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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

Civil #82-1672-3

ANNE ANDERSON, for herself, and as parent and next friend of CHARLES ANDERSON, and as Administratrix of the estate of JAMES ANDERSON; CHRISTINE ANDERSON; RICHARD AUFIERO, for himself, and as parent and next friend of ERIC AUFIERO, and as Administrator of the estate of JARROD AUFIERO; LAUREN AUFIERO; DIANE AUFIERO, for herself, and as parent and next friend of JESSICA AUFIERO; ROBERT AUFIERO; KATHRYN GAMACHE, for herself, and as parent and next friend of AMY GAMACHE; TODD L. GAMACHE; ROLAND GAMACHE; PATRICIA KANE, for herself, and as parent and next friend of MARGARET KANE; KATHLEEN KANE; TIMOTHY KANE and KEVIN KANE, Jr.; KEVIN KANE; DONNA L. ROBBINS, for herself and as parent and next friend of KEVIN ROBBINS, and as Administratrix of the estate of CARL L. ROBBINS, III; MARY J. TOOMEY, for herself and as next friend of MARY EILEEN TOOMEY, and as Administratrix of the estate of PATRICK TOOMEY; RICHARD J. TOOMEY; JOAN ZONA, for herself, and as Administratrix of the estate of MICHAEL ZONA; RONALD ZONA; ANN ZONA; JOHN ZONA; and PAT ZONA, Plaintiffs

v.

CRYOVAC, Division of W. R. GRACE & CO.;
W. R. GRACE & CO.; JOHN J. RILEY COMPANY,
Division of BEATRICE FOODS CO.; BEATRICE FOODS CO.;
and XYZ Company(ies), Defendants

Deposition of VINCENT A. FORTE, taken on behalf of the Plaintiffs pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before Nancy L. Eaton, Notary Public in and for the Commonwealth of Massachusetts, at the offices of Schlichtmann, Conway & Crowley, 171 Milk Street, Boston, Massachusetts, on Wednesday, March 27, 1985, commencing at 10:00 p.m.

APPEARANCES:

SCHLICHTMANN, CONWAY & CROWLEY,
by JAN SCHLICHTMANN, Esquire, and
KEVIN CONWAY, Esquire, 171 Milk Street,
Boston, MA 02109, for the Plaintiffs.

HALE & DORR, by SUSAN WINKLER, Esquire
and DONALD FREDERICO, Esquire,
60 State Street, Boston, MA 02109,
For Beatrice Foods.

FOLEY, HOAG & ELIOT,
by WILLIAM J. CHEESEMAN, Esquire,
One Post Office Square, Boston, MA 02109,
and MARK STOLER, Esquire,
for W. R. Grace & Co. and Cryovac,
Division of W. R. Grace & Co.

GOODWIN, PROCTER & HOAR,
by ROBERTA K. SCHNOOR, Esquire,
28 State Street, Boston, MA 02109,
For UniFirst Corporation.

I N D E X

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<u>Witness</u>	<u>Direct</u>	<u>Cross</u>
Vincent A. Forte	4	

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1 MR. CHEESEMAN: Shall we proceed with
2 the same stipulations used in the deposition of Mr.
3 Paul Shalline?

4 MR. SCHLICTMANN: Very good.

5 VINCENT A. FORTE,

6 having been duly sworn, testified as follows
7 in answer to direct interrogatories:

8 Q. (BY MR. SCHLICTMANN) Would you tell us
9 your name

10 A. Vincent A. Forte, F O R T E.

11 Q. Where do you live?

12 A. 1247 Shadow Way, Greenville, South
13 Carolina.

14 Q. And you work for which company right now?

15 A. Cryovac Division of W. R. Grace.

16 Q. What is your present position?

17 A. Director of customer equipment operations.

18 Q. What does a director of customer --

19 A. Customer equipment operations.

20 Q. What do you do?

21 A. I am responsible for equipment
22 manufacturing, equipment engineering for customers,
23 equipment application, equipment administration and
24 technical administration for equipment.

1 Q. How long have you had that position?

2 A. Since October 1984.

3 Q. And prior to that time?

4 A. I was general manager of the Equipment
5 Division in Woburn, Massachusetts.

6 Q. How long were you general manager of the
7 Equipment Division?

8 A. I believe since 1967.

9 MR. CHEESEMAN: If there was a short
10 period of employment in between those two jobs, you
11 ought to mention it.

12 A. I don't remember it. Why, do you know
13 something I don't know?

14 MR. CHEESEMAN: I must have
15 misunderstood.

16 Q. Did you take some time off or work for
17 somebody else or did you have another position?

18 A. Oh, oh, oh. Well, I don't know if that's
19 pertinent.

20 (Off the record discussion).

21 Q. Were you a consultant for somebody or
22 something?

23 A. I did some work for another company. I
24 was planning on retiring.

1 Q. What was the work you did for the other
2 company?

3 A. I was president of Burlington Engineering
4 temporarily.

5 Q. President of Burlington Engineering. Was
6 this a company that you started?

7 A. No, no, no. It was a company that existed
8 and was owned by Interstate Electric in Burlington.

9 Q. What were those years that you were
10 associated with them?

11 A. I was only doing it for a couple of months
12 during the period of 1974 when I was debating
13 retiring, but I was still working for Cryovac.

14 MR. CHEESEMAN: 1984?

15 A. '84. I said '74.

16 Q. What were your duties during that brief
17 period?

18 A. For who?

19 Q. What were your responsibilities for the
20 Burlington Engineering?

21 A. Cryovac?

22 Q. No, Burlington Engineering.

23 A. I was president of the company.

24 Q. What do those responsibilities include?

1 A. Well, sales, manufacturing, some
2 accounting because they had their own accounting at
3 the parent company. All the operations that they
4 performed at Burlington Engineering, which was a
5 manufacturing type sales company for hoist and
6 things of that sort.

7 Q. And you made a decision not to retire?

8 A. Yes.

9 I was still at Cryovac doing work for
10 them at the same time.

11 Q. And then you went, were you then promoted
12 or did you get another job with Cryovac?

13 A. No, they promoted me.

14 Q. They promoted you to director of customer --

15 A. In October, right.

16 Q. Of 1984?

17 A. Right.

18 Q. Now, you said you were general equipment
19 manager?

20 A. General manager of the Equipment Division.

21 Q. General manager of the Equipment Division.
22 What were those responsibilities?

23 A. I was responsible for all the functions in
24 the Equipment Division which included manufacturing

1 and purchasing, overall, not directly, but overall
2 responsibility purchasing, production control, all
3 the production areas, customer service, accounting,
4 relationships with all suppliers, negotiations with
5 all suppliers, supporting the sales effort for the
6 sale of equipment in the field all over the United
7 States and sometimes other countries.

8 Q. Now, this was general manager of the
9 Equipment Division, you were the main person at the
10 Woburn plant then?

11 A. Yes.

12 Q. You were the top official at the Woburn
13 plant?

14 A. Yes.

15 Q. That was from 1967 until October of 1984?

16 A. I believe it was '67. I don't have a
17 precise, but until 1984.

18 Q. So between 1967 and 1984, you had the most
19 responsible position at the Woburn plant?

20 A. There was a Dave Taylor in there for a
21 year or two and I'm not sure which years those were.

22 Q. Dave Taylor. What was his position?

23 A. As I recall, he was a vice president that
24 had dual duties, some duties with respect to

1 promoting new products for W. R. Grace out of New
2 York and the other part of his duties were
3 responsibility for the overall Woburn operation,
4 for the policy point of view and that sort of thing.
5 It was sort of a part-time administrative function.

6 Q. Did he share responsibilities with you
7 then?

8 A. No, he did nothing actively as far as the
9 management of the plant. I reported to him once a
10 week and said what was going on and that was it.

11 Q. He was essentially there more in a
12 consulting role or an advisory role?

13 A. I would say so. That's a good term to use
14 for Dave.

15 Q. But you were still the person in charge
16 throughout that period 1967 to 1984?

17 A. For all the operation.

18 Q. At the plant?

19 A. At the plant.

20 Q. Now, prior to 1967, what was your position
21 at the plant?

22 A. Plant manager.

23 Q. What years were you plant manager?

24 A. I believe from somewhere in the early

1 sixties. I'm guessing at this. Probably -- I
2 don't want to guess. Between '62 and '64 probably
3 I became plant manager until I became general
4 manager.

5 Q. And what were your responsibilities as
6 plant manager?

7 A. The same ones I indicated before.

8 Q. Would you for the record indicate what
9 your duties as plant manager were?

10 A. The same ones, production, purchasing,
11 customer service. Everything I have said before
12 for general manager.

13 Q. Was there a general manager over you?

14 A. Not while I was plant manager.

15 Q. So essentially as plant manager then
16 between 1962 and 1967 you were also, you had the
17 most responsible job at the Woburn plant?

18 A. That's correct.

19 Q. So you were in charge of the Woburn plant
20 between those years as well?

21 A. Yes, sir.

22 Q. Before you became plant manager, what was
23 your position?

24 A. Production manager.

1 Q. Production manager?

2 A. Yes, sir.

3 Q. What were your years as production manager?

4 What were the years you were production manager?

5 A. At Woburn?

6 Q. Yes.

7 A. From the day it opened until I became
8 plant manager and it opened in about June or July
9 of '60.

10 Q. Now, what were your duties as production
11 manager?

12 A. I was responsible for purchasing,
13 inventory control, production control and all the
14 production departments and I think that's it.

15 Q. Was there somebody over you in
16 responsibility?

17 A. Yes, there was a general manager.

18 Q. A general manager. Who was he?

19 A. Which year?

20 Q. All right. Between the years 1960 when
21 you started at the Woburn plant as production
22 manager and before you became plant manager, would
23 you name the plant managers you worked under?

24 A. When we opened the Woburn plant, gentleman

1 by the name of William Rothfuss was manager.

2 Q. William?

3 A. William J. Rothfuss, R O T H F U S S. He
4 was general manager from 1960 to I believe 1962
5 sometime, late in '62 probably when they moved to
6 South Carolina. When he moved to South Carolina, I
7 think he moved in late '62.

8 Q. When you say moved to South Carolina,
9 you're referring to the Cryovac Division?

10 A. He became vice president of manufacturing.

11 Q. Mr. Rothfuss became?

12 A. Vice president of manufacturing.

13 Q. For the Cryovac in South Carolina?

14 A. For the Cryovac Division totally.

15 Q. Totally?

16 A. The whole Cryovac Division.

17 Q. When you say they moved?

18 A. Well, they moved some of the engineering
19 functions, R D & E functions, I think it was
20 Cambridge at the time to Duncan, South Carolina.

21 Q. And after Mr. Rothfuss left, that's when
22 you became plant manager or production --

23 A. No, there was a Joe Abely that came in for
24 a short time.

1 Q. What was his name?

2 A. Joseph Abely. A B E L Y, I believe.

3 Q. Avely?

4 A. Abely.

5 Q. V or B?

6 A. A B.

7 Q. A B, Abely?

8 A. Abely.

9 Q. How long was he there as plant manager?

10 A. I think less than a year, about a year
11 maybe but not a long time.

12 Q. What happened to him? Do you know? If
13 you know?

14 A. He left. He quit.

15 Q. Quit W. R. Grace?

16 A. Yes.

17 Q. Do you know where he went?

18 A. I think he went to -- who owns Maxwell
19 Coffee, whatever -- General Foods, is it?

20 Q. Uh-huh.

21 A. I think he went to General Foods. I am
22 not sure.

23 Q. Beatrice Foods? Do you know the
24 circumstances of why he left?

1 A. Not really. There was something, some
2 management problem, whatever it was.

3 Q. He was there for a short period of time?

4 A. Right.

5 Q. That was after Mr. Rothfuss left at the
6 end of 1962?

7 A. He transferred to South Carolina.

8 Q. So he was there for approximately a year?

9 A. About that.

10 Q. Then what happened after Mr. Abely left?

11 A. I became plant manager.

12 Q. So would that be approximately 1963 then,
13 do you think, that you became plant manager?

14 A. That's a rough date, yes.

15 Q. Now, prior to your becoming -- prior to
16 your going to the Woburn plant, were you associated
17 with the Cryovac Division or W. R. Grace?

18 A. Yes, I was.

19 Q. What was your position with W. R. Grace
20 prior to 1960, June of 1960?

21 A. Between 1958 and 1960 I was production
22 manager at the Sidney Street location in Cambridge.

23 Q. What operation was at the Sidney Street
24 location?

1 A. The same type of operation. Much smaller.

2 Q. But the same type as the Woburn plant?

3 A. Machine shop. Small manufacturing,
4 engineering, customer service. Basically the same
5 function.

6 Q. What was that division called?

7 A. Very small. Equipment Division.

8 Q. What was the name of the company there at
9 Sidney Street? Did it have a name?

10 A. Cryovac Equipment Division.

11 Q. At Sidney?

12 A. Same Equipment Division.

13 Q. At Cambridge. All right. Before 1958?

14 A. Before 1958 I was inventory control
15 manager I believe.

16 Q. How long were you inventory control
17 manager?

18 A. A year or two. Well, it couldn't be that
19 long. Less than two years.

20 Q. And what were your responsibilities as
21 inventory control manager?

22 A. Purchasing, scheduling the purchase of
23 products that we needed for our machines,
24 purchasing machines and components.

1 Q. And was that at the Sidney Street office?

2 A. No, that was at the Dewey and Almy
3 location at 62 Whittemore Ave., Cambridge.

4 Q. Dewey and Almond?

5 A. Uh-huh.

6 Q. Dewey and Almond at that time that you
7 were inventory control manager, they were part of
8 the Cryovac Division or part of W. R. Grace?

9 A. Cryovac Division was part of W. R. Grace
10 at that time.

11 Q. So it was part of the Cryovac Division,
12 Dewey and Almond was part of the Cryovac Division
13 in 1957 when you were inventory control manager?

14 A. I'm not sure I understand your question.

15 Q. All right. What I want to know is the
16 time you were inventory control manager?

17 A. W. R. Grace owned Cryovac at that time.

18 Q. And Cryovac owned Dewey and Almond?

19 A. No. Dewey and Almy, I don't know if they
20 split up the divisions, what year they split up the
21 divisions, but at sometime in the late fifties they
22 split up the divisions so there was different
23 divisions reporting to Grace as part of Grace.

24 Q. Is it Almy or Almond?

1 A. A L M Y.

2 Q. So Dewey and Almy was another division?

3 A. At some point after Dewey and Almy bought
4 them.

5 Q. You are going to have to help me here.
6 Who bought who?

7 A. W. R. Grace --

8 Q. What is your knowledge about the
9 relationship between Cryovac or W. R. Grace and
10 Dewey and Almy?

11 A. Well, when I joined the company, it was
12 Dewey and Almy Chemical Company.

13 Q. All right. What year?

14 A. Dewey and Almy something. I don't know if
15 it was chemical company, but that might be right.

16 Q. What year was that?

17 A. When I joined the company?

18 Q. Yes.

19 A. 1954.

20 Q. 1954?

21 A. Uh-huh.

22 Q. When you say joined the company, you're
23 referring to what company?

24 A. Dewey and Almy.

1 Q. So you joined Dewey and Almy in 1954.
2 They were located in Cambridge?

3 A. Yes.

4 Q. And were they owned by anybody?

5 A. No.

6 Q. At sometime they became owned by the
7 Cryovac Division of W. R. Grace?

8 A. No.

9 Q. At sometime did anybody take over
10 ownership of Dewey and Almy?

11 A. Pardon me?

12 Q. Did anybody take over ownership of Dewey
13 and Almy?

14 A. W. R. Grace.

15 Q. Do you know when they did?

16 A. I'm guessing. It is late '54.

17 Q. Now, when you joined Dewey and Almy, what
18 was your position when you first joined with them?

19 A. Detail draftsman in engineering.

20 Q. Detailed draftsman?

21 A. In engineering.

22 Q. What were your duties?

23 A. Drafting.

24 Q. Any others?

1 A. That's it.

2 Q. And how long did you hold that position?

3 A. '54 -- well, about a year.

4 Q. And then your position changed?

5 A. Yes.

6 Q. What did you become?

7 A. For a short time I was the instructor for
8 salesmen to repair our equipment. For a short time
9 I was an inspector and then I became special
10 projects engineer and then I became inventory
11 control supervisor which brings us back to where we
12 were originally.

13 Q. All right. That wasn't too hard. Now, so
14 in 1954 your understanding was Dewey and Almy
15 became -- were purchased by W. R. Grace?

16 A. I believe. I am not sure of the date but
17 I think it was the end of '54.

18 Q. Soon after your going to Dewey and Almy?

19 A. Yes, within a year I think.

20 Q. And you were inventory control manager you
21 believe approximately two years before you joined --
22 went to the Woburn plant; is that right?

23 A. No, I was at Sidney Street.

24 Q. Sorry, to the Sidney Street office as the

1 production manager. How long were you inventory
2 control manager?

3 A. About a year.

4 Q. One year. Good. Now, before you came to
5 work for Dewey and Almy, had you worked for anybody
6 else?

7 A. I worked for Union Carbide, Linde Air
8 Products Division.

9 Q. Union Carbide?

10 A. Linde Air Products Division of Union
11 Carbide.

12 Q. Where is that located?

13 A. It was located in South Boston, East First
14 Street.

15 Q. What was your position there?

16 A. I was a mechanic on their liquid oxygen
17 and nitrogen vehicles.

18 Q. What were your duties?

19 A. Keep them running.

20 Q. The motors?

21 A. Everything.

22 Q. Does that have to do -- these were trucks
23 that had liquid chemicals?

24 A. Liquid nitrogen and liquid oxygen.

1 Q. And your responsibilities were to the
2 running of the vehicles or any mechanical thing
3 having to do with the vehicles?

4 A. Anything mechanical to keep them running.

5 Q. How long did you have that position?

6 A. Let's see. About four years.

7 Q. And prior to that, what was your position?

8 A. I was in the Navy.

9 Q. So you went from the Navy to Union Carbide?

10 A. I was with them before I went in the Navy.

11 Q. How long were you in the Navy?

12 A. From 1945 to 1949.

13 Q. What was your job in the Navy? What were
14 the different jobs that you had in the Navy?

15 A. I was an instructor for air traffic
16 control.

17 Q. Instructor of air traffic control?

18 A. Right.

19 Q. What exactly were you responsible for?

20 A. Responsible for teaching students how to
21 obtain an air traffic control license so that they
22 could bring planes in and out of airports.

23 Q. All right. Is that all your
24 responsibilities were for that four years in the

1 Navy?

2 A. I had a course in combat information center
3 type work for destroyers, carriers, that sort of
4 stuff, but except for boot camp, I was in that
5 function three plus years.

6 Q. All right. Now, prior to your tour in the
7 Navy, you said you worked for Union Carbide.

8 A. Linde Air Products Division of Union
9 Carbide.

10 Q. What was your position?

11 A. Hydrostatic tester before I went in the
12 Navy.

13 Q. Hydrostatic tester? What's that?

14 A. To test the tanks, the oxygen tanks to
15 make sure there were no weaknesses to prevent them
16 from exploding.

17 Q. All right.

18 A. We tested them under high pressure.

19 Q. Did you prevent them from exploding?

20 A. We checked them to see if they were safe.

21 Q. How long did you hold that position?

22 A. About a year and a half.

23 Q. And prior to that?

24 A. School. High school.

1 Q. Where did you go to high school?

2 A. Mechanic Arts High School.

3 Q. Mechanical Arts?

4 A. Mechanic Arts High School.

5 Q. Where is that?

6 A. In Boston. It is torn down now.

7 Q. And how long did you go to high school?

8 How long was your high school education?

9 A. Four years.

10 Q. And did you receive special training in
11 high school?

12 A. High school courses. I had some college
13 courses. I had some mechanical courses, electrical
14 courses.

15 Q. Was it a trade school or regular high
16 school?

17 A. It was a regular high school. Regular
18 Boston high school.

19 Q. Now, when you went to work for Union
20 Carbide, did they give you any special training or
21 courses?

22 A. No. They taught me how to perform my job
23 as hydrostatic tester, but beyond that there were
24 no special courses.

1 Q. Did you during the time that you worked
2 for Union Carbide take any other courses or
3 training?

4 A. Before I left them in '54 I started going
5 to Northeastern University.

6 Q. All right.

7 A. Or just about the same time.

8 Q. What courses did you take at Northeastern?

9 A. I enrolled in a course which would lead to
10 an Associate in Mechanical Engineering.

11 Q. Did you in fact get your Associate degree
12 in Mechanical Engineering?

13 A. Yes, I did.

14 Q. When did you get that?

15 A. Why don't I tell you all the degrees
16 because I went to school nights for about ten years.

17 Q. Did you?

18 A. Just to save a lot of time because I don't
19 remember the exact dates.

20 Q. You don't. All right. Why don't you do
21 that.

22 A. Starting in 1954, I entered a program for
23 Associate in Mechanical Engineering, got that then
24 started a program for Bachelor Business

1 Administration in Engineering and Management, got
2 that --

3 Q. Wait a minute. You are going a little too
4 fast.

5 A. Bachelor of Business Administration.

6 Q. You took ten years to go through these. I
7 don't want to go over them in thirty seconds.

8 A. A wish it was thirty seconds.

9 Q. In 1954 you went to Northeastern and you
10 took courses in mechanical engineering; is that
11 right? How long did it take you to complete that
12 course?

13 A. About four years.

14 Q. About four years. You went at night?

15 A. Yes.

16 Q. Now, after that you enrolled in more
17 courses?

18 A. Yes.

19 Q. Where did you enroll?

20 A. Northeastern.

21 Q. All right. What courses did you enroll in
22 at Northeastern after you got your Associate's
23 degree in Mechanical Engineering?

24 A. Courses leading to a Bachelor of Business

1 Administration in Engineering and Management which
2 was a special course.

3 Q. What courses did you take to obtain that
4 degree?

5 A. You mean the actual --

6 Q. What areas?

7 A. There were mostly business type courses.

8 Q. Did you take any other engineering courses?

9 A. Not during that, I don't think so during
10 that period.

11 Q. When did you get your Bachelor's degree in
12 Business Administration?

13 A. I really don't remember the date. Sixty,
14 early sixties.

15 Q. After you received your Bachelor's in
16 Business Administration, did you receive any other
17 training?

18 A. Yes, then I entered a program for an MBA.

19 Q. An MBA?

20 A. Yes.

21 Q. Master's in Business Administration?

22 A. Uh-huh.

23 Q. When did you enter that program?

24 A. In the early sixties or between '60 and

1 '63 I guess.

2 Q. When did you complete that program?

3 A. I believe I received my degree in '67.

4 Q. Where did you receive that degree?

5 A. Northeastern.

6 Q. Northeastern. What were the courses that
7 you took, what were the areas you took them in to
8 receive your Master's in Business Administration?

9 A. All business and management courses,
10 marketing. The standard Master of Business
11 Administration course study.

12 Q. Other than your Master's in Business
13 Administration, did you go to any other courses,
14 take any other courses, receive certification?

15 A. No.

16 Q. You said that in your working for Union
17 Carbide you didn't receive any specialized training?

18 A. No, I did not.

19 Q. In the Navy did you receive any
20 specialized training?

21 A. Air traffic control, link trainer, that's
22 it.

23 Q. And you worked for --

24 A. And C I C.

1 Q. What is C I C?

2 A. Combat information center work.

3 Q. When you worked for Dewey and Almy, did
4 you receive any specialized training?

5 A. No.

6 Q. Did they give you any seminars or training?

7 A. No.

8 Q. Now, in your work for the Cryovac Division,
9 have you received any specialized training?

10 A. I have gone to some advanced management
11 seminars that are held by the company.

12 Q. All right. And can you give me, could you
13 review for me the advanced management seminars that
14 you attended, the years and approximately the years?

15 A. Oh, boy.

16 Q. As best you can.

17 A. Probably five or six years ago, seven
18 years ago. I don't know.

19 Q. Was that the only course you took?

20 A. In the seventies sometime.

21 Q. Sometime in the 1970's?

22 A. Yes.

23 Q. Do you remember if it was the mid
24 seventies?

1 A. Probably late seventies.

2 Q. Where was the course held, the seminar?

3 A. I believe it was Ashville, North Carolina.

4 Q. Was it a one-day seminar, last a few days?

5 A. I think three days.

6 Q. And what did you learn during that three-
7 day seminar?

8 A. Well, there were management techniques,
9 windows of opportunity, how to manage people more
10 effectively, things of that sort. I can't give you
11 the details of what the program was.

12 Q. All relating to management?

13 A. Yes.

14 Q. And that took place in the mid seventies?

15 A. In the seventies.

16 Q. Now, other than that seminar, did you ever
17 attend any other seminars sponsored by W. R. Grace
18 or its Cryovac Division?

19 A. I don't recall any.

20 Q. Other than the courses that you have
21 talked about and the training that you have talked
22 about, have you received any other training in any
23 other areas?

24 A. Not that I recall.

1 Q. And other than the seminar that you
2 remember attending in the 1970's, you can't
3 remember attending any other seminars sponsored by
4 W. R. Grace or its Cryovac Division?

5 A. No.

6 Q. Have you subscribed to periodicals,
7 magazines or journals at any time?

8 A. Wall Street Journal, Kiplinger Letter. I
9 think I'm on the mailing list for Managing Digest.
10 I get these magazines and I get so many magazines,
11 I don't remember the names. I don't read them all.

12 Q. Do you belong to any professional
13 associations?

14 A. I belong to Packaging Machinery
15 Manufacturers Institute. I represent Cryovac. It
16 is an association.

17 Q. How long have you been in that association?

18 A. Twenty years.

19 Q. Now --

20 A. Roughly.

21 Q. And any other associations other than that
22 association?

23 A. One more that I was in for a while. I
24 think it was a material's handling association that

1 I became a member of.

2 Q. Do you remember when you become a member
3 of the materials handling association?

4 A. I don't know. In the seventies, late
5 seventies.

6 Q. And was that as part of your
7 responsibilities as manager at the Woburn plant?

8 A. No, not really. I was just interested in
9 materials handling because that was one of the
10 things we did for selling equipment. It is a sales
11 tool.

12 Q. Materials handling?

13 A. Yes, because we sell a lot of equipment
14 based on materials handling for our customers.

15 Q. I see, all right. And do they have a
16 journal, materials handling?

17 A. Yes, I believe they do. I don't recall
18 what it is, but I believe they send out literature
19 once a month, periodically.

20 Q. You mentioned, let's see, Packaging --

21 A. Packing Manufacturer's -- Packaging
22 Manufacturing Machinery Institute. It is almost a
23 tongue twister.

24 Q. Do they have any journals?

1 A. They send out surveys occasionally and
2 they have committee meetings on different things,
3 management type things.

4 Q. Have they ever sponsored a seminar or a
5 program which you have attended?

6 A. Well, they have, they always have programs
7 at all the yearly meetings which cover one subject
8 or another.

9 Q. And have you been attending those?

10 A. Oh, yeah. Most of them. Not all of them.

11 Q. How long have you been attending those
12 seminars?

13 A. For the time I have been associated with
14 them.

15 Q. Approximately twenty years?

16 A. With the exception of three or four that I
17 couldn't make.

18 Q. And where are these usually held?

19 A. All over.

20 Q. All over the country?

21 A. Could be Hawaii, could be Florida, could
22 be Arizona. They would have a different location
23 every year.

24 Q. And what were the seminars or programs

1 that they would hold? What would they be about,
2 what areas?

3 A. Mostly management type areas and they'd
4 have a speaker like Bill Kaiser or some fancy name
5 to come and talk to us.

6 Q. They would be in areas of management?

7 A. Primarily management.

8 Q. Have you ever attended any seminars or any
9 programs --

10 A. By the way, these were all management
11 people.

12 Q. Who attended these things?

13 A. Yes.

14 Q. Now, have you ever attended any seminars
15 or any program sponsored by any corporation, group
16 or association at which the handling of toxic
17 material was ever discussed?

18 A. No.

19 Q. Have you ever attended any program,
20 seminar sponsored by a governmental agency --

21 A. No.

22 Q. Association or whoever concerning waste
23 disposal practices?

24 A. No.

1 Q. Have you attended any seminars or programs
2 sponsored by any group, association or governmental
3 agency concerning environmental matters?

4 A. No.

5 Q. Or pollution control?

6 A. No.

7 Q. Now, in preparation for today's testimony,
8 did you review any documents?

9 A. Yes, I did.

10 Q. What documents did you review?

11 A. I reviewed documents that counsel showed
12 me yesterday, and I skimmed through the depositions
13 for Barbas and Shalline.

14 Q. So you have --

15 A. Last night, groggily.

16 Q. All right, sir. You have reviewed the
17 deposition of Mr. Shalline that have been taken to
18 date as well as Mr. Barbas?

19 A. I skimmed through them.

20 Q. And you have reviewed the exhibits which
21 have been entered into Mr. Shalline's deposition?

22 A. I saw them yesterday.

23 Q. Did you get a chance to examine those
24 exhibits?

1 A. I looked at them, yes. Examined them -- I
2 looked at them.

3 Q. In examining those exhibits, did you
4 recognize any exhibits that you may have seen prior
5 to your examination of them yesterday?

6 A. No. I don't recall seeing them prior to
7 yesterday.

8 Q. You know Mr. Shalline?

9 A. Yes, I do.

10 Q. How long have you known Mr. Shalline?

11 A. Since probably 1950 -- somewhere around
12 '57-58.

13 Q. Did you know him when you were working for
14 Dewey and Almy?

15 A. Yes. He was there.

16 Q. And Mr. Shalline came with you to the
17 Woburn plant in 1960?

18 A. Yes.

19 Q. Had you requested he come with you?

20 A. Yes.

21 Q. And were there others that you brought
22 with you as your management team there in the
23 Woburn plant?

24 A. Yes.

1 Q. Who else?

2 A. Well, all the people that were at Sidney
3 Street in 1958 and '59. I don't recall all the
4 names of the people. There were about a dozen or
5 two dozen people. Some of them were engineers that
6 did not report to me.

7 Q. You had some input into who was to go to
8 the Woburn plant?

9 A. We took everybody that was at the Sidney
10 Street operation to Woburn.

11 Q. When you say we, who are you including?

12 A. I mean Cryovac. The Equipment Division.
13 Equipment Division as it existed in 1960.

14 Q. Now, were you familiar with the Safety
15 Committee at the Woburn plant?

16 A. I know we have one.

17 Q. Who established the Safety Committee?

18 A. I don't remember.

19 Q. Did you establish the Safety Committee?

20 A. I may have. I don't remember.

21 Q. Was there a Safety Committee at the Sidney
22 Street office?

23 A. I don't remember if we did. We had a very
24 small group at Sidney Street. There were only five

1 production people.

2 Q. Did you know that Mr. Shalline was a
3 member of the Safety Committee?

4 A. Yes.

5 Q. Who appointed him a member of the Safety
6 Committee?

7 A. I don't recall.

8 Q. Did you know that at some point Mr.
9 Shalline became Pollution Control Officer at the
10 Woburn plant?

11 A. I don't recall that title.

12 Q. Well, at some point did you know that Mr.
13 Shalline was made Pollution Control Officer?

14 A. No.

15 Q. Do you have a Pollution Control Officer at
16 the Woburn plant?

17 A. I don't think so.

18 Q. Did you see in Mr. Shalline's deposition
19 where he testified under oath that he is now the
20 Pollution Control Officer at the Woburn plant?

