

**Superior Court of the State of California
For the County of Los Angeles**

**TRANSWESTERN PIPELINE)
COMPANY,)**

Plaintiff,)

vs.)

Case No. BC 026959

**MONSANTO COMPANY and)
DOES 1 through 200, inclusive,)**

Defendant.)

Volume II

October 22, 1992

Deposition of JOHN MASON, taken on behalf of Plaintiff.

GORE REPORTING COMPANY

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1 Superior Court of the State of California

2 For the County of Los Angeles

3
4 TRANSWESTERN PIPELINE)

5 COMPANY,)

6 Plaintiff,)

7)
8 v.) No. BC 026959

9)
10 MONSANTO COMPANY and)

11 DOES 1 through 200,)

12 inclusive,)

13 Defendants. .)

14
15 Volume II

16
17 Continuation of the Deposition of
18 JOHN MASON, taken on behalf of Plaintiff, at
19 the offices of Bryan Cave, One Metropolitan
20 Square 500 North Broadway in the City of
21 St. Louis, State of Missouri, on the 21st day
22 of October, 1992, before J. Bryan Jordan,
23 certified shorthand reporter and notary
24 public.
25

GORE REPORTING COMPANY - ST. LOUIS, MISSOURI

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OCTOBER 22, 1992

EXAMINATION

BY MR. PREUSS:

Q. Good morning, Mr. Mason.

A. Good morning.

Q. How are you this morning?

A. Fine, thank you.

Q. I'd like to start out after breaking off yesterday, just reviewing a little bit of your background before you came to the United States. What was your position in Europe before you came to the United States to assume your job in the Organic Division?

A. I was Director of Marketing for Monsanto Europe.

Q. And did that marketing involve all Monsanto products?

A. All Monsanto products except textiles.

Q. So at the time you came to the United States to assume your job here, you had an understanding of the Aroclor product line that Monsanto marketed?

A. Yes, I did.

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1 Q. And when did you first receive
2 notice of your new position here in the
3 United States?

4 A. I think it was late 1968 or early
5 1969.

6 Q. And you actually came to this
7 country to be here on a full-time basis in
8 mid '69; is that correct?

9 A. Yes, I moved my family here, yes.
10 I was commuting back and to prior to that.

11 Q. And how often were you commuting
12 between knowledge of getting your position
13 assigned to you and actually being here on a
14 full-time basis?

15 A. I would think two or three times.
16 I can't remember exactly.

17 Q. So that was to orient you toward
18 what your job responsibilities were when you
19 got here?

20 A. Yes.

21 Q. And your boss, when you got over
22 here, was a Mr. Minckler; is that correct?

23 A. Mr. Minckler, Howard Minckler.

24 Q. And you had a coequal as Assistant
25 General Manager in Mr. Smith; is that

1 correct?

2 A. C. J. Smith, yes.

3 Q. And reporting to you was Mr.
4 Bergen?

5 A. Yes.

6 Q. That's spelled B-e-r-g-e-n; is
7 that right?

8 A. Correct.

9 Q. And Mr. Springgate reported to Mr.
10 Smith; is that right?

11 A. Correct.

12 Q. And that management line-up
13 lasted, I believe you said, until August or
14 so in 1971? Is that right?

15 A. Correct. I can't remember the
16 exact date, but it was the corporation
17 reorganized into operating companies.

18 Q. And at that point, your boss
19 became Mr. Cunningham; is that right?

20 A. Correct.

21 Q. And Mr. ^{Bach}~~Bach~~, the president of the
22 company, was replaced by Mr. Hanley?

23 A. Mr. Hanley, yes.

24 Q. And that line-up remained the same
25 until you returned to Europe in either late

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1 '71 or early '72; is that right?

2 A. That's correct.

3 Q. All right, I'd like to pick up
4 with the minutes of the Corporate Development
5 Committee, Exhibit 1039, and you have the
6 exhibits in front of you, there. I think
7 they're numbered consecutively, so just work
8 your way down.

9 A. Oh, fine. 1039, I guess.

10 Q. And you indicated with respect to
11 this particular meeting of the Corporate
12 Development Committee in November of '69 that
13 you were present at that meeting; is that
14 right?

15 A. Yes.

16 Q. And your name is indicated there
17 on the first page of this exhibit as being
18 present?

19 A. Correct.

20 Q. But you did not make the
21 presentation; is that right?

22 A. That's correct.

23 MR. PREUSS: I'd like to mark as
24 next in order a document entitled "PCB
25 Presentation to the Corporate Development

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1 Committee" which was previously marked in Mr.
2 Springgate's deposition as 559 and has a date
3 of November 17th, 1969, on the top.

4 MR. PREUSS: Counsel, we can just
5 go next in order is fine by me.

6 MS. WELCH: That's fine.

7 (Defendant's Deposition
8 Exhibit 1062 marked for
9 identification.)

10 (Witness peruses said
11 document.)

12 BY MR. PREUSS:

13 Q. Can you identify this document for
14 us, sir?

15 A. Yes, it appears to be the PCB
16 presentation to the Corporate Development
17 Committee on November 17th, 1969.

18 Q. So this document, then, would
19 relate to Exhibit 1039, the actual CDC
20 minutes for the same date.

21 A. That would be correct.

22 Q. If you could, sir, turn to page
23 TRAN 024718, Roman numeral IV, you'll note
24 under there, the subject is "Effect on
25 Monsanto and our alternative courses of

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1 action."

2 A. Yes.

3 Q. And it is indicated there that
4 Aroclors 1254 and 60, the 5- and 6-chlorine
5 ring biphenyls are the ones most seriously
6 involved in the pollution problem. Was that
7 your understanding, as well, as of that point
8 in time, in the PCB issue?

9 A. It certainly was. To the best of
10 my knowledge, those are the only products
11 which had been identified conclusively in the
12 environment.

13 Q. As of that time?

14 A. As of that time, correct.

15 Q. And if you could, turn to page 721
16 of this exhibit, you'll note, there, there is
17 a, a summary of alternative causes of action,
18 four of them listed there?

19 A. Yes.

20 Q. You see that?

21 A. That's correct, yes.

22 Q. And at that presentation, were
23 these options discussed by the presenter to
24 the CDC?

25 A. Yes, they were. It's a normal way

1 of operating, is to look at the alternates.

2 Q. And what course of action was
3 adopted as a recommended course of action by
4 the CDC?

5 A. Number 4, to develop specific
6 action plans tailored to each Business Group
7 and each customer market situation to clean
8 up the mess.

9 Q. Okay, and let's go back again, if
10 we could, to the minutes, themselves on 1039,
11 sir, and if you could, turn to the second
12 page of that exhibit, under "Plan of action."

13 A. Yes.

14 Q. And by the way, that was, appears
15 to be presented by Mr. Bergen, Bergen and Mr.
16 Springgate; that is right?

17 A. Yes, Bergen would address himself
18 to the fluids problem and Springgate to the
19 plasticizers.

20 Q. And the last paragraph of that
21 page, does that confirm your understanding
22 that the CDC adopted a policy of a ^{tailored} ~~Taylor~~
23 program for EACH business group?

24 A. Yes, that's certainly my
25 understanding.

1 Q. Okay, and also in the minutes
2 above there it appears that Dr. Wheeler made
3 a presentation on behalf of the environmental
4 aspects?

5 A. Yes.

6 Q. Could you read the portion that
7 begins, the indent there under "Aroclors
8 1248"?

9 A. "Aroclors 1248 and lower in number
10 are believed to be biodegradable, but this
11 has not been conclusively established as
12 yet."

13 Q. And was that consistent with your
14 understanding at the time, sir?

15 A. That was my understanding,
16 certainly, at the time.

17 Q. And 1242 would be an Aroclor that
18 would be lower in number than 1248; correct?

19 A. Yes, correct.

20 Q. Page 3 has twelve items listed
21 there. These were -- were these all part of
22 the plan that was presented to the CDC?

23 A. Yes.

24 Q. And I think you indicated
25 yesterday that number one, appointing a

1 project manager, that was Mr. Papageorge was
2 appointed?

3 A. He was eventually appointed, yes,
4 after this meeting.

5 Q. And there was a plan to notify all
6 customers? Is that correct?

7 A. Yes, correct.

8 Q. And a plan to reduce and control
9 effluents from the Monsanto plants; is that
10 correct?

11 A. That is correct, yes.

12 Q. And in that regard also, to
13 educate customers with respect to controlling
14 effluent from their plants?

15 A. Yes.

16 Q. And number 6, there, deals with
17 replacement products for 1254 and 1260? Is
18 that correct?

19 A. Yes, that is correct.

20 Q. And the idea there was to, to
21 develop and market replacement products if at
22 all possible?

23 A. It was, yes.

24 Q. And number 7, there, deals with
25 biodegradation (sic) test program. Was that

1 something that was ongoing as of November
2 1969?

3 A. That was ongoing, yes.

4 Q. And that was to be focused
5 particularly with respect to 1242, 1248 and
6 1254; is that right?

7 A. That is correct, yes.

8 Q. And was a toxilological (sic) test
9 program in operation at the time?

10 A. Yes, I think it was.

11 Q. And that was something, here, on
12 Item number 8 that was proposed as a
13 continuing project?

14 A. Yes.

15 Q. And number 10 dealt with the
16 removal of the 5 and 6 chlorine rings
17 possible -- if possible from both 1242 and
18 1248; is that right?

19 A. That is correct, yes.

20 Q. And that eventually became, I
21 believe you indicated yesterday, a 1016?

22 A. Yes. Eventually, yes.

23 Q. And there was also to be an
24 examination of the possibility of
25 incinerating PCBs that were reclaimed from

1 environmental situations; is that right?

2 A. Yes. Yes.

3 Q. On the "Conclusions" section, sir,
4 there was a -- is there a specific reference,
5 there, relating to a continuing testing of
6 1242 in terms of biodegradation, to see if it
7 was a contributor to the environmental
8 presence of PCBs?

9 A. Yes, there was.

10 Q. And as well as other products, it
11 indicates, to be tested for biodegradation?

12 A. Yes.

13 Q. And you indicated yesterday that
14 these minutes would have been disseminated to
15 you? Is that correct?

16 A. Yes, certainly. The normal
17 procedure would be Mr. Minckler would get a
18 copy as a member of the Corporate Development
19 Committee and he would supply copies to those
20 of us who were involved.

21 Q. Now, if you could, sir, turn to
22 1040, and that is a management plan that was
23 prepared, I believe you indicated, by Mr.
24 Papageorge for your review.

25 A. Yes.

1 Q. And to your knowledge, was this
2 plan then prepared consistent with the
3 November 17 minutes to formulate a tailored
4 plan?

