '68 to '72, in that area -- I mean -- we are
13 talking forty years ago, you know, but there was no
14 fish in that water.
15 Q. There was no fish in that water in 1972?
16 MR. WALLACH: Objection.
17 Q. Is that correct?
18 A. No, that's not what I said.
19 Q. Was there fish in the water in 1972?
20 A. In the bottom part where they fished, yes.
21 Q. There was fish in the water in 1972, in the
22 Woonasquatucket River?
23 A. In areas, yes. There's fish in there now, you
24 can't eat it.

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1 MR. BINDER: Move to strike, there's
2 no question.
3 Q. Now, on Pages 34 and 35 of your deposition, you
4 refer to the fact that a neighbor suggested that you
5 go fishing in the Woonasquatucket River; is that
6 correct?
7 A. Correct.
8 Q. And when did your neighbor make that suggestion?
9 A. Again, we are talking in the '60s here, I would
10 say around what I said, about '68, '69, '70,
11 somewhere around here.
12 Q. That's when you suggested that you go fishing in the
13 Woonasquatucket River?
14 A. Yes.
15 Q. And where was that location in the Woonasquatucket
16 River that he suggested you go fishing in in
17 relationship to the Metro-Atlantic site?
18 A. It was upstream -- no, I'm sorry, it was
19 downstream, which is the Allendale -- right here,
20 the cove that I told you about earlier, this is
21 Metro-Atlantic.
22 Q. Now, the cove that you referred to on Neri Exhibit
23 3, where would that be on?
24 A. It's not on there.

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1 Q. It's too far south to be shown on Neri Exhibit 2B?
 2 A. It's too far south.
 3 Q. Do you know where the Woonasquatucket River and the
 4 tailrace meet at some point?
 5 A. According to this map.
 6 Q. This map being Neri Exhibit 3? --
 7 A. Yes, it's like a cove, not like open water.
 8 This is running water, if you know what I'm saying,
 9 this is stagnant water, this is running water.
 10 Q. By running water, you are referring to the river?
 11 A. Yes.
 12 Q. And by stagnant water, you're referring to the
 13 tailrace?
 14 A. Yes.
 15 Q. Do you see tailrace is the term used in Neri Exhibit
 16 2B; is that correct?
 17 A. I guess so, yes.
 18 Q. Now, did you, from time to time, see any trucks
 19 delivering barrels in the area that's marked as
 20 Number 7 in Neri Exhibit 2B?
 21 THE WITNESS: Delivering to that
 22 area?
 23 MR. BINDER: Yes.
 24 A. No.

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1 Q. Did you see them delivering barrels anywhere on
 2 which you understood to be what you referred to as
 3 the Metro-Atlantic property?
 4 A. Yes.
 5 Q. And could you point out on Neri 2B to where the
 6 truck delivered the barrels?
 7 A. The gate, to the gate.
 8 Q. Can you show us where the gate is?
 9 A. Not on this. I'm going to say right here.
 10 Q. Why don't you put "G" for where the gate is.
 11 (WITNESS COMPLIES)
 12 Q. That's fine.
 13 A. Like I said, I'm only guessing here.
 14 Q. It's your best recollection?
 15 A. Yes.
 16 Q. And do you recall the size of those trucks?
 17 A. No, it wasn't a pickup truck, it was a truck,
 18 double wheels, whatever you want to call it. It
 19 wasn't like tractor trailer or anything, but it was
 20 a straight job.
 21 Q. Now, I believe you mentioned that there was a hill
 22 from where you were able to observe the activities,
 23 what you referred to as the drum-burying?
 24 A. Yes.

1 Q. How high was that hill?
 2 A. 25 feet, maybe.
 3 Q. And did you observe those activities from, was that
 4 from your home or when you were walking to and from
 5 school?
 6 A. That question is like -- I don't understand it.
 7 Q. When you were on the hill observing the
 8 drum-burying, was that hill part of your home, your
 9 family's property?
 10 A. No.
 11 Q. Was that a hill you passed along on your route home?
 12 A. No, it was my friend's property.
 13 Q. Where was your friend's property in relation to --
 14 A. Edna Street.
 15 Q. Edna Street is --
 16 A. Right next to me, next to Amber. Brayton,
 17 Amber, Edna, right there.
 18 Q. And how far was that hill from the area where you
 19 saw the drum?
 20 A. 25 feet, 50 feet.
 21 Q. In the range of 25 to 50?
 22 A. Around 50 feet, I would say more like 50 feet.
 23 Q. And what was the name of your friend who lived on
 24 Edna Street?

1 A. I'm not going to give that name. I don't want
 2 to get anybody else involved.
 3 Q. Refusing to tell me the name?
 4 A. I don't want to get anybody else involved. He
 5 doesn't want to get involved. I gave you that
 6 there, but he doesn't want to get involved, so I
 7 have to -- I don't want to give that information, I
 8 have to respect that.
 9 Q. Do you agree to provide that information if counsel
 10 agrees that it will be kept confidential and made
 11 available only to the lawyers in this case?
 12 A. I'm not represented here by a lawyer, and I
 13 don't want to say something that would get somebody
 14 else involved, when I know the person does not want
 15 to get involved in this at all, so I don't know what
 16 to say. I'm trying to help you as much as I can,
 17 but I don't want to lose a friend over it.
 18 MS. MAIN: I respect Mr. Neri's
 19 wishes. I won't agree to that stipulation.
 20 MR. WALLACH: I will join that.
 21 Q. So you are refusing to answer my question?
 22 A. Yes. I'm sorry.
 23 Q. What was the location of your friend's property?
 24 A. The end of Edna Street.