21 A. Yes, I did. He is responsible for
22 environmental matters and if that's Pollution
23 Control Officer, then he is Pollution Control
24 Officer.

1 Q. All right. You understand that he is in
2 charge of environmental matters?

3 A. Yes, he is.

4 Q. When did he become responsible for
5 environmental matters?

6 A. Well, I would say he has been involved in
7 that part of the business for a long time.

8 Q. How long?

9 A. Years. I don't know how long.

10 Q. Well, when you brought him with you to the
11 Woburn plant, was he in charge of environmental
12 matters in the 1960's?

13 A. I don't know that we had any environmental
14 matters in the 1960's to be in charge of.

15 Q. You don't think you had any environmental
16 matters to be in charge of in the 1960's?

17 A. That's correct.

18 Q. Did you believe that you had pollution
19 control matters that you had to have somebody
20 responsible for in the 1960's?

21 A. No, I did not believe that.

22 Q. In the 1970's, did you believe that you
23 should have somebody responsible for environmental
24 matters?

1 A. No, I didn't believe that.

2 Q. Did you believe in the 1970's you should
3 have somebody responsible for pollution control?

4 A. No, I didn't believe that.

5 Q. In the 1980's, did you think that the
6 Woburn plant should have somebody in charge of
7 environmental matters?

8 A. Yes, I did believe that.

9 Q. And did you believe that you should have
10 somebody in charge of pollution control matters in
11 the 1980's?

12 A. Environmental matters, yes.

13 Q. Do you as part, when you say environmental
14 matters, what would you include in that?

15 A. Anything relating to regulations, wherever
16 they might come from, to comply with them.

17 Q. Why did you believe in the 1980's you
18 should have somebody responsible for environmental
19 matters?

20 A. Because there were all kinds of
21 regulations coming through and we needed somebody
22 to watch out for them and make sure we complied
23 with them.

24 Q. Other than the fact that the government

1 had certain regulations and statutes concerning
2 environmental matters, did you believe it was
3 necessary to have somebody in charge of
4 environmental matters for any other reason?

5 A. No.

6 Q. Do you think that in your capacity as
7 plant manager, did you consider it important to
8 have somebody in charge of pollution control
9 matters at the Woburn plant?

10 A. No.

11 Q. In your capacity as general manager of the
12 plant during the times that you were general
13 manager of the plant, did you think it was
14 important to have somebody responsible for
15 environmental matters at the plant?

16 A. Not until the eighties.

17 Q. When the government had certain regulation?

18 A. Whenever the regulations. Maybe it wasn't
19 the eighties. Maybe it was '79. I don't know.
20 Whatever year it was when we had to comply, that's
21 when I became interested in having somebody
22 involved, deeply involved.

23 Q. And that person is Mr. Shalline?

24 A. Yes.

1 Q. Now, Mr. Forte, are you familiar with the
2 types of chemicals that are used at the plant or
3 have been used at the plant and what they were used
4 for?

5 A. No, I never got involved in the chemicals
6 that were used in the plant.

7 Q. You never got involved in that?

8 A. No.

9 Q. Who was the person at the plant who would
10 get involved in the use of chemicals at the plant?

11 A. Well, anybody down from the production
12 manager to the foreman. The foreman could order
13 supplies that they needed to operate their
14 departments; and if they were chemicals that they
15 needed, cleaning fluids, whatever, they bought what
16 they needed. I don't know what they were.

17 Q. All right. Did they ever, were they ever
18 required to advise you as to what chemicals they
19 were buying?

20 A. No, they were not required to advise me.

21 Q. You were never aware of what their
22 purchasing activities were regarding chemicals?

23 A. Not in relation to those.

24 Q. During any time that you were associated

1 with the Woburn plant, was it ever your
2 responsibility to know what chemicals were being
3 purchased or used at the Woburn plant?

4 A. Well, I had total responsibility for the
5 Woburn plant, but I didn't get involved in what
6 they used.

7 Q. All right. Did you understand that Mr.
8 Shalline was responsible for determining what
9 chemicals were in use at the plant and how they
10 were used?

11 A. For those he bought. There may have been
12 other people that bought chemicals.

13 Q. So is it fair to say then that nobody at
14 the Woburn plant ever had ultimate responsibility
15 concerning what chemicals were purchased at the
16 Woburn plant?

17 A. For what period of time?

18 MR. CHEESEMAN: Object to the form of
19 the question. Go ahead.

20 Q. For any period?

21 A. In the eighties.

22 Q. In the eighties. That would be Mr.
23 Shalline?

24 A. Yes.

1 Q. But prior to the 1980's, nobody was
2 responsible at the Woburn plant for determining the
3 chemicals that were being used at the plant?

4 MR. CHEESEMAN: Object to the form of
5 the question. Go ahead.

6 A. Officially, no.

7 Q. Well, anybody unofficially?

8 A. Well, informally Paul was deeply involved
9 in safety matters and that sort of thing, so if
10 there was anything relating to safety, he would be
11 involved in it. If it related to chemicals.

12 Q. So any matters relating to safety
13 regarding chemicals, Mr. Shalline would be the one
14 responsible?

15 A. I would say that's correct.

16 Q. During the time that you were associated
17 with the Woburn plant --

18 A. Yes.

19 Q. Would anybody else --

20 A. Go ahead.

21 Q. I am sorry. You want to qualify that?

22 A. No, go ahead.

23 Q. Anybody else other than Mr. Shalline?

24 A. Any of the production managers during

1 those periods.

2 Q. Would you ever have any responsibilities
3 concerning safety matters regarding the use of
4 chemicals at the plant?

5 A. If I heard of a safety matter, I probably
6 did something about it.

7 Q. Are you familiar with the waste disposal
8 practices at the Woburn plant during the time that
9 you have been associated with them?

10 A. What period of time?

11 Q. During any time that you were associated
12 with the Woburn plant?

13 A. In the eighties.

14 Q. Prior to the 1980's, did you ever have any
15 responsibilities concerning waste disposal
16 practices at the plant?

17 A. No.

18 Q. What are your responsibilities now at the
19 plant concerning waste disposal practices or prior
20 to your leaving the plant in 1984?

21 A. Well, Paul Shalline is responsible for
22 that.

23 Q. But did you have any responsibilities in
24 the 1980's other than Mr. Shalline regarding waste

1 disposal practices?

2 A. No, I did not.

3 Q. Mr. Shalline has had responsibility for
4 those matters?

5 A. Yes, he did.

6 Q. Are you aware of what chemicals during
7 your association at the Woburn plant, are you aware
8 of what chemicals were used at the plant?

9 A. Not until yesterday.

10 Q. Not until yesterday?

11 A. Well, except for this litigation and
12 things that have come out since, you know, in the
13 eighties.

14 Q. Well, you mean you became aware of the
15 chemicals that were in use at the plant because of
16 this litigation?

17 A. Well, and the EPA inquiry since then.

18 Q. Since this litigation and the EPA inquiry,
19 that's when you became aware of the chemicals that
20 were in use at the plant?

21 A. To some degree, to the degree I was aware
22 of this.

23 Q. Prior to this litigation and the EPA
24 inquiry, you weren't aware of the chemicals being

1 used at the plant?

2 A. No, I was not.

3 Q. Does that mean then as production manager,
4 plant manager or as general manager prior to this
5 litigation and the EPA inquiry of 1982, that you
6 never were aware of the chemicals being used at the
7 plant?

8 A. Not unless there was a problem that came
9 up and I was involved in it.

10 Q. Do you remember there ever being a problem?

11 A. Well, I saw a letter that they showed me
12 yesterday I apparently wrote.

13 Q. And that letter you are referring to, what
14 letter was that?

15 A. I don't recall.

16 Q. Do you remember roughly what it was about?

17 A. No, I saw too many.

18 Q. Are you referring to the response to the
19 EPA?

20 A. No, I think there was something else that
21 somebody showed me.

22 Q. Was it your attorney who showed you?

23 A. Uh-huh.

24 (Exhibit 12 handed to the witness).

1 Q. Is that the one are referring to?

2 A. This is one I saw.

3 (Counsel and witness conferred).

4 Q. Is that the one that you are referring to?

5 A. This is one I saw yesterday.

6 Q. And that exhibit number is?

7 A. Where is it? Oh, number -- Shalline No.

8 12.

9 Q. Yes, Shalline Exhibit No. 12 is the
10 document you are referring to that indicated that
11 you had some knowledge about chemical use?

12 A. Well, whatever it says here, right.

13 I don't know that it says anything
14 about chemicals though.

15 Q. All right. Well, this Exhibit No. 12 is
16 dated 1967, and it indicates that it is from you?

17 A. Yes.

18 Q. Do you remember sending this document to
19 Mr. Morrill?

20 A. No.

21 Q. No?

22 A. No.

23 Q. Mr. Forte, this memo indicates that it is
24 from you; is that right?

1 A. Yes, it does.

2 Q. It indicates that the subject is pollution
3 control at the Woburn equipment plant; is that
4 right?

5 A. Yes.

6 Q. Who asked you to do this memo?

7 A. Well, it refers to two documents, so I
8 assume Morrill or Moore.

9 Q. What do you remember that Mr. Morrill and
10 Mr. Moore requested you to do that resulted in your
11 doing this memo?

12 A. I don't remember.

13 Q. Who is Mr. Morrill?

14 A. At one time he was president of Cryovac.

15 Q. President of Cryovac?

16 A. He was a vice president and a president.
17 At the time of this letter I'm not sure what he was.

18 Q. He was either a vice president or a
19 president?

20 A. Right.

21 Q. Where did Mr. Morrill work?

22 A. Duncan, South Carolina.

23 Q. And Mr. Moore, who is he?

24 A. I really don't know.

1 Q. You don't know?

2 A. I don't remember.

3 Q. All right. It says carbon copies. B. J.
4 Cothran; is that right?

5 A. Yes.

6 Q. Who is Mr. Cothran?

7 A. If it was Ben Cothran, there was a vice
8 president I think by that name at that time. I
9 don't know what he did.

10 Q. For Cryovac?

11 A. Yes.

12 Q. That was in South Carolina as well?

13 A. Yes.

14 Q. And then there was a Mr. McElhiney?

15 A. Yes.

16 Q. What was his position?

17 A. He was I believe chief engineer.

18 Q. And where was he located?

19 A. South Carolina.

20 Q. Do you know what he was responsible for?

21 A. I don't know.

22 Q. Mr. Watkins, who is he, W A T K I N S?

23 A. He was production manager in Woburn.

24 Q. And what was his responsibilities?

1 A. He was in charge of all production.

2 Q. Do you remember why he got a copy of this
3 memo?

4 A. Because he was in charge of production and
5 that's the area that he would be involved in.

6 Q. And then there is a Mr. Shalline.

7 A. And he worked for Jim Watkins.

8 Q. Now, on that memo it states that:

9 Although not a chemical plant, we conform both to
10 requirements and requests from the Massachusetts
11 Department of Public Health and the Sanitation
12 Department of the City of Woburn as regards
13 disposal solutions and materials used in our hard
14 goods manufacturing processes.

15 Was that a true statement when you
16 made it in the memo?

17 A. Well, I obtained this information from my
18 people, so I assume it was true.

19 Q. Who did you obtain the information from?

20 A. Well, I'm not sure, but probably Mr.
21 Watkins and Mr. Shalline.

22 Q. Did you have any -- was in fact based on --
23 to your knowledge in fact is that a true statement
24 as of 1967 that you conformed to requirements and

1 requests of the Massachusetts Department of Public
2 Health and the Sanitation Department of the City of
3 Woburn regarding disposal solutions and materials
4 used in your hard goods manufacturing process?

5 A. That was a long question, but I think it
6 is no.

7 Q. No, you did not conform?

8 MR. CHEESEMAN: Why don't you read
9 the question back.

10 A. You started out by saying did you know or
11 something like that.

12 Q. To your knowledge.

13 A. Right.

14 Q. In 1967.

15 A. The answer is no, to my knowledge.

16 Q. No to what?

17 A. To what you say.

18 MR. CHEESEMAN: I think the witness
19 understands your question as asking whether he had
20 knowledge.

21 Q. I think I should ask the question and make
22 sure we aren't guessing about it.

23 A. All right.

24 Q. To your knowledge, sir, in 1967 --

1 MR. CHEESEMAN: You're asking whether
2 he knows anything inconsistent with that
3 proposition?

4 Q. The question is, sir, to your knowledge in
5 1967, did the Woburn plant conform both to
6 requirements and requests from the Massachusetts
7 Department of Public Health and the Sanitation
8 Department of the City of Woburn as regarding
9 disposal solutions and materials used in your
10 manufacturing process?

11 MR. CHEESEMAN: If you don't
12 understand the question --

13 Q. If you don't understand the question, tell
14 me.

15 A. I don't really know what you're driving at.
16 If you can ask it a different way or make it
17 shorter?

18 Q. To your knowledge in 1967 --

19 MR. CHEESEMAN: Why don't you explain
20 what you mean by to your knowledge.

21 A. That's what is throwing me off.

22 MR. CHEESEMAN: He uses that term
23 differently.

24 A. What do you mean by to my knowledge?

1 Q. To your knowledge, were you aware, do you
2 have any information to indicate one way or another,
3 did you have any knowledge about the following.

4 A. Did I personally know?

5 Q. Yes, did you personally know?

6 A. Not me, no. This information I obtained
7 from people that worked for me.

8 Q. When I use the phrase to your knowledge, I
9 mean did you personally know about whatever I'm
10 going to ask you. All right? Do you understand
11 what I'm saying?

12 (Witness nodded).

13 Q. Now, I am going to ask you, to your
14 knowledge in 1967, did the Woburn plant conform to
15 requirements and requests from the Massachusetts
16 Department of Public Health regarding the disposal --
17 regarding disposable solutions and materials used
18 in your manufacturing process?

19 A. Based on the information my people gave me,
20 I thought we complied.

21 Q. And this is information that you received
22 from Mr. Shalline?

23 A. Or Mr. Watkins. I'm not sure which.

24 Q. Other than the information you received

1 from Mr. Watkins or Mr. Shalline, did you have any
2 other information to determine whether you
3 conformed to requirements of the Public Health --
4 Department of Public Health regarding disposable
5 solutions used in the manufacturing process?

6 A. No.

7 Q. Does the Woburn plant conform to
8 requirements -- prior to your leaving the Woburn
9 plant, did it conform to requirements of the
10 Department of Public Health regarding the
11 disposable solutions used in your manufacturing
12 process?

13 A. As far as I know in the eighties, whenever
14 the regulations came about, I believe we did.

15 Q. But not before the eighties?

16 A. I have no knowledge other than what you
17 see here.

18 Q. It states here in paragraph number 2,
19 second sentence, second paragraph of section 2: All
20 chemicals are disposed of through the town of
21 Woburn sewerage system. Was that true in 1967 in
22 the Woburn plant?

23 A. I already said that this information I
24 obtained from one of my people, so to my knowledge

1 I believe it is correct. If they gave me the right
2 information, it is correct.

3 Q. Do you know?

4 A. I do not know personally.

5 Q. You don't know whether or not chemicals at
6 the Woburn plant were disposed of through the town
7 of Woburn sewerage system in the 1960's; is that
8 right?

9 A. To my personal knowledge, no.

10 Q. How about in the 1970's, do you know
11 whether they poured the chemicals through the sewer?

12 A. No.

13 Q. How about the 1980's?

14 A. No.

15 Q. Did they pour the chemicals down the sewer?

16 MR. CHEESEMAN: You are now asking
17 whether they did, not whether he knows?

18 Q. Well, do you know?

19 A. I don't know.

20 Q. You don't know?

21 A. No.

22 Q. When you were in charge of the plant, did
23 you ever find out whether they, how they were
24 disposing of chemicals at the plant?

1 A. No, until the regulations came into effect
2 and I know Paul was complying with the regulations
3 to my knowledge. That's all I know.

4 Q. Well, is it a fair statement then, Mr.
5 Forte, that in the 1960's, you never knew how
6 chemicals were disposed of at the Woburn plant?

7 A. That's correct.

8 Q. In the 1970's, you never knew how
9 chemicals were disposed of?

10 MR. CHEESEMAN: Asking about his
11 personal direct observation; is that correct?

12 Q. I'm asking you your personal direct
13 knowledge.

14 A. Me.

15 Q. Did you know in the 1970's how chemicals
16 were disposed of at the Woburn plant?

17 A. No.

18 MR. CHEESEMAN: Wait just a minute.
19 Don't answer the question until he has completely
20 finished asking it. All right.

21 Q. How about in the 1980's, did you have any
22 knowledge of how chemicals were disposed of?

23 MR. CHEESEMAN: You are asking again
24 about his direct personal observations?

1 Q. The question is -- please indicate to me,
2 Mr. Forte, if you don't understand question. Did
3 you know in the 1980's as to how chemicals were
4 disposed of at the Woburn plant?

5 MR. CHEESEMAN: In view of the way
6 you have been asking the last few questions, I am
7 going to insist that you specify what you mean by
8 the question. You are shifting from one meaning to
9 the other and back again.

10 Q. Maybe to you but the witness is the one
11 who has to answer question.

12 MR. CHEESEMAN: I'm going to insist.

13 MR. SCHLICHTMANN: Insist all you want.
14 I want the witness to answer if he can. The
15 question is a simple one.

16 MR. CHEESEMAN: Are you asking him
17 about his direct personal observation which is the
18 limiting instruction you gave to him earlier, is
19 that your limiting instruction still in effect?

20 Q. To your knowledge, whenever I use the
21 phrase to your knowledge, I mean personal knowledge
22 on your part. Do you understand me, sir, to your
23 knowledge, what I mean by that?

24 MR. CHEESEMAN: Thank you.

1 A. Yes.

2 Q. So you understand when I use the phrase to
3 your knowledge; is that right?

4 A. Yes.

5 Q. You understand that I mean whatever
6 knowledge you have personally about the thing that
7 I'm going to ask you. Is that right?

8 (Witness nodded).

9 Q. Fine. Now, to your knowledge, do you know
10 how chemicals were disposed of at the Woburn plant
11 in the 1980's?

12 A. I know a little bit about what Paul
13 Shalline has been doing with respect to complying
14 with the regulations.

15 Q. What's the little that you know about what
16 Mr. Shalline has been doing?

17 A. Relating to obtaining outside carriers to
18 take out waste.

19 Q. And he did that in the 1980's?

20 A. Yes, to my knowledge, yes.

21 Q. He got outside carriers to remove waste at
22 the plant?

23 A. Yes.

24 Q. What kinds of waste?

1 A. Whatever waste the regulations called for.
2 I don't know what waste.

3 Q. Do you know what hazardous waste is?

4 MR. CHEESEMAN: In terms of legal
5 definitition?

6 Q. No, do you have an understanding of what a
7 hazardous waste is?

8 MR. CHEESEMAN: Well, I object to the
9 form of the question. Go ahead.

10 A. If it is hazardous, it is harmful I assume.

11 Q. You understand hazardous chemicals to be
12 chemicals which are harmful to people?

13 A. Yes.

14 Q. And what kind of waste does Mr. Shalline
15 or was Mr. Shalline removing from the plant with
16 waste haulers in the 1980's, what kind of waste?

17 A. I don't know.

18 Q. Was it hazardous waste?

19 A. I don't know.

20 Q. To your knowledge, did the Woburn plant
21 have waste haulers removing hazardous waste from
22 the Woburn plant in the 1960's?

23 A. I don't know.

24 Q. To your knowledge in the 1970's, did the

1 Woburn plant engage waste haulers to remove
2 hazardous waste from the plant?

3 A. They may have. Only because I know that
4 at one time or another I have asked -- I asked, I
5 don't recall who, to obtain somebody to remove the
6 barrels from the plant.

7 Q. What period of time are you referring to?

8 A. I have no idea.

9 Q. We talked about you told somebody to
10 remove barrels. What barrels are you referring to?

11 A. Occasionally there would be barrels in the
12 back of the plant.

13 Q. How many barrels?

14 A. A few.

15 Q. Was this true throughout the sixties and
16 the seventies?

17 A. I don't recall what years they were.
18 Occasionally I'd see barrels out there and they
19 were there and we wanted to clean up, I asked
20 somebody to get somebody to take them away, and
21 whether they did or not, I don't know.

22 Q. What kind of barrels?

23 A. Just 55 gallon drums.

24 Q. What was in the barrels?

1 A. I don't know.

2 Q. Did you ever find out what was in the
3 barrels?

4 A. No.

5 Q. Did you ever find out how they got rid of
6 the barrels?

7 A. No.

8 Q. What did you tell them as to how to get
9 rid of the barrels?

10 A. I didn't.

11 Q. You just said get rid of them?

12 A. I just said get somebody to take them away.

13 Q. Did somebody take them away?

14 A. I don't know. I didn't check up.

15 Q. You never checked up on it?

16 A. No.

17 Q. But sometime they were gone?

18 A. I assume so.

19 Q. Did you ever walk around the plant in the
20 1960's and see barrels to the rear of the plant?

21 A. Inside or outside?

22 Q. Outside.

23 A. Yes.

24 Q. Did you ever in the 1960's walk around the

1 plant and see 55 gallon drums at the rear of the
2 plant?

3 A. In the sixties?

4 Q. In the sixties.

5 A. Outside?

6 Q. Yes.

7 A. Yes. Didn't I just answer that question?

8 Q. So you did see 55 gallon drums in the
9 1960's outside the plant?

10 A. Sometime in the sixties.

11 Q. How many barrels do you remember seeing?

12 A. Oh, I don't know. Three, four. Five.

13 Q. Would you see three, four, five at a time?

14 A. Yes, I would think so.

15 Q. And then would you go around the plant and
16 not see those barrels any more?

17 A. Yeah, I believe there were times when they
18 weren't there.

19 Q. So there were times you'd see three, four,
20 five barrels to the rear of the plant, three, four,
21 five, 55 gallon drums to the rear of the plant and
22 there were times you wouldn't see those three, four,
23 five 55 gallon drums?

24 A. That was rare. There were usually barrels

1 back there.

2 Q. There were usually three, four, five 55
3 gallon drums back there; is that right?

4 A. When I toured the plant.

5 Q. It wasn't the same three, four, five, 55
6 gallon drums?

7 A. I don't know. I can't recognize barrels
8 that well.

9 Q. You didn't recognize barrels that well?

10 A. Well, they don't have names on them.

11 Q. They don't have names, so you don't know,
12 if they are the same barrels or different barrels
13 or what?

14 A. No, I don't.

15 Q. Were they rusting?

16 A. Oh, I don't recall. I didn't think so but
17 I don't recall that.

18 Q. Have no idea what was inside them?

19 A. No, I have no idea.

20 Q. Never found out?

21 A. No.

22 Q. Did you ever go over to any of the barrels
23 and lift the cover off and look inside?

24 A. No.

1 Q. Did you ever go over and kick the barrels
2 to find out if they had anything inside?

3 A. No.

4 Q. You don't know whether they were empty or
5 full?

6 A. No.

7 Q. In the 1906's, 1960 when you went to the
8 plant, what was the means that the plant had in
9 disposing of waste that was produced during the day?

10 A. Well, we had a waste hauler that came in,
11 I don't know, weekly or -- frequently to get rid of
12 all the waste, trash. We had a trash hauler.

13 Q. You had a trash hauler. But how about for
14 the chemical waste?

15 A. I have no idea.

16 Q. You have no idea?

17 A. No.

18 Q. What was it when you were working in
19 Cambridge there for Dewey and Almy, what was your
20 system for removing hazardous chemical waste?

21 A. We didn't have a manufacturing operation
22 like Woburn.

23 Q. At the Dewey and Almy operation was there
24 hazardous waste chemical produced?

1 A. I have no idea. I was in engineering and
2 I never got involved in any of the manufacturing
3 operations.

4 Q. Never got involved in any of the
5 manufacturing operations?

6 A. No.

7 Q. So you don't know how hazardous chemical
8 waste was disposed of at the Dewey and Almy
9 operation?

10 A. No.

11 Q. Did you ever receive any instructions from
12 W. R. Grace as to how hazardous waste chemicals
13 should be disposed of at the Woburn plant?

14 A. No.

15 Q. Never?

16 A. No.

17 Q. Ever?

18 A. No.

19 Q. At no time?

20 A. No.

21 Q. Even in the 1980's?

22 A. No.

23 Q. How did you know that you had to do
24 something with hazardous waste in the 1980's?

1 A. Because of the regulation.

2 Q. But nobody told you as part of your
3 responsibilities that you should remove hazardous
4 waste according to the government regulations in
5 the 1980's?

6 A. I'm not sure that's true. We knew about
7 the regulations and we must have got some
8 information to comply with the regulations.

9 Q. Who did you get the information from?
10 W. R. Grace or the government?

11 MR. CHEESEMAN: You are asking how he
12 personally got?

13 Q. How does he know the Woburn plant got
14 information?

15 A. Well, to my knowledge it would have come
16 from South Carolina.

17 Q. Did it to your knowledge?

18 A. Well, I've seen correspondence from South
19 Carolina in the eighties.

20 Q. Did you ever see any correspondence from
21 South Carolina in the 1960's and 1970's?

22 A. I don't recall.

23 Q. Mr. Barbas, did you read Mr. Barbas'
24 deposition?

1 A. Yes, I skimmed that one, too.

2 Q. When you were skimming Mr. Barbas'
3 deposition, did you see when Mr. Barbas talked
4 about how chemicals were disposed of when he first
5 went to work for the Woburn plant in September of
6 1961?

7 A. I don't remember it, but if you read it,
8 I'll refresh my memory.

9 Q. Well, did you see when he said at the end
10 of the work day that they would pour the chemicals
11 out in the back yard of the plant?

12 A. If that's what he said, I saw it.

13 Q. Well, do you remember seeing it in the
14 deposition?

15 MR. CHEESEMAN: Just answer the
16 question he asked you.

17 A. I don't remember. You'll have to show me.

18 Q. All right.

19 I better show you.

20 (Brief recess).

21 Q. This is Mr. Barbas' deposition. I am
22 going to read you a series of questions and answers.
23 It is page 54, Mr. Barbas' deposition.

24 MR. CHEESEMAN: You just listen to

1 him.

2 A. I thought you wanted me to read it.

3 Q. You make sure I don't leave out any words.

4 MR. CHEESEMAN: What line are you
5 going to start at?

6 MR. SCHLICTMANN: Page 53, Mr. Barbas
7 testifies in answer to questions the following
8 Line 18:

9 Question: What do you remember Mr. Shalline
10 telling you to do about the drums of used chemicals?

11 Answer: Put them out back.

12 Question: Did he tell you anything else?

13 Answer: That's right.

14 Question: Did he tell you anything else?

15 Answer: No, just leave them out back.

16 Question: Just leave them out back. Did he
17 ever indicate to you what happened to them after
18 they were left out back?

19 Answer: No.

20 Question: That was from the beginning when you
21 started to work for the Woburn plant, September of
22 1961?

23 Answer: That wasn't always the way. It was my
24 idea originally to put the used solvent and paint

1 sludge in barrels and have them taken out legally.
2 That was my recommendation.

3 Question: When did you make that
4 recommendation?

5 Answer: About two months after I started
6 working there.

7 Question: What exactly was your recommendation?

8 Answer: That the wastes be put in 55 gallon
9 drums, when they are full, put them out back and
10 then wait the disposition to have them removed.

11 Question: Okay. Now, why did you make that
12 recommendation?

13 Answer: Why?

14 Question: Yes.

15 Answer: Because up until the point before, at
16 the end of the work day, take the solvent out and
17 dump it on the ground.

18 Question: To the rear of the plant?

19 Answer: Yes.

20 Question: And how long had you been doing that?

21 Answer: I'd say maybe a couple of months.

22 Question: When you worked there?

23 Answer: Yeah.

24 MR. CHEESEMAN: Just for the record I

1 believe that the transcript is incorrect at page 54,
2 line 10. I think the word "legally" was "periodically"
3 when he gave that answer.

4 MR. SCHLICHTMANN: I believe my
5 recollection was "legally". We can refer to the
6 stenographer's notes.

7 Q. But Mr. Forte, I have read you questions
8 and answers given by Mr. Barbas at his deposition.

9 A. Uh-huh.

10 Q. Was that true that solvents were taken out
11 back and dumped on the ground at the end of the
12 work day at any time in the 1960's?

13 A. I don't know.

14 Q. You don't know if that's true or not?

15 A. No.

16 Q. Did you ever tell Mr. Shalline or ever
17 indicate to Mr. Shalline that the way that
18 chemicals are to be disposed of at the Woburn plant
19 was that solvent and paint sludge should be dumped
20 out on the ground to the rear of the plant at the
21 end of the day?

22 A. No.

23 Q. Did you ever tell them that that was not
24 the practice at the Woburn plant?

1 A. No.

2 Q. Did you ever have any conversations with
3 Mr. Shalline at any time during the time that you
4 were associated with the Woburn plant concerning
5 how chemical waste generated at the plant should be
6 disposed of?

7 A. In the eighties.

8 Q. In the eighties. Prior to the 1980's, you
9 never had a conversation with Mr. Shalline at any
10 time concerning how waste at the plant should be
11 disposed of?

12 A. Not that I recall at all. No.

13 Q. Did W. R. Grace at any time ever indicate
14 to you during the time that you were associated
15 with the Woburn plant as to how chemical waste
16 generated at the plant should be disposed of?

17 A. I don't recall that they did.

18 Q. Are you aware of the procedures in effect
19 at the Woburn plant during the time you were
20 associated with it?

21 A. Some of them.

22 Q. Well, in your capacity as production
23 manager, were you aware of the practices, the
24 procedures which were to be followed at the Woburn

1 plant?

2 A. What procedures?

3 Q. All right. The procedures for the
4 handling of hazardous materials?

5 A. I don't think we had any procedures.

6 Q. So in the 1960's, you never had any
7 procedures for the handling of waste material at
8 the Woburn plant?

9 A. Not that I recall.

10 Q. In the 1970's, you never had any
11 procedures for the handling of waste materials at
12 the Woburn plant?

13 A. Not that I recall.

14 Q. In the 1980's, did you ever have any
15 procedures for the handling of waste material at
16 the Woburn plant?

17 A. Yes.

18 Q. After the government came out with their
19 regulations?

20 A. Yes.

21 Q. Prior to that time to your knowledge there
22 were never any procedures at the Woburn plant as to
23 how hazardous waste was to be handled or disposed
24 of?

1 A. No.

2 Q. To your knowledge in the 1960's, was
3 hazardous waste from time to time disposed of at
4 the Woburn plant by disposing of it on the ground
5 to the rear of the plant?

6 A. I didn't even know we had hazardous waste.

7 Q. You didn't even know there was hazardous
8 waste at the plant?

9 A. That's correct.

10 Q. In the 1970's, are you aware of whether in
11 the 1970's to your knowledge, was hazardous waste
12 ever disposed of to the rear of the plant?