5 MS. WELCH: Objection, leading.

6 A. Would you repeat the question,
7 please?

8 BY MR. PREUSS:

9 Q. All right, did this document, sir,
10 relate to the corporate minutes of November
11 17th which discuss the establishment of a
12 tailored program for each Business Group and
13 each customer market situation to assure that
14 the loss of PCBs in the environment, if any,
15 is minimal?

16 A. Yes.

17 MS. WELCH: Objection, leading.

18 BY MR. PREUSS:

19 Q. If you could, sir, turn to page 2
20 of that, which is the, actually, the first
21 page of his proposed management plan, under
22 "Basic Strategy." If -- as far as your
23 understanding is concerned -- actually, this
24 goes back to page 1, there -- this plan was
25 the product of meetings with a number of

1 different departments within the Monsanto
2 organization. Isn't that correct?

3 A. That is correct, yes.

4 Q. And was Medical-Legal, Public
5 Relations and Business Group all involved in
6 the input for this plan that Mr. Papageorge
7 put together?

8 A. Yes. I'm not a hundred percent
9 sure that Public Relations would be involved
10 in putting it together, rather, in reporting
11 it.

12 Q. Under "Basic Strategy," there, was
13 it a concern of yours, as well as Monsanto,
14 that Monsanto act in a responsible manner in
15 dealing with the environmental situation and
16 yet not take premature action?

17 MS. WELCH: Objection, leading.

18 A. It certainly was my personal
19 opinion that one had to take a balanced
20 approach to this and maintain a profitable
21 business, at the same time to protect the
22 environment and ensure that Monsanto appeared
23 to be a responsible company.

24 BY MR. PREUSS:

25 Q. Why did you feel it was important

1 to maintain profitability in conjunction with
2 pursuing this plan to make sure that the
3 environment was as clean as possible?

4 A. Well, my feeling that entirely was
5 the fact we were a public company, we have
6 shareholders, we have a duty to our
7 shareholders, also to our employees, to
8 maintain a profitable operation, ongoing
9 business.

10 Q. Turning your attention to page 2,
11 sir, had you received input from the
12 electrical industry with respect to their
13 views about the continued manufacture of
14 Aroclor 1254 and 1260?

15 A. Yes, we certainly had the major
16 users.

17 Q. And what was the input you
18 received from the electrical industry as of
19 that time, sir?

20 A. The industry was that these
21 products were absolutely critical because of
22 their fire resistant properties, particularly
23 in the use of transformers, where they're
24 used as cooling fluids and also in
25 capacitors. Prior to their availability,

1 there had been several serious accidents, to
2 the best of my knowledge, particularly in the
3 transformer area, and the potential for
4 further accidents, particularly in high-rise
5 buildings, was very apparent and no other
6 product, certainly at that time, was
7 available which could carry out this job.

8 Q. Now, did -- in reviewing this
9 exhibit, sir, Mr. Papageorge sets out a
10 number of objectives, here, eight in number?

11 A. Yes.

12 Q. And also sets forth, does he not,
13 a specific action plan as to each of those
14 eight items?

15 A. Yes.

16 Q. And did you review this document
17 after you received it, sir?

18 A. Yes, I certainly did. I would say
19 it was continuing a review of a document of
20 this type.

21 Q. All right, and could you turn your
22 attention to 1041, sir?

23 (Witness complies)

24 Q. And is this a memo you prepared to
25 Mr. Papageorge concerning your ideas,

1 suggestions on his proposed plan?

2 A. Yes, it is.

3 Q. Turning to page 2 of this item
4 deals with the input from General Electric.
5 That was something that you thought, did you
6 not, that he should address more fully in his
7 proposed plan?

8 A. Yes.

9 MS. WELCH: Objection, leading.

10 A. (Continuing) Yes, I think it was
11 very important. I think this had to be
12 emphasized and the Corporate Management
13 Committee at that time had to understand
14 exactly what was needed in this area.

15 BY MR. PREUSS:

16 Q. You also made suggestions on
17 Paragraph 5 of this exhibit, sir, did you
18 not?

19 A. Yes.

20 Q. And what were those?

21 A. Report on progress to control
22 emissions from our own plants, defining long
23 and short-term targets, and report by plant
24 what has been achieved so far. If we need
25 capital we should ask for it."

1 Q. Okay, and the second suggestion in
2 the paragraph was what, sir?

3 A. "Control of emissions from
4 customers' plants, emphasize that this must
5 be handled by a combination of effective
6 control of emissions -- for example,
7 transformers, discontinuance of sales --
8 discontinuation of sales where it would be
9 ^{im}possible to effectively control emissions
10 pesticide uses, coatings, adhesives or
11 replacement of existing Aroclors by
12 nonpersistent, nontoxic alternates." NCR
13 usage was obviously the major factor here.

14 5, biodegradation where this is
15 possible.

16 Q. And items 6, 7, 8 and 9, what were
17 your recommendations in that regard, sir?

18 A. 6 was, "Review major end use
19 areas, indicating progress to date and
20 actions we intend to take in the near future
21 to establish the fact that we are taking
22 responsible attitude to this problem and are
23 moving rapidly to reduce pollution of the
24 environment."

25 Q. And at that time, sir, did you

1 believe that you were moving rapidly toward
2 that situation?

3 A. Yes, we did at the time.

4 Q. Go ahead, if you would, please, to
5 item number 7.

6 A. 7, "Report on toxicity work in
7 hand, emphasizing that based on information
8 available to date, the Aroclors are only
9 mildly toxic and that this is unlikely to be
10 a significant factor in their usage being
11 banned or restricted."

12 8 --

13 Q. On number 7, sir --

14 A. Excuse me.

15 Q. -- on the toxicity that would be
16 with respect to toxicity studies that were
17 undergoing --

18 A. Yes.

19 Q. -- at that time?

20 A. Yes.

21 Q. And the information that you had
22 at that time was that they were only mildly
23 toxic?

24 A. That was the information that was
25 available to me, yes.

1 Q. And number 8, sir?

2 A. "Analytical procedure
3 emphasize" -- "procedures emphasize good
4 progress to date and the aim here is to
5 become internationally recognized as experts
6 in this area so that our results will be
7 accepted."

8 Q. What was your understanding at the
9 time, sir, of what efforts Monsanto was
10 making toward developing analytic techniques?

11 A. Monsanto was making very
12 significant efforts under the guidance of Dr.
13 Keller. This area of analytical procedure
14 and techniques was extremely important, and
15 in fact, polychlorinated biphenyls would
16 never have been identified in the environment
17 had there not been massive progress in this
18 area of analytical techniques.

19 However, there was a lot of work
20 required to be continued, and Dr. Keller and
21 his associates continued to work in this
22 area, improving these techniques
23 continuously.

24 Q. Were those techniques as they were
25 developed shared with the outside world?

1 A. They certainly were, and they were
2 certainly made available to appropriate
3 agencies who were working in this area.

4 Q. Thank you, sir. If you would take
5 a look at Exhibits 1042 and 43, please.

6 A. Yes.

7 Q. All right, I believe you indicated
8 that 1042 was the outline of the presentation
9 to the Corporate Development Committee or
10 Corporate Management Committee, I guess, at
11 that time in April of 1970; is that correct?

12 A. Yes.

13 Q. And again, that was not your
14 presentation, was it?

15 A. No. No, it was not, not to the
16 best of my knowledge.

17 Q. I think you indicated yesterday
18 that that didn't look like your, your style?

19 A. No, it doesn't look like my style.

20 Q. But looking at 1043, you were
21 present at the time that that presentation
22 was made; is that correct?

23 A. Yes, I certainly was.

24 Q. In fact, virtually everybody in
25 your upper management of the Organic Division

1 was there, Mr. Minckler, C. J. Smith, Mr.
2 Papageorge, Mr. Bergen, Mr. Springgate.

3 A. Yes.

4 Q. And has R. E. Kelly, is that Dr.
5 Kelly the Medical Director?

6 A. Yes, it is Dr. Kelly.

7 Q. And then Dr. Wheeler, who was --

8 A. Yeah.

9 Q. What was his job responsibilities
10 here?

11 A. His major job responsibility was
12 in the area of toxicity, and work in this
13 area on behalf of the group and other parts
14 of Monsanto.

15 Incidentally, if I may interpose,
16 I don't think he, however, was a doctor. I
17 think -- I think may be incorrect. He
18 certainly wasn't -- he's not a medical
19 doctor.

20 Q. His area of expertise was in the
21 area of toxicology; is that right?

22 A. That's right. I think he's a
23 Master, MSC, I think.

24 Q. Thank you.

25 A. I'm pretty sure. Nonetheless,

1 very much an expert in that field.

2 Q. If you turn to page 2, sir, on the
3 "Conclusions" section --

4 MS. WELCH: Which exhibit are you
5 referring to?

6 MR. PREUSS: I'm sorry, Exhibit
7 1043.

8 BY MR. PREUSS:

9 Q. The first paragraph, there, deals
10 with the replacement product, in the words of
11 the CMC, "should be developed on a crash
12 basis for the NCR application." What was the
13 NCR application, sir?

14 A. Excuse me, I'm -- have I got the
15 right -- it's 1043?

16 Q. Yes, sir, on page 2.

17 A. Yeah.

18 Q. Under the "Conclusions" section.

19 A. All right. Excuse me.

20 Q. And the first paragraph, there.

21 A. The NCR application was the use of
22 Aroclor 1242 in the carbonless paper, which
23 the company was famous for and had a
24 virtually world-wide monopoly.

25 Q. And was that considered an open

1 use?

2 A. Yes, it certainly was.

3 Q. And can you explain why, sir?

4 A. Well, it's two possibilities.

5 One, you could find a situation where paper
6 was disposed of and burnt, in which case you
7 could get PCBs being released into the
8 atmosphere. Secondly, if the paper found its
9 way to open waste dumps, it could, of course,
10 get washed by rain and eventually find its
11 way into underground water courses. In
12 addition to that, of course, there was a
13 possibility you could continue recycling the
14 polychlorinated biphenyls if the material was
15 used for recyclable products.

16 Q. So the CMC gave you and other
17 members of your management group direction to
18 work on a replacement product on a crash
19 basis for that?

20 A. Very definitely, yes. It was not
21 a product that -- not a use that the
22 corporation could walk away from, because it
23 was a major part of NCR's business, of
24 course. Unless we had a replacement material
25 available, they could be in very serious

1 difficulties.

2 Q. The second paragraph, there, deals
3 with communications to governmental agencies.
4 Was that something that the management group
5 was doing at that time and after?

6 A. Yes, it certainly was, and I think
7 most members of the group had contact with
8 one or more government agencies at that time.

9 Q. And did you, as well, sir, as far
10 as you --

11 A. Yes, I did.

12 Q. What groups were you communicating
13 with?

14 A. Well, I had contact with Dr.
15 Berger, who was head of the Scientific
16 Office -- Science and Technology Department
17 in the Office of the President, and I'd also
18 had contact, with Dr. Kelly, with various
19 other agencies; for example, the FDA.

