

DAVID OTIS WILSON AND

DEBRA B. WILSON,

Plaintiffs,

vs.

THE ROE CHEMICAL COMPANY, INC.

Defendant.

-----/

TRANSCRIPTION OF SWORN DEPOSITION

DAVID WILSON

OCTOBER 26

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P R O C E E D I N G S

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Q. Please give us your full name, date of birth, and address.

A. David Otis Wilson, November 18, YR-55. I live on Route 4 here in Franklin.

Q. What's your wife's name?

A. Debra -- Debbie. We got married in YR-7. I have one child George who was born in YR-25. He lives with my wife and me on the farm. Debbie and I don't have any children. When we got married we planned on having a couple, but that was before that chemical made me impotent.

Q. What do you do?

A. I'm the farm manager for Consolidated Farming, Inc. I've been working for Consolidated for the past 15 years or so. I also have my own little farm. It's 53 acres, and I've been farming that land for over 30 years. We grow corn, wheat, and soybeans.

Q. Okay. First let's talk about your job with Consolidated Farming. You said you have been with the company for about 15 years. What is your wage rate, and what are your job responsibilities?

A. I get a salary, and that salary is, oh, about \$60,000 a year. The hours vary, you know,

1 because in the spring with the planting it takes a
2 lot more time, and of course, in the fall with the
3 harvesting it takes a lot more time. So during
4 those times of the year, I'm out, oh, 6:00 a.m.
5 until dinner, then go to our farm and work until
6 dark.

7 Then in the wintertime and summer months,
8 those hours they're a lot more reasonable; they're
9 sort of regular hours, 40, 45 hours, whatever. I
10 don't get no overtime, and I've got to supervise,
11 you know, the workers and make sure they're doing
12 the stuff right, and make sure the equipment is
13 working okay, and checking the crops, make sure
14 they're getting fertilized and pesticided and all
15 that good stuff, you know, like they're supposed to.

16 Q. What types of benefits does Consolidated
17 Farming provide you? By that, I am inquiring about
18 whether they give you vacation time and holiday
19 time, provide you with any health care coverage or a
20 retirement program?

21 A. Oh, yeah. Consolidated, they -- they've
22 got good benefits. I get health coverage, you know.
23 It's one of those good plans with a company, think
24 it's Anthem Blue Cross/Blue Shield. Best I
25 recollect, they pay for most -- most everything. I

1 usually have to pay some portion, but then they
2 cover all the other stuff. My employer pays for the
3 cost of that. I don't have to contribute anything
4 except when I use the plan, and then I usually have
5 some expenses with it.

6 I also get two weeks' vacation. Naturally,
7 I have to take it during the slow seasons, but
8 that's no problem; and I usually get holidays,
9 except those that are during, you know, planting and
10 harvesting season, and then there's just too much
11 work to do.

12 Q. What about a retirement plan; does
13 Consolidated Farming offer a retirement plan for
14 you?

15 A. Yeah. They got a plan. I don't know the
16 exact details of it or anything, but it's okay. You
17 best talk to them about just how it works.

18 Q. Has Consolidated Farming gone through any
19 changes in personnel lately?

20 A. Well, around the time of my accident, they
21 had just started to reorganize the company, and a
22 lot of people were being shifted around and some
23 people were being let go. I don't think I would
24 have lost my job though.

25 Q. Now, I understand that you have not been

1 able to return to work since this accident. Have
2 you been receiving any benefits or money from the
3 company while you have been away from the job?

4 A. Yeah. They give me some disability
5 benefits, short-term disability benefits, a couple
6 hundred dollars a week to my recollection. But I
7 don't think that's going last too much longer. The
8 company told me I was either going to have to go
9 back to work or I was going to lose my job soon. I
10 don't have much more time to decide.

11 Q. You also indicated, Mr. Wilson, that you
12 had this farm, 53 acres of farming. Do you farm
13 this land and work for Consolidated, or how do you
14 handle this farm of yours?

15 A. Well, you know, I been working this farm
16 for 30 years. It's not too big, and so I can sort
17 of squeeze it in after my work hours. Naturally,
18 during the heavy seasons in the spring and the fall,
19 I have extra help, but I also got George, you know;
20 and he helps me, so we've been able to handle it all
21 these years.

22 Q. So, since this accident, have you been able
23 to manage the farm or are you having problems with
24 the farm?

25 A. Well, you know, there's always problems,

1 and I don't do so well. But I -- I'm getting better
2 at it, and so I'm expecting to maybe keep it up.

3 Q. When did the accident happen?

4 A. On August 4th, a Friday, about noon.

5 Q. Where did it happen?

6 A. Right behind my house, about 50 yards from
7 the house, near the barn out in the open area.
8 There are a few trees in between where we were
9 standing and the house. It was a clear day.
10 Otherwise, I wouldn't have been spraying.

11 Q. Please, in your own words, describe the
12 accident.

13 A. Okay. I was standing on the ground right
14 behind the pickup truck; the tailgate was down
15 (indicating). On the tailgate was a case of oil,
16 just a pasteboard box of oil cans. I put the
17 Dinitro on top of the oil cans, and I was pouring
18 from the five-gallon container of Dinitro herbicide
19 into a one gallon pail I bought with the Dinitro
20 from Roe's Outlet Store, here in Franklin.

21 Q. What happened next?

22 A. Well, in order to do this, the way the can
23 is made, you have to pull a spout off - flexible
24 spout out of the top of the can, and it just more or
25 less pops out; and you screw off the cap. And then

1 to avoid spilling it, the way I've gotten accustomed
2 to doing it is actually putting the pail up to the
3 spout of the five-gallon can as I tip it over. It's
4 more or less this high to me (indicating), about
5 chest height.