13 A. Not to my knowledge.

14 Q. In the 1970's was hazardous waste ever
15 disposed of to the rear of the plant?

16 A. Not to my knowledge. And you're referring
17 on the ground type of question?

18 Q. On the ground. Or in a trench.

19 A. Well, I know the incident that we wrote
20 about.

21 Q. You know the incident you wrote about.
22 Other than that trench incident?

23 A. No.

24 Q. You have no knowledge?

1 A. No.

2 Q. Now, in your capacity as plant manager,
3 did you have an opinion as to how hazardous waste
4 should be disposed of at the plant in Woburn?

5 A. No, because I didn't think we had
6 hazardous waste.

7 MR. CHEESEMAN: Just answer the
8 question.

9 A. No.

10 Q. In your capacity as general manager of the
11 Woburn plant, did you ever have an opinion as to
12 how hazardous waste should be disposed of at the
13 plant?

14 A. Before or after the regulation?

15 Q. Before the regulations in the 1980's?

16 A. No.

17 Q. No opinion. After the regulations in the
18 1980's?

19 A. Yes, I did have an opinion.

20 Q. When did you understand that hazardous
21 waste was being used at the Woburn plant?

22 A. I never did.

23 Q. Have you ever formed an opinion that the
24 Woburn plant uses hazardous waste?

1 A. My own opinion?

2 Q. Yes.

3 A. I still don't think we use hazardous waste
4 in the truest sense of the word.

5 Q. What is the truest sense of the word for
6 hazardous waste?

7 A. Dangerous chemicals to me.

8 Q. Chemicals that are dangerous?

9 A. Yes.

10 Q. Would you consider that chemicals which
11 have carcinogenic properties to be hazardous?

12 A. I think so. Yes.

13 Q. You'd consider that to be hazardous,
14 wouldn't you?

15 A. Yes.

16 Q. Would you consider that chemicals which
17 can cause cardiac problems is a hazardous chemical?

18 A. Yes.

19 Q. Do you consider that chemicals which can
20 have an effect on the central nervous system are
21 hazardous?

22 A. Yes.

23 Q. Would you consider that chemicals which
24 have a serious effect on somebody's health is

1 hazardous?

2 A. Yes.

3 Q. I am going to show you Shalline Exhibit
4 No. 1. On page two -- do you recognize that
5 exhibit?

6 A. I saw it yesterday.

7 Q. Prior to yesterday, had you ever seen it
8 before?

9 A. I didn't remember it.

10 Q. Do you remember it?

11 A. I didn't remember it until yesterday.

12 Q. Do you remember it now?

13 A. That I saw it yesterday, yes.

14 Q. It says on page 2 that trichloroethene is
15 to be used for cleaning purposes instead of Toluol
16 which is more flammable. This will be --

17 MR. CHEESEMAN: I think it says more
18 inflammable.

19 Q. All right. Trichloroethene is to be used
20 for cleaning purpose instead of Toluol which is
21 much more inflammable. This solvent will be
22 available in the paint shop area. Do you know what
23 Trichloroethene is?

24 A. Not really.

1 Q. Did you know you were using it at the
2 Woburn plant?

3 A. I do now.

4 Q. Did you know that in the 1960's that you
5 were using trichloroethene?

6 A. I don't recall.

7 Q. Do you know what chemicals were being used
8 at the paint shop?

9 A. No, I did not.

10 Q. I show you Plaintiff Exhibits 2 and 3.
11 Sorry, I will just give you Exhibit No. 2. Do you
12 recognize that exhibit?

13 A. Yes.

14 Q. Do you recognize that exhibit?

15 A. I saw it yesterday.

16 Q. Do you remember seeing it before yesterday?

17 A. No.

18 Q. That's a letter dated September 30, 1964
19 by Mr. Watkins; is that correct?

20 A. Yes.

21 Q. It says down there cc; VA Forte.

22 A. That's me.

23 Q. That is a little check mark next to it,
24 isn't there?

1 A. Yes.

2 Q. Did you make that check mark?

3 A. No.

4 Q. Who is VA Forte referring to?

5 A. Me.

6 Q. Do you ever remember receiving this letter
7 of September 30, 1964, Shalline Exhibit No. 2?

8 A. No.

9 Q. Do you ever remember a production man
10 requesting information about trichloroethylene that
11 was used at the plant?

12 A. No.

13 Q. Do you ever remember that an employee
14 inquiry resulted in the request of your insurance
15 company to send you some information about
16 trichloroethylene?

17 A. No.

18 Q. You don't remember that?

19 A. No.

20 Q. Have no memory of that?

21 A. No.

22 Q. Exhibit No. 3

23 (Document handed to the witness.)

24 Q. Do you recognize that document?

1 A. I saw it yesterday.

2 Q. Prior to yesterday, did you ever see it?

3 A. It says I got it but I don't remember it.

4 Q. It says Mr. Vincent Forte up in the left-
5 hand corner; is that correct?

6 A. That is correct.

7 Q. That's you?

8 A. Yes.

9 Q. Do you ever remember receiving this letter
10 from the insurance company?

11 A. No.

12 Q. Do you ever remember reading this letter
13 from the insurance company at any time?

14 A. I don't remember that I did.

15 Q. You have no recollection of reading this?

16 A. No.

17 Q. Now, in 1964, Mr. Forte, you were plant
18 manager at the plant, isn't that right?

19 A. Yes.

20 Q. You had ultimate responsibility for what
21 was happening at the plant, didn't you?

22 A. Yes.

23 Q. You were the man in charge at the plant,
24 weren't you?

1 A. Yes.

2 Q. But you don't remember receiving this
3 letter from the insurance company concerning a
4 chemical that was in use at the plant, do you?

5 A. No, not in '64.

6 Q. Mr. Watkins, who is he?

7 A. He was production manager

8 Q. Where is Mr. Watkins now?

9 A. He is retired.

10 Q. When did he retire?

11 A. I don't remember.

12 Q. In the seventies, eighties?

13 A. Oh, no. He left. He didn't retire when
14 he left. He went to work for another company.

15 Q. Do you remember when?

16 A. In the seventies.

17 Q. What company did he go to work for?

18 A. A company on 128. I don't recall -- oh,
19 High Voltage, High Voltage.

20 Q. Did he stay with that company until he
21 retired?

22 A. I don't know.

23 Q. Do you know what his position was at that
24 company?

1 A. No, I don't know his title.

2 Q. Did Mr. Watkins ever have conversations
3 with you concerning trichloroethylene in use at the
4 plant?

5 A. No.

6 Q. Mr. Watkins ever indicate to you that he
7 had requested information from your insurance
8 company concerning the dangers and hazards of
9 trichloroethylene?

10 A. Not that I recall.

11 Q. What was Mr. Watkins' responsibility in
12 1964?

13 A. He was production manager.

14 Q. What were the responsibilities of
15 production manager?

16 A. He would be responsible for all the
17 manufacturing operations.

18 Q. And he took over your job after you became
19 plant manager; is that right?

20 A. No, there were other people before Jim
21 Watkins.

22 Q. But you were production manager at the
23 Woburn plant when you first came to the plant in
24 1960?

1 A. Yes, I was.

2 Q. So you had the same responsibilities for
3 two years that Mr. Watkins had in 1964; is that
4 right?

5 A. No, that's not right.

6 Q. It is not right. How did the job
7 description for production manager change for Mr.
8 Watkins?

9 A. Well, I had more of the departments within
10 the plant.

11 Q. You had more responsibility?

12 A. Yes.

13 Q. Than Mr. Watkins did?

14 A. Yes.

15 Q. It indicates on Exhibit No. 4 --

16 (Document handed to the witness).

17 Q. That Mr. Watkins was plant superintendent.
18 Is that the same as production manager?

19 A. Well, I guess I was in error.

20 Q. Well, are they the same job?

21 A. Same responsibilities.

22 Q. Production manager and plant
23 superintendent are the same?

24 A. Running the total production operations.

1 Q. Now, Plaintiff's Exhibit No. 4 is a notice
2 dated November 17, 1964 by Mr. Watkins as plant
3 superintendent. Did you ever see that before?

4 A. I saw it yesterday.

5 Q. Prior to yesterday, do you ever remember
6 seeing this notice?

7 A. I don't remember it.

8 Q. Up in the left-hand corner, it has V. A.
9 Forte; is that right?

10 A. Yes.

11 Q. Who does that refer to?

12 A. That refers to me.

13 Q. Up in the left-hand corner that is a date
14 stamp there?

15 A. Yes.

16 Q. November 18, '64 VAF. What does that
17 reference?

18 A. It means I received it.

19 Q. Is that right? Who would have put that on
20 the left-hand corner?

21 A. My secretary.

22 Q. Did your secretary ever show you things
23 that came in the office once they are date stamped?

24 A. If they came to me, I saw them.

1 Q. Do you ever remember seeing this?

2 A. No.

3 Q. But this indicates that did you read it;
4 is that right?

5 A. Probably.

6 Q. But you don't remember seeing this before
7 your attorney showed it to you yesterday?

8 A. That's right.

9 Q. Didn't this document come out of your file,
10 Mr. Forte?

11 A. I don't know where it came from.

12 Q. Didn't you provide this to your attorney?

13 MR. CHEESEMAN: You are treading fairly
14 close to the attorney-client privilege that, for
15 your information, Jan, the attorneys went around
16 collecting information from the files.

17 Q. So you didn't give this to your attorney?

18 A. No.

19 Q. You don't know if this was in your file or
20 not?

21 A. No.

22 Q. The fact that it is date stamped, does
23 that indicate whether it was in your file or not?

24 A. It indicates that I got it.

1 (Document handed to the witness).

2 Q. Exhibit 5. Memo dated March 22, 1967.

3 Who wrote that memo?

4 A. My name is on it, so I guess I did.

5 Q. It's got in the left-hand corner D. H.

6 Taylor. Who is he?

7 A. He was the gentleman I referred to earlier
8 who had a dual responsibility.

9 Q. And he was located in South Carolina?

10 A. No, at this time he was located in Woburn.

11 Q. Why did you send this memo to Mr. Taylor?

12 A. I assume he gave me some other memo that I
13 was answering.

14 Q. Do you remember what that memo was?

15 A. No, I don't.

16 Q. What his inquiry was?

17 A. I don't.

18 Q. Is this document that we're looking at
19 here, Exhibit No. 5, is that all the information
20 that was on the document or has information been
21 removed?

22 MR. CHEESEMAN: If you know.

23 A. I don't know.

24 Q. Now, it states in the document Shalline

1 Exhibit No. 5, written by you, V. A. Forte: As a
2 point of information, we don't have any pollution
3 control problems in the Woburn plant.

4 Was that a true statement in 1967?

5 A. That's what I believed.

6 Q. Why did you believe that?

7 A. Because I just believed it.

8 Q. Did you have any basis to believe it?

9 A. Because I didn't think we had a pollution
10 problem?

11 Q. Did you make an investigation to determine
12 whether you had a pollution control problem or not?

13 A. I might have asked the people that
14 reported to me.

15 Q. Well, in 1967, did you know how waste,
16 hazardous chemical waste was being disposed of at
17 the Woburn plant in 1967?

18 A. 1960's I did not believe we had hazardous
19 waste period.

20 Q. Did you understand how trichloroethylene
21 was disposed of at the Woburn plant? 1967?

22 A. Ask that question again.

23 Q. Yes, in 1967, did you understand how
24 trichloroethylene was being disposed of at the

1 Woburn plant?

2 A. No.

3 Q. No?

4 A. No.

5 Q. Did you know, understand how chemical
6 waste was disposed of at the plant in 1967?

7 A. No.

8 MR. CHEESEMAN: Let me just say on
9 the record, I wasn't sure I understood the earlier
10 question when you asked if anything had been
11 deleted from Exhibit 5, and I'll just state for the
12 record that nothing was deleted or covered up from
13 Exhibit 5 at the time that counsel blacked out
14 material on other documents, just for your
15 information.

16 I don't know why you asked that
17 question, but I wanted you to understand that
18 counsel has not deleted anything from that document.

19 Q. It states in this document that acids and
20 chemicals used in the passivating and painting
21 areas are neutralized so that this element will not
22 become a problem in the future. What are you
23 referring to in that letter?

24 A. I don't know. It is information I

1 probably got from one of my people.

2 Q. What was the information that you got?

3 A. I don't remember.

4 Q. You don't remember?

5 A. No.

6 Q. So you don't know what you were referring
7 to then?

8 A. You mean from where I got the information?

9 Q. Yes. Do you know what you are referring
10 to in that letter, in that sentence?

11 A. Well, I'm referring to the passivating and
12 painting areas.

13 Q. And you're saying that they are neutralized?

14 A. That's information I must have got from
15 one of my people.

16 Q. What does that mean, they are neutralized?

17 A. They said they neutralized them. I am not
18 a chemist.

19 Q. Do you know how they neutralized them?

20 A. I don't know.

21 Q. You say it will not become a problem in
22 the future. What problem are you referring to?

23 A. I don't know. There is some reference to
24 a letter. I am not sure.

1 Q. You don't know what the problem is?

2 A. No.

3 Q. You have no idea?

4 A. No.

5 Q. We will so advise the Pollution Control
6 Officer when appointed by Bill Baird. Who is Mr.
7 Baird?

8 A. Mr. Baird was a vice president RD&E.

9 Q. What is RD&E?

10 A. Research, development and engineering in
11 South Carolina.

12 Q. What was Mr. Baird's responsibility?

13 A. Vice president of RD&E.

14 Q. What was he responsible for?

15 A. All research, development and engineering
16 in South Carolina.

17 Q. Regarding the various plants of the
18 Cryovac Division?

19 A. The Cryovac Division. Well, not regarding
20 all the aspects of all the plants in the Cryovac
21 Division. He was responsible for anything to do
22 with research, development and engineering. He
23 wasn't responsible directly for the Woburn
24 operation directly.

1 Q. He was responsible for pollution control
2 matters?

3 A. Well, this indicates that he was going to
4 be, I guess.

5 Q. Did you understand that he was in charge
6 of pollution control matters?

7 A. I don't remember but I am just reading the
8 letter.

9 Q. Does this letter indicate that Mr. Baird
10 is going to appoint a Pollution Control Officer?

11 A. He was going to appoint a Pollution
12 Control Officer.

13 Q. You didn't have the responsibility for
14 appointing a Pollution Control Officer?

15 A. Not for the company.

16 Q. Was this a Pollution Control Officer for
17 the Woburn plant or for the Cryovac Division?

18 A. I believe it was for the Cryovac Division.

19 Q. Was a Pollution Control Officer ever
20 appointed for the Cryovac Division?

21 A. I believe so.

22 Q. When?

23 A. I don't know.

24 Q. Who?

1 A. I don't know that either. I don't
2 remember it.

3 Q. Do you ever remember somebody being
4 appointed Pollution Control Officer at the Cryovac
5 Division?

6 A. The whole Cryovac Division?

7 Q. Yes.

8 A. I don't remember.

9 Q. Well, who is he now?

10 A. I believe it is Dick Stewart.

11 Q. Dick Stewart is now the Pollution Control
12 Officer?

13 A. I believe so.

14 Q. How long has Dick Stewart been the
15 Pollution Control Officer at Cryovac?

16 A. I don't know.

17 Q. Any idea? Five years?

18 A. I don't know.

19 Q. Ten years?

20 A. I don't know.

21 Q. Do you know who was Pollution Control
22 Officer prior to Mr. Stewart?

23 A. No.

24 Q. Did you ever have any conversations with

1 Mr. Stewart about pollution control problems?

2 A. In the last few years since these
3 regulations came out and the lawsuit and the EPA.

4 Q. So since the lawsuit, the EPA and these
5 governmental regulations, that's when you began to
6 have conversations with Mr. Stewart about pollution
7 control at the Woburn plant?

8 A. Actually I don't know if I had any
9 conversations with him before the EPA letter, so
10 maybe the timing may not be right, but in the last
11 few years I have had discussions with him.

12 Q. So the first time you recall talking to
13 Mr. Stewart was after the EPA letter of 1982?

14 A. I believe so.

15 Q. Prior to that time you don't remember
16 talking to him?

17 A. I don't recall.

18 Q. All right. Do you remember any
19 conversations or any contacts between you and
20 anybody who you understood to be Pollution Control
21 Officer at W. R. Grace?

22 A. I don't recall any.

23 Q. Ever?

24 A. Ever.

1 Q. Than Mr. Stewart who you contacted after
2 the EPA's request for information in January of
3 1982?

4 A. Say that again.

5 Q. You don't remember having any contact with
6 any person who you understood to be the Pollution
7 Control Officer for W. R. Grace at any time prior
8 to your contact with Mr. Stewart?

9 A. I don't recall.

10 Q. After the EPA sent you a letter in January
11 of 1982?

12 A. I don't recall any.

13 (Document handed to the witness).

14 Q. Shalline Exhibit No. 6. Have you ever
15 seen that document before?

16 A. I don't think so.

17 I saw it yesterday. I'm sorry.

18 Q. Prior to yesterday?

19 A. I don't remember it, no.

20 Q. Who is Mr. Gunnard?

21 A. Gunnard was a production manager.

22 Q. At what plant?

23 A. Woburn.

24 Q. Mr. Gunnard was a production manager at

1 Woburn?

2 A. Yes, he was.

3 Q. He took over the responsibilities of Mr.
4 Watkins?

5 A. I believe that was the progression.

6 Q. It indicates there that in Section D that
7 trichloroethylene is disposed of as promised last
8 year. And Mr. Gunnard is indicating he wants to
9 see that that is done. Is that right?

10 MR. CHEESEMAN: I object. The
11 document speaks for itself.

12 Q. Do you understand that that's what that
13 document is indicating?

14 A. Please ask that again.

15 Q. All right. The document indicates:
16 Please see that trichloroethylene is disposed of as
17 promised last year. Is that right? Do you
18 understand that document to be doing that?

19 A. It doesn't say it -- oh, please see that.
20 I don't know what "please see that" means because
21 it is blacked out.

22 Q. Do you have any knowledge of there ever
23 being a problem in the disposal of
24 trichloroethylene at the plant?

1 A. No.

2 Q. At any time?

3 A. No.

4 Q. Did you ever have any conversations with
5 Mr. Gunnard about the disposal of trichloroethylene
6 at the plant?

7 A. Not that I recall.

8 Q. Ever have any conversations with Mr.
9 Gunnard about the disposal of any chemical used at
10 the plant?

11 A. Not that I recall.

12 Q. And you didn't know what chemicals were
13 used at the plant?

14 A. No, I do not.

15 Q. You don't know if trichloroethylene was
16 used at the plant?

17 A. Well, I do now. What period of time?
18 When?

19 Q. You know now because of the EPA's letter?

20 A. Right.

21 Q. And this lawsuit?

22 A. Yes.

23 Q. And the government regulations?

24 A. Well, maybe I didn't know even for the

1 government regulation.

2 Q. You didn't know for the government
3 regulations, but you knew after the lawsuit?

4 A. After the EPA.

5 Q. After the EPA letter.

6 Q. Do you know what Magnus solvent 1219 is?

7 A. No.

8 Q. Never knew?

9 A. No.

10 Q. All right. Shalline Exhibit No. 7

11 (Document handed to the witness).

12 Q. Did you ever see that document?

13 A. Yesterday.

14 Q. Prior to yesterday, did you ever see that
15 document?

16 A. I don't think so.

17 Q. Did the plant use mercury to your
18 knowledge?

19 A. I don't know.

20 Q. I hand you Exhibit 8. This is a memo,
21 Shalline Exhibit 8 is a memo from Mr. Stewart dated
22 August 2, 1973.

23 A. Uh-huh.

24 Q. Do you ever remember seeing that?

1 A. Yesterday.

2 Q. Prior to yesterday?

3 A. No, I don't recall.

4 Q. Memo indicates it is the plant manager
5 from the W. R. Grace Company; is that right?

6 A. Yes.

7 Q. Were you the plant manager in 1973?

8 MR. CHEESEMAN: In Woburn?

9 Q. At Woburn.

10 A. I think I was general manager in '73. I
11 don't recall who the plant manager was.

12 Q. Do you ever remember the plant manager
13 ever coming to you and talking to you about a
14 letter he received from Mr. Stewart?

15 A. No.

16 Q. In Mr. Stewart's letter, the Section D, it
17 indicates: We recommend that all plants cease use
18 of -- and that chemical has been blacked out -- and
19 trichloroethylene as soon as possible.

20 Do you ever remember Mr. Stewart
21 indicating to the Woburn plant that
22 trichloroethylene should be stopped as soon as
23 possible?

24 A. Personally?

1 Q. Yes.

2 A. The letter says so, but personally --

3 Q. You have no other knowledge of that?

4 A. No.

5 Q. You never remember Mr. Stewart indicating
6 to anybody at the Woburn plant to your knowledge
7 that they should stop using trichloroethylene as
8 soon as possible?

9 A. I don't recall that.

10 Q. Nobody ever brought it to your attention?

11 A. No.

12 Q. 1973, did you consider that you had, that
13 you were the man in charge at the Woburn plant?

14 A. Yes.

15 Q. Did you consider in 1973 that whether you
16 should be using a chemical or not --

17 A. No.

18 MR. CHEESEMAN: Wait, wait, wait.

19 Q. Whether --

20 MR. CHEESEMAN: He is in the middle
21 of a sentence.

22 I think we could all use a little
23 break. It is after 11:30.

24 MR. SCHLICTMANN: Would you like a

1 little break?

2 MR. CHEESEMAN: Yes.

3 MR. SCHLICTMANN: Okay.

4 (Recess).

5 Q. Exhibit No. 9.

6 (Document handed to the witness.)

7 Shalline Exhibit No. 9. Do you recognize that?

8 A. I believe I saw it yesterday.

9 Q. Is that the first time you remember seeing
10 it?

11 A. Yes. I don't recall it prior to that time.

12 Q. It says in that, Shalline Exhibit 9 is
13 dated May 8, 1975 from Mr. Stewart, and it has in
14 the upper left-hand corner, it has V. A. Forte,
15 Woburn. Who is that referring to?

16 A. Me.

17 Q. You don't recall receiving this?

18 A. No.

19 Q. Do you remember seeing it until being
20 showed it by you attorney yesterday?

21 A. That's correct.

22 Q. It states in this memo dated May 8, 1975
23 from Mr. Stewart: As an addition to your regular
24 coverage of the OSHA subject, please set up a file

1 and begin collecting material which I will send
2 from time to time concerning Hazardous Substances
3 and/or Toxic Materials.

4 Mr. Forte, do you ever remember being
5 told by Mr. Forte to set up a hazardous substances
6 or toxic material file?

7 A. Ask that again.

8 Q. Do you ever remember being told by Mr.
9 Stewart to set up a hazardous substances and/or
10 toxic materials file?

11 A. No.

12 Q. Never?

13 A. No.

14 Q. Have you ever set up a hazardous substances
15 and/or toxic materials file as part of your duties
16 and responsibilities?

17 A. I don't know.

18 Q. Do you ever in -- did you have prior to
19 your leaving the Woburn plant a file entitled
20 hazardous substances and/or toxic materials?

21 A. I don't know.

22 Q. You don't know whether you do?

23 A. No.

24 Q. Do you know if there is any file at the

1 Woburn plant entitled hazardous substances and/or
2 toxic materials?

3 A. No.

4 Q. Have you ever seen such a file?

5 A. No.

6 Q. Have you ever heard of such a file?

7 A. No.

8 Q. Now, he indicates in his memo of May 8,
9 1957 that in addition to your regular coverage of
10 the OSHA subject, do you know what he is referring
11 to there?

12 A. No.

13 Q. Do you know what OSHA was?

14 A. Yes.

15 Q. Did you have any conversations or contacts
16 with Mr. Stewart about OSHA?

17 A. No.

18 Q. Did you ever receive information from

19 W. R. Grace about OSHA?

20 A. I don't remember.

21 Q. You don't remember?

22 A. No.

23 Q. Well, did you understand that you had to
24 cover the OSHA subject on a regular basis?

1 A. Well, I don't recall.

2 Q. Ever?

3 A. Ever.

4 Q. Having any responsibilities having to do
5 with whether you were in compliance with the
6 Occupational Safety and Health Act?

7 A. From what point of view?

8 Q. From any point of view.

9 A. Ask the question again.

10 Q. Did you have any responsibilities at all
11 concerning your requirements under the OSHA act?

12 A. From the point of view of being
13 responsible for the plant I did.

14 Q. You did. All right.

15 A. From a total responsibility.

16 Q. What was your responsibility?

17 A. Well, I would probably delegate it.

18 Q. Who did you delegate it to?

19 A. Either production manager or Paul Shalline.

20 Q. Did you delegate it to Mr. Shalline?

21 A. I don't recall if it was Mr. Shalline.

22 Q. But you didn't have any responsibilities?

23 A. I had the responsibility but I did not do
24 anything.

1 Q. You didn't do anything. You delegated to
2 others?

3 A. Yes.

4 Q. You don't know what they did?

5 A. No, I do not.

6 Q. No idea what they did?

7 A. No.

8 Q. Did you consider that as plant manager or
9 as general manager that you had responsibilities in
10 the 1960's and the 1970's concerning how material
11 is disposed of at the plant?

12 A. Total responsibilities, yes.

13 Q. You believed it was part of your total
14 responsibility?

15 A. Yes.

16 Q. But you didn't do anything about it?

17 A. My people did it.

18 Q. Who did you delegate to do it?

19 A. Either the production manager or Paul
20 Shalline.

21 Q. But you don't know what the production
22 manager or Paul Shalline did?

23 A. No.

24 Q. You just delegated the duty and forgot

1 about it?

2 A. Yes.

3 Q. Never talked to them as to how they were
4 doing or what they were doing?

5 A. No.

6 Q. They had complete authority to do whatever
7 they felt was necessary to do?

8 A. Yes.

9 Q. And they never had to inform you as to how
10 they were carrying out their responsibilities
11 regarding waste disposal; is that right?

12 A. No.

13 Q. Is that right?

14 A. That is right.

15 Q. It states in this memo of 1975 that:
16 Considerable far reaching legislation is now in the
17 works on this broad subject which will take us far
18 beyond the Airborne Contaminant and carcinogenic
19 substances now listed in Section 1910.93.

20 What was Mr. Stewart referring to to
21 your knowledge?

22 A. I don't know.

23 Q. Did you know in 1975 that there was far
24 reaching legislation on the issues of hazardous

1 substances and/or toxic materials?

2 A. I don't recall.

3 Q. Do you know what Section 1910.93 is?

4 A. No idea.

5 Q. One of the items to be sent to the subject
6 file for action -- and he is referring to the
7 hazardous waste/toxic materials file -- will be a
8 stop use order, two of which are attached. Do you
9 know what he was referring to there?

10 A. No, I don't.

11 Q. On page 2 and 3 of his memo are two
12 documents; is that right?

13 A. Yes.

14 Q. The first one is completely blacked out?

15 A. Uh-huh.

16 Q. And the second one says: Stop use order
17 and it is referring to trichloroethylene. Is that
18 right?

19 A. Where is it referring to trichloroethylene?

20 Q. Do you see there in the middle section
21 where it talks about the chemical, it describes as
22 trichloroethylene?

23 A. Yes, I see it. What's the question?

24 Q. The question is do you ever remember

1 seeing this document, the stop use order?

2 A. I don't recall it.

3 Q. In 1975, were you aware as to what W. R.
4 Grace's policy was concerning the use of
5 trichloroethylene at its plants, Cryovac Division?

6 A. No.

7 Q. You don't know?

8 A. No.

9 Q. Did you know that in 1975 W. R. Grace
10 informed its Cryovac Division that they are not to
11 use trichloroethylene because it had been cited as
12 a carcinogenic substance, as having potential
13 carcinogenic hazards or other proven or potential
14 serious health hazards?

15 A. I do not recall it.

16 Q. Do you know that now?

17 A. Well, I don't know that now either.

18 Q. You don't know if that is a fact now?

19 A. No.

20 Q. Well, in looking at this document, do you
21 have any reason to doubt that in fact that's the
22 case?

23 MR. CHEESEMAN: Objection.

24 A. I don't know what Stewart knows.

1 Q. I'm talking about W. R. Grace policy now.

2 A. I don't know.

3 Q. In looking at Shalline Exhibit No. 9, in
4 particular this stop use order by Mr. Stewart dated
5 5-8-75, do you have any reason to doubt now that in
6 1975 it was W. R. Grace policy to stop using
7 trichloroethylene at the Woburn plant because it
8 had been cited as a carcinogenic substance, as
9 having potential carcinogenic hazards, or having
10 other proven or potential serious health hazards?

11 MR. CHEESEMAN: Objection. Go ahead.

12 A. It says a stop use order.

13 Q. Well, do you have any reason to doubt that
14 this document is not in fact true?

15 MR. CHEESEMAN: Objection. Go ahead.

16 A. I'm not sure what he means by what's true.

17 Q. All right. Do you consider that this
18 document is authentic?

19 A. Well, I think it is an authentic document
20 from R. K. Stewart.

21 Q. All right. Do you understand this to be a
22 document which was sent by Mr. Stewart to the
23 Woburn plant in 1975?

24 A. Yes.

1 Q. Do you recognize this as a stop use order
2 from Mr. Stewart to the Woburn plant?

3 MR. CHEESEMAN: You're asking him to
4 interpret the document.

5 Q. No, how he understand it to be. What is
6 your understanding of it?

7 A. Well, it says stop use order, yes.

8 Q. Have you ever seen stop use orders?

9 A. No. I don't recall it.

10 Q. Do you know what a stop use order is?

11 MR. CHEESEMAN: Are you asking him to
12 interpret the document?

13 Q. No, I'm asking what is a stop use order?

14 A. To me it means stop using it.

15 Q. Now, Mr. Forte, at any of those seminars
16 you went on management training, any of those
17 seminars that W. R. Grace held or any courses you
18 took, did you ever come across something called a
19 stop use order?

20 A. No.

21 Q. Have you ever seen a stop use order?

22 A. No.

23 Q. Ever?

24 A. Well, if this is one, then I saw it.

1 Q. So is this the only stop use order you
2 have ever seen in your association with W. R.
3 Grace?

4 A. I don't recall. I didn't even remember
5 this one.

6 Q. Didn't remember this one. But you can't
7 remember any others?

8 A. No.

9 Q. Are you aware of that from time to time
10 W. R. Grace has issued stop use orders to its
11 various plants?

12 A. No.

13 Q. You are not aware of that?

14 A. No.

15 Q. And have never seen any?

16 A. No.

17 Q. So this is the only one you know about; is
18 that right?

19 A. Yes.

20 Q. Is it your understanding that the plant
21 stopped using trichloroethylene in the 1970's?

22 A. I assume my people did stop using it.

23 Q. Why do you assume that?

24 A. Because I, it was a stop use order. I

1 would have delegated it to one of my people.

2 Q. But you can't remember doing that?

3 A. No.

4 Q. So you don't know if it was ever carried
5 out.

6 MR. CHEESEMAN: Are you asking him if
7 he personally knows?

8 Q. Do you know whether it was carried out or
9 not?

10 A. No.

11 Q. You don't know whether Mr. Stewart's stop
12 use order was carried out after it was given?

13 A. Personally, no.

14 Q. To this day you don't know?

15 A. No.

16 Q. Is that right, you don't know?

17 A. I don't know.

18 Q. Did you ever make an investigation as to
19 whether it was --

20 A. No.

21 Q. Stopped --

22 A. No.

23 Q. Use?

24 MR. CHEESEMAN: Let him ask the

1 question.