20 Q. When you say Office of the
21 President, you are talking about Office of
22 the President of the United States?

23 A. Yes.

24 Q. And did you receive a direction at
25 that time from the CMC to come up with a, a

1 more specific plan?

2 A. Yes.

3 Q. And what was the deadline for
4 coming up with that proposed plan? If you
5 would look at -- I think the final sentence,
6 there, might help you.

7 A. The division was required to
8 report its specific plans to the committee by
9 June the 1st.

10 Q. And was that done, sir?

11 A. To the best of my recollection,
12 yes.

13 Q. If you would, sir, turn to
14 Exhibits 1044 and 1046.

15 A. Yes.

16 Q. All right, and 1044 and 1046,
17 could you identify those two exhibits for us,
18 sir?

19 A. Yes, 1044 is a memo from myself to
20 Howard Bergen and Jim Springgate, enclosing
21 copies of the charts which I used in the
22 presentation to the CMC on May the 11th,
23 1970.

24 Q. And 1046, those are the minutes of
25 that meeting in which you made your

1 presentation?

2 A. I've lost 1046.

3 Yes, these are the, these are an
4 extract from the minutes of the Corporate
5 Management Committee of May the 11th, 1970,
6 referring to the presentation.

7 Q. And this was a presentation that
8 you actually made?

9 A. Yes.

10 Q. There is your first one to the
11 CMC?

12 A. Correct.

13 Q. And in that presentation, you
14 outlined some specific steps, did you not?

15 A. Yes.

16 Q. And if you turn to, I guess it's
17 300 0560 and 61 --

18 A. 0560, "Present Plan"?

19 Q. Right, and was that the specific
20 plan that you offered to the CMC for their
21 consideration?

22 A. Yes, these were the six points
23 which I referred to several times in the
24 future.

25 Q. What were those six points

1 specifically, sir?

2 A. One was to terminate sales of all
3 non-biodegradable chlorinated biphenyls to
4 noncontrollable end uses. Completion by
5 August 30th, 1970.

6 2, "Discontinue sale of Aroclor
7 1242 to National Cash Register and replace
8 with HB 40 in the U.K. and MIBP in the U.S.A.
9 Completion dates: U.K, July 1st, 1970; U.S.,
10 January 30th, 1971."

11 3, "Close the loop on heat
12 transfer applications where fire resistance
13 is vital and replace with alternates in other
14 cases. Complete December 30th, 1970.

15 4, replace all non-biodegradable
16 chlorinated biphenyls in hydraulic
17 applications. Complete 20 percent by August
18 1st, 1970, 40 percent by November 1st, 1970,
19 and a hundred percent by December 30th, 1970.

20 5, close the loop on all
21 non-biodegradable chlorinated biphenyls in
22 transformer applications. Complete 1st of
23 August 1970.

24 6, close the loop on capacitors as
25 far as possible and replace 1242 with 1242 B.

1 Complete December 31st, 1970.

2 Q. Could you tell me what closing the
3 loop is, please?

4 A. Closing the loop is an attempt to
5 ensure that polychlorinated biphenyls are
6 being used in a closed system and that no
7 material is being allowed to escape into the
8 environment.

9 Q. Turning your attention to number
10 1, sir, with respect to sales of
11 non-biodegradable chlorinated biphenyls for
12 controlled end uses, were those permissible
13 under the plan?

14 A. Yes, they were.

15 Q. And you indicated yesterday you
16 were familiar with Turbinol 153?

17 A. Yes.

18 Q. Where would Turbinol ¹⁵³53 (sic) fit
19 into the six-step program that you outlined
20 here?

21 A. Well, it would certainly be a
22 product where there was, it was, we believed
23 there was a controlled end use, and
24 therefore, it would be permissible to sell to
25 that corporation.

1 Q. Do you have general familiarity
2 with the function of a hydraulic fluid?

3 A. Yes, I do.

4 Q. Can you distinguish for us the
5 difference between a hydraulic fluid, in your
6 mind, and the use to which the Turbinol 153
7 was applied?

8 A. Yes, hydraulic fluids are normally
9 used and under pressure where they are
10 transferring force from one point to another.
11 The braking system of a car is one
12 possibility, and in the automobile industry,
13 there are many, many applications where
14 presses are being operated using hydraulic
15 pressure. The fluid concerned is under high
16 pressure and is quite liable to result in
17 leakages, either large or small.

18 In the case of a turbocompressor,
19 as I understand it, the material, Aroclor
20 1242, was being -- excuse me, Turbinol 153,
21 was being used as a lubricant. In this case,
22 it was not under any significant pressure,
23 and therefore, it was unlikely there would be
24 any serious leaks in the system.

25 Q. Was this six-point plan adopted by

1 the CMC, sir?

2 A. Yes, it was adopted, and I think
3 there were some provisos. Particularly was
4 it pointed out there be no delay in
5 implementing the plan and also the fact that
6 it could result in a requirement for
7 significant new capital, and the division was
8 requested to be certain that pricing policies
9 set on the products, either replacement
10 products, would be sufficient to give an
11 acceptable return on investment.

12 Q. And on page 1 of 1046, which were
13 the minutes of the CMC, the six points that
14 were actually set forth in your plan are
15 reiterated in the minutes, are they not?

16 A. Yes, they are.

17 Q. What was the contemplated capital
18 expenditure required to carry out the
19 six-point plan, sir?

20 A. The estimated new capital required
21 was \$3,585,000.

22 Q. Was this plan, after adopted, made
23 effective outside of the United States, sir?

24 A. Yes, it was.

25 Q. Where else?

1 A. Certainly, in the European area
2 which I'm familiar with.

3 MR. PREUSS: I'd like to mark next
4 for identification a copy of a Telex dated
5 May 19th, 1970, a one-page document.

6 (Defendant's Deposition
7 Exhibit 1063 marked for
8 identification.)

9 (Witness peruses said
10 document.)

11 BY MR. PREUSS:

12 Q. Mr. Mason, could you identify this
13 exhibit for us, please?

14 MS. WELCH: First of all, I want
15 to object that this document has not been
16 produced, as far as I know, to Transwestern.
17 It has no identifying stamp, and we have
18 addressed this problem in previous
19 depositions, and we have requested that prior
20 to any deposition, if newly discovered
21 documents are discovered by Monsanto, that
22 they be produced before the deposition to
23 Transwestern, so I would like to register my
24 objection.

25 MR. PREUSS: Your objection is

1 noted. My understanding is -- and I will
2 check on that -- that this has been produced.
3 It is true this doesn't have a TRAN number,
4 but it's my understanding it has been
5 produced. I will check that and let you
6 know.

7 MS. WELCH: Is there any
8 explanation why the TRAN document is not the
9 one that's being introduced as an exhibit, a
10 deposition exhibit?

11 MR. PREUSS: I have none at this
12 time, but I will check. It's my
13 understanding it has been produced, however.
14 BY MR. PREUSS:

15 Q. You may proceed, Mr. Mason.

16 A. This is a transcript of the text
17 of a Telex received by Dahlstrom and Soden
18 from John Mason on the PCB problem.

19 Q. So basically, you sent the Telex?

20 A. The original Telex, yes. The
21 information is being sent to Summerside in
22 London who at that time was the United
23 Kingdom sales manager, and to Marsh in
24 Brussels, who was the product manager of the
25 Functional Fluids Group.

1 Q. And the content and the purpose of
2 the memo was -- or the Telex was what, sir?

3 A. Was to transmit to Europe a CMC
4 approval of the six-point plan we've just
5 been discussing.

6 Q. Thank you.

7 Could you turn your attention to
8 Exhibit 1051, sir?

9 A. Okay.

10 Q. You identified this document as
11 one of three letters yesterday that you
12 addressed to Congressman Ryan? Is that
13 correct?

14 A. That is correct, yes.

15 Q. And you indicated that Mr. ^{Bolk}~~Bach~~
16 had received the initial communication from
17 Congressman Ryan?

18 A. Yes.

19 Q. And that the responsibility for
20 responding was given to you?

21 A. Yes, correct.

22 Q. Did you have as part of your job
23 responsibilities during the two-plus-year
24 stint in the United States to deal with
25 representatives such as Congressman Ryan and

1 others in the community?

2 A. Yes, in the case where
3 polychlorinated biphenyls were concerned.

4 Q. And in writing this letter, did
5 you precede the letter with actually meeting
6 with Congressman Ryan?

7 A. Yes, I met with Congressman Ryan
8 sometime between the date of his letter and
9 April 28th, with Sam Pickett^{ard}, who at that
10 time was Monsanto's Vice-President of
11 Governmental Affairs in Washington.

12 Q. And your purpose in meeting with
13 him was what, sir?

14 A. First, to try and understand what
15 his major aim in raising the PCB issue in
16 such strong terms, and secondly, to try to
17 give him our side of the story and to explain
18 to him what the problem was more accurately
19 and what we were trying to do to alleviate
20 it.

21 Q. And was this letter, then, a
22 reflection of your attempt to do so?

23 A. I think so, yes, broadly.

24 Q. Would you turn to page 2 of your
25 letter, sir?

1 A. Yes.

2 Q. On the first paragraph, there,
3 deals with certain meetings with the U.S.
4 government. I take it, then, you were
5 familiar with the meetings that went on?

6 A. Oh, yes.

7 Q. And what were these meetings with
8 the governmental agencies, sir?

9 A. Well, the one particularly
10 referred to here is contact with scientists
11 and agent -- excuse me, attended the U.S.
12 Department of the Interior meeting where some
13 40 scientists from throughout the country
14 gathered to exchange information on PCBs and
15 recommend actions.

16 On April 29th, we were planning at
17 that time to participate in the meeting in
18 the Office of Science and Technology of the
19 Executive Office of the President to discuss
20 the toxicity of PCBs.

21 Q. And in the next paragraph, there,
22 you were asked some questions on that
23 yesterday, sir, dealing with the issue of a
24 threat to the public health. In the last
25 sentence, there, you state that the

1 "Manufacturing and use experience for thirty
2 years, earlier animal toxicity studies, and
3 interim" -- "and the interim reports on
4 current extensive toxicological studies with
5 various species of animals indicate that
6 there is no threat to the public health."
7 Was is that your opinion at the time, sir?

8 A. It certainly was my opinion at
9 this time.

10 Q. Based on the information that you
11 indicated in that paragraph; is that right?

12 A. Yes, correct.

13 Q. In the next paragraph, you discuss
14 1254, or actually, Aroclors that have 54
15 percent chlorine. What was your
16 understanding of that particular Aroclor in
17 terms of it being found in the environment as
18 of April of 1970, sir?