6 And as I was tipping the can over -- it was
7 full; it was a brand-new can -- it slipped on top of
8 the box of oil. And I didn't lose hold of it
9 (indicating), but it fell down under the tailgate on
10 the bed of the truck; and the Dinitro splashed out
11 onto me on the left side of my neck (indicating) and
12 my front (indicating) and my legs (indicating) and a
13 little bit on my cheek (indicating).

14 Q. You were holding the five-gallon bucket
15 close to your body?

16 A. I was holding it the way I've always held
17 it. I was standing, as I said, at the tailgate of
18 the truck. Just reached up and was tipping it over
19 the pail, as I've done many times before.

20 Q. How many times?

21 A. Oh, about 200 to 300 times, with all types
22 of weed-killers, not just Dinitro. They come in the
23 same kind of container.

24 Q. What were you wearing?

25 A. Jeans, a long-sleeve work shirt, and boots.

1 Q. Were you wearing work gloves?

2 A. Nope.

3 Q. Why not?

4 A. I have gloves, but I wasn't wearing them.
5 They get in the way. They make it tougher to handle
6 the spout and such.

7 Q. You know weed-killers are dangerously
8 toxic, don't you?

9 A. Yes, sir. Otherwise they wouldn't work.

10 Q. Have you ever spilled any chemical on you
11 using this method?

12 A. No, never. Though I've come awful close.

13 Q. Mr. Wilson, if you've come close before,
14 and you know chemicals are dangerous, why did you
15 continue to use this method?

16 A. The way I do it is the safest way possible.
17 Every farmer I know does it that way. How was I to
18 know I'd get hurt like this if this weed-killer
19 spilled on me? There are no directions on how to
20 pour it on the label. Anyway, because of my
21 injuries, no one I know uses Dinitro anymore. They
22 even stopped selling it in their outlet store now.

23 Q. Did the Roe Outlet provide you with any
24 pamphlets or literature on the products?

25 A. No, sir. But they told me that Dinitro

1 would be safe and would work if I followed the
2 directions. They never told me about those tests
3 which killed those animals. All I got was the five-
4 gallon container and the label.

5 Q. How did you first decide on Dinitro as a
6 product to be used on your soybeans?

7 A. Well, I thought it would be effective as a
8 herbicide. It worked well as a direct spray
9 underneath the rows at this time of year, and I used
10 it -- I think it was the year before. I'm not sure.
11 It was at least one of the years before, I had used
12 Dinitro. It's not the only effective herbicide, but
13 it's the cheapest. And it's made by Roe, who hires
14 a lot of people here in Franklin. They had a good
15 reputation before my accident.

16 The same thing happened to Doug Jones last
17 year, but with a different weed-killer. He had to
18 sue and settled for a million. My lawyer
19 represented him too.

20 Q. After you bought the product, did you read
21 the instructions on the label?

22 A. Well, I read through them. The label is on
23 the back of the container, but it's real easy to
24 read. I always try to read such instructions. I
25 can't say that I remembered every word of it, but I

1 looked at it; and I noticed the warning. Of course
2 I know pesticides are dangerous if you get them in
3 your mouth and such.

4 Q. And rather than pouring the Dinitro
5 directly into the machine, you poured it into the
6 one-gallon pail, which you then used to pour the
7 Dinitro into the machine?

8 A. Yes, sir. But I did that to measure it.
9 If you don't measure it right, you're either putting
10 out too much and wasting it, or you're not putting
11 out enough; and it don't work.

12 Q. When you read the label on the container of
13 Dinitro, did you notice the large skull and
14 crossbones on the label?

15 A. Well, to be honest, I don't really remember
16 it. I - you know, these labels all say the same
17 thing. They're just a bunch of words the government
18 and lawyers make the company put on there to cover
19 their asses, if you'll excuse my French. And I've
20 seen those skull and crossbones before, and I know
21 what they mean - be careful, don't swallow, things
22 like that. I handle all herbicides carefully. I
23 don't need a label to tell me to do that.

24 Q. Did you notice the word "danger" in large
25 letters?

1 A. Yes, sir.

2 Q. Did you notice the word "poison" in large
3 letters?

4 A. I'm sure I did. I know that it's dangerous
5 and poisonous, but when I read "poisonous," I
6 thought it meant don't swallow the stuff, like I
7 needed them to tell me that.

8 I don't know anything about what do you
9 guys call it, absorption? I saw that word used but
10 didn't know that absorption meant if you got it on
11 your clothes or your skin for a second it would
12 cause all the problems that I now have. Do you
13 think I would have used it if I'd known? I followed
14 the instructions, washed, and thought that would
15 help. Otherwise, why put in medical instructions?

16 And it says, "fatal if swallowed," not
17 fatal if it gets on your skin. It killed all of
18 those animals in the tests, and it damn near killed
19 me. They should have put something about those dead
20 animals on the label if they wanted to warn people.
21 That would have gotten my attention and made me more
22 careful when handling the stuff.

23 Q. And you didn't pay that much attention then
24 to the danger warnings?

25 A. No. I feel like that once you've read one

1 of those labels, you've read them all.

2 Q. What was your immediate physical reaction
3 when you spilled the chemical on yourself?

4 A. Well, I was surprised, and I was worried, I
5 guess you could say, that it was going to hurt me.
6 So I immediately washed it off. I remember cursing,
7 but that's all.