2 Q. You have to get the whole question in
3 there or it won't make sense. Not that the
4 question makes sense.

5 So you don't know to this day whether
6 the Woburn plant stopped using trichloroethylene
7 pursuant to Mr. Stewart 1957 stop use order?

8 A. No.

9 Q. You don't know?

10 A. I don't know.

11 Q. Plaintiff's, Shalline Exhibit No. 10.

12 (Document handed to the witness).

13 Q. Do you recognize this document?

14 A. I saw it yesterday.

15 Q. Did you see it before yesterday?

16 A. I don't remember it.

17 Q. Now, this is a document from Mr. Gunnard;
18 is that right?

19 A. Yes, that's what it says.

20 Q. And it is responding to Mr. Stewart in
21 Duncan, South Carolina; is that right?

22 A. Yes.

23 Q. In fact he is responding to Mr. Stewart's
24 stop use order, isn't he?

1 A. I don't know that that's true.

2 Q. It is a different date?

3 A. Yeah.

4 Q. What was he referring to?

5 A. I don't know.

6 Q. This letter dated 8-2-73, do you know what
7 he was referring to?

8 A. No, I don't.

9 Q. Do you know if it was Exhibit No. 8,
10 Shalline Exhibit No. 8?

11 A. Maybe.

12 Q. But you don't know?

13 A. No.

14 Q. Mr. Gunnard in the upper left-hand corner
15 put a cc up there; is that right?

16 A. Yes.

17 Q. And it has a V. A. Forte underlined, is
18 that right?

19 A. Yes.

20 Q. Who's that?

21 A. Me.

22 Q. Next to that is an September 20, '73, VAF,
23 what's that?

24 A. Me.

1 Q. That's your date stamp?

2 A. My secretary's date stamp.

3 Q. What does that that indicate?

4 A. That she received this letter.

5 Q. Does that indicate she could have shown it
6 to you?

7 A. I believe so.

8 Q. You don't recall her giving it to you?

9 A. No.

10 Q. Did you ever, did Mr. Gunnard ever have
11 any conversations with or ever indicate to you that
12 he had informed Mr. Stewart that in fact you do use
13 trichloroethylene at the plant but that you intend
14 to phase them out by the end of November?

15 A. Don't recall that.

16 Q. You don't recall that?

17 (Witness shook head).

18 Q. Do you know if you did phase out
19 trichloroethylene at the end of November of 1973?

20 A. No.

21 Q. You have no idea?

22 A. No.

23 Q. To this day?

24 A. No.

1 Q. Shalline Exhibit No. 11

2 (Document handed to the witness).

3 Q. Do you recognize that document?

4 A. I saw it yesterday.

5 Q. Ever see it before then?

6 A. I don't remember ever seeing it.

7 Q. You don't know what the document is about,
8 do you?

9 A. No, I don't think so. It doesn't say
10 enough.

11 Q. Shalline Exhibit No. 13; is that right?

12 A. Uh-huh.

13 Q. Do you recognize that document?

14 A. No.

15 Q. Do you recognize that document? No?

16 A. No.

17 Q. When is the first time you saw it?

18 A. Yesterday.

19 Q. You never remember seeing it before then?

20 A. No.

21 Q. Did you know that you had a large spray
22 booth for the spraying of enamel at the Woburn
23 plant in the 1960's?

24 A. Paint spray booth?

1 Q. Yes.

2 A. Yes.

3 Q. Did you know that the enamel was thinned
4 with a chemical?

5 MR. CHEESEMAN: If you ever thought
6 about it.

7 Q. Did you ever think about it?

8 A. Probably.

9 Q. Probably thought about it. When you
10 thought about it, did you think about what it might
11 be?

12 A. No.

13 Q. No?

14 A. No.

15 Q. Did you know it was thinned with xylene?

16 A. No.

17 Q. You didn't know that?

18 A. No.

19 Q. Did you know what the spraying equipment
20 was cleaned with?

21 A. No.

22 Q. Do you know it was cleaned with
23 trichloroethylene?

24 A. No.

1 (Document handed to the witness).

2 Q. Plaintiff's Exhibit, Shalline Exhibit No.
3 14. Do you recognize that document?

4 A. No. I saw it yesterday.

5 Q. You saw it yesterday for the first time?

6 A. Yes.

7 Q. Up in the left-hand corner there is some
8 handwriting; is that right?

9 A. Yes.

10 Q. Do you recognize that handwriting?

11 A. Well, it looks like Jim Watkins.

12 Q. What does it say?

13 A. Vin Forte info.

14 Q. Signed by Mr. Watkins?

15 A. Looks like his signature.

16 Q. It is initialed; is that right?

17 A. His initial. Yes.

18 Q. What does that indicate to you?

19 A. That he sent it to me.

20 Q. Do you ever remember receiving it?

21 A. No.

22 Q. Never?

23 A. No.

24 Q. Did you ever have any conversations with

1 Mr. Watkins about giving you a memo or getting you
2 a memo about various aspects of the plant?

3 A. No.

4 Q. Did you ever ask Mr. Watkins or ask Mr.
5 Watkins to obtain any information about your use of
6 chemicals, the frequency of disposal or the
7 approximate amount of disposal?

8 A. I don't recall asking him.

9 Q. Never?

10 A. No.

11 Q. At the top left-hand corner it says
12 maintenance; is that right?

13 A. Plant maintenance and services.

14 Q. But up in the left-hand corner there is a
15 handwriting there?

16 A. Oh, yes.

17 Q. Whose handwriting is that?

18 A. I don't know.

19 Q. Is that yours?

20 A. No.

21 Q. Is that to go into a maintenance file?

22 A. Maybe. I don't know.

23 Q. Do you have a maintenance file?

24 A. I think Paul has one.

1 Q. Have you ever seen it?

2 A. I think he has a cardex file. I think I
3 have seen it but I'm not sure.

4 Q. Now, on page 8 of that document, it lists
5 chemicals, concentration, frequency of disposal,
6 approximate amount disposal; is that right?

7 A. Uh-huh.

8 Q. Did you ever see that before?

9 A. Not that I recall.

10 Q. Ever?

11 A. Ever.

12 Q. Look at Shalline Exhibit No. 15.

13 (Document handed to the witness).

14 Q. Do you recognize that document?

15 A. No.

16 Q. Did you ever see it before?

17 A. Yesterday.

18 Q. Ever see it before yesterday?

19 A. Not that I recall.

20 Q. Do you remember ever hearing about the
21 fact that a Mr. Bornstein contacted the Woburn
22 plant --

23 A. No.

24 Q. On behalf of a governmental agency to find

1 out how much of particular chemicals were being
2 used at the Woburn plant?

3 A. No.

4 Q. Did you ever hear of that?

5 A. No.

6 Q. Do you know who Mr. Bornstein is?

7 A. No.

8 Q. Do you know that Mr. Shalline discussed
9 chemical use with Mr. Bornstein?

10 A. No.

11 Q. Whose handwriting is this memo, first page?

12 MR. CHEESEMAN: Which part of the
13 page?

14 Q. Any part of the page. Can you recognize
15 the handwriting?

16 A. I recognize Paul Shalline's signature, his
17 initials.

18 Q. Do you see the handwriting in the upper
19 part of the document, up till September use
20 tricloro, 10 gallons?

21 A. I see it.

22 Q. Whose handwriting is that?

23 A. I don't know.

24 Q. You never saw this memo before?

- 1 A. Not that I recall.
- 2 Q. On page 2, Xerox of a handwritten memo?
- 3 A. Uh-huh.
- 4 Q. Whose handwriting is that?
- 5 A. I don't know.
- 6 Q. Is that yours?
- 7 A. No.
- 8 Q. No?
- 9 A. No.
- 10 Q. Do you recognize anybody else's?
- 11 A. No, I don't know.
- 12 Q. What's the handwriting at the top of that
- 13 document? Can you read that, the top of the
- 14 telephone number?
- 15 A. I don't know what it says. I can't read
- 16 it. There are two black marks there.
- 17 Q. Does it indicate it is from a file?
- 18 A. Could be.
- 19 Q. Do you know what kind of file?
- 20 A. No. I can't read it.
- 21 Q. Did you ever hear of the GCA Corporation?
- 22 A. No.
- 23 Q. The Environmental Protection Agency of the
- 24 State of Massachusetts?

1 A. Pardon me?

2 Q. Or the Environmental Protection Agency
3 State of Massachusetts, did you ever hear of that?

4 A. When?

5 Q. Indicated in that handwritten note, have
6 you ever heard about such an objection?

7 MR. CHEESEMAN: Period or a comma or
8 some kind of mark between Environmental Protection
9 Agency and State of Mass.

10 Q. Do you know what that note is referring to?

11 A. No.

12 Q. It says Department of Environmental Health.
13 Department of Environment For Health. Did you ever
14 hear of such a department?

15 A. No.

16 Q. Do you know what they are referring to?

17 A. No.

18 (Document handed to the witness).

19 Q. Shalline Exhibit No. 16. Do you recognize
20 that document?

21 A. I saw it yesterday.

22 Q. Ever see it before yesterday?

23 A. I don't remember it.

24 Q. You don't remember ever seeing it. On the

1 third page it is written by Mr. Campbell. Who is
2 Mr. Campbell?

3 A. He was the chief accountant at the time.

4 Q. At the Woburn plant?

5 A. Yes.

6 Q. Did Mr. Campbell ever show you this memo?

7 A. I don't recall.

8 Q. Are you indicated in the top left-hand
9 corner that you received it?

10 MR. CHEESEMAN: I don't think our
11 copies are legible enough to read that. Do you
12 have a clearer copy there?

13 Q. That's the best one I have. That's the
14 one you gave me.

15 A. Well, it starts with a V.

16 Q. So it must be you?

17 A. Probably.

18 Q. But you don't remember receiving it?

19 A. No.

20 Q. This is a -- Mr. Campbell is sending a
21 memo here about the amount of chemicals that are
22 used; is that right, or the payment for certain
23 chemicals?

24 MR. CHEESEMAN: Asking the witness to

1 interpret the letter?

2 Q. Yes, do you understand what the memo is?

3 A. It looks to me like he was analyzing the
4 expenses of the shop.

5 Q. Of certain chemicals?

6 A. Which he did occasionally. No. Where do
7 you see chemicals?

8 Q. It is H. E. Sampson, three drums of cleaner.

9 A. Oh.

10 Q. And unfortunately your attorney has
11 blacked out the rest of it so I don't know what it
12 is.

13 A. What was your question?

14 Q. Do you understand this to be referring to
15 some of the chemicals being used at the machine
16 shop?

17 A. The letter?

18 Q. Yes.

19 A. No.

20 Q. No?

21 A. No.

22 Q. But you never remember receiving it?

23 A. No.

24 Q. Do you know what it is about?

1 A. It says he is analyzing the charges.

2 Q. Did you ever discuss with Mr. Campbell
3 from time to time the charges for various supplies
4 in the machine shop?

5 A. Sure. We reviewed costs from time to time.

6 Q. Do you ever --

7 A. Of the whole operation.

8 Q. Do you ever review costs of chemical
9 purchases?

10 A. No.

11 Q. Or the chemicals you were purchasing?

12 A. No.

13 Q. That wasn't important to you?

14 A. No.

15 Q. Plaintiff's Exhibit 17.

16 (Document handed to the witness).

17 Q. Do you recognize that document?

18 A. Yes.

19 Q. What is that document, Shalline Exhibit 17?

20 A. It is a letter from the United States
21 Environmental Protection Agency to me.

22 Q. Do you remember receiving it?

23 A. Yes.

24 Q. Do you remember reading it?

1 A. Yes.

2 Q. What did you understand that that letter
3 was?

4 A. The letter asking questions about our
5 activities.

6 Q. Do you remember the day you received it?

7 A. No.

8 Q. You do remember receiving it?

9 A. Yes.

10 Q. And you understood that the EPA was asking
11 you for information pursuant to a governmental
12 statute; is that right?

13 A. Well, I didn't know -- well, if it says so.
14 They were asking for information.

15 Q. Did you understand that they were doing it
16 as part of their responsibilities as the United
17 States Environmental Protection Agency?

18 A. Ask that question again.

19 Q. Did you understand that this letter was
20 being sent as an official capacity of the United
21 States Environmental Protection Agency?

22 A. Yes.

23 Q. This was an official letter from the
24 government; is that right?

1 A. Yes.

2 Q. Did you understand it was asking certain
3 information pursuant to a statute of the United
4 States of America?

5 A. Well, I don't know that I would know that.

6 Q. Well, doesn't it indicate on the top of
7 the letter that it is a request for information
8 pursuant to Section 3007 of the Resource
9 Conservation and Recovery Act, 42 U.S.C. Section
10 6927?

11 A. That's what it says.

12 Q. Did you understand that's what it in fact
13 was, a request for information pursuant to that
14 statute?

15 A. Yes.

16 MR. CHEESEMAN: You're asking for a
17 legal interpretation of the letter?

18 Q. No, his understanding.

19 MR. CHEESEMAN: You're asking him if
20 he read those words and saw them on the page?

21 Q. No, I am asking him if he understood that
22 to mean that the government was making an official
23 request under a statute of the United States.

24 A. That's what it says. I don't know what

1 3007 is.

2 Q. Did you understand this to be a request
3 for information pursuant to a federal statute?

4 A. That's what it says.

5 Q. Did you understand it to be that?

6 A. I did because it says it.

7 Q. So you understood it to be that?

8 A. Yes.

9 Q. Did you understand that you had a legal
10 obligation to provide information to the United
11 States Environmental Protection Agency? Was that
12 your understanding?

13 A. Yes.

14 Q. That you had such an obligation?

15 A. Yes.

16 Q. Did you have, was it your understanding
17 that you had an obligation to provide truthful
18 information --

19 A. Yes.

20 Q. To the --

21 A. Excuse me.

22 Q. To the United States Environmental
23 Protection Agency?

24 A. Yes.

1 Q. Was it your understanding that the
2 information that they were asking that you had a
3 legal obligation to provide them information to the
4 questions that they were asking?

5 A. Yes.

6 Q. After you received the letter, you read it
7 and then what did you do?

8 A. I referred it to counsel.

9 Q. And which counsel did you refer it to?

10 A. W. R. Grace counsel.

11 Q. Who was the attorney that you referred it
12 to?

13 MR. CHEESEMAN: If you remember.

14 A. The name is a blank.

15 Attorney in Cambridge. Mario.

16 MR. CHEESEMAN: You think it was

17 Mario Favorito?

18 A. Mario Favorito.

19 Q. In Cambridge?

20 A. Cambridge.

21 Q. After you referred the letter to Mr.
22 Favorito in Cambridge, did you refer the letter to
23 anybody else?

24 A. I think I did send it to South Carolina.

1 Q. Sent a copy of it to South Carolina?

2 A. I believe so.

3 Q. Who did you send it to?

4 A. I think it was Dick Stewart.

5 Q. Did you have a telephone conversation with
6 Mr. Stewart?

7 MR. CHEESEMAN: About this?

8 Q. When you received the letter.

9 A. I don't know if it was exactly at that
10 time, but I had conversation with Dick Stewart
11 about the letter.

12 Q. So the first thing you did, you sent the
13 letter to Mr. Favorito, your attorney for W. R.
14 Grace --

15 A. Uh-huh.

16 Q. In Cambridge and you also sent a copy of
17 it to Mr. Stewart in South Carolina?

18 A. I believe so.

19 Q. Did you send a copy to anybody else?

20 A. Not that I recall.

21 Q. What else did you do other than sending a
22 copy of anything concerning this letter?

23 A. Well, we started to look up accurate
24 information to answer it.

1 Q. And when you say we, who are you referring
2 to?

3 A. Well, I asked my people to give me
4 information relating to the questions.

5 Q. All right. And did you undertake this
6 investigation on your own?

7 A. On my own?

8 Q. Did somebody order you to do this
9 investigation or did you decide to do the
10 investigation yourself?

11 A. We had an obligation to answer the letter,
12 so it came on to me and it was important and I
13 obtained as much of the information as I could.

14 Q. I understand, but what I'm asking you, did
15 anybody from W. R. Grace indicate to you that you
16 should make a response to this letter or did you
17 make that decision on your own?

18 A. Well, counsel advised that we should.

19 MR. CHEESEMAN: You needn't describe
20 anything that your attorney said to you, okay,
21 because that is privileged. The conversations with
22 counsel are privileged.

23 Q. Other than your attorney, Mr. Favorito in
24 Cambridge, did anybody from W. R. Grace indicate to

1 you that you should make a response to this letter?

2 A. Not that I recall.

3 Q. You made that decision on your own?

4 MR. CHEESEMAN: On advice of counsel.

5 A. Okay. On advice of counsel.

6 Q. You decided to make the response to the

7 EPA?

8 A. Yes.

9 Q. Did Mr. Stewart ever contact you
10 concerning this letter?

11 A. Probably. We had several communications.

12 Q. All right.

13 A. Telephone communications.

14 Q. What's the first conversation you remember?

15 A. Oh, I don't remember the details of the
16 conversation.

17 Q. Do you remember receiving a telephone
18 conversation from Mr. Stewart, more than one
19 conversation?

20 A. We talked more than once, yes.

21 Q. Tell me what you remember about your
22 telephone conversations with Mr. Stewart about
23 answering this letter.

24 A. I don't know.

1 I don't really remember what I asked
2 him or what he said.

3 Q. Well, do you remember that Mr. Stewart
4 talked to you?

5 A. I know he did but I can't remember the
6 conversation.

7 Q. Well, do you remember what he indicated to
8 you?

9 A. Other than to gather the information to
10 answer the letter, I don't recall anything specific.

11 Q. Did he say what you should do to gather
12 the information?

13 A. He may have. He may have.

14 Q. What did he say?

15 A. I don't remember.

16 Q. You don't know what he told you about
17 gathering the information?

18 A. No, I think we just dug out whatever
19 information we could to answer the question.

20 Q. I'm talking now about your conversation
21 with Mr. Stewart.

22 A. I don't remember what we discussed.

23 Q. Did you indicate to him in fact you were
24 going to gather the information?

1 A. Probably.

2 Q. What did you indicate to him?

3 MR. CHEESEMAN: Just answer yes or no
4 whether you remembered.

5 A. I don't remember.

6 Q. Do you remember indicating to him that you
7 were going to gather information?

8 A. I don't remember. I don't remember the
9 details of our conversation.

10 Q. I'm not asking for the details. I am
11 asking for your best memory of the conversation.

12 A. Best memory, I don't remember.

13 Q. You don't remember?

14 A. No.

15 Q. You have no idea what you and Mr. Stewart
16 discussed about answering the EPA letter?

17 A. No.

18 Q. Did you take your responsibilities
19 seriously about answering the EPA letter?

20 A. Yes, I did.

21 Q. Did you think it was important?

22 A. Yes, I did.

23 Q. Was this the first time the Environmental
24 Protection Agency had sent you a letter?

1 A. Yes, it is.

2 Q. Was it the first time you had ever
3 received such a letter from any governmental agency?

4 A. To my knowledge, yes.

5 Q. Was it an unusual event in your life?

6 A. Yes.

7 Q. You weren't used to answering these
8 letters before receiving this letter, were you?

9 A. No.

10 Q. So you were curious as to what your legal
11 obligations were, weren't you?

12 A. Yes.

13 Q. So you must have had a discussion with Mr.
14 Stewart, didn't you?

15 A. Yes.

16 Q. But you can't remember what that
17 conversation was?

18 A. No.

19 Q. Did Mr. Stewart ever come to the Woburn
20 plant?

21 A. Yes.

22 Q. When did he come to the Woburn plant?

23 A. I don't remember. After the letter.

24 Q. After the letter. Do you remember how

1 long?

2 A. He might have come other times but after
3 the letter.

4 Q. Was this the first time he ever came to
5 the Woburn plant, after this letter?

6 MR. CHEESEMAN: On any subject?

7 A. No.

8 Q. On any subject?

9 A. No, he has been up there before.

10 Q. Had he been up there before?

11 A. Uh-huh.

12 Q. How many times had he been up there before?

13 A. I don't know.

14 Q. Was he there in the 1970's?

15 A. I don't remember.

16 Q. Was he there in the 1960's?

17 A. I don't remember.

18 Q. Did he contact you or did he talk to you
19 when he was up in the Woburn plant or did he walk
20 around all by himself?

21 A. He might stop and say hello, talk to Paul
22 and the production manager.

23 Q. Did you have any conversation when he was
24 up there at the plant?

1 MR. CHEESEMAN: On any occasion?

2 Q. On any subject on any occasion.

3 A. Rarely.

4 Q. Hum?

5 A. I don't remember any.

6 Q. You don't remember. You remember Mr.

7 Stewart came up to the plant?

8 A. I have seen him at the plant.

9 Q. You don't know how many occasions?

10 A. No.

11 Q. You don't know what the purpose of his
12 visit was?

13 A. Well, he would be visiting with respect to
14 something he wanted to discuss with Paul Shalline.

15 Q. All right. But you have no idea what he
16 wanted to discuss with Mr. Shalline?

17 A. No.

18 Q. You never found out?

19 A. No.

20 Q. You don't know to this day?

21 A. No.

22 Q. You never had any conversations with him?

23 A. No. Well, I might have said hello.

24 Q. But you can't remember anything else other

1 than saying hello?

2 A. Uh-huh.

3 Q. Now after the letter came to you from the
4 EPA, Mr. Stewart did come to the Woburn plant?

5 A. I believe he did.

6 Q. This time did you have a conversation with
7 him?

8 A. I believe so.

9 Q. You believe you did?

10 A. I think so.

11 Q. Did you have it in your office?

12 A. I really don't remember.

13 Q. Did you meet him at the airport when he
14 flew in?

15 A. No, I did not.

16 Q. Did you meet him at the plant?

17 A. I just seem to recall that he came up and
18 we did discuss this situation.

19 Q. All right. Who did you -- when did you
20 discuss it with him?

21 A. I don't know.

22 Q. You don't know. Do you know who was
23 present when you discussed it with him?

24 A. I don't remember.

1 Q. You don't remember. Was it you and him or
2 somebody else?

3 A. I don't remember.

4 Q. What did Mr. Stewart indicate to you in
5 that conversation that you had if anything?

6 A. I don't recall that he indicated very much.

7 Q. Did he say hello?

8 A. Yes.

9 Q. You remember that?

10 A. Well, I don't remember that either.

11 Q. You don't know if he said hello or not?

12 A. No.

13 Q. But you don't remember anything else he
14 said either?

15 A. No, I know we discussed it but I don't
16 recall any of the details of the discussion.

17 Q. Did you greet him when you met him?

18 A. Probably.

19 Q. You don't remember?

20 A. No.

21 Q. Do you remember if you said anything to
22 him?

23 A. I don't remember the details of our
24 discussion.

1 Q. I'm not asking for the details. I am --

2 A. I don't even remember what he said.

3 Q. You have no idea what you said?

4 MR. CHEESEMAN: Jan, I'd like you to
5 back off a little bit. I think you are pushing the
6 witness too hard. Let's just slow it down.

7 MR. SCHLICTMANN: Your opinion.

8 MR. CHEESEMAN: Yes, it is my opinion.

9 Q. I'm not asking for the details here, Mr.
10 Forte. I am asking for you to tell me what you
11 remember about the meeting with Mr. Stewart.

12 A. I said many times, I don't remember what
13 we discussed.

14 Q. And you have no idea what you discussed,
15 is that right?

16 MR. CHEESEMAN: Just answer each
17 question as it comes, yes or no, okay?

18 A. No.

19 Q. No idea?

20 A. No.

21 Q. All right. When Mr. Stewart came, did you
22 do anything?

23 A. I don't recall.

24 Q. Did you talk to other employees with Mr.

1 Stewart?

2 A. I don't recall if we did.

3 Q. You don't know if you did or not. May you
4 have?

5 MR. CHEESEMAN: Objection. Go ahead.

6 A. I don't remember.

7 Q. Was Mr. Shalline present when you had
8 conversation with Mr. Stewart?

9 A. I don't remember.

10 Q. How long did Mr. Stewart stay there at the
11 plant?

12 A. I don't know.

13 Q. You don't know if it was a day?

14 (Witness shook head).

15 Q. Two days?

16 (Witness shook head).

17 Q. A week, a month?

18 A. Don't know.

19 Q. Six months?

20 A. Don't know.

21 Q. Was he there five minutes?

22 A. Don't know.

23 Q. Could he have been there just a minute and
24 left?

1 A. Unlikely.

2 Q. You think it was more than a minute?

3 A. Yes.

4 Q. Do you have any idea how long it was?

5 A. You want me to guess?

6 Q. Yes.

7 MR. CHEESEMAN: No.

8 Q. What's your best memory?

9 MR. CHEESEMAN: If you remember how
10 long, even approximately.

11 A. I don't know.

12 Approximately?

13 Q. Approximately.

14 A. A day, possibly two.

15 Q. So you think he was there about a day or
16 possibly two?

17 A. I think.

18 Q. Were you with him during the time that he
19 was at the plant?

20 A. Probably part of the time.

21 Q. How long of the time were you with him?

22 MR. CHEESEMAN: If you remember.

23 A. I don't remember.

24 Q. What did you do during the time that you

1 were with him?

2 A. I don't remember what we discussed.

3 Q. What did you do?

4 A. What did we do?

5 Q. Yeah, did you just have a conversation or
6 did you do something?

7 A. I think we just had a conversation as I
8 recall.

9 Q. Did you go around the plant together?

10 A. I don't remember.

11 Q. Did you go to look at files?

12 A. No, we did not.

13 Q. You remember not looking at files?

14 A. Right.

15 Q. That's one thing you do remember?

16 A. That I did not look at files.

17 Q. You remember that you didn't look at files
18 with Mr. Stewart?

19 A. I did not look at files with anyone.

20 Q. You remember that at no time did you look
21 at files with anybody concerning replying to this
22 EPA letter of Jan of '82; is that correct?

23 A. That's correct.

24 Q. You have a clear memory of that?

1 A. Yes.

2 Q. That's the one thing you remember?

3 A. Yes.

4 Q. About Mr. Stewart, do you remember whether
5 he looked at files?

6 A. I don't know.

7 Q. Why is it that you remember you didn't
8 look at files?

9 A. Because I didn't.

10 Q. Is that a policy on your part not to look
11 at files ever?

12 A. No. I just didn't.

13 Q. You made the decision not to look at files
14 to respond to the EPA letter?

15 A. I did not look at files.

16 Q. Did you make that decision not to look at
17 files?

18 A. If I didn't look at files, I made the
19 decision.

20 Q. Not to look at any files?

21 A. Yes.

22 Q. In response to the EPA's letter of January
23 1982?

24 A. Yes.

1 Q. Now, do you know if Mr. Stewart looked at
2 any files?

3 A. I do not know.

4 Q. Do you know if Mr. Shalline looked at any
5 files?

6 A. I do not know.

7 Q. Do you have any knowledge as to anybody
8 who worked for you or under you at the Woburn plant
9 looked at any files to respond to the United States
10 Environmental Protection Agency's letter of January
11 1982?

12 A. I don't recall. I don't know.

13 Q. Now, Mr. Stewart left after a day or two?

14 A. I believe so.

15 Q. What if anything was the result of his
16 visit?

17 A. I don't know that there was any result.

18 Q. Did he indicate to you what your
19 responsibilities were?

20 A. No.

21 Q. Did he indicate what you should do?

22 A. No.

23 Q. He just left?

24 A. Yes.

1 Q. After he left, did he come back again?

2 A. I don't recall.

3 Q. Did Mr. Stewart take notes during the
4 visit?

5 A. I don't know.

6 Q. Did Mr. Stewart interview employees during
7 the visit?

8 A. I don't recall if he did.

9 Q. Was anybody else with Mr. Stewart from
10 South Carolina?

11 A. I don't remember.

12 Q. But you do remember he left sometime?

13 A. I'm trying to remember that he came up.

14 Q. Now you don't even remember whether he
15 came up or not?

16 A. I'm sure he came up after this letter. It
17 is the timing I don't know.

18 Q. But you remember him coming up?

19 A. Yes.

20 Q. And you remember him leaving?

21 A. I don't know when he left but he did leave.

22 Q. And you don't know what he did when he was
23 there?

24 A. No.

1 Q. After he left, did he ever come back?

2 A. He has been up several times.

3 Q. Was he ever up in regard to answering this
4 EPA letter of January 1982?

5 A. I don't believe so.

6 Q. So that was the first and last time you
7 saw Mr. Stewart concerning answering the EPA letter
8 of January 1982; is that right?

9 A. I believe so.

10 Q. Now, you said Mr. Stewart was up several
11 other times after this --

12 A. Yes.

13 Q. Visit in answering the letter of January
14 1982?

15 A. Yes.

16 Q. How many times has he been up there?

17 A. Several times.

18 Q. Why has he been up there?

19 A. He has been involved in the EPA situation.

20 Q. The EPA situation?

21 A. Uh-huh.

22 Q. When you say the EPA situation, what are
23 you referring to?

24 A. The drums.

1 Q. The drums, what drums?

2 A. Behind the building.

3 Q. What drums behind the building?

4 A. Well, the pit behind the building I should
5 say. I'd like to correct that.

6 Q. The pit behind the building. The pit in
7 which the drums were buried?

8 A. The pit that was behind the building,
9 right.

10 Q. With the drums that were buried?

11 A. Which we know now.

12 Q. Had drums in it?

13 A. We know now.

14 Q. Right.

15 A. Mr. Stewart has been up because of that?

16 A. He has been involved in this whole EPA
17 thing.

18 Q. And have you had conversations with him
19 about this?

20 MR. CHEESEMAN: Yes or no.

21 A. Yes.

22 Q. You have?

23 A. Yes.

24 Q. Do you remember these conversations?

1 MR. CHEESEMAN: Yes or no. Just
2 answer yes or no.

3 A. No.

4 Q. You don't remember these conversations?

5 A. No.

6 Q. How many conversations have you had with
7 Mr. Stewart about this business regarding the pit
8 in the back of the plant where the drums were
9 buried?

10 A. Three or four.

11 Q. And when did these take place, what period
12 of time?

13 A. During the times he visited or we were at
14 meetings.

15 Q. What year was this?

16 A. 19 -- what's the date of this letter?
17 Between '82 and now.

18 Q. Between 1982 and now?

19 A. Uh-huh.

20 Q. These visits take place at the plant?

21 A. Some of them.

22 Q. The first one that you remember after he
23 left the plant when he came to help you answer this
24 EPA letter of January 1982, when was the first time

1 you remember him coming to the plant?

2 A. Did I say he helped me answer the letter?

3 Q. All right. You don't remember him helping
4 you answer the letter?

5 A. Huh?

6 Q. You don't remember him helping you answer
7 the letter?

8 A. No.

9 Q. You didn't understand he was there to help
10 you answer the letter?

11 A. No, he was interested in what was going on
12 and he wanted to know about it I'm sure. That's
13 the only thing I remember.