19 A. As of that that time, we are still
20 convinced that the major cause of any
21 pollution by polychlorinated biphenyls was
22 due to the higher chlorinated materials, 54
23 and above.

24 Q. Turning your attention to the last
25 paragraph on page 2 and in the top of page

1 3 -- and feel free to read that --

2 A. I'd just like to read it, please.

3 Q. Sure.

4 (Witness peruses said
5 document.)

6 A. Yes.

7 Q. Did you attempt to advise
8 Congressman Ryan with respect to how PCBs are
9 principally used in the country --

10 A. Yes, we did.

11 Q. -- as of that time?

12 A. Yes. Yes.

13 Q. And what did you tell him in that
14 regard?

15 A. We explained, of course, that the
16 major uses were in closed systems: For
17 example, transformers, capacitors, and we
18 tried to put the whole picture in perspective
19 on the basis that exposure of these materials
20 to the public was very unlikely. I should
21 have put that the other way: Exposure of the
22 public to these materials. Excuse me.

23 Q. All right, then the next
24 paragraph, Congressman Ryan apparently asked
25 you for a list of all products and

1 manufacturers using PCB products?

2 A. Yes, he did.

3 Q. And what was your concern in that
4 regard, sir?

5 A. Well, we felt we were unable to
6 give him this information, as much of it was
7 confidential, it was confidential between our
8 customers and ourselves, we did not feel we
9 could disclose to him either a list of
10 products or manufacturers who were using
11 Aroclors without very specific permission
12 from each individual company.

13 Q. Turning your attention to the
14 fourth, fourth or fifth paragraph of that
15 page, had you notified customers about the
16 potential for environmental problems?

17 A. Yes, we had.

18 Q. And had you been working with them
19 at that time concerning problems that they
20 may have?

21 A. Yes, we had, and also in many
22 cases, of course, with looking at alternate
23 materials.

24 Q. All right, the next-to-the-last
25 paragraph discusses the preparation of a new

1 shipping label, stressing possible
2 environmental hazard.

3 A. Yes.

4 Q. Was that something that was in the
5 works at that time, sir?

6 A. Yes, it was.

7 Q. What was Monsanto's position with
8 respect to Congressman Ryan's requests for
9 production and sales figures at that time?

10 A. We were unwilling to make these
11 available to the general public, but we were
12 ready to accept that these figures should be
13 made available to a responsible governmental
14 agency, providing we received an assurance
15 that these figures would be kept confidential
16 and used only for, shall we say, scientific
17 purposes for them to study the problem.

18 MR. PREUSS: I'd like to mark next
19 for identification a letter dated May 28th,
20 1970, to Mr. Kevin Harris from Mr. Mason.

21 (Defendant's Deposition
22 Exhibit 1064 marked for
23 identification.)

24 (Witness peruses said
25 document.)

1 THE WITNESS: All right.

2 BY MR. PREUSS:

3 Q. Can you identify this letter for
4 us, sir?

5 A. Yes. It's a letter from me to a
6 Mr. Kevin Harris of Donlon Hall, Cornell
7 University, New York.

8 Q. Who was Mr. Harris, if you know,
9 sir?

10 A. I'm trying to remember. I think
11 he was a student at Cornell University. I'm
12 not sure whether he was a graduate student or
13 an undergraduate.

14 Q. How was it that you were writing
15 this letter to him, sir?

16 A. Mr. ^{Bock}~~Bach~~ referred it to me and
17 asked me to reply and to give a full answer
18 to his questions.

19 Q. And what was the purpose, then, of
20 your letter to communicate to Mr. Harris?

21 A. I think we wanted to communicate
22 to Mr. Harris and any other individual in the
23 United States that there was a problem, we
24 had a deep concern over the problem and we
25 were taking appropriate actions to control

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1 it. I think I attempted to explain the major
2 points in our program.

3 Q. That would be your action plan,
4 the six-point action plan?

5 A. The six points, yes.

6 Q. Did you advise Mr. Harris -- and
7 if you could refer to the third paragraph on
8 the first page -- about the voluntary nature
9 of Monsanto's action?

10 MS. WELCH: Objection, leading.

11 BY MR. PREUSS:

12 Q. All right, I'll reask the
13 question. Referring your attention to the
14 third paragraph, was the action of Monsanto
15 that you described previously in the six
16 point program voluntary?

17 A. Yes, it certainly was.

18 Q. On the last paragraph of that
19 page, there is a discussion about
20 establishing a fair balance. Could you
21 describe what you intended to communicate by
22 that, sir?

23 A. I think it's extremely important
24 to achieve this balance. The products were
25 extremely useful from a safety point of view

1 in preventing fire hazards, fire hazards in
2 areas such as transformers, for example, and
3 capacitors, and also several other
4 applications. It is true that they were
5 being identified as a pollutant in the
6 environment, but I think I was trying to
7 explain that one has to achieve a fair
8 balance. There's nearly always a trade in
9 these things. Products which are extremely
10 useful can sometimes also have disadvantages,
11 and one has to weigh up what is the overall
12 net advantage.

13 Q. In the first sentence of the last
14 paragraph of your letter, sir, you say,
15 "Monsanto recognizes it has a responsibility
16 to the environment, but also it has a
17 responsibility to the population of the
18 environment, including humans."

19 A. Yes.

20 Q. Was that your belief at the time,
21 sir?

22 A. That was the belief, yes. I was
23 referring, there, of course, particularly to
24 fire hazards.

25 MR. PREUSS: I'd like to mark next

1 for identification a letter dated June 19th,
2 1970, to Mrs. Joseph L. Tucker from Mr.
3 Mason, a four-page letter.

4 MS. WELCH: Before you get into
5 questioning of that, can we take a break, a
6 short one?

7 MR. PREUSS: Sure. Off the
8 record, please.

9 (Recess)

10 (Defendant's Deposition
11 Exhibit 1065 marked for
12 identification.)

13 BY MR. PREUSS:

14 Q. I think when we broke off, Mr.
15 Mason, we were about to identify Exhibit
16 1065, which is a letter to Mrs. Tucker from
17 you. Could you find that one?

18 A. 1065 is that the -- Thank you.

19 Q. Could you identify that for us,
20 please?

21 A. Yes, it appears to be a letter
22 from me to a Mrs. Joseph L. Tucker of St.
23 Louis.

24 Q. And who was Mrs. Tucker?

25 A. To the best of my recollection,

1 she was a lady living in St. Louis who had
2 written to President ^{Book} ~~Bach~~, expressing her
3 concern about the problem of polychlorinated
4 biphenyls in the environment. Mr. ^{Book} ~~Bach~~ had
5 asked me to reply on his behalf.

6 Q. And what was the intent of your
7 reply?

8 A. I think the intent was to take
9 seriously the comments of the lady in
10 question, to explain to her as best as I
11 could what the problem was, to try to answer
12 her individual questions and to convince her
13 that Monsanto was taking a responsible
14 attitude to this problem.

15 Q. Turning your attention to page 2,
16 there, the top two paragraphs, were those
17 items discussed part of the action plan, the
18 six-point action plan?

19 A. Could I just read that paragraph,
20 please?

21 Q. Sure.

22 (Witness peruses said
23 document.)

24 A. Yes, I think that's fair to say.

25 Q. And then the next paragraph, sir,

1 you have a sentence, there, at the end of
2 that paragraph, "Incidentally, we believe
3 that this is the first time that a U.S.
4 company has taken such action voluntarily in
5 the interests of the environment." Was that
6 your understanding at the time?

7 A. It certainly was my understanding,
8 yes.

9 Q. Is that still your understanding?

10 A. It's still my understanding.

11 Q. On page 3, you ask a rhetorical
12 question, "Wouldn't it be easier for Monsanto
13 to get out of the PCB business?" And what
14 was your response to that and why, sir?

15 A. My response was, "We cannot," and
16 I went on to try to explain that man and
17 society have become dependent on these
18 materials, mainly because of their fireproof
19 properties, their fire-resistant properties,
20 I think I tried to describe the major
21 electrical area, and pointing out, of course,
22 that their usage was a very important factor
23 in reducing fire hazard and hence, damage to
24 life and even loss of life.

25 Q. The last paragraph, sir, you say,

1 "It is our firm belief that by working with
2 customers who are well aware of the
3 environmental problem and are conscientiously
4 working to achieve the maximum degree of
5 control, we can protect the environment and
6 continue to make available these materials
7 which are so vitally needed by man in his
8 daily life." That was your belief as well,
9 sir?

10 A. It certainly was, yes.

11 Q. And was Texas Eastern one of those
12 customers that would -- that Monsanto was
13 working with?

14 A. Yes, it was.

15 Q. Would you turn to Exhibit 1053,
16 which is the second letter to Congressman
17 Ryan, sir, your second letter that was
18 identified yesterday, please?

19 A. The letter dated June the 30th,
20 1970.

21 Q. Correct.

22 (Witness peruses said
23 document.)

24 Q. Turning your attention to
25 Paragraph 3, sir, as of the date of this

1 letter, June 30, 1970, had Monsanto, to the
2 best of your knowledge, contacted its
3 customers, both verbally and by letter?

4 A. Yes.

5 Q. And relating to the six-point
6 plan?

7 MS. WELCH: Wait a minute. Which
8 exhibit are we on?

9 MR. PREUSS: I'm sorry, 1053.

10 MS. WELCH: Okay. All right.

11 BY MR. PREUSS:

12 Q. Do you have the question in mind,
13 Mr. Mason?

14 A. Yes. I don't think we explained
15 to our customers in detail the six points.
16 We had explained what the situation was, what
17 the problem was in general, what we were
18 doing, and how it would impact those
19 customers individually.

20 Q. And on page 2, in the paragraph
21 right after numbered 3, there, did you
22 discuss in your letter Monsanto's continuing
23 to sell chlorinated biphenyls for closed
24 system usage?

25 A. Yes.

1 Q. Was it a purpose in writing this
2 letter to bring Congressman Ryan up-to-date
3 on where you were at that time?

4 MS. WELCH: Objection, leading.

5 A. It certainly was that. It was
6 also to answer some of the points he'd raised
7 again in his previous letter and to give him
8 more information, and also a continuing
9 effort to persuade him to take a balanced
10 view of this problem.

11 BY MR. PREUSS:

12 Q. Was it your opinion that he was
13 not taking a balanced view as of that time?

14 A. Certainly, initially, he did not
15 take a balanced view. It was a somewhat
16 hysterical approach. I think during our
17 correspondence and meeting with him -- and I
18 did have several phone conversations with him --
19 he did take a more balanced view, but I think
20 he was still determined that he was going to
21 raise this as a major issue and attempt to
22 persuade Congress to pass a bill banning
23 polychlorinated biphenyls.

24 Q. On page 3, there, there is a
25 discussion of various contacts that Monsanto

1 has had with scientists. Was that set forth
2 in response to one of the comments or
3 specific questions of Congressman Ryan?

