

Plaintiffs may conclude case today or Monday

By DAN KENNEDY

BOSTON — Lawyers for the plaintiffs in the Woburn leukemia trial say they may conclude their case today or Monday against two multinational companies they contend are responsible for polluting municipal wells in East Woburn.

On Tuesday in U.S. District Court, John Drobinski, a geologist hired by the plaintiffs to study the defendants' properties, testified about chemical contaminant levels in the soil and groundwater at W.R. Grace & Co.'s Cryovac manufacturing plant, located in East Woburn at 369 Washington St.

Plaintiffs attorney Jan Schlichtmann told reporters that Drobinski would testify briefly today. After that, he would be cross examined by lawyers for Grace and for Beatrice Foods Co., former owners of the Riley Leather Co. tannery, 228 Salem St.

Shortly after Drobinski leaves the witness stand, Schlichtmann will conclude his case against Grace and Beatrice.

Defense lawyers are then expected to ask Judge Walter Jay Skinner to grant a directed verdict of acquittal on the grounds that the plaintiffs failed to make their case.

Assuming Skinner rules against that motion, the defendants are expected to take about two weeks apiece presenting their case, with jury deliberations to begin by the end of June.

At some point before beginning deliberations, the six-member, five-alternate jury is expected to tour the Grace and Beatrice properties and wells G and H, which were closed in 1979 after 15 years of use.

The jury must consider the case on narrow grounds in this first phase of the trial — namely, the plaintiffs' claim that the Cryovac plant and the Riley tannery were responsible for polluting the wells.

If the jury finds for the defendants, the trial will be over.

But if the jury finds for the plaintiffs, the trial will then move on to a second phase, in which the plaintiffs — eight East Woburn families — will charge that the contaminants caused the leukemia deaths of five children and one adult and the illnesses of two others.

Lawyers for Beatrice and Grace argue that not only did the defendants not contaminate the wells, but that even if they did, the chemicals cited in the lawsuit do not cause leukemia or other illnesses claimed by the

plaintiffs.

The plaintiffs appeared to win a victory Tuesday, the 50th day of the trial, in a bench conference concerning Drobinski's testimony about the Cryovac site.

Schlichtmann asked Drobinski to offer his opinion concerning the source of chemical contaminants found at the site, and Grace attorney Michael Keating filed an objection.

Harvard Law School Prof. Charles Nesson, who is assisting Schlichtmann, later told reporters that Skinner ruled Drobinski's opinion was not necessary, since present and former Grace employees had already testified that they dumped chemicals on the ground outside the plant and down drains inside it.

Nesson said Skinner ruled the jury could infer that the contaminants resulted from those activities without the help of an expert witness.

"As long as the judge is happy with the jury drawing that inference, we are happy," Nesson said.

Schlichtmann added Skinner's ruling allows Schlichtmann himself to draw the inference during his closing arguments. "That's a much better way of doing that than an expert opinion," he said.

During Drobinski's testimony, the jury was shown a 16-minute

videotape prepared by the plaintiffs showing digging and sampling that took place on the Cryovac property July 1-4, 1985.

Drobinski said all five chemicals cited by the plaintiffs were found in groundwater samples, especially in the southwest corner of the property, which is closest to wells G and H.

Earlier this month, Dr. George Pinder, a nationally regarded hydrogeologist retained by the plaintiffs, testified that groundwater flows from the Cryovac site to the wells.

He estimated it would take three years for trichloroethylene, the most important chemical in the suit, to travel the 2,400 feet separating the property from well H to the southwest.

This is Drobinski's second appearance in the trial. He testified in March that chemical contaminants found on the Beatrice property — a 15-acre site about 700 feet southwest of the wells — were associated

with surface activities that took place during the years the wells were in use.

Beatrice owned the Riley tannery from 1978 to 1983 and retains legal liability.

At the time of Drobinski's initial testimony, he was criticized by Beatrice attorney Jerome Facher, who charged Drobinski failed to take into account the possibility that the site may have been contaminated by off-site sources.

He also questioned Drobinski's use of aerial photos and surface findings to establish the contamination took place during the 1960s and '70s. Facher said there was no evidence that any contamination had taken place before May 1979, when wells G and H were closed.

Pinder testified groundwater under the Beatrice site flows toward wells G and H when the wells are in use, with trichloroethylene entering the drinking water in about 1½ years.