14 Q. But he wasn't there to help you?

15 A. Well, if he could he would.

16 Q. Do you remember that he did help you
17 answer the letter?

18 A. No, not that I recall.

19 Q. It was your responsibility?

20 A. Yes.

21 Q. And nobody helped you?

22 A. No, I didn't say that.

23 Q. Who helped you?

24 A. Counsel.

1 Q. And other than counsel, who helped you?

2 A. No one.

3 Q. No other person?

4 A. Not in answering the letter.

5 Q. Answering the letter, nobody helped you
6 except you and your counsel?

7 MR. CHEESEMAN: You're referring to
8 the drafting of the letter now?

9 A. Drafting of the letter.

10 Q. Now, gathering information to answer the
11 letter, who helped you?

12 A. Paul Shalline, Frank Kelly. I think I
13 talked to Tom Barbas. Barbas, Shalline, Kelly.

14 Those were the three people as I
15 recall. I think I talked to Al Love, too. I asked
16 him what he remembered. Four people I think.

17 Q. You remember talking to Paul Shalline,
18 Frank Kelly, Tom Barbas and Al Love?

19 A. Yes.

20 Q. To answer the letter for the EPA?

21 A. To get information.

22 Q. To get information to answer the letter to
23 the EPA?

24 A. Yes.

1 Q. And every one of those people provided you
2 information?

3 A. Well, whatever they could provide me.

4 Q. Now, did you discuss answering the letter
5 to these four people in the presence of Mr. Stewart?

6 A. I don't recall that.

7 Q. Were you ever in the presence of Mr.
8 Stewart at which the items contained in this
9 request of January 1982 from the government were
10 discussed?

11 A. I don't remember.

12 Q. Do you remember having conversations with
13 Mr. Shalline, Mr. Kelly and Mr. Barbas and Mr. Love?

14 A. Yes.

15 Q. Do you remember having conversations in
16 the presence of them individually or in the
17 presence of other people?

18 A. They could have been together. Two of
19 them may have been together at one time or another
20 when I talked to hem.

21 Q. After Mr. Stewart left, did he ever call
22 you again or did you have any telephone
23 conversations about the information requested by
24 the government in the January 1982 letter?

1 A. I don't recall.

2 Q. You don't recall any?

3 A. No.

4 Q. You don't recall Mr. Stewart ever coming
5 back to the plant other than that one visit?

6 MR. CHEESEMAN: On this subject?

7 Q. On the subject of answering the EPA's
8 letter of January of 1982?

9 A. I don't recall that.

10 Q. Now, other than that visit with Mr.
11 Stewart, what did you do to gather information to
12 answer the EPA letter? Tell me exactly what you
13 did.

14 A. Well, I talked to Paul Shalline.

15 Q. All right. When did you talk to him?

16 A. After I got the letter. I don't remember
17 the day.

18 Q. Do you remember calling him into your
19 office or going to his office?

20 A. One or the other. I talked to him.

21 Q. All right. What do you remember talking
22 to him about?

23 A. Well, I asked him, I showed him, probably
24 showed him the letter.

1 Q. Yeah.

2 A. And asked him what he could tell me about
3 the information in the letter with respect to
4 answering it.

5 Q. What did he say?

6 A. I don't remember.

7 MR. CHEESEMAN: Don't guess. If you
8 remember what he said, you can answer.

9 Q. What do you remember him indicating to you?

10 A. Well, he gave me some information which I
11 used for an answer and I don't recall what it was.

12 Q. He gave you information?

13 A. Yes.

14 Q. Mr. Kelly, what did you do with Mr. Kelly?

15 A. He also gave me information.

16 Q. All right. Did you talk to Mr. Kelly?

17 A. Yes.

18 Q. How many times did you talk to Mr. Kelly?

19 MR. CHEESEMAN: About this?

20 Q. About answering, about the information
21 requested by the EPA in the letter of January 1982?

22 A. A couple of times.

23 Q. The first conversation.

24 A. Two or three times.

1 Q. The first conversation, what do you
2 remember, what took place?

3 A. I just asked him some questions, what he
4 remembered.

5 Q. Remembered what?

6 A. About the questions in the letter.

7 Q. What questions specifically?

8 A. Let me find it. With respect to question
9 10.

10 Q. I am sorry.

11 A. With respect to question ten.

12 Q. All right. Question ten in the EPA letter
13 asked did W. R. Grace and/or any subsidiary, branch,
14 and/or division at 369 Washington Street, Woburn,
15 Massachusetts ever dig or hire someone to dig any
16 holes, trenches, pits or other excavation at 369
17 Washington Street, Woburn, Massachusetts?

18 You asked Mr. Kelly about that?

19 A. Yes.

20 Q. Why?

21 A. Because he knew everything that went on.

22 Q. Why did Mr. Kelly know everything that
23 went on?

24 A. He was the shipper and he was an old timer

1 and he was out there all the time.

2 Q. He was out there all the time?

3 A. Yes.

4 Q. When you say out there, what are you
5 referring to?

6 A. I mean in the production, shipping area.

7 Q. Which is to the rear of the plant?

8 A. Yes.

9 Q. He was out there all the time. He knows
10 what's going on?

11 (Witness nodded).

12 Q. So you talked to him?

13 A. I asked him.

14 Q. You asked him -- did you say specifically,
15 what did you ask him?

16 A. I asked him if he knew anything about pits
17 or things of that sort, the question.

18 Q. What did Mr. Kelly indicate to you?

19 A. He said he did.

20 Q. What did he say?

21 A. He said we did dig a pit.

22 Q. What did he say about it?

23 A. He said we dumped some barrels in, the
24 contents of barrels.

1 Q. What else did he say?

2 A. That was it. Oh, I asked him who dug the
3 pit, and he told me Manzelli. He remembered even
4 Manzelli.

5 Q. What else did he remember?

6 A. That's it.

7 Q. What else did he tell you?

8 A. That's it.

9 Q. Did he tell you how many barrels he poured
10 into the pit?

11 A. Oh, oh. I think he said ten or fifteen.

12 Q. Well, did he?

13 A. Well, if I answered, whatever the answer
14 is. Let me see what the answer is.

15 MR. CHEESEMAN: I think --

16 Q. I'm asking what you remember.

17 MR. CHEESEMAN: He's asking what you
18 remember.

19 A. I don't remember.

20 Q. You don't remember what he said?

21 A. I remember he said what I told you.

22 Q. I'm asking you, what do you remember him
23 saying about what went into that pit?

24 A. He gave me some idea of the number of

1 barrels, which I don't remember the number unless I
2 look at the answer that I wrote the EPA.

3 Q. Other than that you don't have any other
4 memory of it?

5 A. No, that's it.

6 Q. What else did he tell you?

7 A. That's it.

8 Q. What did he say about the drums that went
9 into the pit?

10 A. He didn't.

11 Q. Did he indicate to you the drums were
12 buried in the pit?

13 A. No.

14 Q. Never did?

15 A. No.

16 In fact I didn't ask him.

17 Q. Were you present with Mr. Shalline when
18 you talked to Mr. Kelly?

19 A. I don't recall. I don't think so.

20 Q. What else did Mr. Kelly indicate to you?

21 A. That's it. That's all.

22 Q. What questions did you ask him?

23 A. Asked him about the pit.

24 Q. Tell me the questions you asked him.

1 A. I asked him what we did with the pit and
2 he told me.

3 Q. I want to hear what you asked him and what
4 you told him.

5 MR. CHEESEMAN: If you remember
6 beyond what you have already testified to.

7 A. I already testified.

8 Q. Tell me exactly.

9 A. Again?

10 Q. Yes, what you remember and what he told
11 you.

12 A. I asked him if he knew about any pits. He
13 said he did, and I asked him: Well, who dug the
14 pit? And he told me and I said: What did we do
15 with it? And he said: We dumped what was in the
16 barrels in the back of the plant into the pit.

17 Q. Yes.

18 A. That's it.

19 Q. Did he indicate what was in the barrels?

20 A. No.

21 Q. Did he indicate what barrels he was
22 talking about?

23 A. Barrels in the back of the plant.

24 Q. Did he indicate the number of barrels in

1 the back of the plant?

2 A. He did but I don't remember.

3 Q. Did you know what barrels he was referring
4 to.

5 A. Barrels in the back of the plant because
6 there were some barrels from time to time in the
7 back of the plant.

8 Q. Always 55 gallon drums in the back of the
9 plant?

10 A. Some.

11 Q. Some. How many?

12 A. I don't know.

13 Q. It varied?

14 A. Right.

15 Q. What would the numbers vary from?

16 A. Half a dozen to a dozen, ballpark.

17 Q. How often would it vary?

18 A. I don't know.

19 MR. CHEESEMAN: How often would it
20 vary?

21 Q. How often would it vary?

22 A. I don't know.

23 Q. Would it vary day-to-day?

24 A. I wouldn't know.

1 Q. Week to week?

2 A. I wouldn't know.

3 Q. Month to month?

4 A. I don't know.

5 Q. Year to year?

6 A. I don't know.

7 Q. All right. That was your first
8 conversation with Mr. Kelly. What was your second
9 conversation with Mr. Kelly?

10 A. Asked him if he remembered anything else.

11 Q. Was it the same conversation or did you
12 come back?

13 A. About this conversation before we
14 finalized.

15 Q. You are still on the first. So you did
16 ask him other questions?

17 A. No, I said I went back to double check
18 that he didn't remember anything else that I should
19 know about in answering the letter.

20 Q. When did you double check?

21 A. I don't know, a week later, two weeks
22 later.

23 Q. Why did you go back to double check?

24 A. Just to be sure that he didn't recall

1 something else.

2 Q. What did you say?

3 A. I wanted to give an accurate answer to the
4 letter.

5 Q. What did you say to Mr. Kelly?

6 A. I said: Do you remember anything else
7 that's important that I should know? And he said:
8 No. I told you.

9 Q. Is that all you said to him?

10 A. Yeah.

11 Q. And that's all he said to you?

12 A. Yes.

13 Q. What was your other conversation with Mr.
14 Kelly?

15 A. That was it.

16 Q. You said there were two to three?

17 A. Well, it is two then.

18 Q. Not more than two?

19 A. No.

20 Q. Mr. Barbas, when did you talk to him?

21 A. After we got the letter.

22 Q. Why did you go to Mr. Barbas?

23 A. Well, he was involved in the painting and
24 everything.

1 Q. So why did you go to him?

2 A. Well, because he was involved in painting
3 and the barrels were in his area and I wanted to
4 make sure that he didn't have any information to
5 contribute to the letter.

6 Q. All right. When you went to Mr. Barbas,
7 what did you say to him?

8 A. I said: What do you know about it? I
9 don't recall the question because I don't know what
10 I might have referred to. Let me look at it.
11 (Witness looked at document).

12 I think I asked him the same
13 questions I asked Kelly about the pit.

14 Q. What did Mr. Barbas say?

15 A. I can't see anything else that I would
16 have asked him.

17 Q. What did Mr. Barbas tell you?

18 A. I don't recall if he said he remembered or
19 not.

20 Q. What's your best memory?

21 MR. CHEESEMAN: If you remember
22 anything.

23 A. I really don't remember what he said.

24 Q. You don't remember what he said. Do you

1 remember him telling you --

2 A. Wait a minute. Hold it. I'd like to go
3 back to the last question.

4 (Witness looked at document).

5 I don't remember exactly but I think
6 I asked him with respect to question No. 7 and 8.

7 Q. Why did you ask him about 7 and 8?

8 A. If he recalled what the -- no, that's the
9 tank. Forget it.

10 Q. What about the tank?

11 A. Retract that.

12 Q. What about the tank?

13 A. We didn't have a tank. That's not in
14 question. Forget it. Cancel that remark.

15 No, I think I asked him the same
16 question I asked Kelly.

17 Q. Tell me exactly what you remember asking
18 or indicating to Mr. Barbas.

19 A. If he knew anything about the pit and
20 about what went in it and that sort of thing, and I
21 don't recall what his answer was at the time. I
22 don't know whether he agreed with Kelly or he said
23 he didn't know. I don't remember.

24 Q. He may have agreed with Kelly?

1 A. He may have or -- I don't remember.

2 Q. What else did you talk to him about?

3 A. I think that's it.

4 Q. All right.

5 Mr. Love.

6 MR. CHEESEMAN: Is that a question?

7 Q. Yes.

8 A. What's the question?

9 Q. Did you ever talk to Mr. Love?

10 A. Yes.

11 Q. How many times did you talk to Mr. Love?

12 MR. CHEESEMAN: About this?

13 Q. About this incident?

14 A. At least once, possibly twice.

15 Q. What do you remember about talking to Mr.
16 Love about this incident?

17 A. Same questions.

18 Q. What did you ask him?

19 A. What he remembered about the pit and with
20 what we put in the pit.

21 Q. What did Mr. Love tell you?

22 A. Again, after Kelly, I don't recall if he
23 agreed with Kelly or not, if he remembered it.

24 Q. What did he tell you? What do you

1 remember him indicating to you?

2 A. That's what I'm telling you. I don't
3 remember if he agreed with Kelly or not.

4 Q. Did you take notes on these conversations?

5 A. No.

6 Q. Never took any notes?

7 A. No.

8 Q. How about Mr. Shalline, how many times did
9 you talk to Mr. Shalline?

10 MR. CHEESEMAN: About this subject?

11 Q. This subject.

12 A. Several times.

13 Q. How many times?

14 A. Half a dozen, I guess.

15 Q. What do you remember about these
16 conversations with Mr. Shalline that you had you
17 think at least a half dozen times?

18 MR. CHEESEMAN: I don't think he said
19 at least half a dozen times. He said about.

20 A. Approximately.

21 Q. Approximately a half dozen times. What do
22 you remember about them?

23 A. What I remember is asking him about these
24 chemicals.

1 Q. Listed by the EPA?

2 A. The ones in their letter.

3 Q. What did he say to you?

4 A. I don't remember what he said to me
5 because there is a list of chemicals here and my
6 answer to the EPA letter will indicate what he told
7 me.

8 Q. Well, Mr. Forte, I want to ask you, I want
9 to know what you remember as best you can Mr.
10 Shalline telling you about the use of
11 trichloroethylene at the plant. What did he tell
12 you? What do you remember him telling you?

13 A. I don't remember exactly what he said. He
14 said something about trichloroethylene, but I don't
15 remember. I have to look at the answer to this
16 letter to know, to refresh my memory.

17 Q. All right.

18 Before I ask you to look at the
19 letter, I want to know what your memory is now.

20 A. I don't remember.

21 Q. Did he indicate that the plant used
22 trichloroethylene?

23 A. I don't remember.

24 Q. What did he tell you about

1 tetrachloroethylene?

2 A. I don't remember. I have to look at the
3 answer.

4 Q. Did he tell you the plant used
5 tetrachloroethylene?

6 A. He may have. I don't remember.

7 Q. How about Toluene?

8 A. I don't remember.

9 Q. How about chloroform?

10 A. I don't remember.

11 Q. How about 1,1,1-trichloroethane?

12 A. I don't remember.

13 Q. Methylene chloride?

14 A. I don't remember.

15 Q. 1,1-dichloroethylene?

16 A. I don't remember.

17 Q. Acetone?

18 A. I don't remember.

19 Q. How about methyl isopropyl ketone, what do
20 you remember Mr. Shalline telling you about that?

21 MR. CHEESEMAN: If anything.

22 A. I don't remember.

23 Q. How about Benzene, what do you remember
24 Mr. Shalline telling you about Benzene?

1 A. Don't remember.

2 Q. How about chlorobenzene?

3 A. I don't remember.

4 Q. How about 1,2-transdichloroethylene?

5 A. Don't remember.

6 Q. You have no recollection of what he
7 indicated to you?

8 A. If I look at the letter, I'll tell you
9 what he told me.

10 MR. CHEESEMAN: The question is what
11 you remember, not what you wrote.

12 Q. I'm asking about your memory.

13 A. Well.

14 Q. What do you remember?

15 A. I don't remember.

16 Q. Is it fair to say then whatever you wrote
17 in that letter is what Mr. Shalline told you?

18 A. Probably.

19 Q. So whatever you wrote in that letter
20 concerning use of chemicals was information you
21 received from Mr. Shalline; is that right?

22 A. I believe so.

23 Q. You did not do anything else to determine
24 the use of chemicals at the plant to answer the EPA

1 letter other than go to Mr. Shalline; is that right?

2 MR. CHEESEMAN: That's not what he
3 testified to.

4 Q. I'm asking asking the question.

5 A. What's the question?

6 Q. Other than Mr. Shalline, you did not
7 consult any other source to determine what
8 chemicals were used at the plant to answer the
9 letter of the EPA; is that right, sir?

10 A. I don't think so.

11 Q. That's wrong. What other source did you
12 go to to determine what chemicals were used?

13 A. I don't remember going to any other source.

14 Q. Other than Mr. Shalline you don't remember
15 going to any other source; is that right?

16 A. That's right.

17 Q. Is it fair to say then that Mr. Shalline
18 was your sole source of information about the
19 chemicals used at the plant in order to answer the
20 EPA; is that right?

21 MR. CHEESEMAN: You're asking all
22 along here about what Mr. Forte personally did.
23 You're not asking what others did?

24 Q. I am asking what Mr. Forte did. You

1 answered the letter, didn't you, Mr. Forte?

2 A. Yes.

3 Q. Did anybody else answer the letter?

4 MR. CHEESEMAN: He already testified
5 other people assisted him.

6 A. Counsel.

7 Q. Who answered the letter?

8 MR. CHEESEMAN: Asking him who
9 drafted the letter or who signed it?

10 Q. Who answered the letter?

11 Who do you understand answered the
12 letter?

13 A. I signed the letter.

14 Q. Did you draft the letter?

15 A. With counsel's help.

16 Q. Other than your counsel's help, did
17 anybody else draft that letter?

18 A. No.

19 Q. Just you and your counsel?

20 A. Yes.

21 Q. And you signed it?

22 A. Yes.

23 Q. And you read it?

24 A. Yes.

1 Q. And you understood that to be the
2 information that you were going to supply to the
3 EPA; is that right?

4 A. Yes.

5 Q. And the information that was in that
6 letter you gathered; is that right?

7 MR. CHEESEMAN: I'm not going to
8 permit him to answer as to what counsel did or what
9 counsel told him counsel did.

10 Q. Did you provide information to your
11 attorney to answer this letter?

12 A. Yes.

13 Q. To your knowledge did anybody else provide
14 information to your attorney to answer this letter?

15 MR. CHEESEMAN: I'm not going to
16 permit him to answer that question.

17 Q. I'm afraid that's not privileged
18 information. To your knowledge did anybody else
19 provide information to your attorney?

20 MR. CHEESEMAN: Let me give some
21 direction to the witness.

22 If you know from other people that
23 they communicated with Mr. Favorito, you can answer
24 as to that, but if Mr. Favorito told you how he got

1 information to go into the letter, you should not
2 describe what he told you. Do you understand that?
3 What Mr. Favorito told you about his process of
4 participating in the preparation of this letter is
5 not something that you have to talk about. So the
6 question is do you know from anyone other than Mr.
7 Favorito that they went and talked to Mr. Favorito?

8 A. Other than counsel?

9 Q. Right.

10 A. Not that I know of.

11 Q. So to your knowledge you're the only one
12 who provided information to Mr. Favorito; is that
13 right?

14 A. Yes.

15 MR. CHEESEMAN: Apart from whatever
16 he may have talked to his counsel about.

17 Q. I'm asking Mr. Forte. To your knowledge
18 now, sir?

19 A. To my knowledge, no.

20 Q. You're the one who provided the
21 information to Mr. Favorito; is that right?

22 A. Yes.

23 Q. You have no reason to believe that Mr.
24 Favorito received information from anybody else

1 other than yourself; is that right?

2 MR. CHEESEMAN: Objection to the form
3 of the question and I'll instruct him not to
4 describe --

5 Q. I'm asking to his knowledge.

6 MR. CHEESEMAN: I will instruct him
7 not to describe to you any conversations he may
8 have had with counsel or anything he may have
9 learned from counsel.

10 Q. I don't want you to describe any
11 conversations you had with counsel. My question is
12 to your knowledge do you know whether you were the
13 only person who provided information to your
14 counsel?

15 A. I believe I was.

16 Q. And you and your counsel drafted the
17 letter?

18 A. Yes.

19 Q. And you read the letter?

20 A. Yes.

21 Q. And you understood that this was
22 information that you were providing the EPA?

23 A. Yes.

24 Q. You understood that you had a legal

1 obligation to provide that information?

2 A. Yes.

3 Q. You understood that you had an obligation
4 to tell the truth?

5 A. Yes.

6 Q. Did you understand that it was a criminal
7 penalty for misstating information to the EPA? Was
8 that your information?

9 A. No, I didn't know that.

10 Q. Did you think that it was, that you could
11 be subject to penalties of a criminal or a civil
12 nature for not providing accurate and truthful
13 information to the EPA?

14 MR. CHEESEMAN: If you thought about
15 it.

16 A. I didn't think about it.

17 Q. But you did understand you had an
18 obligation to provide information?

19 A. I did understand.

20 Q. And that the information had to be true?

21 A. Yes.

22 Q. And that it was your obligation not to
23 misstate information?

24 A. Yes.

1 Q. Now, you read the letter and you signed it?

2 A. Yes.

3 Q. And you agreed with every sentence in that
4 letter as being a truthful statement, isn't that
5 right?

6 MR. CHEESEMAN: Objection.

7 A. Based on the facts I had when I answered
8 it.

9 Q. Now, regarding answering the question as
10 to chlorinated solvents that wherever generated,
11 used or otherwise kept by W. R. Grace at their
12 Woburn plant, your sole source of information to
13 answer that question was Mr. Shalline; is that
14 right?

15 A. I believe it was.

16 Q. In answering question number 3 about the
17 use of the following chemicals listed in question
18 number 3 of the EPA's letter of January 1982, it
19 was Mr. Shalline who was your sole source of
20 information to provide information to the EPA about
21 the use of those chemicals, is that right?

22 A. I believe it was.

23 Q. In question number 4 it says for each
24 chemical listed in question 3, list all methods of

1 disposal used for each prior to November 19, 1980.

2 Was Mr. Shalline your sole source of
3 information in answering question number 4 about
4 methods of disposal of those chemicals listed in
5 question number 3?

6 A. I believe so.

7 Q. In question number 5, for each chemical
8 listed in response to question 3, list all methods
9 of disposal used for each since November 19, 1980.

10 Was Mr. Shalline your sole source of
11 information to answer that question?

12 A. I believe so.

13 Q. Let me show you Plaintiff's Exhibit No. 18.
14 Is that the letter that you responded to the EPA?

15 MR. CHEESEMAN: This is the signature
16 page here.

17 A. Yes.

18 Q. Now, it states in paragraph 2 that: We
19 appreciate EPA's grant of extension of time to
20 answer as set forth in Attorney Rikleen's letter of
21 January 25, 1982. We are providing this response
22 in a spirit of cooperation, with the understanding
23 that you are at present gathering information from
24 many sources as to the potential causes of

1 contamination of two wells in East Woburn and that
2 our company has not been singled out as the target
3 of any investigation at this time.

4 What did you mean by that paragraph?

5 A. I think --

6 MR. CHEESEMAN: Objection. Go ahead.

7 A. I think it was drafted with the help of
8 counsel.

9 Q. What were you referring to in that letter,
10 in that paragraph concerning the contamination of
11 two wells in East Woburn?

12 MR. CHEESEMAN: Asking for his
13 understanding?

14 Q. Yes, what your understanding of what you
15 were referring to in that paragraph? What were you
16 referring to?

17 A. What it says.

18 Q. What was that?

19 A. Contamination of two wells in East Woburn.

20 Q. What contamination of two wells in East
21 Woburn?

22 A. Whatever the publicity was about two wells
23 in Woburn.

24 Q. Did you understand an inquiry by the EPA

1 was an attempt to find out who may have been
2 responsible for the contamination of the two wells?

3 A. I don't know. I have to read the letter.

4 (Witness looked at document).

5 MR. CHEESEMAN: He is asking you what
6 your understanding was at that time.

7 Q. Your understanding.

8 A. It is in the letter that they wrote me.

9 Q. So it was your understanding that the EPA
10 was trying to investigate the possible sources of
11 the contamination of the two wells in East Woburn,
12 wells G and H; is that right?

13 A. That's what it said in the letter.

14 Q. Is that true? Is that your understanding?

15 A. That's what they said in the letter. I
16 have an understanding what they said. That's what
17 they said.

18 Q. They, who are you referring to?

19 A. EPA.

20 Q. That was your understanding then?

21 A. That's my understanding, of what they said.

22 Q. You stated here that you were worried
23 about your company being singled out as the target
24 of any investigation.

1 MR. CHEESEMAN: I don't believe the
2 letter says that.

3 Q. Well, you referred to the fact in your
4 letter, you are indicating that it is done in a
5 spirit of cooperation with the understanding that
6 you are gathering information from many sources and
7 that your company, the Woburn plant, has not been
8 singled out as the target of any investigation.
9 What was your concern about being singled out as
10 the target of an investigation?

11 A. This was done with the assistance of
12 counsel. I'm not sure I have an answer to that
13 question.

14 Q. All right. It states on page 2: In the
15 course of its manufacturing activities, Cryovac has
16 utilized a limited amount of chlorinated solvents
17 which are associated with a small parts painting
18 operation at the site or with parts cleaning and
19 the gluing/laminating of small parts as well as
20 cutting fluids of the type customarily utilized in
21 machine shops.

22 Is that a true statement?

23 A. Yes.

24 Q. How do you know that to be true?

1 A. Because my people told me.

2 Q. What people is that?

3 A. Probably Paul Shalline.

4 Q. So the answer you provided in that first
5 sentence you relied on Mr. Shalline?

6 A. Yes.

7 Q. Did you have any independent knowledge
8 other than what Mr. Shalline told you?

9 A. No.

10 Q. Did you know that you were using
11 chlorinated solvents?

12 A. No.

13 Q. Do you know what chlorinated solvents are?

14 A. No.

15 Q. Did you know what they were?

16 A. No.

17 Q. Did you know how much you used?

18 A. No.

19 Q. Ever?

20 A. No.

21 Q. These solvents and cutting fluids which
22 are undoubtedly similar to those utilized by other
23 manufacturing activities in the area and elsewhere
24 have been used in small quantities over time as

1 follows.

2 Now, to answer that sentence, who did
3 you rely on for that information?

4 A. Paul.

5 Q. Shalline?

6 A. Yes.

7 Q. No other source?

8 A. I don't recall.

9 Q. Do you have any independent knowledge
10 about the use of solvents and cutting fluids --

11 A. No.

12 Q. In the manufacturing process? Do you?

13 A. No.

14 Q. Do you know if they are similar to those
15 utilized by other manufacturing companies?

16 A. Can I prove it you mean?

17 Q. No, do you know it to be a fact?

18 A. I believe we used the same type of fluids
19 that other machine shops and similar operations
20 used.

21 Q. Why do you believe that?

22 A. Because I do.

23 Q. Why? What is the basis?

24 A. Because that's what the normal practice

1 probably is.

2 Q. But do you know if it is in fact?

3 A. Well, I have never checked other machine
4 shops to see what they use.

5 Q. Do you know how much quantity of solvents
6 and cutting fluids that you used?

7 A. No.

8 Q. You don't know?

9 A. No.

10 Q. You said small quantities?

11 A. Yes.

12 Q. What did you mean by small quantities?

13 A. That's what I was told.

14 Q. Who told you?

15 A. Psul Shalline.

16 Q. He's the one who told you it was small
17 quantity?

18 A. I believe so.

19 Q. Did he tell you what he meant by small
20 quantities?

21 A. No, I don't think I asked.

22 Q. You didn't ask but he said small
23 quantities?

24 A. Right.

1 Q. Didn't indicate what it was?

2 A. No.

3 Q. You don't know if he was talking about a
4 gallon, 50 gallons, a hundred gallons, a thousand
5 gallons or ten thousand gallons, right?

6 A. In my mental process small would be very
7 small.

8 Q. What's very small?

9 A. Gallon.

10 Q. Do you know if it was more than a gallon?

11 A. Five gallons at the most.

12 Q. How much?

13 A. Five or less gallons in my opinion.

14 Q. Five or less gallons?

15 A. Yes.

16 Q. Anything less than five gallons would be a
17 large amount?

18 A. I would think so.

19 Q. To your knowledge the Woburn plant was
20 only using five gallons or less of solvents and
21 cutting fluids?

22 A. Well, I don't know. I shouldn't -- I
23 retract that. I don't know.

24 Q. You don't know what small quantity was?

1 A. No.

2 Q. You don't know how much you were using at
3 the plant, do you?

4 A. No.

5 Q. You don't know how much other companies
6 were using of these materials?

7 A. No.

8 Q. So you have no idea what small was
9 referring to?

10 A. No.

11 Q. You have no idea how much quantities were
12 used at the plant?

13 A. No.

14 Q. You still don't know?

15 A. No.

16 Q. You didn't know then?

17 A. No.

18 Q. Your only source of information about the
19 quantities used at the plant was information that
20 Mr. Shalline gave you; is that right?

21 A. That is correct.

22 Q. You then listed the following chemicals,
23 you said: trichloroethylene.

24 A. Uh-huh.

1 Q. One drum, 55 gallons, purchased in 1973.
2 Who gave you that information?

3 A. I believe it was Paul.

4 Q. Mr. Shalline?

5 A. I believe so.

6 Q. Did you know for a fact that one drum, 55
7 gallons, was purchased in 1973?

8 A. No, I do not.

9 Q. Had you checked with any other source to
10 find out if in fact you used one drum, 55 gallons,
11 purchased in 1973?

12 A. No, I did not.

13 Q. You relied on Mr. Shalline?

14 A. Yes, I did.

15 Q. And Mr. Shalline gave you that information?

16 A. Yes, he did.

17 Q. You said: One drum, 55 gallons,
18 purchased in 1973.

19 A. That's what he recalled. That's what he
20 told me.

21 Q. Do you know that to be true or untrue?

22 A. I don't know.

23 Q. Do you know now whether it is true or
24 untrue?

1 A. Yes, I do.

2 Q. You know it to be untrue?

3 A. Yes.

4 Q. Why do you know it is untrue?

5 A. Because in our investigation I heard of
6 another.

7 Q. What investigation are you referring to?

8 A. It involves counsel.

9 MR. CHEESEMAN: Obviously he is
10 referring to work that we have been doing since the
11 answer was prepared for EPA.

12 Q. All right. Well, what investigation are
13 you referring to?

14 A. I just told you what it was.

15 Q. This is the witness. You're his attorney.

16 A. By counsel.

17 MR. CHEESEMAN: It is one o'clock.
18 We'll break for lunch now.

19 MR. SCHLICTMANN: I'm going to ask
20 this question and break for lunch.

21 MR. CHEESEMAN: You can ask any
22 question you want but we're leaving. We'll be back
23 at two o'clock.

24 Q. What investigation are you referring to?

1 MR. CHEESEMAN: Don't answer the
2 question. The deposition is suspended.

3 MR. SCHLICTMANN: When did you intend
4 to come back?

5 MR. CHEESEMAN: Two o'clock.

6 MR. SCHLICTMANN: Is that right?

7 MR. CHEESEMAN: Unless you don't want
8 us to.

9 MR. SCHLICTMANN: You come back here.
10 In fact you better cancel your plane reservation.
11 It will be a long afternoon.

