

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

Civil Action
No. 82-1672-S

SKINNER, D. J.
and a Jury

ANNE ANDERSON, ET AL

V.

W. R. GRACE & CO., ET AL

Seventy-First Day of Trial

APPEARANCES:

Schlichtmann, Conway & Crowley (by Jan Richard Schlichtmann, Esq., Kevin P. Conway, Esq., and William J. Crowley, III, Esq.) on behalf of the Plaintiffs.

Charles R. Nesson, Esquire, on behalf of the Plaintiffs.

Herlihy & O'Brien (by Thomas M. Kiley, Esq.) on behalf of the Plaintiffs.

Hale & Dorr (by Jerome P. Facher, Esq., Neil Jacobs, Esq., Donald R. Frederico, Esq., and Deborah P. Fawcett, Esq.) on behalf of Beatrice Foods.

Foley, Hoag & Eliot (by Michael B. Keating, Esq., Sandra Lynch, Esq., William Cheeseman, Esq., and Marc K. Temin, Esq.) on behalf of W. R. Grace & Co.

Courtroom No. 6
Federal Building
Boston, MA 02109
9:30 a.m., Monday
June 30, 1986

Marie L. Cloonan
Court Reporter
1690 U.S.P.O. & Courthouse
Boston, MA 02109

mc-pf

P R O C E E D I N G S

THE COURT: Good morning, ladies and gentlemen; good morning, counsel.

I think we were back at redirect examination. Press on.

MR. KEATING: Yes, sir.

JOHN GUSWA, RESUMEDCONTINUATION OF REDIRECT EXAMINATION BY MR. KEATING

Q Good morning, Dr. Guswa.

A Good morning.

Q On Friday you were asked by Mr. Schlichtmann about whether areas to the northeast and to the west were possible sources of contamination to Wells G and H in 1985. Do you recall that?

A Yes.

Q The question you were asked was this: "Is it possible that this could happen that, in fact, the contamination from Wells G and H could have come from an area to the northeast of Wells G and H and from the west, contamination could have gotten into the aquifer from those places and got deep into the aquifer in the medium and deep layers and pulled over to Wells G and H and no contamination came from the river, and is it possible that that could happen to explain the

1 contamination at Wells G and H; is that at least possible?"

2 And you said, "The contamination we see at
3 G and H now?"

4 And the question was, "Yes."

5 And your answer was, "That is possible."

6 The Court then said to you, "In your
7 opinion, if the explanation that Mr. Schlichtmann has
8 presented to you is in your opinion a probable explanation
9 of the result that you see?"

10 And you said, "And the question was phrased
11 to the north and to the east with no particular specific
12 locations, is that correct?"

13 Mr. Schlichtmann said, "Yes."

14 The Court said, "Northeast and west."

15 And you said, "Yes, that is a probable
16 source."

17 Now, what did you mean by your answer to
18 those questions concerning contamination in Wells G and H
19 in 1985?

20 A Okay. I think it is clear if we look at the chemical
21 data within the Aberjona River Valley, we see that north,
22 east, and west of Wells G and H we see chemicals in the
23 groundwater. Wells G and H were pumped in 1985. They are
24 going to pull water that is flowing past them. The logical
25 place for that water to have come from is north, east, and

1 west, those are the areas that are hydraulically upgradient
2 of Wells G and H.

3 Q Let me direct your attention, Dr. Guswa, to 1979. Was
4 this area a probable source of contamination to Wells G and
5 H in 1979?

6 A Yes.

7 Q Was there any other probable source of contamination to
8 Wells G and H in 1979, which was not in your opinion a
9 probable source in 1985?

10 A Yes. The river was probably a direct source of
11 chemicals to Wells G and H prior to 1979 for the following
12 reason: That the river is in hydraulic connection with the
13 aquifer and prior to May of 1979 Wells G and H had been
14 pumping for 14 months continuously, and as I have testified
15 earlier, it takes two to four months for river water to get
16 to Wells G and H under the pumping conditions we saw in 1985,
17 but clearly 14 months is a lot longer than two to four months,
18 so that is a probable direct source of chemicals to the wells
19 in 1979.

20 Q And as of 1985, the river would not be a direct source
21 of contamination because the wells had not pumped long
22 enough in 1985-'86 pump test?

23 A That's right. Directly contributing to the chemicals
24 we see coming out of Wells G and H in 1985, the river was
25 not a direct source. However, I also think that the effects

1 of pumping in 1979 could have induced chemicals to get into
2 the groundwater system at that time and still those chemicals
3 would be contributing to the pervasive level of contamination
4 in the Aberjona River in 1985 that we see because the
5 groundwater moves much slower than the surface water.

6 Q Now, you were asked were these questions that I just
7 quoted to you about possible and probable sources of
8 contamination to Wells G and H in 1985. I want to direct
9 your attention to actual sources of contamination in 1979
10 when those wells were turned off. Was Cryovac, in your
11 opinion, an actual source of contamination to Wells G and
12 H prior to May of 1979?

13 A No, it was not.

14 Q And will you tell the jury briefly why you conclude that
15 Cryovac was not an actual source of contamination to Wells G
16 and H prior to May of 1979 when those wells were shut off?

17 A Yes. I've done what I think is an exhaustive analysis
18 of travel time from the Cryovac plant to the center of the
19 Aberjona River Valley and location of Wells G and H, and
20 under no condition can I calculate arrival of chemical from
21 Cryovac to G and H even if they had been put in the ground
22 system as early as 1960, the day the plant opened. It is
23 not feasible in my opinion.

24 and A

25

B
VW/kr

1 Q To have them arrive anywhere near wells G and H
2 by May of 1979?

3 A Correct.

4 Q Thank you, Dr. Guswa.

5 I have no further questions, your Honor.

6

7

Recross-Examination by Mr. Facher

8

9 Q Doctor, I hate to trouble you again. You can get
10 your morning exercise.

11 A Right.

12 Q Over here.

13 (Before the jury)

14 (Pause)

15 THE WITNESS: Any specific wells?

16 Q The data on the wells that Mr. Schlichtmann was asking
17 you about. I just want to ask you questions about a couple
18 of these well readings Mr. Schlichtmann asked you about.

19 Now, this is an overlay that was placed over
20 what was a drawing that was shown to you and then some
21 arrows were drawn on it.

22 Now, first of all, I want to ask you, you
23 said there had been different data for the various surveys
24 that had been made and you put that form on the board;
25 is that right?