8 Q. Did the chemicals burn or sting you?

9 A. Not right at that time. No, sir.

10 Q. Did you feel giddy, weak, or nauseous?

11 A. No, sir. Not at that time.

12 Q. Did you breathe any of the fumes?

13 A. Well, I breathe them all the time when I'm
14 pouring weed-killers like Dinitro. I couldn't help
15 but breathe them.

16 Q. No. I meant to ask, did you breathe them
17 while the Dinitro was on your clothes?

18 A. Well, sir, I was breathing the whole time
19 so if that stuff gives off fumes, then I guess you'd
20 have to say I was breathing them.

21 Q. What did you do then?

22 A. I washed off at the faucet.

23 Q. Did you follow the directions given on the
24 product label?

25 A. Well, to tell you the truth, all I needed

1 to do was what I did, was to go wash it off. I
2 washed it off outside, and then I went inside with
3 Debbie and washed off four or five times with soap
4 and water in the tub. The instructions, I remember,
5 were to just wash it off, and that's what I did.

6 Q. And you did remove the clothing that you
7 had been wearing?

8 A. Oh, yes, sir. I took them right off and
9 Debbie burned them. She was real insistent about
10 that.

11 Q. Why?

12 A. I don't know. She's real paranoid about
13 chemicals, even though she knows farmers couldn't
14 get along without herbicides and insecticides. I
15 keep on telling her what used to say on TV, "without
16 chemicals there would be no life itself," or
17 something like that.

18 Q. Were there any witnesses?

19 A. Yes. Debbie was in the kitchen, and
20 George was right there helping me out like always.

21 He's a good kid. He's had a rough time
22 since his mother and me split up and she moved away.
23 He's had a few problems with pot and the local cops.
24 He lives over at the barn because he likes his
25 privacy. I know he and Debbie sometimes don't get

1 along, but most often we are one big happy family.
2 He's been real good since my accident, helping out,
3 driving me around. He wants to take over the farm
4 someday, says he has plans for some new crops to
5 plant. He's always got new ideas and plans that
6 boy.

7 Q. When did you go to the doctor?

8 A. About three weeks later, after I kept
9 getting weaker and weaker and started to fall a lot.
10 Debbie made me go to Dr. Weeks, our family doctor,
11 around the last week in August.

12 Q. What did he tell you?

13 A. He said my arthritis was acting up, gave me
14 some aspirin, and told me to rest. But it didn't
15 help. I never felt that way before, even when my
16 arthritis was at its worst during winter. It was
17 like my feet were weighted down, and I had little
18 balance.

19 Q. Who did you go see then?

20 A. Dr. Jason, right after Labor Day. He put
21 me in the hospital for 19 days of hell. I never had
22 been prodded or tested like that, not even when I
23 was in the Army.

24 I also saw Dr. Donald. I don't like him.
25 I had to see him because of this lawsuit. He put me

1 in the hospital for a few more tests. He just about
2 stuck me to death with more needles.

3 Q. In the last 10 years, what other physical
4 problems have you had?

5 A. Oh, about YR-11 I had pneumonia. A couple
6 of years before that I had a minor heart attack. I
7 was in the hospital because of my heart for two
8 weeks. My daddy died of heart trouble when he was
9 59.

10 In about YR-14 I had to go to the Campbell
11 Clinic for rheumatoid arthritis. I still have a
12 little problem with my arthritis. I just put up
13 with the pain. Before that I hadn't had any
14 problems since I was in the service.

15 Q. When were you in the service?

16 A. I served in Desert Storm. I don't recall
17 the years.

18 Q. Where did you serve?

19 A. I was in Kuwait near the Iraq border.

20 Q. What kinds of health problems did you have
21 in the service?

22 A. Well, a lot of soldiers in my outfit
23 complained of Gulf War Syndrome, but I never thought
24 much about it.

25 Q. Are you presently on any medication?

1 A. Yes. But I'm real bad about remembering to
2 take them.

3 Q. Do you have any allergies?

4 A. No, sir. None that I know about.

5 Q. Before this accident, what other types of
6 pesticides or weed-killers did you use?

7 A. I used Treflan, a premerge herbicide you
8 mix in the soil before planting; MSMA, a contact
9 herbicide you apply after the weeds start to grow;
10 Cotoran; Ansar 529; Carmex DL; and some others I
11 can't remember just now. I have used all types to
12 grow my crops.

13 Q. How long have you used these types of
14 chemicals?

15 A. Nearly 20 years. Dinitro only for a year.
16 They're all real effective.

17 Q. Have you ever spilled or breathed these
18 chemicals?

19 A. Breathed, yes, because you can't help that.
20 I don't think I've spilled any, not that I can
21 remember. Maybe on my hands, but that's all.

22 Q. How have you been keeping the farm going?

23 A. I haven't. George helps, but I've lost
24 close to \$30,000 worth of crops because of the
25 drought. If I had been able, I could have prevented

1 it. Debbie's too busy with her job to help out,
2 even if she could. She works at Sam's in Franklin.
3 I hate her working there, but we do need the money.
4 She brings home good tips. She's had to stop going
5 to school too. She was going to be a CPA.

6 Q. I know what your Complaint says, but at any
7 time, Mr. Wilson, did you or have you experienced
8 the following symptoms: excessive sweating?

9 A. Sure. At times I've sweated a lot.

10 Q. Excessive thirst?

11 A. Well, what do you mean by excessive? I've
12 always drunk a lot of water, but not any more or
13 less since the accident.