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1 Q. What's the street address?

2 A. I don't really -- there's no -- in other words,

3 [REDACTED]
4 [REDACTED]

5 MS. MAIN: Let me clarify, too, why I
6 said that, so it's on the record. Keeping it among
7 us wouldn't advance the ball here at all, so that's
8 why, certainly, out of respect for Mr. Neri, and
9 also seeing that that's just really not something
10 that will advance discovery, I won't agree to it.

11 MR. BINDER: I don't want to get into
12 a colloquy about this, but if you want to put your
13 position on the record, fine, I don't agree with it,
14 but we'll move along.

15 THE WITNESS: Can I correct something
16 that you said, too?

17 MR. WALLACH: Please, yes.

18 Q. You want to correct something you said?

19 A. No, that you said. You asked me a question
20 about observing on the hill; I observed them digging
21 on the hill, I observed them -- he asked me when I
22 was observing these barrels being dug on the hill,
23 but I have seen them walking by, I didn't have to be
24 on the hill to see the barrels.

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1 Q. I'm asking when you did see them on the hill.

2 A. On the hill, both, yes, I didn't have to be on
3 the hill to see them. I saw them both times,
4 walking, and, on the hill. I wanted to clarify
5 that.

6 Q. Did you see them more often when you were walking or
7 when you were on the hill?

8 A. More walking.

9 Q. When you were walking, were you on the same
10 elevation where the barrels were being buried?

11 A. Yes, we would walk, in other words, to get to
12 our house from the railroad tracks, we have to climb
13 a hill, because Johnston was higher than North
14 Providence.

15 Q. When you saw them and you were walking, were you on
16 the same elevation as the barrels?

17 A. Both.

18 Q. At some point, you were on the same elevation and at
19 some point you were higher?

20 A. Correct.

21 Q. At the closest point where you got to where the
22 barrels were, how far was that?

23 A. You know, I would say 50 to 100 feet -- I'm
24 sorry, yards, not feet, yards.

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1 Q. At that time were you wearing glasses?

2 A. No.

3 Q. I see now you are wearing glasses?

4 A. Yes, last couple of years.

5 Q. Something that happens to all of us over time.

6 Now, when you saw the barrels being buried from time
7 to time, was anybody else there with you?

8 A. At times, yes.

9 Q. When you were at your friend's house on Edna Road,
10 was your friend with you?

11 A. Yes.

12 Q. Other than that friend that lived on Edna Road, was
13 anybody else with you at the time?

14 A. Yes.

15 Q. And do you know the name of those people?

16 A. Yes.

17 Q. Do you decline to identify those people?

18 A. I declined him; my sister was with me, I had
19 another friend, Jimmy Bennett, who we buried today,
20 but he was with me, and another neighbor that didn't
21 want to get involved.

22 Q. And you decline to give me the name of that
23 neighbor?

24 A. Yes.

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1 Q. Now, do you know the name of any of the people who
2 were working at either the barrel company or
3 Metro-Atlantic?

4 A. Barrel company --

5 MR. WALLACH: Objection, asked and
6 answered.

7 A. No, I do not.

8 MR. BINDER: Okay, I have no further
9 questions.

10 MS. MAIN: No follow-up, thanks.

11 Let me just say on the record that we'll provide
12 you with a copy of the transcript; if you want to
13 look through it -- can't force you to -- but if you
14 want to look through it to make sure there are no
15 inaccuracies where you might have said 7 and it came
16 out as 1, or something like that, you can correct
17 it. All right?

18 THE WITNESS: Yes.

19 (DEPOSITION CONCLUDED AT 3:44 P.M.)

C-E-R-T-I-F-I-C-A-T-E

I, ANGELA M. GALLOGLY, RPR, Notary Public in and for the State of Rhode Island, duly commissioned and qualified to administer oaths, do hereby certify that the foregoing deposition of Kenneth Neri, a Witness in the above-entitled cause, was taken before me on behalf of the Defendants, at the offices of Holland & Knight, LLP, One Financial Plaza, Suite 1800, Providence, Rhode Island, on December 18, 2002; that previous to examination of said witness, who was of lawful age, Kenneth Neri -- was first sworn by me and duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and that Kenneth Neri thereupon testified as in the foregoing manner as set out in the aforesaid transcript.

I further certify that the foregoing deposition was taken down by me in stenotype and was later transcribed by computer and that the foregoing deposition is a true and accurate record of the testimony of said witness.

Pursuant to Rule 5 (d) and 30 (f) of the Federal Rules of Civil Procedure, original transcripts shall not be filed in court; therefore, the original is delivered and retained by Defendant's attorney, Ms. Robin Main.

I have enclosed with a copy of the deposition a correction and signature page.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of December, 2002.

ANGELA M. GALLOGLY, NOTARY PUBLIC, RPR
MY COMMISSION EXPIRES: 8/29/2005

C-E-R-T-I-F-I-C-A-T-E

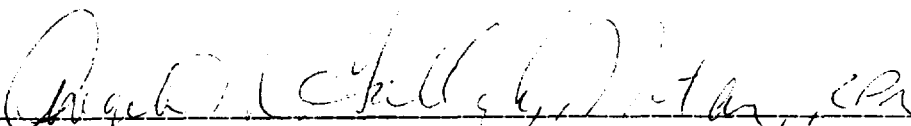
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MY COMMISSION EXPIRES: 8/29/2005

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