4 A. Excuse me. This is page --

5 Q. 3, sir.

6 A. 3. Yes, that was more than an
7 attempt to persuade him that we were in
8 contact with scientists who were studying
9 this problem, we were in contact with various
10 agencies, again who were studying it, and I
11 did list here some of those meetings and
12 contacts we had established.

13 Q. Those meetings were with, and
14 contacts were with scientists both in the
15 United States, as well as abroad?

16 A. Yes, they were. I particularly,
17 of course, here, refer to Dr. Risebrough, who
18 had supplied much of the information that
19 Congressman Ryan had used in his
20 communication originally to Mr. Bach.

21 Q. In the paragraph that discusses
22 Dr. Risebrough, there, the last sentence
23 there says, "At the end of the day" -- and
24 this is a meeting that you discussed that
25 occurred among Dr. Wheeler, Dr. Papageorge or

1 Mr. Papageorge and, let's see, Dr. Keller --

2 A. Keller, yeah.

3 Q. -- that Dr. Risebrough expressed
4 appreciation of Monsanto's approach and was
5 glad to note that the company was taking a
6 responsible position on the chlorinated
7 biphenyl problem." Did you gain that
8 understanding from Mr. Papageorge, Dr.
9 Keller, and Mr. Wheeler?

10 A. I certainly did. There were areas
11 of disagreement, of course. I don't think
12 everything was sweetness and light between
13 Dr. Risebrough and Monsanto, but he did
14 express an appreciation of the fact that we'd
15 taken the trouble to send people to see him
16 and to discuss his views.

17 Q. At the top of page 4, was it also
18 your purpose to advice Congressman Ryan of
19 meetings that had been held between Monsanto
20 representatives and federal and state
21 agencies?

22 A. Yes, it was.

23 Q. Did you also discuss in your
24 letter the subject matter of Monsanto's
25 attempts to control discharge from its

1 manufacturing facilities?

2 A. Yes, on page 4, we list several
3 actions which we are taking to ensure that
4 that we are controlling possible escapes from
5 our plant.

6 Q. And on page 6 --

7 A. Plants; excuse me.

8 Q. Excuse me; are you through?

9 A. Plants in plural. Excuse me.

10 Q. Page 6, please? The first full
11 paragraph of that page, you also discuss
12 Monsanto's position with respect to the
13 production and sales figure again. Is that
14 correct?

15 A. Yes.

16 Q. Was that position consistent with
17 what you had said in your earlier letter?

18 A. Yes, it was. It continued to be a
19 point of extreme disagreement between
20 Congressman Ryan and Monsanto, and I don't
21 think we changed our attitude from our first
22 meeting with him.

23 Q. That would be that you were
24 willing to disclose them as long as -- to
25 responsible environmental and scientific

1 groups as long as they were maintained
2 confidential?

3 A. Yes, sir. Our reason behind that,
4 of course, was that there were other
5 producers in Germany, France, Italy, and that
6 information could be extremely valuable to
7 them.

8 Q. Was there any way that Monsanto
9 could control whether foreign producers could
10 sell in the United States?

11 A. Absolutely no way at all.

12 Q. Turning your attention to the
13 next-to-the-last paragraph of 6, it discusses
14 labeling issues. What was the status of
15 labeling at that time of your letter in June
16 30, 1970, sir?

17 A. Still page 6?

18 Q. Yes, sir, the next-to-last
19 paragraph.

20 A. Here, I'm reiterating our earlier
21 comments to Congressman Ryan, that it would
22 be impossible for us to ensure that all
23 customers label their products, indicating
24 that they contain chlorinated biphenyls.
25 However, we are arriving at the position

1 where our sales have been restricted
2 considerably since my very first meeting with
3 him, in the case of hydraulic and heat
4 transfer fluids, and labeling all drums,
5 indicating they contain chlorinated
6 biphenyls, and in the case of the electrical
7 usages, I point out that "the American
8 Society of Testing and Materials and the
9 Institute of Electric and Electrical
10 Engineers and the Conference Internationale
11 des Grands Reseaux Electriques are developing
12 a label which will be used on all end
13 products containing chlorinated biphenyls."
14 That would be in the mainly outside the
15 United States.

16 Q. So that products that you were
17 selling had labeling but that you had no
18 control over what your customers' --

19 A. No.

20 Q. -- products were with respect to
21 labeling. Is that right?

22 A. No.

23 MS. WELCH: Objection; leading.

24 A. (Continuing) Congressman Ryan was
25 always most insistent that he wanted every

1 single product that could possibly contain
2 chlorinated biphenyls to be labeled, and he
3 was thinking, here, of consumer products in
4 the consumer market. Very few of those
5 products, of course, that did ever contain
6 chlorinated biphenyls, and it would have been
7 impossible for to us persuade customers to
8 label them in that way.

9 MR. PREUSS: Could you take 1055,
10 please, which is the CMC minutes for
11 September 14th, 1970, and I'd like to mark
12 next in order a document entitled "Minutes of
13 Meeting of Corporate Management Committee
14 September 14th, 1970."

15 (Defendant's Deposition
16 Exhibit 1066 marked for
17 identification.)

18 BY MS. WELCH:

19 Q. If you would take a look at 1066
20 and 1055, please, sir, you'll see that, at
21 least by my observation, that they are the
22 same except for the first page. Could you
23 confirm that?

24 A. I think so, yes. You mean apart
25 from the writing on the first page and what

1 is obviously a photostat of the yellow
2 "Monsanto" -- "From the desk of" -- yes.

3 Q. Looks like they blocked over the
4 title of it.

5 A. Yes.

6 Q. Now, you were at this corporate
7 management meeting for September 14th, 1970?

8 A. Yes.

9 Q. And that would have been your
10 presentation, again, at the time?

11 A. Yes.

12 Q. And what was the purpose of your
13 presentation at that particular meeting?

14 A. It was to report on progress
15 against the six-point plan, and also if I
16 remember, this was the meeting at which we
17 had to ask for an extension in the
18 replacement of non-biodegradable
19 polychlorinated biphenyls in hydraulic
20 applications. Yes, that's correct, it was
21 that meeting.

22 Q. All right, and then the last
23 sentence of this exhibit indicates that,
24 "Further progress on the program should be
25 reviewed with the committee in the first

1 quarter of 1971." Is that correct?

2 A. Yes.

3 Q. In the "Conclusions" section,
4 there, there is a sentence that says, "The
5 three month's extension requested for phasing
6 out of products in hydraulic fluids was
7 approved with the caution that the division
8 continue to exert pressure to move this
9 program as fast as possible." In connection
10 with the meetings on this program that you
11 have proposed initially in 1970, was the CMC
12 putting pressure on you at all phases?

13 A. Yes, certainly.

14 Q. Then if you would take a look at
15 1058 and 1057, please?

16 A. Yes.

17 Q. And are these, these are documents
18 you identified yesterday as connected with
19 the meeting just referenced that -- for the
20 first quarter of 1971; is that right?

21 A. Yes, they extract from the minutes
22 of Corporate Management Committee on March
23 the 8th, 1971.

24 Q. And 1058 was your presentation?

25 A. Information used by me to report

1 on the status at that Corporate Management
2 Committee meeting, yes.

3 Q. Again, that was a progress report?

4 A. Yes.

5 Q. And you were -- was it your
6 purpose to advise CMC as to how you are
7 coming along with respect to this program?

8 A. Yes.

9 Q. Could you take a look at 387, page
10 387 of Exhibit 1058, the big one?

11 A. "Transformers and capacitors"?

12 Q. Right. The last sentence, there,
13 says, "Awaiting approval of MCS 1016 by
14 customers." What does that refer to, sir?

15 A. It refers to the modified 1242 to
16 remove as much as possible of the
17 higher-chlorinated isomers.

18 Q. Why was it necessary to get
19 customer approval?

20 A. Well, you are dealing with a
21 highly technical application, and however
22 much we could be satisfied ourselves in the
23 laboratory work that it was a suitable
24 replacement, it had to be finalized by our
25 customer.

1 Q. In other words, the customers had
2 to give their approval?

3 A. Absolutely. There was no, no
4 way -- you are talking about highly expensive
5 equipment, not sort of using it in a minor
6 application.

7 Q. Was that true for a number of
8 proposed replacement products?

9 A. Oh, very much so. Anything using
10 significant equipment -- and you are talking
11 significant quantities -- had to be approved
12 by a customer.

13 Q. Turning your attention to 1057,
14 the last page of that, it says, the top
15 sentence says, "The division feels that it
16 has essentially met its goals in the
17 six-point program." Does that refer, sir, to
18 the time deadlines?

19 A. Yes.

20 Q. And was it also a goal of this
21 plan to reduce the usage of PCBs in general?

22 A. Yes, and particularly, of course,
23 the ones with the higher chlorination.

24 Q. And was that accomplished, in
25 part?

1 A. Yes, we believe so.

2 Q. And what kind of reduction did you
3 report to the meeting at that time?

4 A. Well, the reduction was from the
5 74 million pounds in 1969 to 45 million
6 pounds in 1971.

7 Q. And during that time, were you
8 able to maintain profitability?

9 A. In general, yes. There was some
10 reduction in profitability, and of course,
11 there was a one-time cost of developing some
12 of those replacement products.

13 Q. The capital expenditures that we
14 discussed?

15 A. The capital and research and
16 development costs, yes. That, the factor of
17 cost of achievement include additional, the
18 word term used is S-A-R-E, sales
19 administration research expense, engineering
20 expense of five hundred in 1970, five hundred
21 thousand in 1970.

22 Q. And then three hundred thousand in
23 1971?

24 A. In 1971, yes.

25 Q. All right, I'd like to turn your

1 attention, please, to Exhibit 1060, which is
2 the third letter that you addressed to
3 Congressman Ryan.

4 A. A letter dated March the 24th,
5 1971.

6 Q. Yes, that one, and if you would
7 turn to -- it's the bottom two lines of page
8 2, through the remainder of that paragraph on
9 page 3, if you would just read that to
10 yourself.

11 (Witness peruses said
12 document.)

13 A. Yes.

14 Q. Was the issue of disclosure of
15 sales and production figures still something
16 that Congressman Ryan was concerned with?

17 A. Very much so, yes.

18 Q. And what was Monsanto's position
19 in March of 1971?

20 A. Well, our position showed no
21 change, as I mentioned here from the last
22 letter which I wrote to him on June 30th,
23 1970. We still considered the information
24 extremely confidential and could be of great
25 assistance to our European competitors,

1 although we were still willing to release the
2 information to a government agency on the
3 assurance that the information would be used
4 only for scientific purposes and kept
5 confidential.

6 Q. And then could you read the next
7 paragraph, there, sir, on page 3?

8 (Witness peruses said
9 document.)