14 Q. Fever?

15 A. George told me he thought I had gotten a
16 fever after the spill, but I never checked.

17 Q. Excessive fatigue?

18 A. Well, not excessive. Pretty extreme
19 though. I've been tired. I can't walk because of
20 my muscles.

21 Q. How much Dinitro spilled on you?

22 A. About a gallon, I figure. More than half
23 of that liquid was that horrible chemical, assuming
24 they're telling the truth on that label.

25 Q. Mr. Wilson, were any tests performed on

1 your limbs or extremities for signs of numbness,
2 weakness, cramping, and nervous response at the
3 hospital?

4 A. Yes. They ran every kind of test on me
5 that I could imagine. And they took muscle tissue
6 out of my leg and a million blood tests. They were
7 all real painful. It was 19 days of hell.

8 Q. What did the test show as to the numbness,
9 weakness, cramping, or nervous responses in your
10 limbs or extremities?

11 A. Well, finally they figured out that the
12 Dinitro caused it all. I didn't really believe it,
13 but they showed me those blood tests. They even say
14 I had a near-lethal dose. They say I'm lucky to be
15 alive, but as bad as I'm feeling, I wish I was dead.
16 I can't work, can't even make love to my wife. I
17 feel useless, like a 90 year-old man.

18 Q. Can you basically tell me what other
19 physical problems you've had? How would you
20 describe your medical problems, other than a general
21 weakness?

22 A. Well, I have a problem with night vision.
23 If I'm riding in a car at night, I have trouble
24 picking up the oncoming headlights in the distance.
25 And in the daytime, I have a hard time seeing far

1 away. I used to have excellent vision as far as
2 distances go, day or night.

3 I also don't hear as good and have
4 headaches. I have a problem holding my water, if
5 you know what I mean. I have to get up three or
6 four times a night, and I've never done that before.

7 My knees have numbness in them, which is a
8 real nuisance. And right now, I'm sitting here, and
9 I feel like I have to get up and go. I have a
10 nervous tension build-up problem.

11 My wife and I have a problem in that I'm
12 impotent, and that we can't have sex, which is a
13 strain. And I lost about 25 pounds. I've gained
14 back 10 of it, but it's all flab. But my main
15 problems are that I'm weak, nervous, and I have real
16 bad headaches.

17 Oh, let me add one more thing. Right after
18 the spraying, I had a problem with hemorrhages in my
19 bowel movements, which was very painful and scary.
20 I had to go to the emergency room because of my
21 bowels. That was two months after the accident.
22 And while the hemorrhages have gone away, I still
23 have a real problem with diarrhea and things like
24 that.

25 Q. You mentioned impotency. Just what

1 exactly is the problem?

2 A. How much do you want to know? I can only
3 get half an erection. I've had a few problems
4 before, like all men. Debbie and I had a satisfying
5 relationship, about two to three times a week. I
6 don't feel like I'm much of a man anymore. I'm
7 scared she will leave me for some young man.

8 Q. How much were your total medical bills?

9 A. About \$50,000, but that's just my best
10 guess.

11 Q. What was your annual income before the
12 accident?

13 A. After expenses, I cleared \$2000 from the
14 farm each year, and I had my regular job that paid
15 about \$60,000 a year plus benefits.

16 Since the accident, the farm's been losing
17 money. I don't know how much. I can't farm. I
18 can't work at the company, and I can't even fix farm
19 equipment like I used to each winter and make some
20 extra money.

21 Q. How has your wife taken all of this?

22 A. How do you think she's taken it? She's
23 worrying herself to death. I snap at her all of the
24 time. She's doing good just to be putting up with
25 me. She's had to go back to work, which I don't

1 like, and she had to give up her college courses.
2 Our marriage isn't like it used to be. She's young
3 and wants to go out and do things, but this disease
4 makes me too tired.

5 Q. If you feel that you've been misled in
6 using an unsafe product, what gave rise to your
7 misconception of the danger of this product?

8 A. Would you mind putting that in English?

9 Q. Sure, I'm sorry. If, as you claim, Roe
10 misled you about the safety of Dinitro, what do you
11 say caused you to misunderstand the danger of using
12 it?

13 A. That's better. Well, I guess that's why
14 we're here. Because the label wasn't clear, and the
15 weed-killer was far more dangerous than I thought it
16 was, evidently, since I've got these problems.

17 Q. How do you feel now; what can you do?

18 A. I feel a little better. I can oversee the
19 farm by truck. I can get up from a chair without
20 too much difficulty, and I feel a little strength
21 returning in my arms. But I'm no way anywhere near
22 what I used to be.

23 They tell me it's permanent. I'm scared
24 about what more is going to happen to me. I learned
25 after getting sick that Roe knew that Dinitro also

1 caused some lab animals to get cancer. I'm always
2 thinking about that now.

3 (Deposition concluded)