12 MR. CHEESEMAN: If you keep asking
13 questions like this, he'll leave for his plane.

14 MR. SCHLICTMANN: We'll bring him
15 back. He has a legal obligation --

16 MR. CHEESEMAN: If necessary I'll
17 suspend the deposition and go see the Judge.

18 MR. SCHLICTMANN: Fine, we can go see
19 the Judge if we have to.

20 (Recess).

21

22

23

24

1 AFTERNOON SESSION

2 Q. (BY MR. SCHLICHTMANN) Mr. Forte, other than
3 Mr. Shalline, Mr. Kelly and Mr. Barbas, Mr. Love,
4 did you talk to anybody else concerning answering
5 this EPA letter?

6 MR. CHEESEMAN: And leaving aside Mr.
7 Favorito?

8 Q. And your attorney Mr. Favorito?

9 A. Not that I recall.

10 Q. You didn't have any conversations or any
11 contact with Mr. Watkins?

12 A. No.

13 Q. Now, getting back to Shalline Exhibit No.
14 18 on page 2, it states on page 2 under section
15 trichloroethylene, that the material was used for
16 hand cleaning of small metal parts. Who provided
17 you that information?

18 A. Either Tom or Paul.

19 Q. Either Mr. Barbas or Mr. Shalline?

20 A. Yes.

21 Q. Total amount used up by 1975. Use
22 discontinued after a single initial order. Who
23 provided you the information contained in page 2 of
24 your letter?

1 A. Under trichloroethylene?

2 Q. Under trichloroethylene.

3 A. I believe Paul.

4 Q. So Mr. Shalline provided you the
5 information that the total amount of trichloroethylene
6 was used up by 1975 and that the use was
7 discontinued after a single initial order?

8 A. That's all he remembered.

9 Q. Him telling you?

10 A. Pardon?

11 Q. That's information Mr. Shalline gave you?

12 A. Yes.

13 Q. Now, under the section for Toluene, it
14 states that it was purchased in limited quantities,
15 five gallon pails, and used as paint thinners to
16 clean paint spray equipment. Use discontinued in
17 1975. Who provided you that information?

18 A. I believe Paul.

19 Q. Mr. Shalline provided you that information?

20 A. Maybe Tom. Tom or Paul.

21 Q. Either Mr. Barbas or Mr. Shalline provided
22 you the information that you gave the EPA on page 2
23 of your letter?

24 A. Yes.

1 Q. Section under acetone, one five gallon
2 pail purchased in 1978. Used for wiping parts
3 prior to gluing and laminating. Who provided you
4 the information contained in your letter to the EPA
5 under section acetone?

6 A. I believe Paul.

7 Q. Mr. Shalline provided you that information?

8 A. Yes.

9 Q. Under the section on page 2 of your letter
10 1,1,1-trichloroethane, says this material is a
11 constituent of cutting fluids used in the machine
12 shop. Cutting fluids are used in metal cutting
13 equipment for cooling and removing particles. Who
14 provided you that information?

15 A. I believe Paul.

16 Q. Mr. Shalline provided you the information
17 under 1,1,1-trichloroethane under page 2 of your
18 letter?

19 A. Yes.

20 Q. In the last paragraph on page 2 it states:
21 Of the above mentioned materials only 1,1,1-
22 trichloroethane is still in use and approximately
23 two gallons of acetone remains in the five gallon
24 pail purchased in 1978. Who provided you that

1 information on page 2 of the last paragraph?

2 A. I believe Mr. Shalline.

3 Q. The next sentence, the 1,1,1-trichloroethane
4 is received in 55 gallon drums. The average
5 inventory of such material on hand at any one hand
6 has historically been four or five drums.

7 Who provided you that information as
8 to 1,1,1-trichloroethane?

9 A. I believe Paul Shalline.

10 Q. Did you receive that information from
11 anybody else?

12 A. I don't think so.

13 Q. Do you have any independent knowledge as
14 to 1,1,1-trichloroethane other than the information
15 Mr. Shalline gave you?

16 A. No, I do not.

17 Q. As received from the supplier, the
18 material is a solution containing approximately 33
19 percent 1,1,1-trichloroethane. This solution is
20 further reduced with water by a ratio of 40 to 50
21 to one for use in machine tools. Who provided you
22 that information in the last paragraph of your
23 letter to the EPA?

24 A. I believe Paul Shalline.

1 Q. Anybody else provide you information on
2 that point?

3 A. I don't believe so.

4 Q. Do you have any independent knowledge of
5 that?

6 A. No.

7 Q. Page 2 of your letter to the EPA in the
8 last paragraph says: Spent cutting fluid is
9 accumulated in 55 gallon drums for disposal, as are
10 paint sludge and related paint equipment cleaning
11 material from the spray booth operations used to
12 paint small equipment parts, all of which we
13 generally categorize as paint sludge. Who provided
14 you that information?

15 A. I believe Paul Shalline.

16 Q. Do you have any independent knowledge
17 concerning that information?

18 A. No, I do not.

19 Q. All that information came from Mr.
20 Shalline?

21 A. Yes, or Tom.

22 Q. Or Tom Barbas?

23 A. Uh-huh.

24 Q. But from anybody else?

1 A. Not that I know of.

2 Q. Page 3: The paint sludge is generated
3 incident to the painting of certain parts of some
4 of the equipment we manufacture. Painting is done
5 in a spray booth with a water wash wall, an
6 equipment design which captures fugitive paint
7 spray to prevent its emission to either the plant
8 atmosphere or outside the plant. The water wash is
9 a closed loop system which recirculates water for
10 long periods of time. The paint dries in the sump
11 of the system which is periodically cleaned of the
12 paint accumulation. Who provided you the
13 information on the third page?

14 A. Either Mr. Shalline or Mr. Barbas.

15 Q. Do you have any independent knowledge
16 contained in that paragraph on page 3?

17 A. No, I do not.

18 Q. When the RCRA regulations came into effect,
19 Cryovac registered as a generator of materials
20 subject to the Act and is in full compliance with
21 disposal requirements applicable to said materials.
22 Who provided you that information in the second
23 paragraph of page 3 of your letter to the EPA?

24 A. Mr. Shalline.

1 Q. Did anybody else provide you that
2 information?

3 A. Not to my knowledge.

4 Q. Do you have any independent knowledge
5 concerning that information other than what you
6 learned from Mr. Shalline?

7 A. No, I do not.

8 Q. Paragraph 2 of page 3 of your letter. The
9 waste is manifested as required and a certified
10 transporter and disposer of waste has been engaged.
11 Who provided you that information in your letter to
12 the EPA, paragraph two?

13 A. Mr. Shalline.

14 Q. Did you have any independent knowledge of
15 that information?

16 A. No, I did not.

17 Q. Is that the only source of your
18 information?

19 A. Yes.

20 Q. Third paragraph of page 3. At no time
21 have there been above ground or underground storage
22 tanks on the site, nor is there any septic system
23 at the site. Who provided you that information?

24 A. Mr. Shalline provided it, but from my own

1 knowledge, I never knew of any.

2 Q. So Mr. Shalline provided you information
3 and you have no knowledge of such tanks?

4 A. Yes, because I was there since 1960 and I
5 never saw any tanks.

6 Q. Did you seek out any other source of
7 information concerning paragraph 3 of your letter
8 on page 3 to the EPA?

9 A. I believe that we asked South Carolina to
10 look at the drawings of the facility.

11 Q. And who did you ask in South Carolina?

12 A. Dick Stewart I believe. I don't know if I
13 asked or Paul Shalline asked.

14 Q. You know that Paul Shalline asked?

15 A. I am not sure which one asked, but one of
16 us asked.

17 Q. You think so?

18 A. I think so.

19 Q. What was the answer that they gave you?

20 A. That they -- we never put any tanks on the
21 property.

22 Q. But you don't remember having that
23 conversation? You think Mr. Shalline was the one
24 who determined from Mr. Stewart that was the case?

1 A. I believe so.

2 Q. The fourth paragraph of page 3 of your
3 letter states: With respect to our relationship
4 with Donald M. Manzelli, Inc., our information is
5 that in the summer of 1974 Manzelli was hired in
6 connection with the construction of an addition to
7 our plant. Who provided you that information?

8 A. I don't know if I looked it up -- I think
9 we checked the shop order which justified the
10 expansion and that would show the contractor.

11 Q. Who checked?

12 A. Either Paul Shalline or -- I knew of my
13 own knowledge anyway.

14 Q. You knew from your own knowledge?

15 A. Manzelli built the expansion. I knew that.

16 Q. Did you also check the records?

17 A. I think we looked at the RCA to double
18 check.

19 Q. What's the RCA?

20 A. It is a request for funds to build the
21 building.

22 Q. Who? You say we, who is we?

23 A. I might have looked that up myself.

24 Q. So that's a record you do remember looking

1 up?

2 A. I'm not sure. I'm not sure.

3 Q. You think you looked up that record.

4 A. I might have.

5 Q. Why did you look up that record?

6 A. Well, just to check the date.

7 Q. Because you weren't too sure of the date?

8 A. Yes.

9 Q. To make sure you provided accurate
10 information to the EPA concerning when Mr. Manzelli
11 was hired, you checked the records?

12 A. I believe so.

13 Q. That was the only time that you checked
14 records to make sure that the information you were
15 giving the EPA was accurate?

16 A. Yes.

17 Q. Next sentence. Incident to the
18 construction a pit was dug and used to bury
19 construction debris as part of a general cleanup.
20 Who provided you that information contained on page
21 3 of your letter to the EPA?

22 A. Frank Kelly. I believe Frank Kelly.

23 Q. Did you receive that information from any
24 other source other than Mr. Kelly?

1 A. I don't remember.

2 Q. Did you have any independent knowledge of
3 that?

4 A. Not that I recall.

5 Q. Page 3 of your letter it states: As part
6 of the cleanup activity, we estimate that between
7 10 to 15 filled or partially filled drums of
8 accumulated paint sludge were emptied into the pit
9 in the belief that the paint sludge was generally
10 innocuous in nature. Who provided you the
11 information that you gave to the EPA on page 3 of
12 your letter concerning that?

13 A. I believe Frank Kelly.

14 Q. Anybody else other than Mr. Kelly?

15 A. I don't believe so.

16 Q. Did you have any independent knowledge of
17 that information?

18 A. No, I do not.

19 Q. Did Mr. Kelly tell you that he thought the
20 paint sludge was generally innocuous?

21 A. No, he wouldn't know.

22 Q. He wouldn't know?

23 A. No.

24 Q. Why do you say he wouldn't know?

1 A. Because I don't think he would know.

2 Q. What was the sludge, whether the sludge
3 was innocuous or not?

4 A. I don't think he would know that.

5 Q. How did you make the determination that it
6 was innocuous?

7 A. I really don't know who told me. Somebody
8 told me. I don't recall who.

9 Q. You do remember somebody telling you that
10 the paint sludge was generally innocuous in nature,
11 but you don't know who it was?

12 A. No, I do not.

13 Q. Was it Mr. Shalline?

14 A. I don't remember.

15 Q. You didn't make that determination?

16 A. No.

17 Q. Because you wouldn't know what was the
18 constituents of the paint sludge?

19 A. That's correct.

20 Q. Did you ever have a conversation with Mr.
21 Shalline about what was in the paint sludge?

22 A. I don't recall.

23 Q. Ever having such a conversation?

24 A. No.

1 Q. Do you ever remember having such a
2 conversation with anybody concerning what might
3 have been in the paint sludge?

4 A. Paint sludge to me was paint sludge.

5 Q. Did you ever have a conversation or make
6 an attempt to find out from anybody what was in
7 that paint sludge?

8 A. No.

9 Q. States on page 3 of your letter to the EPA:
10 No drums were placed in the pit which was closed
11 within a week after it had been opened. Who
12 provided you the information to answer that to the
13 EPA?

14 A. Frank Kelly but we discovered that that
15 was not correct after the fact.

16 Q. The source of information concerning the
17 fact that no drums were placed in the pit was from
18 Mr. Kelly?

19 A. That's right. Originally.

20 Q. What's that?

21 A. Originally when we drafted this letter.

22 Q. And what exactly did Mr. Kelly tell you
23 about the drums?

24 A. When we wrote this letter?

1 Q. Yes.

2 A. He said that they dumped whatever was in
3 the barrels into the pit.

4 Q. Did he -- what did he say about placing of
5 drums in there?

6 A. He didn't.

7 Q. Well, did you ask him whether drums had
8 been placed in there or not?

9 A. I didn't even think of it because, you
10 know, I just accepted his answer.

11 Q. Did Mr. Kelly volunteer to you that no
12 drums were placed in the pit?

13 A. No, he did not.

14 Q. He didn't tell that to you?

15 A. No, he did not.

16 Q. Did you ask him if any drums had been
17 placed in the pit?

18 A. Not at that time.

19 Q. At the time that you answered the letter
20 to the EPA?

21 A. That's correct.

22 Q. So neither he told you that drums had been
23 placed in there nor did you ask him whether drums
24 had been placed in there?

1 A. That is correct.

2 Q. So how did you know that no drums were
3 placed in the pit?

4 A. Because he didn't say there were any drums
5 placed in the pit.

6 Q. Because Mr. Kelly didn't tell you that
7 drums were placed in there you assumed that no --

8 A. I might have asked if the question was on
9 here. Let me look.

10 (Witness looked at document).

11 I don't think I asked the question.

12 Q. You don't believe that you ever asked Mr.
13 Kelly whether drums were placed in the pit or not;
14 is that right?

15 A. Not at this time.

16 Q. Not at that time?

17 A. That's correct.

18 Q. Did you ask Mr. Kelly at a later time?

19 A. Yes, I did.

20 Q. When did you ask Mr. Kelly?

21 A. Before they dug up the pit.

22 Q. What was that conversation?

23 A. I asked him: Are you absolutely certain
24 no drums got into the pit? And he says: Maybe we

1 dropped a couple.

2 Q. Why did you have that conversation with
3 Mr. Kelly?

4 A. Well, it is just I -- they were digging it
5 up. I said: I hope you're right that there are no
6 drums in that pit.

7 Q. That's when the EPA was digging it up?

8 A. Yes.

9 Q. Was that the first time you talked to Mr.
10 Kelly?

11 A. It is just one of the, you know, offhand
12 conversations.

13 Q. Prior to your conversation with Mr. Kelly
14 when the EPA was digging up the pit, had you
15 determined that in fact drums were placed in the
16 pit?

17 A. No, I didn't expect any drums in the pit.

18 Q. Even at the time the EPA was digging up
19 the trench?

20 A. Before the EPA dug up, before I asked
21 Kelly that question or just commented I hope the
22 hell there isn't anything in there other than what
23 you said to me originally, he said: Well, maybe we
24 dropped a couple of drums in the pit.

1 Q. And what was this conversation you had
2 with Mr. Kelly in relationship to when the EPA
3 actually dug up the pit, was it a day, the same day,
4 a week before?

5 A. Maybe a week, two weeks before.

6 Q. Maybe a week or two weeks before?

7 A. It was before. Before they started
8 digging.

9 Q. Would it be within a couple of weeks of
10 their digging?

11 A. When I knew they were going to dig and I
12 don't remember the exact time.

13 Q. But it was when you discovered, when you
14 were informed that the EPA was going to dig up the
15 trench, you had a conversation with Mr. Kelly?

16 A. We volunteered to dig up the trench.

17 Q. You volunteered?

18 A. Cryovac Division of W. R. Grace
19 volunteered.

20 Q. Well, prior to your conversation with Mr.
21 Kelly, you didn't know whether there were drums
22 buried in that pit or not?

23 A. No, I didn't.

24 Q. Had it ever come to your attention that in

1 fact this information was wrong prior to the time
2 that they actually dug up the drums in the pit?

3 A. Not until Kelly mentioned that, made that
4 statement to me.

5 Q. Why, to your knowledge why was the EPA
6 digging up the trench?

7 A. Because we volunteered to dig it up.

8 Q. Do you know why?

9 A. Just to prove what was in there.

10 MR. CHEESEMAN: I think you have
11 asked several questions that assumes the EPA dug it
12 up. In fact it was not the EPA who even dug it up.
13 It was the Cryovac Division and its contractors who
14 dug it up.

15 Q. All right. You refer to the EPA but you
16 meant the EPA the contractors who you had hired to
17 dig up the pit?

18 A. Yes.

19 Q. That was done to your knowledge because of
20 an EPA order?

21 A. I don't know.

22 MR. CHEESEMAN: I don't know that he
23 is qualified to answer that question, but he has
24 given his understanding of it two or three times

1 now in the last three or four minutes.

2 Q. Had you ever conducted an investigation or
3 were you ever part of an investigation prior to
4 your conversation with Mr. Kelly about whether
5 drums had been placed in that pit?

6 A. No.

7 Q. This incident, you say on page 3 of your
8 letter: This incident was the only time in which a
9 pit was opened on the property for waste disposal.
10 Where did you obtain that information that you gave
11 to the EPA on page 3?

12 A. Well, nobody could remember any other time.

13 Q. You couldn't remember one?

14 A. No.

15 Q. Did you ask Mr. Shalline?

16 A. Yes.

17 Q. What did he tell you?

18 A. He couldn't remember any other time either.

19 Q. Did you ask the others?

20 A. Yes.

21 Q. And they couldn't remember any?

22 A. Nobody could remember.

23 Q. Did they remember pouring stuff on the
24 ground?

1 A. No.

2 Q. Did Mr. Shalline ever tell you about the
3 fact that from time to time materials were dumped
4 on the ground to the rear of the plant?

5 A. No, he did not.

6 Q. Did Mr. Barbas ever tell you that from
7 time to time material was dumped to the rear of the
8 plant on the ground?

9 A. No, he did not.

10 Q. Mr. Love ever tell you that from time to
11 time materials were dumped on the ground to the
12 rear of the plant?

13 A. No, he did not.

14 Q. Mr. Kelly ever tell you that from time to
15 time materials were dumped to the rear of the plant
16 on the ground?

17 A. No, he did not.

18 Q. And you have no knowledge of that?

19 A. No, I do not.

20 Q. The location of the closed pit is
21 estimated to be approximately a hundred feet behind,
22 east of the plant building, approximately two to
23 three hundred feet from the north and south
24 boundaries of the property and some 500 feet from

1 the east boundary of the property. There are no
2 wells on the property.

3 Who provided you that information on
4 page 3?

5 A. I believe we obtained that information
6 from Manzelli.

7 Q. To your knowledge did Mr. Manzelli take
8 part in the dumping of the barrels into the pit?

9 A. I have no idea. I do not know.

10 Q. Did you have any conversations with
11 anybody from the Manzelli Construction Company
12 concerning the incident?

13 A. Yes, I did.

14 Q. You did. Who did you have a conversation
15 with?

16 A. Mr. Manzelli.

17 Q. When did you have a conversation with Mr.
18 Manzelli?

19 A. When I received the EPA letter.

20 Q. Did you initiate the contact with Mr.
21 Manzelli?

22 A. Yes, I called him.

23 Q. What did you say to Mr. Manzelli?

24 A. I asked him if he knew about the pit.

1 Q. What did he say?

2 A. He said yes.

3 Q. What else did he say?

4 A. I said: Do you know where it is? And I
5 don't know if he described these exact things, but
6 he give me an idea where.

7 Q. What did you tell him about the pit?

8 A. I don't recall telling him much of
9 anything about the pit.

10 Q. Well, when you referred to it as a pit,
11 what was your understanding of what he was
12 referring to?

13 A. Well, that we had an inquiry from the EPA
14 about digging any holes on the property and I was
15 told that he dug a pit.

16 Q. What else? Is that the sum and substance
17 of what took place in that phone conversation?

18 A. Yes.

19 Q. Did you say anything else to Mr. Manzelli
20 about what went into the pit or whether he took
21 part in dumping things into the pit?

22 A. No.

23 Q. Did he say anything to you to indicate
24 that things were poured into the pit or dumped into

1 the pit?

2 A. I don't recall he did.

3 Q. The water used at the plant is supplied by
4 Woburn's municipal water system. We have had this
5 water analyzed and copies of the analysis are
6 attached as Exhibits B and C. Where did you obtain
7 that information?

8 A. I believe Mr. Shalline -- well, it is not
9 Mr. Shalline. I believe I got it from Mr. Shalline
10 even though it is addressed to Mr. Nordin.

11 Q. Who is he?

12 A. He is -- he was the production manager at
13 that time.

14 Q. What information had you obtained about
15 the water being analyzed?

16 A. What you see here.

17 Q. Why was the water analyzed?

18 A. I really don't know.

19 Q. Did you authorize the water to be analyzed?

20 A. No.

21 Q. You don't know why it was analyzed?

22 A. No.

23 Q. Did you have any conversations with Mr.
24 Shalline or with anybody else about whether the

1 water should be analyzed or not?

2 A. No.

3 Q. You state on page 3, last paragraph:
4 Cryovac is sensitive to the water problem which
5 Woburn has been experiencing and to the health
6 concerns which have been raised as well. What were
7 you referring to?

8 A. Only what was publicized in the local
9 media.

10 Q. What health concerns were you referring to?

11 A. I don't know where I got that information.

12 (Witness looked at document).

13 I think it was just media information
14 if it is not in this letter.

15 Q. Well, when you said Cryovac is sensitive
16 to the water problem which Woburn has been
17 experiencing and to the health concerns which have
18 been raised as well, what did you mean by that?

19 MR. CHEESEMAN: It is two questions.

20 (Witness looked at documents).

21 A. I don't know other than what was in the
22 media of health problems relating to the wells.

23 Q. When you say Cryovac is sensitive to, what
24 way was Cryovac sensitive to the water problem?

1 A. We were concerned that there were any
2 problems that we would even be associated with them.

3 Q. Did you do anything to determine whether
4 in fact the Woburn plant was associated with any
5 water problem in East Woburn?

6 A. You mean beyond what we have done?

7 Q. No, did you, in your capacity as general
8 manager, do anything to determine whether the
9 Woburn plant was associated with any water problem
10 in East Woburn?

11 A. Nothing beyond what the records show that
12 we have done.

13 Q. What records are you referring to?

14 A. I mean I am talking about the EPA type
15 thing.

16 Q. Did you ever take part in an investigation
17 to determine whether the Woburn plant had
18 contributed to the water problem in East Woburn?

19 A. No, I did not.

20 Q. Anything that you have done has been in
21 response to requests or requirements of the EPA.
22 Is that right?

23 A. That is correct.

24 Q. I am going to ask you to look at a series

1 of purchase orders which have been entered as
2 exhibits, and I am going to ask if you are familiar
3 with any of them.

4 Q. Let me just start with Exhibit 19.
5 Shalline Exhibit No. 19, have you ever seen that
6 document before?

7 A. No, I haven't.

8 Q. Do you know who the Woburn Oil Company is?

9 A. No, I don't.

10 Q. Have you ever requested that the Woburn
11 Oil Company remove waste oil and solvents from the
12 Woburn plant?

13 A. No, I haven't.

14 Q. Have you aware of anybody at the Woburn
15 plant ever contacting the Woburn Oil Company to
16 remove waste oil or solvents?

17 A. I do not know.

18 Q. In your capacity as plant manager or
19 general manager, did you ever have any
20 responsibilities for the purchasing of chemicals to
21 be used at the plant?

22 A. Directly?

23 Q. Yes.

24 A. No.

1 Q. Did purchase orders ever come by your desk?

2 A. No.

3 Q. Were you --

4 A. Purchase orders for chemicals?

5 Q. Yes.

6 A. For the routine supplies?

7 Q. Yes.

8 A. No.

9 Q. Did you ever review approvals of purchases
10 of chemicals?

11 A. Not that I recall.

12 Q. Who was the one who was responsible for
13 contacting companies for the purchasing of
14 chemicals?

15 A. Well, purchasing without question with
16 respect to placing the order and in some cases it
17 could be the person initiating the order.

18 Q. Did you --

19 A. From a business point of view that's a
20 normal practice.

21 Q. Did you ever have any responsibilities or
22 were you ever involved at any time with contacts
23 with companies that were supplying the Woburn plant
24 with chemicals?

1 A. No, I did not.

2 Q. Did you ever have any phone conversations
3 or visits to companies that supplied chemicals to
4 the plant?

5 A. Not that I recall.

6 Q. To your knowledge did the Woburn plant
7 ever receive chemicals from Cryovac Division or
8 from W. R. Grace to be used at the plant?

9 A. I don't know. Maybe. I don't know.

10 Q. Well, maybe, what do you mean maybe?

11 A. Grace has chemicals plants. I don't know
12 if Paul would have bought some from Grace or not,
13 if they had any we would use.

14 Q. Are you aware of any chemicals being
15 supplied to you by W. R. Grace or its Cryovac
16 Division for use at the Woburn plant?

17 A. Not that I recall.

18 Q. Whether they were purchased or not?

19 A. Not that I recall.

20 Q. To your knowledge did your plant ever
21 receive any drums for disposal, any drums of
22 chemicals for disposal?

23 A. Not -- I doubt it. Not that I recall.

24 Q. At any time are you aware of whether drums

1 containing chemicals were stored at the Woburn
2 plant?

3 A. You mean --

4 Q. Other than the ones that were going to be
5 used at the Woburn plant?

6 A. Not ours?

7 Q. Yes.

8 A. No.

9 Q. Exhibit 20, now going to go through
10 Exhibits 20 A through M.

11 MR. CHEESEMAN: Why don't you just
12 have him look at them all while we take a little
13 break and then you can him questions relating to
14 the whole pile.

15 Q. I think we'll probably go through it
16 faster if I just ask him. I'll have on the record
17 each one. I will have to do it.

18 A. Which one?

19 Q. Start with 20 A.

20 MR. CHEESEMAN: Just set this one
21 aside. He wants to start at the top and take you
22 one by one through all this.

23 A. This is 20 A?

24 MR. CHEESEMAN: That's 20 A.

1 A. I thought he said 28.

2 Q. No, 20 A. 20 A, are you familiar with
3 that document? Have you ever seen it before?

4 A. No, I have not.

5 Q. 20 B, have you ever seen that document
6 before?

7 A. No, I have not.

8 Q. The Magnus Chemical Company, have you ever
9 had any contacts with the Magnus Chemical Company?

10 A. No, I have not.

11 Q. Exhibit 20 C, are you familiar with that
12 document?

13 A. No, I am not.

14 Q. Shalline Exhibit 20 D, are you familiar
15 with that document?

16 A. No, I am not.

17 Q. Exhibit 20 E, are you familiar with that
18 document?

19 A. I can't read it, but based on the
20 requisition I am not.

21 Q. Exhibit 20 F, are you familiar with that
22 document?

23 A. No, I am not.

24 Q. Exhibit 20 G, are you familiar with that

1 document?

2 A. I can't read it, but based on the
3 requisition I am not.

4 Q. Exhibit 20 H, are you familiar with that
5 document?

6 A. No, I am not.

7 Q. Exhibit 20 I, are you familiar with that
8 document?

9 A. No, I am not.

10 Q. Exhibit 20 J, are you familiar with that
11 document?

12 A. I can't read that one, but based on the
13 requisition I am not.

14 Q. Exhibit 20 K, are you familiar with that
15 exhibit, that document?

16 A. No, I am not.

17 Q. Exhibit 20 L, are you familiar with that
18 document?

19 A. No, I am not.

20 Q. And Exhibit 20 M, are you familiar with
21 that document?

22 A. No, I am not.

23 Q. In answering the letter to the EPA, the
24 request for information from the EPA in January of

1 1982, did you ever review the purchase orders
2 listed as Shalline Exhibit 20 A through M?

3 A. No, I did not personally.

4 Q. Do you know if anybody else did?

5 A. Counsel.

6 Q. Do you know?

7 MR. CHEESEMAN: Don't ask us. Do you
8 know? Yes or no.

9 A. As far as I know, counsel. Counsel.

10 Q. Which counsel?

11 A. Our counsel.

12 Q. Mr. Favorito, what's his name?

13 MR. CHEESEMAN: I think the witness
14 is mistaken. These documents were taken from the
15 records located in the records subsequently to the
16 EPA information response.

17 Q. All right. But I guess I'm saying did you
18 have anybody else answer these records in answering
19 the EPA letter?

20 A. No.

21 Q. Do you know if Mr. Shalline looked at
22 those documents 20 A through 20 M?

23 A. No. I don't know.

24 Q. And exhibit, Shalline Exhibit No. 19, did

1 you look at that document in answering the EPA's
2 request for information in January of 1982?

3 A. No, I did not.

4 Q. Do you know if anybody else did?

5 A. Not that I know of.

6 Q. Have you ever in your capacity as plant
7 manager or general manager ever had a need to
8 examine purchase orders at the company at the
9 Woburn plant?

10 A. You mean to analyze purchase orders?

11 Q. Or to look at them, yes, for whatever
12 reason?

13 A. I would look at something I had to approve
14 if that's what you mean by looking.

15 Q. Yes.

16 A. There are certain capital expenditures
17 that I had to approve, and those I would have
18 looked at.

19 Q. Other than the capital expenditures for
20 improvements, were there any other times that you
21 would have to look at purchase orders?

22 A. Not if they didn't fall in my category of
23 approval. In other words supplies and these sort
24 of things would not require my review.

1 Q. At any time that you were associated with
2 the Woburn plant, did you ever have a need to
3 review purchase orders for chemicals?

4 A. No.

5 Q. Have you ever reviewed the purchase orders
6 for chemicals at any time for whatever reason?

7 A. No.

8 Q. Ever?

9 A. Ever.

10 Q. Up until today?

11 A. Until I saw these.

12 Q. Until you saw these today?

13 (Witness nodded).

14 Q. Where are purchase orders kept, copies of
15 the purchase orders?

16 A. In purchasing.

17 Q. In the purchasing department?

18 A. Yes.

19 Q. Other than the purchasing department, are
20 you aware of where any other copies of purchase
21 orders are kept?

22 A. Well, after they are closed, they are in
23 dead files from year to year.

24 Q. Where do the dead files go?

1 A. Boy. In a dead storage area that we have
2 in the plant.

3 Q. There is a dead storage area in the Woburn
4 plant?

5 A. Yes.

6 Q. Are all purchase orders to your knowledge
7 at the Woburn plant from 1960 to the present, are
8 they kept in either active files in the purchasing
9 department or in the dead files?

10 A. I wouldn't know what years are in the dead
11 storage, but there would be more than purchase
12 orders. There would be all the records.

13 Q. From time to time has the Woburn plant
14 ever destroyed to your knowledge records?

15 A. I don't know.

16 Q. What was your understanding? Was it your
17 understanding that the practice at the Woburn plant
18 was that purchase orders were to be put into dead
19 storage at the Woburn plant when they were no
20 longer needed?

21 A. Yes, oh, yes. All records.

22 Q. All records?

23 A. Yes.

24 Q. It was your understanding that all records

1 at the Woburn plant were to be kept at the Woburn
2 plant in dead storage if they weren't needed?

3 A. Yes.

4 Q. To your knowledge was that practice ever
5 violated?

6 A. Not to my knowledge.

7 Q. And to your knowledge have all records
8 associated with the Woburn plant been kept in dead
9 storage when they are no longer needed at the
10 Woburn plant?