10 A. Yes.

11 Q. As of March of 1971, were the
12 usages of PCB products manufactured by
13 Monsanto restricted to closed system
14 applications?

15 A. In general, yes.

16 Q. And was it Monsanto's belief, and
17 yours in particular, that the public was
18 unlikely to come into contact with such
19 systems, using PCBs?

20 A. It was, yes.

21 Q. And with respect to labeling, were
22 products contained that were being shipped
23 from Monsanto containing environmental
24 labels?

25 A. Yes, all material going out, all

1 polychlorinated biphenyls being shipped were
2 labeled by that time, identifying them as a
3 possible environmental pollutant.

4 MR. PREUSS: I'd like to mark next
5 for identification a letter to Mr. Mason from
6 a John D. Baldeschwieler, dated October 13,
7 1971, spelled B-a-l-d-e-s-c-h-w-i-e-l-e-r.

8 (Defendant's Deposition

9 Exhibit 1067 marked for
10 identification.)

11 (Witness peruses said
12 document.)

13 BY MR. PREUSS:

14 Q. Could you identify this letter for
15 us, please?

16 A. Yes, it is a letter addressed to
17 me from the Executive Office of the
18 President, Office of Science and Technology,
19 acknowledging appreciation of the assistance
20 we have offered in the continuing study of
21 polychlorinated biphenyls. It also points
22 out that they now understand that Monsanto
23 Company will supply certain information
24 regarding the domestic manufacture and sale
25 of polychlorinated biphenyls in order to

1 assist in the government study of the present
2 and future buildup of PCBs in the
3 environment.

4 Q. So as of this time, you received
5 the assurances that the production and sales
6 figures would be kept confidential from the
7 Executive Office of the President?

8 A. Yes, he points out in the last
9 paragraph that the information will be
10 treated on a privileged and confidential
11 basis and will not be disseminated to the
12 public or outside the government except as a
13 necessary inclusion in any report released by
14 the Office of Science and Technology or any
15 other government agency or organization.

16 Q. And did Monsanto then release the
17 figures?

18 A. Yes, the figures were released to
19 the Office.

20 MR. PREUSS: I'd like to mark next
21 for identification an editorial entitled "The
22 White Hat For Industry" appearing in May, I
23 can't read the precise date, but it looks
24 like early May 1971, in the "Chemical and
25 Engineering News", " May 3rd, 1971.

(Defendant's Deposition
Exhibit 1068 marked for
identification.)

BY MR. PREUSS:

Q. Can you identify this document,
please, Mr. Mason?

A. Yes, it appears to be an extract
from "Chemical and Engineering News," which
is a United Kingdom publication, and the date
being May 3rd, 1971.

Q. And is this an editorial, sir?

A. Yes, it says at the top it is
editorial comment, yes.

Q. And is the "Chemical and
Engineering News" a well-regarded publication
in the scientific community?

A. Yes, scientific, engineering and
manufacturing community, yes.

Q. And did you receive a copy of this
editorial at or about May of 1971?

A. Monsanto -- I'm not sure who
received this copy.

Q. Does your name appear, there, on a
copyright to the right there, you see?

A. Yes, it did, yes. We probably

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1 picked up in Europe, probably in the United
2 Kingdom, and then passed here to the United
3 States.

4 Q. What was the thrust of this
5 editorial, sir?

6 A. I think the thrust of the
7 editorial was to congratulate Monsanto on
8 taking a responsible attitude in dealing with
9 the polychlorinated biphenyl environmental
10 problem, particularly taking this action
11 without being forced to by regulations,
12 governmental regulations.

13 Q. In the editorial, sir, entitled
14 "The White Hat For Industry," the editor,
15 Patrick McCurdy, M-c capital C-u-r-d-y, makes
16 reference to a John Tinker, T-i-n-k-e-r,
17 article in the April 1 issue of "New
18 Scientist and Science," and is "New Scientist
19 and Science" a respected scientific journal,
20 sir?

21 A. Yes, it is, again, it is a U.K.
22 journal. It is well respected.

23 Q. In the, I think it's the fourth or
24 fifth paragraph, the last sentence, there, it
25 says, "But this cannot be allowed to obscure

1 the unprecedented nature of acceptance of
2 charges before guilt has been scientifically
3 proved." You see that sentence there, sir?

4 A. Yes.

5 Q. What was your understanding of
6 that when you read that?

7 A. Well, I think the gist of it, as I
8 understand it, is that although some people
9 might see Monsanto's actions as a desperate
10 throe to retain at least part of the
11 lucrative market, that Monsanto has made it
12 very clear that it believes that the partial
13 PCB ban is not only in the interests of the
14 environment and the general public, but its
15 own long-term interests on the basis that one
16 is going to be able to use useful products
17 which -- in a controlled manner which is not
18 going to be a danger to the environment, and
19 I think that he's also indicating that it is
20 unusual for a company like Monsanto to accept
21 such charges before they are completely
22 scientifically proved.

23 Q. In the last paragraph, Mr. McCurdy
24 says, "All in all, we would say that the
25 company has acted in an altogether

1 enlightened way, nicely balancing questions
2 of public and private (its own) good and we
3 think other firms would do well to study this
4 case history." In your view, did you feel
5 that Monsanto, and you in particular, in
6 carrying out your job here in the United
7 States, during the time frame we've been
8 discussing, were balancing both the public
9 interest as well as Monsanto's interests?

10 MS. WELCH: Objection, highly
11 leading.

12 A. I certainly think that Monsanto's
13 actions were balanced. I certainly tried to
14 protect the interests of the shareholders,
15 the general public, the environment, and
16 there's no way I can comment on my own
17 performance. I hope it contributed to it,
18 but it was certainly my belief that this was
19 the right way to handle the problem.

20 BY MR. PREUSS:

21 Q. In your view, was management that
22 you reported to receptive to your views in
23 how to balance public and private interests?

24 A. I think very definitely they were,
25 yes.

1 MR. PREUSS: I'd like to mark next
2 for identification a letter dated September
3 24, 1971, to a Mr. L. S. Waldorf, d-o-r-f,
4 from Mr. Mason.

5 (Defendant's Deposition
6 Exhibit 1069 marked for
7 identification.)

8 (Witness peruses said
9 document.)

10 THE WITNESS: It's a letter to Mr.
11 L. S. Waldorf, A&P Coffee Division, Great
12 Atlantic and Pacific Company, dated September
13 24th.

14 BY MR. PREUSS:

15 Q. And was this a letter that you
16 authored, sir?

17 A. Yes. I think it, I think it was a
18 letter which was sent to many companies using
19 polychlorinated biphenyls in areas associated
20 with food, pharmaceuticals, following the
21 East Coast Terminals incident when the
22 decision was taken that in no way would we
23 supply polychlorinated phenyls for heat
24 transfer usage in any of these applications.

25 Q. And can you tell us again what a

1 heat transfer application is?

2 A. It's where polychlorinated
3 biphenyls are used to raise temperature. For
4 example, in the East Coast Terminal
5 situation, it was in a mixing machine which
6 was pasteurizing, I think there were Chilean
7 fish meal, I think it was -- I may have got
8 the term wrong -- where the paddles, the
9 blades which were rotating in the fish meal
10 were hollow and were using polychlorinated
11 biphenyls as the method of heating the blades
12 and transferring that heat to the material in
13 question. That probably -- there were
14 several applications of that type which we
15 later, we found, of course, were quite
16 unsatisfactory, although we believed them to
17 be a completely closed system.

18 Q. Did the East Coast Terminal
19 incident cause Monsanto to change its policy,
20 then, with respect to --

21 A. Yes -- excuse me.

22 Q. -- with respect to heat transfer
23 fluid application where that application
24 could potentially come in contact with food?

25 A. It certainly did, and I think --

1 Q. What was the change?

2 A. The change was under no
3 circumstances would we sell polychlorinated
4 biphenyls for that application, for that
5 application in those industries.

6 Q. In page 2 of this letter, where
7 it's outlined certain steps that Monsanto
8 agreed to undertake with respect to the
9 fluids, what were those, sir?

10 A. One, we would not supply any
11 additional material for makeup, and we urge
12 that you proceed immediately with the
13 conversion of your FR system to a non-PCB
14 Therminol 66 which is being provided at no
15 charge. We are also providing labels which
16 can be used to attach to the used Therminol
17 FR containers for shipment back to us for
18 disposal. That of course, means incineration
19 in our plant.

20 It points out, "We also pay the
21 freight back for disposal as well as the
22 normal disposal charge.

23 Q. So that one, this particular PCB-
24 containing heat transfer fluid would no
25 longer be sold. Is that right?

1 A. Correct.

2 Q. And that Monsanto was willing to
3 supply at no cost a substitute product?

4 A. Yes.

5 Q. And to dispose at no cost of the
6 drained heat transfer fluid?

7 A. That is correct.

8 Q. The reference to FR is fire
9 resistant? Is that what that means?

10 A. Fire resistance, yes. Yes.

11 Q. And the next-to-last paragraph
12 indicates what, sir?

13 A. It indicates again that they urged
14 as quickly as possible to convert the
15 Therminol FR system to prevent any further
16 "Contamination with your product."

17 Q. Did the East Coast Terminal
18 incident prompt any thinking on your part as
19 to other action that Monsanto should take in
20 general with respect to PCB products?

21 A. Yes, I think it was becoming
22 abundantly clear that there were very few
23 truly closed systems where we could rely on
24 the fact that polychlorinated biphenyls would
25 not leak out into the environment, and I

1 think it caused us to start thinking very
2 seriously at that stage that we might have to
3 withdraw practically all applications, maybe
4 with just the exception of transformers and
5 capacitors.

6 Q. Would you turn your attention to
7 1061, please, sir, which is the memo from Mr.
8 Gossage to Mr. Cunningham, dated November
9 16th, 1971?

10 A. Yes, I have it here.

11 Q. Could you just take a minute to
12 review that?

13 (Witness peruses said
14 document.)

15 A. Yes.

16 Q. Now, in November of 1971, you
17 indicated that your replacement was, was on
18 board? Is that correct?

19 A. Yes, I -- could I make I
20 correction to that?

21 Q. Sure.

22 A. He was, I think I said I was
23 replaced by Wink Corey at that time. I don't
24 think that is quite true, because thinking
25 about it, I did continue to be involved in

1 this situation right up to the end of 1971,
2 and I did, in fact, make a further
3 presentation to the board of directors in
4 December 1971. I think more correct to say I
5 was working with Wink Corey and bringing him
6 into the situation, bringing him up-to-date
7 at that point in time.

8 Q. So you were, you were still then
9 playing an active role with respect to the
10 PCB issue --

11 A. Yes, I --

12 Q. -- up to the time that you left?

13 A. Yes, I was.

14 Q. The second paragraph, here, makes
15 reference to the East Coast Terminal episode,
16 sir. What was being done at the time with
17 respect to handling orders for heat transfer
18 fluid?