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A			
a.m	14:23	20:8	13:9
3:4	arthritis	birth	busy
able	14:13,16 15:11,12	2:3	17:1
5:1,20,22 16:25	aspirin	bit	
absorption	14:14	7:13	C
11:9,10	asses	blood	C
accident	10:19	18:6,13	2:1
4:20 5:1,22 6:3,12	assuming	Blue	call
9:15 14:2 16:5	17:23	3:24	11:9
17:13 19:21 20:12	attack	body	Campbell
20:16	15:6	7:15	15:10
accustomed	attention	boots	can't
7:1	11:21,23	7:25	9:25 16:11,19 17:19
acres	August	border	18:16,16 19:12
2:17 5:12	6:4 14:11	15:19	20:17,18,18
acting	avoid	born	cancer
14:13	7:1	2:8	22:1
add	awful	bought	cans
19:17	8:12	6:19 9:20	6:16,17
address	B	bowel	cap
2:3	B	19:19	6:25
alive	1:3	bowels	car
18:15	back	19:21	18:23
allergies	5:9 9:23 19:14 20:25	box	care
16:3	bad	6:16 7:8	3:19
animals	16:1 18:15 19:16	boy	careful
9:3 11:18,20 22:1	balance	14:6	10:21 11:22
annual	14:18	brand-new	carefully
20:11	barn	7:7	10:22
Ansar	6:7 13:24	breathe	Carmex
16:10	basically	12:12,13,15,16	16:10
Anthem	18:18	breathed	case
3:24	bed	16:17,19	6:15
anymore	7:10	breathing	cause
8:21 20:6	believe	12:18,20	11:12
Anyway	18:12	brings	caused
8:20	benefits	17:4	18:12 21:11 22:1
apply	3:16,22 5:2,5,5 20:15	bucket	chair
16:9	best	7:14	21:19
area	3:24 4:17 20:9	build-up	changes
6:7	better	19:10	4:19
arms	6:1 21:13,18	bunch	cheapest
21:21	big	10:17	9:13
Army	5:16 14:1	burn	checked
	bills	12:8	17:16
		burned	checking

3:13	16:8	damn	7:8 11:10,23 14:14
cheek	container	11:18	18:12
7:13	6:18 7:23 9:4,23	danger	died
chemical	10:12	10:24 11:24 21:7,11	15:8
1:6 2:12 8:10 12:3	continue	dangerous	different
17:23	8:15	8:14 10:2 11:4 21:15	9:17
chemicals	contribute	dangerously	difficulty
8:14 12:8 13:13,16	4:3	8:7	21:20
16:14,18	cops	dark	Dinitro
chest	13:23	3:6	6:17,18,19 7:10,22
7:5	corn	date	8:21,25 9:5,12 10:4
child	2:18	2:2	10:7,13 12:14,17
2:8	cost	David	16:15 17:21 18:12
children	4:3	1:2,13 2:4	21:10,25
2:10	Cotoran	day	dinner
claim	16:10	6:9 14:20 19:2	3:5
21:9	couldn't	days	direct
clear	12:14 13:13	14:21 18:7	9:8
6:9 21:14	couple	daytime	directions
cleared	2:11 5:5 15:5	18:25	8:19 9:2 12:23
20:13	course	dead	directly
Clinic	3:2 10:1	11:19 18:15	10:5
15:11	courses	death	disability
close	21:1	15:2 20:23	5:4,5
7:15 8:12,13 16:24	cover	Debbie	disease
clothes	4:2 10:18	2:7,9 13:3,9,19,25	21:3
11:11 12:17	coverage	14:10 20:4	distance
clothing	3:19,22	Debbie's	18:24
13:6	CPA	17:1	distances
college	17:5	Debra	19:2
21:1	cramping	1:3 2:7	DL
come	18:2,9	decide	16:10
7:22 8:12,13	crops	5:10 9:5	doctor
company	3:13 14:4 16:12,24	Defendant	14:7,10
1:6 2:22 3:23 4:21	Cross/Blue	1:7	doing
5:3,8 10:18 20:18	3:24	Deposition	3:11 7:2 20:24
complained	crossbones	1:12 22:3	dollars
15:23	10:14,20	describe	5:6
Complaint	cursing	6:11 18:20	don't
17:6	12:6	Desert	2:10 3:10 4:3,15,23
concluded		15:16	5:7,10 6:1 8:8 10:9
22:3	D	details	10:11,15,21,23 11:6
Consolidated	D	4:16	11:8 13:12,25 14:24
2:14,15,21 3:16,21	2:1	diarrhea	15:16 16:20 19:3
4:13,18 5:13	daddy	19:23	20:6,17,25
contact	15:8	didn't	Donald

14:24	6:2	14:17	2:2 7:7
dose	expenses	fell	fumes
18:14	4:5 20:13	7:9	12:12,19
Doug	experienced	felt	
9:16	17:7	14:15	<hr/> G <hr/>
Dr	extra	fertilized	G
14:10,20,24	5:19 20:20	3:14	2:1
driving	extreme	fever	gained
14:3	17:18	17:14,16	19:13
drought	extremities	figure	gallon
16:25	18:1,10	17:22	6:19 9:4 17:22
drunk		figured	general
17:12	<hr/> F <hr/>	18:11	18:20
<hr/> E <hr/>	fall	finally	George
E	3:2 5:18 14:9	18:11	2:8 5:19 13:20 16:23
2:1,1	family	first	17:15
easy	14:1,10	2:20 9:5	getting
9:23	far	five	3:14 6:1 14:9 21:25
effective	18:25 19:1 21:15	13:3	giddy
9:7,12 16:16	farm	five-	12:10
either	2:9,14,17 3:5 5:12,12	9:3	give
5:8 10:9	5:14,15,23,24 14:3	five-gallon	2:2 3:18 5:4 21:1
emergency	16:22 20:14,17,18	6:18 7:3,14	given
19:20	21:19	fix	12:23
employer	farm's	20:18	gives
4:2	20:16	flab	12:19
English	farmer	19:14	gloves
21:8	8:17	flexible	8:1,4
equipment	farmers	6:23	go
3:12 20:19	13:13	follow	3:5 4:23 5:8 13:1
erection	farming	12:23	14:7,10,19 15:10
20:3	2:15,17,21 3:17 4:13	followed	19:2,9,20 20:25
evidently	4:18 5:12	9:1 11:13	21:3
21:16	fatal	following	going
exact	11:16,17	17:8	5:7,8,9 12:5 16:22
4:16	fatigue	four	17:4,5 21:24
exactly	17:17	13:3 19:6	good
20:1	faucet	Franklin	3:15,22,23 9:14
excellent	12:22	2:5 6:20 9:14 17:2	13:21 14:2 17:4
19:1	feel	French	19:3 20:24
excessive	11:25 12:10 18:17	10:19	gotten
17:8,10,11,17,18	19:9 20:6 21:5,17	Friday	7:1 11:21 17:15
excuse	21:18,20	6:4	government
10:19	feeling	front	10:17
expecting	18:15	7:12	ground
	feet	full	6:13