11 A. I can't tell you how many years of records
12 we have, but they are there.

13 Q. You assume they are there?

14 A. I have to look.

15 Q. But was that the practice from the
16 beginning when you first went there?

17 A. Oh, yes.

18 Q. Oh, yes?

19 A. Yes. There is a federal requirement for
20 keeping records for our business.

21 Q. From 1960?

22 A. Oh, I don't know what the year is.

23 Q. I'm asking what was the practice at the
24 Woburn plant from the beginning, June 1960, was it

1 to keep records in dead storage when they were no
2 longer needed at the Woburn plant?

3 A. Yes, but I can't tell you for how many
4 years.

5 Q. All right. Was it a practice to destroy
6 records after a certain period of time?

7 A. No, we didn't have any routine schedule
8 for destroying records.

9 Q. Well, to your knowledge did you from time
10 to time or did the Woburn plant destroy records?

11 A. Not to my knowledge.

12 Q. So to your knowledge then all records at
13 the Woburn plant have been kept at the Woburn plant
14 in one place or another from 1960 until the present;
15 is that right?

16 A. I think so but I'd have to check to make
17 sure nobody destroyed any records that are old and
18 beyond the federal requirements.

19 Q. Well, to your knowledge has anybody
20 destroyed such records?

21 A. To my knowledge, I don't know.

22 Q. Have you ever ordered that records be
23 destroyed?

24 A. No, I have not.

1 Q. To your knowledge has anybody destroyed
2 records with your authorization or without your
3 authorization?

4 A. Not that I know of.

5 Q. Now, were records kept as a matter of
6 company policy to your knowledge?

7 A. Yes, there is a policy as far as the
8 number of years that we are required to keep
9 records, but I don't remember what it was.

10 Q. Is there a policy that you're aware of for
11 W. R. Grace and its Cryovac Division to keep
12 records at a plant?

13 A. Our plant we kept our records. I hate to
14 speak for the rest of the organization.

15 Q. Your understanding was it was a
16 requirement of the company that the Woburn plant
17 keep their records?

18 A. Right.

19 Q. And that was a requirement that was from
20 1960 until the present?

21 A. I can't tell you that we have all the
22 records from 1960.

23 Q. I'm asking whether it was a requirement.

24 A. It was not a requirement.

1 Q. Was it your understanding that that was
2 company policy?

3 A. For what?

4 Q. To keep records from 1960 until the
5 present?

6 A. No, it was not a company policy.

7 Q. What was the company policy at the Woburn
8 plant about keeping records?

9 A. As far as I know, we were supposed to keep
10 records for the term of the federal requirements
11 for keeping records, and I can't tell you how many
12 years that is off the top of my head.

13 Q. Well, my question is: Is that as to
14 records at the Woburn plant, all records now, was
15 it your understanding that these records from 1960
16 onward, that the practice in the company at the
17 Woburn plant was to keep those records?

18 A. Our practice was to keep records, keep the
19 records.

20 Q. And to your knowledge that practice was
21 not violated?

22 A. To my knowledge, I don't know if it was
23 violated.

24 Q. Have you ever examined purchase orders in

1 the 1960's for chemicals?

2 A. No, I have not.

3 Q. Now, where is that dead storage area for
4 records at the Woburn plant?

5 A. Right now I don't know. It was in the
6 back area of the office.

7 Q. Do you believe it is still there?

8 A. I believe so.

9 Q. It was there up until the time you left?

10 A. I'm not sure.

11 Q. Who is in charge of keeping the records in
12 the dead storage area?

13 A. Accounting would probably take care of
14 most of the records if not all.

15 Q. All records, would that include purchase
16 orders?

17 A. I believe so.

18 Q. And any other records kept by the company?

19 A. Yes.

20 Q. How are they organized, do you know?

21 A. I can't tell you.

22 Q. Are they filed in any particular order?

23 A. The last time I looked there would be
24 years and it would be a category I believe -- I

1 don't remember. I don't remember. They are in
2 boxes and I don't remember what the boxes say.

3 Q. All right. But they are organized in some
4 fashion; is that right?

5 A. So-so. Reasonably.

6 Q. Who is the person, the accounting person
7 who is in charge of keeping those records?

8 A. At the present time it would be Joe
9 Partore.

10 Q. How do you spell his last name?

11 A. P A R T O R E.

12 Q. Partore. How long has he been responsible
13 for keeping those records?

14 A. I think he has been there approximately
15 five years.

16 Q. And prior to Mr. Partore, who was in
17 charge of keeping records?

18 A. I can't answer that. I can't think of the
19 chief accountant five or six years ago. We have
20 had three or four over the years.

21 Q. Who were the names of the accountants that
22 you remember?

23 A. Jim Bailey.

24 Q. Jim Bailey?

1 A. Uh-huh. Joe Campbell. Bill Kilduff.

2 Q. How do you spell his last name?

3 A. K I L D U F F. And Joe Partore.

4 Q. These were the chief accountants at the
5 Woburn plant?

6 A. Yes.

7 Q. Do you remember roughly what the years
8 were for each of these three individuals that you
9 mentioned, Mr. Bailey, Campbell and Kilduff?

10 A. No.

11 Q. Who was there from the beginning from 1960?

12 A. I believe Kilduff.

13 Q. And how long was he there, approximately
14 the five years, ten years?

15 A. Approximately?

16 Q. Yes.

17 A. Maybe ten years.

18 Q. So he might have been there from 1960 to
19 1970 you think?

20 A. Possibly.

21 Q. And where did Mr. Kilduff then go if you
22 know?

23 A. I don't know.

24 Q. Left the company?

1 A. Another company.

2 Q. Did he stay within the company?

3 A. No, he did not.

4 Q. He is still with the company?

5 A. No, he is not. He did not stay with the
6 company.

7 Q. But you don't know what happened to him.
8 All right. After Mr. Kilduff, did Mr. Bailey take
9 over or Mr. Campbell take over?

10 A. I believe it was Joe Campbell.

11 Q. How long was Mr. Campbell there?

12 A. Approximately?

13 Q. Yes, approximately.

14 A. Six-seven years.

15 Q. And what happened to Mr. Campbell?

16 A. He left.

17 Q. Do you know if he stayed within the
18 company?

19 A. He did not stay in the company.

20 Q. Where did he go if you know?

21 A. I don't know.

22 Q. And Jim Bailey, he took over in 1977 or
23 approximately mid, late seventies?

24 A. In the seventies.

1 Q. And how long was he there?

2 A. Three or four years, approximately.

3 Q. And do you know where he went after that?

4 Did he stay within the company or did he go
5 somewhere else?

6 A. I don't remember the company he went to.

7 Q. He went to another company?

8 A. Yes.

9 Q. And Mr. Partore is still there?

10 A. Yes, he is.

11 Q. And he took over from Mr. Bailey?

12 A. I believe so.

13 Q. Have you had any conversations with Mr.
14 Partore about the records kept at the Woburn plant
15 for any reason?

16 A. No, I have not.

17 Q. Exhibit 21, I ask that you examine that.
18 Do you recognize that?

19 A. No.

20 Q. Did you at any time, were you aware that
21 the Woburn plant applied for a permit to dispose of
22 material into the Metropolitan District Commission
23 sewer?

24 A. Yes.

1 Q. You are aware of that?

2 A. Yes, I am.

3 Q. How are you aware of that?

4 A. Because Mr. Shalline asked me about the
5 purchase of some instrumentation to measure the
6 discharge.

7 Q. When did Mr. Shalline have that
8 conversation?

9 A. I don't remember.

10 Q. Was it in 1981?

11 A. I don't remember.

12 Q. What do you remember about that
13 conversation with Mr. Shalline?

14 A. Nothing other than he needed the
15 instrumentation in order to measure the discharge.

16 Q. And what did he say the cost would be?

17 A. I don't recall.

18 Q. What did you say about it?

19 A. I said: Absolutely. Get whatever you
20 need.

21 Q. Did in fact the Woburn plant purchase some
22 equipment to determine, to measure the discharge?

23 A. I assume he did.

24 Q. Well, do you know if he did?

1 A. No, I don't know positively.

2 Q. Well, between 1981 and 1984 when you left,
3 were you aware that the Woburn plant had purchased
4 such equipment?

5 A. I believe they did.

6 Q. Do you know when they purchased it?

7 A. No, I don't.

8 Q. Was the equipment ever used?

9 A. I believe it was.

10 (Brief interruption).

11 Q. Do you know when that equipment was used
12 to examine the discharge to the sewer?

13 A. No, I don't.

14 Q. Do you know the results of any of those
15 analyses of the discharge?

16 A. No, I don't.

17 Q. But you do believe that such equipment was
18 purchased?

19 A. I do believe.

20 Q. Do you know if records were kept about
21 what the discharge showed to the MDC sewer?

22 A. I believe so.

23 Q. You believe that such records exist?

24 A. I believe so based on what Mr. Shalline

1 told me.

2 Q. When did Mr. Shalline tell you something
3 about the records?

4 A. I don't remember.

5 Q. But you believe that Mr. Shalline has
6 indicated to you that records are kept of the
7 discharge to the sewer?

8 A. Yes.

9 Q. Do you have any idea how often the water
10 is examined?

11 A. No idea.

12 Q. Do you know why the water is examined or
13 analyzed? Did Mr. Shalline ever indicate to you
14 why it was necessary to analyze it?

15 A. I don't recall.

16 Q. Do you know if it is to fulfill a legal
17 requirement of some state or federal agency?

18 A. I believe it had something to do with the
19 state as I recall.

20 Q. Would you turn to Plaintiff's Exhibit 21.
21 The first page it states title for the official who
22 is filling out the document, and it says waste and
23 pollution coordinator. Was that Mr. Shalline's
24 title to your understanding in 1981?

1 A. No, I don't believe we ever had a title
2 waste and pollution coordinator even though he was
3 responsible.

4 Q. You don't believe that Mr. Shalline's
5 title was waste and pollution coordinator?

6 A. No, I don't believe so.

7 Q. Was Mr. Shalline responsible for waste and
8 pollution at the plant?

9 A. Yes, he was.

10 Q. And how long to your knowledge was he
11 responsible for waste and pollution matters at the
12 plant?

13 A. Many years.

14 Q. How many?

15 A. Almost from day one informally and more
16 formally since the regulations came into effect.

17 Q. When you say from day one, you mean from
18 1960?

19 A. Well, in the early sixties.

20 Q. So your understanding is Mr. Shalline was
21 informally in charge of waste and pollution matters
22 at least from the early seventies?

23 A. Well, in the context of what we were aware
24 of waste and pollution existed.

1 Q. To the extent that you were aware of waste
2 and pollution matters, he was responsible for it?

3 A. That is correct.

4 Q. Could you tell me what you believe you
5 were aware of in the early sixties as to waste and
6 pollution matters?

7 A. I wasn't aware that we had any problems
8 with waste and pollution matters.

9 Q. So Mr. Shalline was never given the
10 official title of waste and pollution coordinator
11 at any time?

12 A. No.

13 Q. But he had the duty informally?

14 A. Yes.

15 Q. Did anybody have a formal title of waste
16 and pollution coordinator?

17 A. Not that I know of.

18 Q. That person would have been Mr. Shalline?

19 A. Yes.

20 Q. Who was in charge of waste and pollution
21 matters?

22 A. Right.

23 Q. Now, on page 2 of the permit it lists
24 quantity used per year of various materials. You

1 see that under section three?

2 A. Yes.

3 Q. Are you aware of, were you aware in 1981
4 how many gallons per year approximately the plant
5 was using in metal cleaners?

6 A. No.

7 Q. Are you aware now?

8 A. No.

9 Q. Were you aware in the 1960's what the
10 gallons per year of metal cleaner use was at the
11 plant?

12 A. No.

13 Q. What do you understand metal cleaners in
14 Section 3 to be referring to, if you have such an
15 understanding?

16 A. To clean metal. That's all I know.

17 Q. Do you know what cleans metal?

18 A. No.

19 Q. Do you know what material is used to clean
20 metal?

21 A. No.

22 Q. Do you know if it is solvents or not?

23 A. No.

24 Q. All right. It says under Section 3, metal

1 cutting fluids.

2 It indicates a quantity used per year.
3 Did you have any knowledge of the quantity of
4 cutting fluids used?

5 A. I did not.

6 Q. Have any knowledge how much cutting fluids
7 was used in the 1960's or 1970's?

8 A. No, I did not.

9 Q. What material is used to cut, what fluids
10 are used to cut or what chemicals are referred to
11 as metal cutting fluids if you know?

12 A. I have no idea.

13 Q. You have no idea what that includes?

14 A. No, I do not.

15 Q. And paint stripper, do you have any
16 information in 1981 as to the quantity used per
17 year of paint stripper?

18 A. No, I do not.

19 Q. Do you have any information how much was
20 used in the 1960's and 1970's?

21 A. No, I do not.

22 Q. Do you know what material is used to do
23 paint stripping?

24 A. No, I do not.

1 Q. Paint thinner, it indicates the quantity
2 used per year in Section 3. Did you have any
3 knowledge in 1981 what the quantity was per year of
4 paint thinner?

5 A. No, I did not.

6 Q. Do you have any knowledge as to the amount
7 of paint thinner used in the 1960's and 1970's at
8 the plant?

9 A. No, I do not.

10 Q. Do you know what material is contained in
11 the paint thinner or the chemicals that are used to
12 thin the paint?

13 A. No, I do not.

14 Q. Now, did you ever know how waste solvent
15 was disposed of at the plant?

16 A. No, I did not.

17 Q. Do you know now?

18 A. Yes.

19 Q. When did you become aware as to when waste
20 solvent was disposed of at the plant?

21 A. In the last few years.

22 Q. What made you aware?

23 A. When we had to comply with the regulations.

24 Q. So in complying with the regulations you

1 found out how you disposed of waste solvent?

2 A. Well, I knew that we were doing it
3 according to the regulations through Paul Shalline.

4 Q. And prior to the regulations, did you
5 understand how waste solvent was disposed of at the
6 plant?

7 A. No.

8 Q. Do you know now as to how waste solvent
9 was disposed of at the plant?

10 A. When?

11 Q. Prior to the governmental regulations?

12 A. No.

13 Q. You still don't know?

14 A. I still don't know.

15 Other than for the incident.

16 Q. Other than the what?

17 A. The incident.

18 Q. Which incident?

19 A. The pit.

20 Q. The trench where the drums were poured in?

21 A. Uh-huh.

22 Q. That's one means of disposal for the
23 solvent.

24 MR. CHEESEMAN: If you know what was

1 in those drums.

2 Q. Is that right?

3 A. I don't know what was in the drums.

4 Q. Well, do you know if the drums contained
5 waste solvent?

6 A. No.

7 Q. Do you know now?

8 A. No.

9 Q. Do you know how thinner was disposed of at
10 the plant?

11 A. No, I do not.

12 Q. Do you know how it is now?

13 A. No, I do not.

14 Q. Do you know the company Axton and Cross or
15 Axton Cross Company?

16 A. It rings a bell, but I'm not sure what
17 they do.

18 Q. Are you aware that Axton Cross Company was
19 hired at some point by the Woburn plant to haul
20 waste from the facility, hazardous waste?

21 A. Is this under the regulation?

22 Q. I'm asking you, are you aware?

23 A. I don't know. I don't know.

24 Q. You don't know?

1 A. No.

2 Q. You don't know anything about Axton Cross
3 Company and whether they hauled waste or not?

4 A. I did not deal with Axton Cross whatsoever.

5 Q. The person responsible for that would be
6 Mr. Shalline?

7 A. Yes.

8 Q. That was his responsibility to determine
9 how the waste would be disposed of at the plant?

10 A. Yes.

11 Q. And he never consulted you at any time
12 about how waste, hazardous waste should be disposed
13 of at the plant?

14 A. No, he did not.

15 Q. At any time?

16 A. At any time.

17 Q. Either before the governmental regulations
18 in the 1980's or after the governmental regulations
19 in the 1980's?

20 A. That's correct.

21 Q. You have never had a discussion with Mr.
22 Shalline as to how he should comply with the
23 governmental regulations that went into effect in
24 the 1980's; is that correct?

1 A. Well, that's not true. I'm sure -- I know
2 I told him he better comply with the government
3 regulations.

4 Q. Do you remember when you had that
5 conversation with him?

6 A. No.

7 Q. How were you made aware of the
8 governmental regulations, that there were such a
9 thing?

10 A. I'm not sure.

11 Q. Did Mr. Shalline make you aware of it or
12 were you made aware of it through the mail or from
13 an official from W. R. Grace and Company?

14 MR. CHEESEMAN: If you remember.

15 A. I don't remember.

16 Q. Did you ever attend a seminar at which
17 W. R. Grace explained what the governmental
18 regulations were and how the Woburn plant should
19 comply with them?

20 A. No, I did not.

21 Q. Did you ever have any contact with W. R.
22 Grace and Company from whatever division or
23 whatever official as to how the Woburn plant should
24 comply with the governmental regulations regarding

1 the removal of hazardous waste?

2 A. No, I did not.

3 Q. At any time?

4 A. At any time.

5 Q. Do you now know what the regulations are
6 of the federal government regarding the removal of
7 hazardous waste?

8 A. The regulations?

9 Q. Yes, the regulations regarding the removal
10 of hazardous waste generated at the Woburn plant.

11 A. I don't know the details of the
12 regulations.

13 Q. You still don't?

14 A. No.

15 (Off the record discussion).

16 Q. Did you ever have any contact with the
17 Calidyne Company?

18 A. No.

19 Q. They are the previous owners of the site,
20 is that your understanding?

21 A. Yes.

22 Q. You never had any contact with them?

23 A. No, I did not.

24 Q. Do you have any knowledge as to what

1 operation they had at that site prior to W. R.
2 Grace taking over?

3 A. They had no operation.

4 Q. So W. R. Grace was the first one to
5 actually have an operating plant at that site?

6 A. Yes. They left it with a foundation only.

7 (Recess).

8 Q. I am showing the witness answers to
9 interrogatories.

10 A. Of who?

11 Q. Of the defendant W. R. Grace.

12 MR. CHEESEMAN: These are answers we
13 prepared.

14 A. Oh.

15 MR. CHEESEMAN: To written questions.

16 A. I haven't seen them.

17 Q. Have you ever seen these before, these
18 answers to interrogatories?

19 A. No, I haven't.

20 Q. On page 7 under E.

21 A. E?

22 Q. E, Section E.

23 MR. CHEESEMAN: Page what?

24 A. Oh, 7. I was on 8.

1 Q. Seven. There is section E. On page 6,
2 just so you know, Section E of the question asks
3 whether there have been any spills or disposal of
4 chemicals on the premises at the Washington Street
5 property.

6 A. Uh-huh.

7 Q. And then under Section E, page 7 it says:
8 Yes; and then under Section 1 it says:
9 Approximately 15 gallons of material from the
10 degreaser in the machine shop was disposed of on a
11 few occasions by spreading it on the ground in the
12 area between the two drainage ditches in the rear
13 of the plant on a sunny day for drying and
14 evaporation. It is not known what substances were
15 contained in this material, but substances used in
16 the degreaser from time to time included small
17 amounts of 1,1,1-trichloroethane or
18 tetrachloroethylene.

19 Did you have any information
20 concerning the information contained in question 12
21 E 1?

22 A. No, I did not.

23 Q. You didn't provide any of that information?

24 A. No, I did not.

1 Q. And on Section 2 of 12 E.

2 MR. CHEESEMAN: Pause a little bit
3 after the question so I can get my two cents worth
4 in before you answer.

5 MR. SCHLICTMANN: On E one? Did you --

6 MR. CHEESEMAN: From now on. It is
7 too late.

8 MR. SCHLICTMANN: Want to say
9 something?

10 MR. CHEESEMAN: He has already
11 answered.

12 MR. SCHLICTMANN: Do you want to say
13 something?

14 MR. CHEESEMAN: No, it's all right.

15 Q. In answer to question 12 E, the answer to
16 12 E 2. In October 1974 a pit was dug in the area
17 behind the building. It is estimated that
18 approximately ten filled or partially filled drums
19 of accumulated paint sludge were emptied or placed
20 into the pit. The pit was covered with dirt very
21 shortly after it was opened. Constituents of the
22 paint sludge are not known, but substances used in
23 the process yielding paint sludge as a waste by-
24 product from time to time might have included small

1 amounts of trichloroethylene.

2 Are you aware of any of that
3 information contained in 12 E 2, answer 12 E 2?

4 MR. CHEESEMAN: You're asking if he
5 has any knowledge, personal knowledge of any of
6 these matters?

7 Q. Right, did you have any personal knowledge
8 of the matters referred to in the answer to 12 E 2?

9 A. Other than what was, your questions
10 relating to the previous -- to this document.

11 Q. Well, in this answer in 12 E 2. It says
12 ten filled to partially filled drums were emptied
13 or placed into the pit. Did you have any knowledge
14 about whether drums were placed into the pit?

15 A. Except as I testified to you.

16 Q. Now, these answers to interrogatories were
17 answered I believe in May.

18 MR. CHEESEMAN: Just wait.

19 Q. February 9, 1983 these answers were given.

20 MR. CHEESEMAN: That's not a question.

21 Q. No, just information to you.

22 MR. CHEESEMAN: We heard you.

23 Q. February 1983.

24 MR. CHEESEMAN: Now ask your question.

1 Q. Did you receive any information that, did
2 any information come to your attention from the
3 time you answered the EPA's letter of January 1982
4 asking you about the trench incident and February 9th,
5 1983 concerning whether drums were poured or placed
6 into the pit?

7 MR. CHEESEMAN: Okay. Now, the
8 problem I have with the question is that much of
9 the information that was developed after the EPA
10 information response was developed by counsel, and
11 I understand that you are asking the witness to
12 divulge communications he has had with counsel on
13 these matters which is of course privileged.

14 MR. SCHLICHTMANN: No, I do not.

15 MR. CHEESEMAN: But if the witness
16 learned anything relating to that subject from
17 people other than counsel --

18 MR. SCHLICHTMANN: Right.

19 MR. CHEESEMAN: Or in conversations
20 where counsel was not present and part of the
21 conversation, he may answer.

22 Do you understand that?

23 A. Yes, I understand. Was this before the
24 pit was dug? February of '83?

1 MR. SCHLICHTMANN: Yes.

2 A. Then the only information I have is what I
3 gave you about Kelly mentioning he probably dropped
4 a couple of drums in the pit. I don't know the
5 date.

6 Q. But that conversation was close to the
7 time that the drums were actually excavated?

8 A. How close I don't know.

9 Q. Well, within a month?

10 A. Before.

11 Q. Was it in a month or several months?

12 A. I'd say a month or so.

13 Q. About a month, all right. So no
14 independent knowledge came to your attention to
15 indicate to you that the information you had given
16 the EPA was wrong prior to your talking to Mr.
17 Kelly about whether drums were placed in the pit?

18 A. That's correct.

19 Q. And on question and answer to question 12
20 E under 12 E 3, it states: It is believed that
21 employees might occasionally have discarded small
22 amounts, a quart or less, of materials at the rear
23 of the plant after obtaining a small quantity from
24 the paint shop for wiping down machines or parts by

1 hand. It is not known what substances were so
2 discarded. Do you have any information --

3 A. No.

4 Q. Concerning the behavior of employees in
5 discarding materials to the rear of the plant?

6 A. I do not.

7 Q. Have you ever engaged in an investigation
8 to find out whether employees discarded materials
9 in the rear of the plant?

10 MR. CHEESEMAN: Mr. Forte personally?

11 Q. Yes, did you ever undertake an
12 investigation?

13 A. No, I didn't.

14 Q. Now, on page 12, question 19, Section E,
15 it asks for you to describe or for W. R. Grace to
16 describe the nature and amount of waste generated
17 by each process. And you listed in question 19 D,
18 and in answer on page 13, I'm sorry -- strike that.

19 The question on page 12 on 19 F asks
20 to describe the treatment, storage and disposal
21 methods for all above wastes referred to in that
22 question, and that refers to trichloroethylene.

23 On page 13 the answer 12 F states:
24 The small amounts of paint shop liquid wastes were

1 placed in drums kept in the paint shop. When full,
2 these drums were moved outside to the rear of the
3 plant. We believe these drums were periodically
4 carried away by haulers, except as described in
5 answer 12 E 2 -- which refers to the trench
6 incident.

7 Do you have any independent knowledge
8 concerning the information contained in answer 19 F?

9 A. Firsthand knowledge, no, other than what I
10 told you earlier.

11 Q. Do you know whether in fact drums outside,
12 that were moved outside to the rear of the plant
13 were periodically carried away by haulers?

14 A. I positively do not know for sure.

15 Q. Do you not know that it was hauled away?

16 A. I have never seen it.

17 Q. You have never seen it?

18 A. Happen.

19 Q. You have never seen it happen?

20 A. No.

21 Q. And you don't know that it took place?

22 A. No.

23 Q. Now, on question 20, on page 13, it refers
24 to tetrachloroethylene and 20 F asks to describe

1 the treatment, storage and disposal methods used
2 for all above wastes. Answer 12 F, page 14: We
3 believe disposal was the city sewer or into waste
4 drums stored outside in the rear of the plant. We
5 believe these drums were periodically carried away
6 by haulers, except as described in answer 12 E 1 --
7 which refers to the dumping of waste to the rear of
8 the plant.

9 Do you have any independent knowledge
10 concerning the information contained in answer 20 F?

11 A. No, other than what I told you earlier
12 about asking somebody or hiring somebody to haul
13 the drums away.

14 Q. When was that?

15 A. I don't know remember.

16 Q. The hauling of the drums?

17 A. I don't remember. I gave in my deposition.

18 Q. Do you know whether in fact drums
19 containing material with tetrachloroethylene were
20 periodically carried away by haulers?

21 A. I don't know for a fact.

22 Q. You don't have any information --

23 A. Personally.

24 Q. To indicate haulers hauled it away; is

1 that right?

2 MR. CHEESEMAN: You're asking, not
3 whether he has personal knowledge, whether he has
4 information?

5 Q. All right, do you have personal knowledge?

6 A. Not to my knowledge.

7 MR. SCHLICHTMANN: Are you making a
8 distinction between information and what he
9 observed and what he absorbed by investigation or
10 been divulged by counsel?

11 MR. CHEESEMAN: You making the
12 distinction?

13 A. Geezus, you guys are something.

14 Q. Did you ever conduct an investigation or
15 learn in an investigation that you conducted as to
16 how drums containing tetrachloroethylene or
17 trichloroethylene were carried away or were
18 disposed of at the plant?

19 A. No.

20 Q. And under question 22, page 14, it refers
21 to 1,1,1-trichloroethane, and again it asks for the
22 treatment, storage and disposal methods used for
23 that waste; and answer to 22 F, it is stated: We
24 believe disposal was to city sewer or into waste

1 drums stored outside in the rear of the plant. We
2 believe these drums were periodically carried away
3 by haulers except as described in answer 12 E 1 --
4 having to do with the pouring of the waste onto the
5 rear of the plant.

6 Do you have any independent knowledge
7 concerning the information contained in 22 F?

8 A. No, I do not.

9 Q. Do you know whether haulers ever took
10 drums that were placed to the rear of the plant
11 that might have contained 1,1,1-
12 transdichloroethane?

13 MR. CHEESEMAN: I think you mean
14 1,1,1-trichloroethane.

15 Q. I get confused.

16 A. I have no personal knowledge.

17 Q. On page 22, question 38 asks about
18 employees or representatives of W. R. Grace &
19 Company ever having knowledge of the disposal by
20 other parties of any material, liquid or solid, new
21 or used in, on or near the premises at the
22 Washington Street property. The answer was no.

23 MR. CHEESEMAN: You didn't read that
24 question correctly.

1 A. Why did you ever say no? You should have
2 said yes.

3 Q. I see. I have it wrong. I got you. Has
4 any employee. Question 38: Has any employee or
5 representative of W. R. Grace & Company or Cryovac
6 ever disposed of any material, liquid or solid, new
7 or used in, on or near the Washington Street
8 property?

9 Answer: Yes. And then in question
10 40 it asks if the answer to question 38 or 39 is
11 yes, please provide the following, and then it asks
12 several questions, A through H. The answer given,
13 the answers given are on page 23. Do you have any
14 information concerning the matters described in
15 answer 40 A through H?

16 A. None other than what I have answered prior
17 to this question.

18 Q. So you don't know whether material was
19 periodically spread on the ground to the rear of
20 the plant?

21 A. No, I do not.

22 Q. And you don't know -- all right. You
23 don't know.

24 All right. States on page 27,

1 Question 51: Were any representatives of W. R.
2 Grace & Company and/or Cryovac ever notified by any
3 party of the presence of contaminants in, on or
4 near the property or in the water at the Washington
5 Street property? And if so, it asks certain
6 questions A through D.

7 And the answer on Section C it states:
8 EPA advised W. R. Grace orally and by letter that
9 it had received allegations that a trench or pit
10 had been used for disposal of wastes in 1974, that
11 material had been disposed of on the ground on
12 other occasions, and that a tank or dry well had
13 been ruptured during construction activities in the
14 mid 1960's.

15 Did you have any information
16 concerning the matters discussed in Section 51 C of
17 the answers to interrogatories?

18 A. Other than what I testified to today?

19 Q. Did the EPA ever advise you orally other
20 than the letter concerning the trench or pit that
21 had been used for disposal of waste in 1974?

22 A. I don't believe anyone called me.

23 Q. You don't remember any such conversation?
24 Or any contact with an EPA official?

1 A. No, I don't. Oh, Abley is vice president
2 of Reynolds?

3 That's interesting information.

4 (Off the record discussion).

5 Q. You have indicated that Mr. Shalline has
6 the job of waste and pollution control coordinator;
7 is that right?

8 A. Yes.

9 Q. Did you appoint him in that position?

10 A. Yes, I did.

11 MR. CHEESEMAN: Let's be clear about
12 this now. You are using that term as if it were a
13 title and I believe the testimony was that there is
14 no official title.

15 Q. I think that's very important. I agree
16 with that. Mr. Shalline to your knowledge was
17 never officially appointed Pollution Control
18 Officer; is that right?

19 A. No such title.

20 Q. No such title --

21 A. To my knowledge.

22 Q. Exists?

23 A. To my knowledge.

24 Q. But he was responsible for waste and

1 pollution control matters?

2 A. As part of his responsibilities.

3 Q. What, who appointed him in this capacity?

4 A. I did.

5 Q. What qualifications did Mr. Shalline
6 possess in order for you to make your judgment that
7 he should be responsible for those matters,
8 pollution and waste control?

9 MR. CHEESEMAN: Object to the form of
10 the question. Go ahead and answer.

11 A. Well, he had the most experience with what
12 was used in the plant.

13 Q. Any other qualifications?

14 A. I don't think he needed any others.

15 Q. When you say that he had the most
16 experience for what was used at the plant, why did
17 you believe he had the most experience?

18 A. Seniority, being involved as general
19 foreman, being exposed to all the production
20 departments on a daily basis for years and years
21 and years.

22 Q. That he would be the person most
23 knowledgeable about the use of chemicals at the
24 plant and how they were handled?

1 A. In my opinion, yes.

2 Q. That's why you made him responsible for
3 pollution and control matters?

4 A. Yes.

5 Q. Was it Mr. Shalline's responsibility to
6 answer any and all inquiries by governmental
7 agencies concerning waste or pollution control
8 matters at the plant?