19 A. Well, almost all orders were being
20 approved on a case-by-case basis, either by
21 the Product Group, itself, or by Tom Gossage,
22 who was Marketing Director of Functional
23 Products Group at that time.

24 Q. What was the reason for that?

25 A. The make absolutely certain that

1 we were not selling these products to any
2 uses connected with food, or pharmaceuticals,
3 or nonclosed systems.

4 Q. And did you have a, an approved
5 versus a nonapproved list at the time for
6 customers that were still using Aroclor
7 products?

8 A. Yes, that's correct.

9 Q. And did they have to be approved
10 before they -- an order was filled?

11 A. Yes.

12 Q. And that approved customer list,
13 then, was made up by whom?

14 A. It was made up by the Product
15 Group and with Bill Papageorge concerned, of
16 course.

17 Q. In the fourth paragraph, you talk
18 about miscellaneous industrial fluid lists of
19 approved customers, and there's a reference
20 to Turbinol 153. What is that reference,
21 sir?

22 A. Referring to a miscellaneous
23 industrial fluid application of Turbinol ¹⁵³ 3⁴,
24 which, of course, is the product which we
25 have supplied and we continue to supply to

1 Texas Eastern Transmission Corporation.

2 Q. Was that considered a closed
3 system by Monsanto?

4 A. It certainly was considered a
5 closed system.

6 Q. And was Texas Eastern Transmission
7 Corporation an approved customer for the
8 Turbinol 153 as of that time?

9 A. Yes, they were.

10 Q. Did you regard Turbinol 153 as a
11 miscellaneous industrial fluid application,
12 sir?

13 A. Yes, we did, specialized, I would
14 say. I would use the word "specialized"
15 usage, myself.

16 MR. PREUSS: I'd like to mark next
17 for identification a report on the Bureau
18 International Technique, (BIT) meeting on PCB
19 pollution.

20 Counsel, this does not bear a TRAN
21 number. It is my understanding that this has
22 been produced to you. I will confirm that at
23 a later time.

24 MS. WELCH: And I will object on
25 the basis that I do not believe it's been

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1 produced. I have not seen this document
2 before, and I would agree with you that you
3 should confirm that it has, and if not, I'll
4 protest that it hasn't been produced prior to
5 the deposition.

6 (Defendant's Deposition
7 Exhibit 1070 marked for
8 identification.)

9 (Witness peruses said
10 document.)

11 BY MR. PREUSS:

12 Q. Can you identify this report for
13 us, sir, please?

14 A. Yes, it appears to be the report
15 of a meeting of the BIT, which is the
16 European organization which is really
17 designed to cover technical across-industry
18 problems when they arise in Europe.

19 Q. And the date of this memo is what?

20 A. November 29th, 1971.

21 Q. And turning to page 2, did you
22 receive a copy of that?

23 A. Yes, I did.

24 Q. And at that time, you were still
25 in St. Louis? Is that correct?

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1 A. I was still in St. Louis.

2 Q. At that time, were you aware that
3 you were going to be moving back to Europe to
4 assume new job responsibilities at --

5 A. Yes, I certainly was, and in view
6 of that, this was of considerable interest to
7 me. I remember it well.

8 Q. On page 2, there, there is a --
9 begins with a Monsanto position? You see
10 that?

11 A. Yes.

12 Q. And Roman numeral I refers to
13 what, sir, under the Monsanto position?

14 A. "Defined controllable
15 applications: 1, capacitors; 2,
16 transformers; 3, vacuum pumps; four, turbine
17 control fluids."

18 Q. And was it your understanding, as
19 well, that turbine control fluids were
20 defined by Monsanto as a controlled
21 application?

22 A. Yes.

23 Q. And would Turbinol 153 be a
24 turbine control fluid, in your view?

25 A. Yes, it certainly would.

1 MR. PREUSS: I'd like to mark next
2 for identification a document entitled
3 "Status Report, Polychlorinated Biphenyls,"
4 dated November 12th, 1971, a multipage
5 document.

6 (Defendant's Deposition
7 Exhibit 1071 marked for
8 (Witness peruses said
9 document.) identification.)

10 BY MR. PREUSS:

11 Q. Could you identify this document
12 for us, please, sir?

13 A. Yes, I think so. I think, and I'm
14 not 100 percent sure on this, that this is a
15 preliminary draft of a presentation which I
16 was being asked to give to the Monsanto board
17 at that meeting in December of 1971. I think
18 it is a draft because there are -- it's --
19 the charts or slides are interspersed with
20 handprinted comments of my own. I think
21 probably that I was reviewing this proposed
22 presentation with my then boss, Press
23 Cunningham. That is my opinion, but I can't
24 be 100 percent sure on that, but --

25 Q. You are sure that -- is that your

1 name on the first page?

2 A. Oh, it certainly is, yes.

3 Q. And you recognize that the
4 handwritten portions are yours?

5 A. Oh, yes, yes, it is my awful
6 print, yes.

7 Q. And you do have specific
8 recollection of making a presentation to the
9 board in 19 --

10 A. I certainly do, yes.

11 Q. At the end of 1971?

12 A. Yes.

13 Q. That would be in December, sir?

14 A. Yes.

15 Q. And you mentioned the board: The
16 board of directors, as distinguished from the
17 CMC?

18 A. The Monsanto board of directors,
19 yes.

20 Q. And that's distinguished from the
21 CMC; correct?

22 A. Yes, it is, correct, all over.

23 Q. What's the distinction?

24 A. Well, the distinction is that the
25 Monsanto board of directors, of course, in

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1 addition to including management directors,
2 also includes a number of outside directors.

3 MR. PREUSS: I'd like to mark next
4 for identification a multipage document that
5 has the initials "HSB" on the top with
6 November 19th, 1971 -- actually, 11/19/71 on
7 top, beginning with TRAN number 002485.

8 (Defendant's's Deposition
9 Exhibit 1072 marked for
10 identification.)

11 (Witness peruses said
12 document.)

13 A. Yes.

14 BY MR. PREUSS:

15 Q. The initials "HSB" stand for what,
16 sir?

17 A. Howard Bergen.

18 Q. Now, he was still reporting to you
19 at the time?

20 A. Yes.

21 Q. Can you identify the document,
22 sir?

23 A. I think, again, this was a
24 document prepared prior to the board
25 presentation. I think its purpose was to

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1 evaluate the impact of a withdrawal from all
2 PCB sales except for transformers and
3 capacitors. I think it's an attempt to see
4 what problems would be associated with this,
5 if there would be legal liability, the impact
6 on profitability, and what actions would have
7 to be taken to achieve such a plan.

8 Q. Was this prepared by people, then,
9 that reported to you, sir, to the best of
10 your knowledge?

11 A. Yes, this would be prepared, would
12 be prepared by the Product Group, by the
13 Business Group under Howard Bergen.

14 Q. And was this presentation to the
15 board something that you discussed with your
16 boss, Mr. Cunningham, before making it?

17 A. Very definitely, yes.

18 Q. And what was your recommendation
19 to the board in connection with the
20 continuation of products other than those
21 used by the electrical industry in capacitors
22 and transformers?

23 A. A recommendation to the board, as
24 I recall it, was that we should terminate all
25 business except for sales to transformer and

1 capacitor manufacturers, and those should
2 only be made in return, of course, with a
3 completely hold harmless letter situation.

4 Q. What did you understand a hold
5 harmless letter situation to be?

6 A. Well, from my point of view, that
7 if in any way polychlorinated biphenyls
8 leaked into the environment, essentially it
9 would have to be due to negligence on the
10 part of the transformer producers or even the
11 transformer users, then Monsanto would be
12 held harmless against any liability.

13 Q. And what had led to your
14 recommendation in this regard between the
15 March '71 meeting and December of 1971?

16 A. I think, essentially, it was the
17 East Coast Terminals problem, which I think
18 convinced us that there was no way that we
19 could be sure that we were selling two
20 entirely closed systems, except in the case
21 of transformers and capacitors. I think I've
22 tried to stress before that we were always
23 learning as we went along in this situation,
24 and it was new ground for all of us, and I
25 don't think it was anything wrong in changing

1 our approach and attitude from what we had
2 learned.

3 Q. As -- turning to 1071, here, sir,
4 there are some companies that are listed in
5 connection with certain products or product
6 types. Was there an attempt or did you seek
7 information on what the likely impact would
8 be from customers if Monsanto cut off the
9 supply of their Aroclor products?

10 A. Yes, we certainly did.

11 Q. And was this information, or from
12 whom in the organization was this information
13 on likely customer reaction obtained?

14 A. It would be obtained from the
15 business groups who were selling to these
16 companies products other than the
17 polychlorinated biphenyls, and an attempt was
18 made to look at the total sales position and
19 a possible impact there could be if we
20 withdrew, in most cases, fire-resistant
21 heat -- excuse me, heat transfer fluids
22 precipitously without giving them any time to
23 make alternative arrangements.

24 Q. And did you want to be prepared
25 for questions from the board in connection

1 with what customer reaction might be?

2 A. Absolutely. It was absolutely
3 essential.

4 Q. Turning to page 382, which is the
5 last page of this exhibit, deals with Texas
6 Eastern Gas Transmission Company?

7 MS. WELCH: What's your reference
8 to 382, Counsel?

9 MR. PREUSS: The reference to
10 Texas Eastern Gas Transmission Company.

11 MS. WELCH: The page is 2491,
12 then?

13 MR. PREUSS: I'm sorry. 2491.

14 BY MR. PREUSS:

15 Q. What information did you receive
16 from your customer people with respect to an
17 anticipated reaction from Texas Eastern Gas
18 Transmission if their supply of Turbinol 153
19 was terminated?

20 A. This information obviously must
21 have come from Howard Bergen's Functional
22 Products Group, because to the best of my
23 knowledge, Monsanto was not selling any other
24 products to Eastern Gas Transmission. I
25 could be wrong, but to the best of my

1 knowledge, and the Business Group's reaction
2 would be that an immediate precipitious
3 withdrawal of the product could be disastrous
4 for Texas Eastern Gas Transmission Company
5 and could expose us to a significant lawsuit.

6 Q. In December, you made the
7 presentation to the board with these
8 recommendations? Is that correct?

9 A. Yes.

10 Q. And was Mr. Cunningham there with
11 you?

12 A. Mr. Cunningham certainly was, and
13 Mr. Cunningham, of course, was a member of
14 the Monsanto board at that time.

15 Q. And how did the board react to
16 your recommendations?

17 A. The board reaction was very
18 positive and strong pressure that we should
19 implement these actions immediately. If I
20 remember correctly, the company secretary at
21 that time was charged with looking into these
22 possible legal implications of the
23 precipitous action, but we were charged with
24 going ahead immediately and phasing out of
25 everything except dielectric products for the

1 transformer and capacitor industries.