<p>grow 2:18 16:9,12</p> <p>guess 12:5,19 20:10 21:13</p> <p>Gulf 15:23</p> <p>guys 11:9</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hadn't 15:13</p> <p>half 17:22 20:3</p> <p>handle 5:14,20 8:5 10:22</p> <p>handling 11:22</p> <p>hands 16:21</p> <p>happen 6:3,5 21:24</p> <p>happened 6:21 9:16</p> <p>happy 14:1</p> <p>hard 18:25</p> <p>harvesting 3:3 4:10</p> <p>hate 17:3</p> <p>haven't 16:23</p> <p>He's 13:21,21,23 14:2,5</p> <p>headaches 19:4,16</p> <p>headlights 18:24</p> <p>health 3:19,22 15:20</p> <p>hear 19:3</p> <p>heart 15:6,7,8</p>	<p>heavy 5:18</p> <p>height 7:5</p> <p>held 7:16</p> <p>hell 14:21 18:7</p> <p>help 5:19 11:15 12:14 14:15 16:19 17:1</p> <p>helping 13:20 14:2</p> <p>helps 5:20 16:23</p> <p>hemorrhages 19:18,22</p> <p>herbicide 6:18 9:8,12 16:7,9</p> <p>herbicides 10:22 13:14</p> <p>high 7:4</p> <p>hires 9:13</p> <p>hold 7:8</p> <p>holding 7:14,16 19:4</p> <p>holiday 3:18</p> <p>holidays 4:8</p> <p>home 17:4</p> <p>honest 10:15</p> <p>horrible 17:23</p> <p>hospital 14:21 15:1,7 18:3</p> <p>hours 2:25 3:8,9,9 5:17</p> <p>house 6:6,7,9</p> <p>hundred</p>	<p>5:6</p> <p>hurt 8:18 12:5</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>I'd 8:18 11:13</p> <p>I'm 2:14 3:4 6:1,2 9:10 11:4 12:13 16:1 18:14,15,23 19:8,11 19:15 20:6,6 21:9 21:21,23 22:1</p> <p>I've 2:15,17 3:10 7:1,16 7:19 8:12 10:19 16:20,23 17:9,11,19 19:6,13 20:3 21:16</p> <p>ideas 14:5</p> <p>imagine 18:5</p> <p>immediate 12:2</p> <p>immediately 12:6</p> <p>impotency 19:25</p> <p>impotent 2:12 19:12</p> <p>income 20:11</p> <p>indicated 5:11</p> <p>indicating 6:15 7:4,9,11,12,12 7:13</p> <p>injuries 8:21</p> <p>inquiring 3:17</p> <p>insecticides 13:14</p> <p>inside 13:2</p> <p>insistent</p>	<p>13:9</p> <p>instructions 9:21,24 11:14,15 13:4</p> <p>Iraq 15:19</p> <p>isn't 21:2</p> <p>it's 2:17 3:23,24 4:16 5:16 7:3 9:12,13,13 9:23 11:4 19:14 21:23</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>Jason 14:20</p> <p>Jeans 7:25</p> <p>job 2:20,23 4:24 5:3,9 17:1 20:14</p> <p>Jones 9:16</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keep 6:2 13:15</p> <p>keeping 16:22</p> <p>kept 14:8</p> <p>kid 13:21</p> <p>killed 9:3 11:17,18</p> <p>kind 7:23 18:4</p> <p>kinds 15:20</p> <p>kitchen 13:19</p> <p>knees 19:7</p> <p>knew 21:25</p>
--	--	--	---

know 2:25 3:11,15,22 4:9 4:15 5:15,19,25 8:7 8:14,17,18,21 10:2 10:16,20 11:4,8,10 13:12,25 16:4 17:6 19:5 20:2,17	1:22 legs 7:12 let's 2:20 letters 10:25 11:3 life 13:16 likes 13:24 limbs 18:1,10 liquid 17:23 literature 8:24 little 2:16 7:13 14:17 15:12 21:18,20 live 2:5 lives 2:9 13:24 local 13:23 long 16:13 long-sleeve 7:25 longer 5:7 looked 10:1 lose 5:9 7:8 losing 20:16 lost 4:24 16:23 19:13 lot 3:2,3,8 4:22 9:14 14:9 15:22 17:9,12 love 18:16 lucky	18:14 <hr/> M <hr/> machine 10:5,7 MAGNA 1:22 main 19:14 man 18:17 20:6,7 manage 5:23 manager 2:14 marriage 21:2 married 2:7,10 mean 10:21 17:11 19:5 meant 11:6,10 12:16 measure 10:8,9 medical 11:15 18:20 20:8 medication 15:25 men 20:4 mentioned 19:25 method 8:11,15 million 9:18 18:6 mind 21:8 minor 15:6 misconception 21:7 misled 21:5,10 misunderstand	21:11 mix 16:8 money 5:2 17:3 20:17,20 months 3:7 19:21 mother 13:22 mouth 10:3 moved 13:22 movements 19:19 MSMA 16:8 muscle 18:5 muscles 17:20 <hr/> N <hr/> N 2:1 name 2:2,6 Naturally 4:6 5:17 nauseous 12:10 near 6:7 11:18 15:19 21:21 near-lethal 18:14 Nearly 16:15 neck 7:11 need 10:23 17:3 needed 11:7 12:25 needles 15:2
---	---	---	--