9 A. With the exception of the EPA letter.

10 Q. With the exception of the EPA letter, that
11 was his responsibility?

12 A. Yes.

13 Q. Why was there an exception as to the EPA
14 letter?

15 A. It came to me.

16 Q. Did you give a copy of that letter to Mr.
17 Shalline?

18 A. I believe so.

19 Q. Did you instruct Mr. Shalline to do
20 whatever is necessary to answer the letter from EPA?

21 A. I instructed him to give me as much
22 information as he could to answer the letter.

23 Q. Did you instruct him to look at records to
24 answer the information?

1 A. I wasn't any more specific but to get me
2 as much information as he could.

3 Q. You requested Mr. Shalline to get you as
4 much information as he could concerning the
5 information requested by the EPA in the letter of
6 January 1982?

7 A. Yes, sir.

8 Q. And you were relying on Mr. Shalline to
9 provide you that information?

10 A. Yes, I did.

11 (Off the record discussion).

12 (Recess).

13 Q. Mr. Forte, I am going to ask you a series
14 of questions and then I am going to let you go.

15 A. Thank you.

16 Q. Going to be asking your opinion. If in
17 the 1960's the waste, chemical waste was disposed
18 of to the rear of the plant on the ground, would
19 that have been a proper practice in your opinion as
20 plant manager?

21 MR. CHEESEMAN: Objection. Go ahead
22 and answer.

23 A. I don't know.

24 Q. Would that practice have violated any

1 company policy which you were aware of in the
2 1960's concerning how waste was to be disposed of?

3 A. I don't believe it would have.

4 Q. To your knowledge was it industry practice
5 in the 1960's to dispose of chemical waste by
6 disposing of it on the ground?

7 A. I have no idea what industry practice was
8 in the 1960's.

9 Q. If it had taken place, if dumping chemical
10 waste products on the ground in the 1960's had
11 taken place at the Woburn plant, that to your
12 knowledge would not have been an improper practice?

13 MR. CHEESEMAN: Objection. Go ahead.

14 A. I don't know that I would have thought too
15 much about it. I wouldn't like it.

16 Q. You wouldn't like it?

17 A. I wouldn't like it.

18 Q. Why would you not like it?

19 A. Just in principal I wouldn't like it just
20 dumping stuff.

21 Q. Why would you not like it in principle?

22 A. Just because it messes up the ground. It
23 has nothing to do with a waste disposal, hazard or
24 anything like that. It is the 1960 mentality that

1 I would have had.

2 Q. What would have been your 1960 mentality
3 concerning the disposal of material on the ground?

4 MR. CHEESEMAN: Objection.

5 A. I just answered.

6 Q. Which would have been?

7 MR. CHEESEMAN: He has answered the
8 question.

9 A. Yes, I said I wouldn't like it.

10 Q. In the 1970's, would it have been a proper
11 practice at the Woburn plant to have disposed of
12 chemical waste by dumping it on the ground to the
13 rear of the plant?

14 MR. CHEESEMAN: Objection.

15 A. To my knowledge --

16 MR. CHEESEMAN: Go ahead.

17 A. To my knowledge it wasn't a practice.

18 Q. But if it had been a practice in the 1970's,
19 would it have been a proper practice at the Woburn
20 plant?

21 MR. CHEESEMAN: Objection. Go ahead.

22 A. I don't know.

23 Q. If toxic waste material was disposed of to
24 the rear of the plant on the ground in the 1970's,

1 would that have violated any company policy or
2 practice that you were aware of in the 1970's?

3 MR. CHEESEMAN: Objection.

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

5 Q. You don't know if it would?

6 A. No.

7 Q. Would you have liked it?

8 MR. CHEESEMAN: Objection.

9 A. I wouldn't like it.

10 Q. Why wouldn't you have liked it in the 1970's?

11 MR. CHEESEMAN: Objection.

12 A. Same reason I gave before.

13 Q. Which is?

14 MR. CHEESEMAN: Objection.

15 A. Answer? Just messing things up and if it
16 was toxic, I'd like it even less.

17 Q. Why if it was toxic would you like it even
18 less?

19 MR. CHEESEMAN: Objection.

20 A. Because I wouldn't feel that it would be
21 right.

22 Q. Why?

23 MR. CHEESEMAN: Objection.

24 A. Define toxic for me, will you please, so I

1 can answer the question more intelligently?

2 Q. How do you understand the word toxic to be?

3 MR. CHEESEMAN: Objection.

4 A. Why don't you tell me what it means.

5 Q. Well, do you have an understanding of what
6 toxic means?

7 A. Well, I had assumed off the top of my head
8 some dangerous chemical.

9 Q. To humans?

10 A. Yeah, that would be my interpretation; but
11 if you have a different meaning for toxic, I wish
12 you'd tell me.

13 Q. I mean by toxic then that it is dangerous
14 to the health of humans.

15 A. Then I would object very strongly to
16 anybody doing it.

17 Q. Dumping it on the ground?

18 A. Absolutely.

19 Q. Why?

20 MR. CHEESEMAN: Objection.

21 A. Because.

22 Q. Because why?

23 A. Because if there was any danger to anybody,
24 we would object as a company.

1 Q. Why would you object? Why would the
2 company object --

3 MR. CHEESEMAN: I object.

4 Q. To the disposing of toxic chemicals on the
5 ground? I know he would object.

6 MR. CHEESEMAN: Objection. Go ahead.

7 A. Because we would not want to hurt anybody.
8 Absolutely not.

9 Q. Do you have an understanding as to how
10 dumping toxic chemicals on the ground could in some
11 fashion hurt people?

12 MR. CHEESEMAN: Yes or no.

13 Q. Do you have?

14 MR. CHEESEMAN: Do you have an
15 understanding?

16 Q. Do you have an understanding?

17 A. No.

18 Q. No?

19 A. No.

20 Q. If it could, it would be a bad practice;
21 is that right?

22 MR. CHEESEMAN: Objection.

23 A. Answer?

24 MR. CHEESEMAN: Yes.

1 A. My answer is the same. If it would hurt
2 anybody, we would be very unhappy and stop it.

3 Q. If you knew that material containing --
4 did you know that trichloroethylene was a hazardous
5 or toxic chemical?

6 MR. CHEESEMAN: Objection.

7 A. No.

8 MR. CHEESEMAN: Give me a chance.

9 Objection.

10 A. No.

11 Q. In the 1960's, did you know that
12 trichloroethylene was a dangerous or toxic
13 substance?

14 MR. CHEESEMAN: Objection.

15 A. No.

16 Q. 1960's did you know that trichloroethylene
17 could cause, could adversely affect the health of
18 people?

19 MR. CHEESEMAN: Objection.

20 A. No.

21 Q. If material which was hazardous to the
22 health of humans was contained in material that was
23 being disposed of to the rear of the plant, would
24 that have been an improper practice in the 1960's?

1 MR. CHEESEMAN: Objection.

2 A. If we knew about it, it would have been
3 stopped immediately, without question.

4 Q. Why?

5 MR. CHEESEMAN: Objection.

6 A. If we knew it was harmful, we would have
7 stopped it immediately.

8 Q. Are you saying then that if you were aware
9 that hazardous material contained or that -- strike
10 that. You were aware in the 1960's that material
11 containing hazardous chemicals was being disposed
12 of to the rear of the plant on the ground, that
13 would have been a practice which you would have
14 stopped; is that right?

15 MR. CHEESEMAN: Objection.

16 A. Yes.

17 Q. And if you knew that in the 1970's that
18 material containing hazardous chemicals was being
19 disposed of on the ground, you would have stopped
20 that practice?

21 MR. CHEESEMAN: Objection.

22 A. Yes.

23 Q. If you had known that the drums of
24 material that were poured into the pit in the

1 1970's contained hazardous chemicals, would you
2 have stopped that practice?

3 MR. CHEESEMAN: Objection.

4 A. If I knew they were going in?

5 Q. Yes.

6 A. Yes.

7 Q. If you discovered after -- all right. If
8 you knew that drums containing material containing
9 hazardous chemicals were buried on the property,
10 would you have removed those drums?

11 MR. CHEESEMAN: Objection.

12 A. I didn't know that, so --

13 Q. But if you did know that, do you think you
14 would have removed those drums?

15 MR. CHEESEMAN: Objection. You know
16 of course we did remove them.

17 Q. After prodding.

18 A. That's not true.

19 MR. CHEESEMAN: I guess he's answered
20 the question.

21 Q. What, would you have removed them?

22 A. Yes.

23 Q. You would have?

24 A. Yes.

1 Q. Why would you have removed them?

2 MR. CHEESEMAN: Objection.

3 A. If they were hazardous, we would have
4 removed them.

5 Q. So if you knew that material containing
6 hazardous chemicals were buried in the property,
7 W. R. Grace property, you would have had it removed,
8 is that correct?

9 MR. CHEESEMAN: Objection.

10 A. You said drums?

11 Q. Drums.

12 A. Yes.

13 Q. And the reason you would have had it
14 removed?

15 MR. CHEESEMAN: Objection.

16 A. If I thought they were harmful to anybody,
17 we would have done something about it.

18 Q. Now, the material that was poured into the
19 trench, you knew that the material had been poured
20 into the trench; is that right, in 1974?

21 MR. CHEESEMAN: You asking if he knew
22 in 1974?

23 Q. Sorry, did you ever know prior to the EPA
24 letter that material had been poured into the

1 trench in 1974?

2 A. Not to my knowledge.

3 Q. In your investigation in 1982, you found
4 out that material had been poured into the trench,
5 is that right?

6 A. That is correct.

7 Q. Did you make any determination as to
8 whether the material that was poured into that
9 trench was hazardous or not?

10 MR. CHEESEMAN: Asking about him
11 personally?

12 Q. Yes, whether you did?

13 A. No.

14 Q. You never did?

15 A. No.

16 Q. To this day do you know what that material
17 contained?

18 A. No.

19 Q. Did you ever review the results of the EPA
20 or strike that. Did you ever review the results of
21 the tests done on the pit once it was excavated?

22 A. I did sit in a meeting.

23 Ask the question again, please.

24 Q. Did you ever review results of -- test

1 results of the pit that was excavated of the
2 material that was contained in the pit?

3 MR. CHEESEMAN: I understand that
4 question to call simply for a yes or no answer and
5 that means did you review, that means did you ever
6 look at any of the printed reports of the test data
7 that came out?

8 A. I did once.

9 Q. Did you determine in reviewing that
10 material that hazardous waste material had been
11 disposed of in that pit in 1974?

12 A. No.

13 Q. You did not?

14 A. No.

15 Q. You did not?

16 A. Personally?

17 Q. Yes.

18 A. No.

19 Q. But in your review you did see the
20 chemicals that were listed that were found in the
21 pit; is that right?

22 A. Yes, I saw the list.

23 Q. And did you determine, did you know that
24 any of those were hazardous?

1 A. No.

2 Q. Have you determined since then that any of
3 those materials are hazardous?

4 A. My personal opinion?

5 Q. Yes.

6 A. No.

7 Q. To this day you don't know whether they
8 are hazardous or not?

9 A. No.

10 Q. So if you had been told by Mr. Kelly that
11 the material contained trichloroethylene that was
12 poured into the pit in 1974, that wouldn't have
13 made any difference to you, would it?

14 MR. CHEESEMAN: Objection.

15 A. Not unless somebody -- if I knew for sure
16 it was a hazardous material, it would have made a
17 difference.

18 Q. How would it have made a difference?

19 MR. CHEESEMAN: Objection.

20 A. Well, if there was any danger from the
21 material, I would want to do something about it.

22 Q. And what do you think you could have done
23 about it?

24 MR. CHEESEMAN: Objection.

1 A. If they were in drums, we could have
2 removed them.

3 Q. If you were -- You have seen the exhibit
4 which has the cease order or the stop use order
5 from Cryovac concerning trichloroethylene?

6 (Witness pointed).

7 Q. Yes, the exhibit?

8 A. Yes.

9 Q. Where it states the material is not to be
10 used any more because it has carcinogenic
11 properties?

12 MR. CHEESEMAN: Now, I object.
13 That's a misstatement of what that exhibits says.

14 (Document handed to the witness).

15 Q. Page 3 of Exhibit 9 says in part: "The
16 substance described below has been cited as a
17 carcinogenic substance, as having potential
18 carcinogenic hazards or as having other proven or
19 potential serious health hazards. The evidence
20 available to date is such that we feel that the
21 substance should be eliminated from possession or
22 use in our plants immediately."

23 Now, if you had known at the time, if
24 you had known that trichloroethylene had been in

1 the material that was poured in the pit and you
2 knew the information concerning trichloroethylene
3 contained in Shalline Exhibit No. 9 concerning the
4 properties of trichloroethylene, would you have
5 considered it to be hazardous and something that
6 should be removed?

7 MR. CHEESEMAN: Objection.

8 A. I'm not sure based on that letter.

9 Q. You don't believe that the Shalline
10 Exhibit No. 9 in talking about trichloroethylene
11 was strong enough concerning the hazards of
12 trichloroethylene to determine whether it was
13 hazardous or not?

14 A. That's right.

15 MR. CHEESEMAN: Objection.

16 A. Excuse me, I'm sorry.

17 Q. Is that correct?

18 MR. CHEESEMAN: He has answered the
19 question over my objection.

20 A. Sorry.

21 MR. CHEESEMAN: He answered it
22 already.

23 Q. We have it on the record.

24 A. I'm sorry.

1 Q. So if you did know that the substance had
2 been cited as a carcinogenic substance, as having
3 potential carcinogenic hazards, or as having other
4 proven or potential serious health hazards, and you
5 knew that that material had been poured into the
6 pit or that drums with that material might be in
7 the pit, you would not have considered that to be
8 serious enough to have done anything about; is that
9 right?

10 MR. CHEESEMAN: Objection.

11 A. I think if I knew the drums were in the
12 pit, I probably would have investigated it further
13 if I knew.

14 Q. Why would you have investigated further?

15 MR. CHEESEMAN: Objection.

16 A. Just to make sure there was a good reason
17 to do it.

18 Q. Good reason to remove them?

19 A. Yes.

20 Q. Well, would the information contained in
21 the stop use order have been helpful in determining
22 whether it was a dangerous substance or not --

23 MR. CHEESEMAN: Objection.

24 Q. And should be removed?

1 MR. CHEESEMAN: Objection. Go ahead.

2 A. It was information leading up to further
3 investigation if I thought there were drums in the
4 pit.

5 Q. But in fact you did not engage in any
6 investigation to determine what material was in,
7 had been poured into the pit or what material might
8 be in the drums that might be in the pit.

9 MR. CHEESEMAN: Objection.

10 A. That is true.

11 Q. And you never made a determination or
12 tried to make a determination as to what, how
13 hazardous those materials might be that were poured
14 into the pit or might be buried in the pit?

15 MR. CHEESEMAN: Him personally?

16 Q. Yes, you personally.

17 MR. CHEESEMAN: Objection.

18 A. No, I did not.

19 (Off the record discussion).

20 Q. Are you aware of the corporate structure
21 of W. R. Grace?

22 A. A little bit.

23 Q. Do you understand the corporate
24 organization of W. R. Grace?

1 A. Very large. You have to ask me a specific
2 question.

3 Q. Do you understand that W. R. Grace has
4 lots of different divisions?

5 A. Yes.

6 Q. Do you understand that they have divisions
7 in the chemical industry?

8 A. Yes.

9 Q. Are you aware of the fact that there are,
10 that W. R. Grace has various divisions and people
11 involved in those divisions with special expertise
12 in various matters?

13 A. Yes.

14 Q. Did you know that W. R. Grace has
15 expertise in engineering?

16 A. Yes.

17 Q. In toxicology?

18 A. I don't know that.

19 Q. In human health matters?

20 A. Don't know that.

21 Q. In science?

22 A. Science? Yes.

23 Q. In chemicals?

24 A. Yes.

1 Q. And did you understand that during the
2 time you were associated with the Woburn plant as
3 plant manager or as general manager that if you had
4 any questions concerning matters which needed
5 expertise that you could go to the resources of the
6 W. R. Grace corporation to get your questions
7 answered?

8 MR. CHEESEMAN: Objection. Go ahead.

9 A. It was not a common practice, but I could
10 have.

11 Q. You believed, it was your understanding
12 that if you wished, you could get information from
13 the various divisions or people associated with the
14 W. R. Grace Company in whatever disciplines or
15 fields where W. R. Grace had specialized knowledge;
16 is that right?

17 MR. CHEESEMAN: Objection.

18 A. I believe so.

19 Q. Had you at any time as plant manager or
20 general manager of the Woburn plant ever, for
21 whatever reason, ever contacted or received
22 information from someone associated with W. R.
23 Grace who had specialized knowledge in a particular
24 area?

1 A. Not that I recall.

2 Q. But they were available?

3 MR. CHEESEMAN: Objection.

4 A. Well, available? Can you rephrase that
5 question?

6 Q. Did you believe that they were available
7 if you needed them?

8 MR. CHEESEMAN: Objection.

9 A. It depends on the areas you mentioned.

10 Q. If you believed that you needed
11 specialized information in areas of engineering,
12 you knew that you could get that from resources
13 that the W. R. Grace Company had?

14 MR. CHEESEMAN: Objection. Go ahead.

15 A. Probably.

16 Q. If you wanted to find out how dangerous
17 the chemicals or substances containing chemicals
18 that were disposed of in the pit in 1974, was it
19 possible for you to have obtained that information
20 from a resource connected with the W. R. Grace
21 Company?

22 MR. CHEESEMAN: Objection.

23 A. I don't know.

24 Q. Did you believe that you could have gone

1 to Mr. Stewart if you had any questions concerning
2 environmental matters?

3 MR. CHEESEMAN: Objection.

4 A. Yes, I could have.

5 Q. But you never did go to Mr. Stewart to ask
6 him any questions that you might have had
7 concerning environmental matters?

8 MR. CHEESEMAN: Objection.

9 A. Not that I recall.

10 Q. You never contacted anyone associated with
11 the W. R. Grace Company to determine how hazardous
12 the chemicals were that were used at the Woburn
13 plant at any time?

14 A. Personally?

15 Q. Yes.

16 A. No, I did not.

17 Q. Are you aware of anybody associated with
18 the Woburn plant who at any time ever contacted
19 somebody associated with the W. R. Grace
20 Corporation concerning the hazards posed by the
21 chemicals used at the Woburn plant?

22 A. I don't know.

23 Q. You are not aware of any?

24 A. No.

1 Q. Where did you reside when you were
2 associated with the Woburn plant?

3 A. Lexington.

4 Q. Did you always live there?

5 A. Since 1960.

6 Q. Since 1960 you lived in Lexington?

7 A. '60 to '84.

8 Q. At any time at the Woburn plant did you
9 ever see any warning signs or information posted
10 concerning the chemicals used at the plant or the
11 hazards that those chemicals posed?

12 A. I don't recall any.

13 Q. Do you remember ever holding or ever
14 attending any meetings or seminars at the Woburn
15 plant at which the chemicals used at the plant or
16 the hazards posed with those chemicals was ever
17 discussed?

18 A. No.

19 Q. And during the time that you were
20 associated with the Woburn plant, did you ever
21 attend any or did you ever ask that such meetings
22 take place at which the proper handling and
23 disposal of chemicals used at the plant was
24 discussed?

1 A. No.

2 Q. At any time you were associated with the
3 Woburn plant, did you ever direct that a meeting be
4 held? Do you remember ever attending a meeting at
5 which it was discussed the prevention of chemical
6 spills or the procedures to be followed in the
7 event of a spill of chemicals in use at the plant?

8 A. No.

9 Q. To your knowledge during the time you were
10 associated with the Woburn plant --

11 A. You are talking about me personally?

12 Q. You. Were you ever, did you ever, do you
13 have any knowledge during the time you were
14 associated with the Woburn plant at any time of any
15 spill of chemicals used at the plant?

16 A. No.

17 Q. Were you aware of any meetings taking
18 place at the plant at which you may not have
19 attended or which may not have been at your
20 direction but which did take place at the plant at
21 which the waste disposal practices or the handling
22 of chemicals was discussed?

23 A. I am not aware of any.

24 Q. At any time during the time you were

1 associated with the plant?

2 (Witness shook head).

3 Q. From 1960 to 1984?

4 A. I am not aware of any.

5 Q. After the governmental regulation came
6 into effect, did you ever require that a meeting
7 take place or were you aware of any meeting taking
8 place at which employees were instructed as to how
9 to handle and dispose of chemicals used at the
10 plant?

11 A. I was not in at any such meeting.

12 Q. Are you aware of any such meeting taking
13 place at the time you were associated with the
14 plant up until 1984 when you left?

15 A. I am not aware of any such meeting.

16 Q. You never directed such a meeting take
17 place?

18 A. No, I did not.

19 Q. Was information to your knowledge ever
20 given to employees at any time you were associated
21 with the Woburn plant in any form as to how
22 chemicals were to be handled or how chemicals were
23 to be disposed of at the plant at any time?

24 MR. CHEESEMAN: So far as you know.

1 A. I don't know.

2 Q. You never directed that such information
3 be given to employees?

4 A. No, I did not.

5 And you're not aware that such information
6 ever was given to employees?

7 A. I don't know.

8 (Recess).

9 Q. Are you aware of the W. R. Grace & Company
10 making a press release in February of 1983
11 concerning the Woburn plant and the contamination
12 of wells G and H?

13 MR. CHEESEMAN: Yes or no. Are
14 you aware?

15 A. From that date, I am not aware of the date.

16 Q. Are you aware of such a press release?

17 A. I am aware of more than one press release
18 I believe.

19 Q. Were these, were you involved in these
20 press releases?

21 A. I have seen some of them.

22 Q. Ask her for copies of these. I think she
23 made copies.

24 A. I'll return it to you.

1 Q. I have no doubt you will.

2 (Documents handed to the witness).

3 Q. Is that document a press release you
4 remember?

5 A. It looks familiar.

6 It looks like it.

7 Q. Let me see it. I'm going to get you
8 copies.

9 A. You want to read it all?

10 MR. CHEESEMAN: I want to read it.

11 (Copies of document distributed).

12 MS. WINKLER: It looks like more than
13 one.

14 MR. SCHLICTMANN: It is documentation
15 with the press release.

16 MR. CHEESEMAN: I didn't send you all
17 that. All I said: I am enclosing --

18 MR. SCHLICTMANN: That's the way you
19 gave it to the press with those documents.

20 MR. CHEESEMAN: Oh, okay.

21 Q. Mr. Forte, let me just have that one.

22 (Document handed to Mr. Schlichtmann).

23 Well, now, this press release of
24 February 25th, 1983, are you familiar with this

1 particular press release?

2 MR. CHEESEMAN: We'd like to read it
3 first.

4 Q. I thought he had an opportunity.

5 MR. CHEESEMAN: Did you read all four
6 pages of it?

7 A. Not all four pages but the first page
8 looked like it.

9 MR. CHEESEMAN: Why don't you read
10 the whole thing.

11 (Counsel and witness read document).

12 Q. Have you had a chance to read this press
13 release dated February 25th, 1983?

14 A. Is that the date?

15 MR. CHEESEMAN: February 25, 1983.

16 A. Yes.

17 Q. Do you recognize it?

18 A. Yes.

19 Q. What is it?

20 A. A press release.

21 Q. Did you take part in the making of this
22 press release?

23 MR. CHEESEMAN: I drafted it myself.

24 MR. SCHLCITMANN: You did?

1 MR. CHEESEMAN: Yes.

2 Q. All right. Mr. Cheeseman did.

3 A. So my answer is no.

4 Q. Take your deposition. Did you review a
5 copy of this press release prior to being issued to
6 the public to your knowledge?

7 MR. CHEESEMAN: If you know.

8 A. I don't remember.

9 Q. You don't know?

10 A. I don't remember.

11 Q. Do you ever remember reading the press
12 release?

13 A. Oh, yes.

14 Q. And did the press release contain accurate
15 statements as far as you were concerned?

16 A. I believe so.

17 Q. Are all the statements contained in this
18 press release of February 25th, 1983 fair and
19 accurate statements based on your knowledge?

20 MS. WINKLER: Objection.

21 MR. CHEESEMAN: I'm going to object
22 to that question. There are quotations here made
23 at face and I think the question is far too broad
24 to be able to be answered in that form.

1 MR. SCHLICTMANN: All right. We'll
2 try to make it more narrower. You have had a
3 chance to read this release of February 25th, 1983;
4 is that right?

5 A. Yes.

6 Q. In reading that release of February 25th,
7 1983, was there any information which Grace was
8 presenting to the public which was in your opinion
9 inaccurate or misleading?

10 MS. WINKLER: Objection.

11 Don't pay any attention to me.

12 MR. CHEESEMAN: I'll object as well
13 to the form of the question, but you can go ahead
14 and answer it. Is there anything in there?

15 A. In my opinion --

16 MR. CHEESEMAN: That represents
17 remarks by Grace.

18 A. In my opinion, I have no objection to
19 anything in this press release.

20 Q. You don't?

21 A. Relating to Grace.

22 Q. I'm sorry?

23 A. Relating to Grace.

24 Q. Any information relating to W. R. Grace &

1 Company, what it did, was contained in this press
2 release of February 25th, 1983, you don't consider
3 to be inaccurate or misleading?

4 MR. CHEESEMAN: Objection.

5 A. I don't believe so.

6 That's my answer.

7 Q. Okay. In the first page there of
8 paragraph 3, it says: In the fall of 1982, Grace
9 reported to the EPA that the Cryovac plant had
10 purchased a total of only FOUR drums of TCE over
11 the 22 years the plant had been in operation. This
12 is approximately 220 gallons, or about ten gallons
13 a year averaged over the lifetime of the plant.
14 Furthermore, almost all of the small amount was
15 consumed in Cryovac operations and little is
16 unaccounted for.

17 Do you consider that to be a truthful
18 statement?

19 MR. CHEESEMAN: Objection. Go ahead.

20 A. In my opinion I believe so.

21 Q. Do you believe that there is little
22 trichloroethylene which was used by the Grace plant
23 which cannot be accounted for?

24 A. That would be my opinion.

1 Q. How much trichloroethylene do you believe
2 cannot be accounted for?

3 A. I have no opinion.

4 Q. You have no opinion as to how much cannot
5 be accounted for?

6 A. No.

7 Q. You don't know how much can be accounted
8 for and how much cannot be accounted for?

9 MR. CHEESEMAN: If you participated
10 in any calculations to answer. If you didn't
11 participate in the calculations, then we don't know
12 the answer.

13 A. I don't know.

14 Q. Do you know how much can be accounted for
15 and how much cannot be accounted for?

16 A. No, I do not.

17 Q. Now, it states that in 1982 Grace reported
18 to the the EPA that the Cryovac plant had purchased
19 a total of only four drums. Are you aware that
20 Grace reported to the EPA that information?

21 A. Yes, I was told.

22 Q. You were told?

23 A. Yes.

24 Q. Did you report that information to the

1 W. R. Grace?

2 A. No.

3 MR. CHEESEMAN: To W. R. Grace?

4 Q. To W. R. Grace?

5 A. To W. R. Grace?

6 Q. Did you report that information to anybody
7 associated with W. R. Grace?

8 A. Me?

9 Q. Yes.

10 A. No.

11 Q. Did anybody at the Woburn plant give
12 information to anybody associated with W. R. Grace?

13 MR. CHEESEMAN: Are you basing these
14 questions on something that is said in this report?

15 MR. SCHLICHTMANN: No.

16 MR. CHEESEMAN: That's a report to
17 EPA not to W R. Grace.

18 A. Right.

19 MR. CHEESEMAN: I think you made a
20 slip of tongue and now you're adopting it as your
21 question.

22 Q. I'll do it another way. How's this? It
23 says in the fall of 1982, Grace reported to EPA
24 that the Cryovac plant had purchased a total of

1 only four drums. When it says Grace, is that
2 referring to the Woburn plant or is that referring
3 to the corporation W. R. Grace?

4 MR. CHEESEMAN: If you know what the
5 intent of the author was, you can answer that
6 question.

7 A. Cryovac plant.

8 Q. The Cryovac plant?

9 A. Yes.

10 Q. In the fall --

11 A. My knowledge it was the Cryovac plant.

12 Q. Who at the Woburn plant informed the EPA
13 about the purchase of four drums of TCE over 22
14 years?

15 MR. CHEESEMAN: I'd be happy to tell
16 you Mr. Stoler and I did by transmitting to them
17 copies of the Interrogatory answers in this case.

18 MR. SCHLICTMANN: No, you couldn't
19 have done it in the fall of '82.

20 MR. CHEESEMAN: Oh, I'm sorry.
21 You're right, but it was Mr. Stoler and I.

22 MR. SCHLICTMANN: We were still
23 fighting under Rule 11 in the fall of '82.

24 MR. CHEESEMAN: We were talking with

1 Lauren Stiller Rikleen of EPA's Region 1 office.

2 Q. Then it was through your attorneys that
3 you informed the EPA about the four drums?

4 A. Yes.

5 Q. You didn't inform the EPA?

6 A. No, I did not.

7 Q. And nobody to your knowledge associated
8 with the Woburn plant other than your attorneys
9 informed the EPA; is that right?

10 A. That's correct.

11 Q. Now, as to the fact that little can be
12 unaccounted for, you have no information as to
13 whether you can account for TCE's use at the plant
14 or cannot account for it? You don't have any
15 information?

16 A. No, I do not.

17 Q. Now, it states on page 2 that a few months
18 later, referring to the response to the EPA letter
19 in March of 1982, that in the fall of 1982 after a
20 further intensive examination of over twenty years
21 of purchase orders and other records, and
22 interviews of dozens of current and former
23 employees, Grace advised EPA that it had in fact
24 purchased four drums of TCE, two in the mid 1960's

1 and two in the early 1970's.

2 Did you conduct that investigation?

3 A. No, I did not.

4 Q. Are you aware that an investigation took
5 place in which twenty years of purchase orders and
6 other records and interviews of dozens of current
7 and former employees took place?

8 A. I know of an investigation. The terms I
9 don't know, if that was conducted by counsel.

10 Q. You didn't conduct the investigation?

11 A. No, I did not.

12 Q. Are you aware of what was done in the
13 investigation?

14 A. No, I was not.

15 (Off the record discussion).

16 MR. SCHLICTMANN: Thank you very much,
17 Mr. Forte.

18 MR. CHEESEMAN: Thank you, Mr.
19 Schlichtmann.

20 MR. SCHLICTMANN: Let's mark this as
21 an exhibit and I'll give you a copy.

22 (Multi page press release with
23 attachments marked Forte Exhibit 1).

24 (Deposition closed at 4:06 PM).

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Excerpt from Rule 30 (e):

Submission to Witness; Changes; Signing. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them.

* * * * *

I, VINCENT A. FORTE, have read the foregoing transcript of my testimony and it is true and correct to the best of my knowledge, information and belief.

Deponent's Signature

That on _____, 1985, the foregoing deposition was submitted to VINCENT A. FORTE, the witness, for examination and was read by the witness, at which time any changes desired were entered upon the deposition, and that thereafter the deposition was signed by the witness before me.

Notary Public in and for the Commonwealth of Massachusetts.

My Commission expires