nervous 18:2,9 19:10,15	order 6:22	pesticides 10:2 16:6	premerge 16:7
never 8:12 9:2 14:15,21 15:23 17:16 19:6	Otis 1:2 2:4	physical 12:2 15:3 18:19	presently 15:25
new 14:4,5	outfit 15:22	picking 18:24	Pretty 17:18
night 18:22,23 19:2,6	outlet 6:20 8:22,23	pickup 6:14	prevented 16:25
noon 6:4	outside 13:2	Plaintiffs 1:4	privacy 13:25
Nope 8:2	oversee 21:18	plan 4:4,12,13,15	problem 4:8 15:12 18:22 19:4 19:10,11,18,23 20:1
notice 10:13,24 11:2	overtime 3:10	planned 2:11	problems 5:23,25 11:12 13:23 15:4,14,20 18:19,20 19:15 20:3 21:16
noticed 10:1	<hr/> P <hr/>	plans 3:23 14:4,5	prodded 14:22
November 2:4	P 2:1	plant 14:5	product 9:6,20 12:24 21:6,7
nuisance 19:8	paid 20:14	planting 3:1 4:9 16:8	products 8:24
numbness 18:1,8 19:7	pail 6:19 7:2,19 10:6	Please 2:2 6:11	program 3:20
<hr/> O <hr/>	pain 15:13	plus 20:15	provide 3:17,19 8:23
O 2:1	painful 18:7 19:19	pneumonia 15:5	pull 6:23
OCTOBER 1:14	pamphlets 8:24	poison 11:2	put 6:16 10:18 11:15,19 14:20,25 15:12
offer 4:13	paranoid 13:12	poisonous 11:5,5	putting 7:2 10:9,10 20:24 21:8
oh 2:24 3:4,21 7:21 13:8 15:5 19:17	pasteboard 6:16	pops 6:25	<hr/> Q <hr/>
oil 6:15,16,17 7:8	pay 3:25 4:1 11:23	portion 4:1	<hr/> R <hr/>
okay 2:20 3:13 4:16 6:13	pays 4:2	possible 8:16	R 2:1
once 11:25	people 4:22,23 9:14 11:20	pot 13:23	ran 18:4
oncoming 18:24	performed 17:25	pounds 19:13	rate 2:23
one-gallon 10:6	permanent 21:23	pour 8:20 10:6	reached
open 6:7	personnel 4:19	poured 10:5	
	pesticided 3:14	pouring 6:17 10:4 12:14	

7:18	2:23	20:4	shirt
reaction	rest	saw	7:25
12:2	14:14	11:9 14:24	short-term
read	retirement	says	5:5
9:20,22,24,24 10:12	3:20 4:12,13	11:16 14:4 17:6	show
11:5,25 12:1	return	scared	18:8
real	5:1	20:7 21:23	showed
9:23 13:9,12 14:2	returning	scary	18:13
16:1,16 18:7 19:8	21:21	19:19	sick
19:15,23	rheumatoid	school	21:25
really	15:11	17:5	side
10:15 18:12	riding	screw	7:11
reasonable	18:23	6:25	signs
3:8	right	season	18:1
recall	3:12 6:6,13 10:9 12:9	4:10	sir
15:16	13:8,20 14:20 19:8	seasons	8:9,25 10:8 11:1 12:9
receiving	19:17	4:7 5:18	12:11,18 13:8 16:4
5:2	rise	second	sitting
recollect	21:6	11:11	19:8
3:25	Roe	see	skin
recollection	1:6 8:23 9:13 21:9,25	14:19,25	11:11,17
5:6	Roe's	seeing	skull
regular	6:20	18:25	10:13,20
3:9 20:14	room	seen	slipped
relationship	19:20	10:20	7:7
20:5	rough	selling	slow
remember	13:21	8:22	4:7
10:15 12:6 13:4	Route	serve	snap
16:11,21	2:5	15:18	20:23
remembered	rows	served	soap
9:25	9:9	15:16	13:3
remembering		service	soil
16:1	S	15:14,15,21	16:8
remove	S	SERVICES	soldiers
13:6	2:1	1:22	15:22
reorganize	safe	settled	someday
4:21	9:1	9:18	14:4
represented	safest	sex	soon
9:19	8:16	19:12	5:9
reputation	safety	she's	sorry
9:15	21:10	13:12 17:4 20:22,22	21:9
response	salary	20:24,25 21:2	sort
18:2	2:24,24	Shield	3:9 5:16
responses	Sam's	3:24	soybeans
18:9	17:2	shifted	2:19 9:6
responsibilities	satisfying	4:22	spill

17:16 spilled 8:10,19 12:3 16:17 16:20 17:21 spilling 7:1 splashed 7:10 split 13:22 spout 6:23,24 7:3 8:6 spray 9:8 spraying 6:10 19:18 spring 3:1 5:18 squeeze 5:17 standing 6:9,13 7:17 start 16:9 started 4:21 14:9 sting 12:8 stop 17:4 stopped 8:22 store 6:20 8:22 Storm 15:16 strain 19:13 strength 21:20 stuck 15:2 stuff 3:12,15 4:2 11:6,22 12:19 sue	9:18 summer 3:7 supervise 3:10 supposed 3:15 sure 3:11,12,13 9:10 11:4 17:9 21:9 surprised 12:4 swallow 10:21 11:6 swallowed 11:16 sweated 17:9 sweating 17:8 SWORN 1:12 symptoms 17:8 Syndrome 15:23 <hr/> T <hr/> tailgate 6:14,15 7:9,17 take 4:7 14:3 16:2 taken 20:21,22 takes 3:1,3 talk 2:20 4:17 tell 10:23 11:7 12:25 14:12 18:18 21:23 telling 13:15 17:24 tension 19:10 test	18:4,8 tested 14:22 tests 9:2 11:18 15:1 17:25 18:6,13 that's 4:8 5:7 12:7 13:5 16:21 20:9 21:13,13 there's 4:10 5:25 they're 3:8,8,11,14,15 10:17 16:16 17:24 they've 3:21 thing 9:16 10:17 19:17 things 10:21 19:23 21:3 think 3:23 4:23 5:7 9:10 11:13 16:20 20:22 thinking 22:2 thirst 17:10 thought 9:7 11:6,14 15:23 17:15 21:15 three 14:8 19:5 20:5 time 3:2,3,18,19 4:20 5:10 9:9 12:9,11,13,18 13:21 17:7 18:25 20:24 times 3:4 7:19,20,21 13:3 17:9 19:6 20:5 tip 7:3 tipping 7:6,18 tips 17:4	tired 17:19 21:4 tissue 18:5 told 5:8 8:25 9:2 14:14 17:15 top 6:17,24 7:7 total 20:8 tougher 8:5 toxic 8:8 TRANSCRIPTION 1:12 trees 6:8 Treflan 16:7 trouble 15:8 18:23 truck 6:14 7:10,18 21:19 truth 12:25 17:24 try 9:24 tub 13:4 TV 13:15 two 4:6 15:7 19:21 20:5 types 3:16 7:21 16:5,11,13 <hr/> U <hr/> underneath 9:9 understand 4:25 unsafe 21:6 use
--	--	--	--

4:4 8:15 16:6	13:4 17:12 19:4	wish	2:16,18,22 5:16,21
useless	way	18:15	9:11 15:3,6,17
18:17	6:22 7:1,16 8:5,16,16	witnesses	16:15
uses	8:17 14:15 21:21	13:18	you'd
8:21	we're	word	12:19
usually	21:14	9:25 10:24 11:2,9	you'll
4:1,4,8	we've	words	10:19
	5:20	6:11 10:17	you're
V	weak	work	10:9,10
vacation	12:10 19:15	3:5 4:11 5:1,9,13,17	you've
3:18 4:6	weaker	7:25 8:1,9 9:1 10:11	8:13 11:25 12:1
vary	14:9,9	18:16 20:18,25	18:19 21:5
2:25	weakness	worked	young
vision	18:2,9,21	9:8	20:7 21:2
18:22 19:1	wearing	workers	YR-11
vs	7:24 8:1,4 13:7	3:11	15:5
1:5	weed-killer	working	YR-14
	8:18 9:17 21:15	2:15 3:13 5:15 17:3	15:10
W	weed-killers	works	YR-25
wage	7:22 8:7 12:14 16:6	4:17 17:2	2:8
2:22	weeds	worried	YR-55
walk	16:9	12:4	2:4
17:19	week	worrying	YR-7
want	5:6 14:11 20:5	20:23	2:7
20:2	weeks	worst	Z
wanted	4:6 14:8,10 15:8	14:16	0
11:20	weighted	worth	1
wants	14:17	16:24	
14:3 21:3	went	wouldn't	10
War	13:2	6:10 8:9	15:3 19:14
15:23	What's	WWW.MAGNAL...	15
warn	2:6	1:24	2:16,22
11:20	wheat	X	18
warning	2:18	Y	2:4
10:1	wife	yards	19
warnings	2:9 18:16 19:11	6:6	14:21 18:7
11:24	20:21	yeah	2
wash	wife's	3:21 4:15 5:4	20
13:1,5	2:6	year	16:15
washed	Wilson	2:25 3:4 9:9,10,17	200
11:14 12:6,22 13:2,3	1:2,3,13 2:4 5:11	16:15 20:14,15	7:21
wasn't	8:13 17:7,25	year-old	2000
8:4 21:14	winter	18:17	20:13
wasting	14:16 20:19	years	
10:10	wintertime		
water	3:7		

<p>25 19:13</p>	<p style="text-align: center;"><u>9</u></p>		
<p>26 1:14</p>	<p>90 18:17</p>		
<p style="text-align: center;"><u>3</u></p>			
<p>30 2:18 5:16</p>			
<p>30,000 16:24</p>			
<p>300 7:21</p>			
<p style="text-align: center;"><u>4</u></p>			
<p>4 2:5</p>			
<p>40 3:9</p>			
<p>45 3:9</p>			
<p>4th 6:4</p>			
<p style="text-align: center;"><u>5</u></p>			
<p>50 6:6</p>			
<p>50,000 20:9</p>			
<p>529 16:10</p>			
<p>53 2:17 5:12</p>			
<p>59 15:9</p>			
<p style="text-align: center;"><u>6</u></p>			
<p>6:00 3:4</p>			
<p>60,000 2:25 20:15</p>			
<p style="text-align: center;"><u>7</u></p>			
<p style="text-align: center;"><u>8</u></p>			
<p>866-624-6224 1:23</p>			