2 Q. Are you familiar with the name
3 Frederick Eaton?

4 A. Yes, I am.

5 Q. And who is Frederick Eaton?

6 A. Frederick Eaton, at that time, was
7 a member of Monsanto board.

8 Q. He was a member and was he
9 present, to your recollection, in the
10 December 1971 meeting?

11 A. Yes, he was, yes.

12 Q. And based on comments from Mr.
13 Eaton at that meeting, did Mr. Eaton concur
14 in your recommendation?

15 A. He did, yes, he concurred.

16 Q. Is that the only time that you had
17 been before the board, sir?

18 A. No, I had not made a major
19 presentation to the board but I had been
20 present with my boss at some previous board
21 meetings when this subject had been
22 discussed.

23 Q. When you say "this subject," you
24 are talking about --

25 A. I'm talking about --

1 Q. -- the subject of how to handle a
2 PCB issue?

3 A. Excuse me. Polychlorinated
4 biphenyls, yes.

5 Q. And had Mr. Eaton been present at
6 those occasions where you were at the board
7 meetings?

8 A. Yes, he had.

9 Q. And at those meetings, as well,
10 had Mr. Eaton concurred in the action of the
11 board and the direction of the board?

12 A. He concurred in the direction that
13 we were posing, and he'd emphasize like the
14 President at the time, Mr. ^{Bark}~~Bach~~, that we
15 should carry out our plans as rapidly as
16 possible and as completely as possible. He
17 was interested in the subject.

18 Q. Sir, in addition to dealing with
19 the board or meeting with the board and CMC
20 and its predecessor, the CDC, as we've
21 discussed, did you also have occasion to
22 visit with individual members of the board
23 from time to time about the PCB problem?

24 A. Yes, I did.

25 Q. And who in particular did you?

1 A. Well, primarily, John Eck, who Mr.
2 ~~Bach~~^{Bock} charged with a special interest in this
3 area. John Eck was a member of Monsanto
4 board, he had previously been a director of
5 manufacturing of the corporation, and his
6 specialty interest had always been the
7 manufacturing end. Mr. Bach felt that this
8 was a subject where he could be of
9 considerable help and guidance.

10 Q. And so you would meet with Mr. Eck
11 more often, but also with Mr. ~~Bach~~^{Bock} with
12 respect to special inquiries that they had of
13 you individually, as opposed to in the
14 meeting setting; is that right?

15 A. Yes, more often than not with John
16 Eck.

17 Q. Final subject, sir. Yesterday,
18 you mentioned that Monsanto had periodic
19 meetings in which it would gather its sales
20 people and organizational people from around
21 the country to bring them up to speed on
22 sales issues and the PCB issues particularly;
23 is that correct?

24 A. Yes, I was referring specifically
25 to Functional Products Business Group,

1 meeting of their salesmen and their regional
2 sales managers.

3 Q. And how often did those meetings
4 occur?

5 A. I would think probably once a
6 quarter would be my guesstimate: About that
7 frequency.

8 Q. And at that, at the time of these
9 meetings, was it your understanding that the
10 status of the PCB issue and Monsanto's
11 position on that was discussed at these
12 meetings?

13 A. Certainly..

14 MR. PREUSS: I have no further
15 questions at this time. Perhaps we can take
16 a break.

17 MS. WELCH: Let's take a, let's
18 say a break till 20 till, and then we'll
19 resume.

20 MR. PREUSS: That'll be fine.

21 (Recess from 10:30 to 10:40.)

22 FURTHER EXAMINATION

23 BY MS. WELCH:

24 Q. Good morning, Mr. Mason.

25 A. Good morning.

1 Q. You understand that you are under
2 oath today just as you were yesterday, even
3 though you weren't sworn in again; is that
4 right?

5 A. Yes, I am.

6 Q. This morning, when Mr. Preuss was
7 asking you questions, you testified that when
8 you found out that a system was not closed,
9 that your perspective on that system somewhat
10 changed as in the East Coast Terminal
11 incident; is that correct?

12 A. Yes.

13 Q. And so your view of whether a
14 PCB-containing fluid should be used in that
15 system changed.

16 A. Yes.

17 Q. Mr. Mason, you never visited with
18 Texas Eastern, did you?

19 A. No, I did not.

20 Q. Are you familiar with the company
21 Transwestern Pipeline Company?

22 A. No, I am not. I've heard it
23 mentioned, but I'm not familiar with it, no.

24 Q. You never visited with them --

25 A. No, I've not.

1 Q. -- either?
2 You have to wait until I finish
3 asking the question.
4 Have you ever seen a gas
5 compressor in a turbine unit?
6 A. Not to my -- no, I don't think I
7 have.
8 Q. You don't have a degree in
9 mechanical engineering, do you?
10 A. No, I do not.
11 Q. You are not a specialist in
12 lubricants, are you?
13 A. No, I am not.
14 Q. And in fact, you would rely on
15 people who were in Monsanto's Technical
16 Department who had contact with customers to
17 tell the Business Group about how that kind
18 of machinery worked, wouldn't you?
19 A. Yes.
20 Q. Are you familiar with a man by the
21 name of Dr. Roger Hatton?
22 A. Yes.
23 Q. Do you regard Dr. Hatton -- do you
24 respect Dr. Hatton's work?
25 A. Yes, I do.

1 Q. Do you think that he is a
2 competent and able or was a competent and
3 able employee of Monsanto?

4 A. I'm quite certain he was, yes.

5 Q. And that he would seriously look
6 at an application of one of the Aroclors to
7 determine how that Aroclor should be used?

8 A. Yes.

9 Q. As far as you know, you have no
10 questions about the competence of Dr.
11 Hatton's work?

12 A. No, I do not have any.

13 Q. If Dr. Hatton had told you or
14 someone else in the Business Group that the
15 Turbinol 153 and its predecessor, MCS 153,
16 was not only being used as a lubricant in a
17 turbine compressor system, but was being used
18 as a seal oil under very high pressure and
19 would actually come in contact with the
20 natural gas as it flowed through the
21 compressor, would that alter your opinion
22 about whether the compressor and turbine was
23 a closed system?

24 MR. PREUSS: Objection: No
25 foundation; assuming facts not in evidence.

1 A. I would certainly have been very
2 concerned if he had explained this to me, and
3 I should have probably wanted more
4 information.

5 BY MS. WELCH:

6 Q. All right. Now, you testified
7 just before that you never visited with Texas
8 Eastern or Transwestern; is that correct?

9 A. That's correct.

10 Q. So this morning, when Mr. Preuss
11 asked you -- and referring to the letter that
12 you sent to Mrs. Tucker, which is Exhibit
13 1065, which we can refer to -- there is a
14 reference -- I'll wait till you find that.

15 A. I'm sorry, I think I've got things
16 slightly mixed up, here.

17 (Pause)

18 Okay, thank you.

19 Q. You got it?

20 A. Yes.

21 Q. At the bottom of page 3 is a
22 sentence that you talked about with Mr.
23 Preuss, and this sentence is, "It is our firm
24 belief that by working with customers who are
25 well aware of the environmental problem and

1 are conscientiously working to achieve the
2 maximum degree of control, we can protect the
3 environment and continue to make available
4 these materials which are so vitally needed
5 by man in his daily life."

6 Just as with the technical
7 expertise in terms of the compressors and
8 turbines, you would rely on the salesmen or
9 the field representatives to actually have
10 the contact with the customer to talk to them
11 about the issues of PCBs and the need for
12 control; is that right?

13 A. In most cases, yes.

14 Q. Did you ever visit with Texas
15 Eastern or Transwestern to talk to them about
16 these measures that were needed?

17 A. No, I did not.

18 Q. So you don't really know whether
19 anyone actually talked about these measures
20 with them?

21 A. I don't -- I cannot be dogmatic
22 and say yes because I don't, but I would
23 expect it so, and I would have been very
24 surprised if people hadn't visited them to
25 talk about these measures.

1 Q. You would assume so; is that
2 right?

3 A. Well I don't like the word
4 assumption. I would have believed it was
5 almost a certainty because I assume in this
6 case, assume that people were doing their
7 job.

8 Q. But because you actually didn't do
9 it -- and no one reported to you that they
10 had done it, did they --

11 A. No.

12 Q. -- in terms of Texas Eastern,
13 there is some degree of uncertainty.

14 A. There could be some degree of
15 uncertainty, but in my opinion, my job was
16 not to get involved in the detail of any
17 specific customer unless I was particularly
18 asked to, either by the customer, or by the
19 salesman or the sales manager concerned who
20 needed some support in that area.

21 Q. Were you ever asked to contact
22 Texas Eastern or Transwestern?

23 A. No, I was not.

24 Q. I see. So if I wanted to find out
25 if a field representative or if Transwestern

1 or Texas Eastern had been told of these
2 measures that Monsanto thought were so
3 necessary, I'd have to go and talk to those
4 sales representatives and field managers. Is
5 that right?

6 A. Yes, or you could, the field sales
7 manager in Brussels could have done this,
8 Norman Johnson could have given that
9 information.

10 Q. So I'd have to talk to the people
11 who were actually in the field to find out --

12 A. Absolutely, yes.

13 Q. -- whether it was carried out?

14 A. Yes.

15 Q. Now, yesterday, and somewhat this
16 morning, we talked about the growing concern
17 and identification of polychlorinated
18 biphenyls in the environment, and you
19 testified yesterday that what was being found
20 in the environment or starting with Jensen's
21 work in '66 and '67 were the higher
22 chlorinated biphenyls.

23 A. In the early stages of the work,
24 yes.

25 Q. Up to about '69, 1970?

1 A. Yes, I think that's correct.

2 Q. And would you agree with me if I
3 characterized those higher chlorinated
4 biphenyls that were being identified through
5 the analytical means as the pentachlorinated
6 biphenyls and higher?

7 A. Yes.

8 Q. And in fact, would you agree with
9 me that those were thought to resemble, most
10 closely resemble the Aroclors 1254 and 1260?

11 A. I'm not quite certain I would
12 agree with you there. It's getting into a
13 fairly technical area to describe it this
14 way.

15 Q. So I would have to talk to
16 somebody from Monsanto who was involved in
17 the analytical work, say, Dr. Keller or Dr.
18 Tucker?

19 A. Certainly, if you wanted to get an
20 accurate detailed scientific explanation and
21 understanding of it, yes.

22 Q. But you would agree that what was
23 being found were the higher chlorinated
24 biphenyls?

25 A. Yes, I would.

1 Q. And yesterday, you told me, if I
2 can refresh your recollection, that each one
3 of the Aroclor families contains the full
4 range of biphenyls.

5 A. Not the full range, a range of --

6 Q. A range?

7 A. -- of biphenyl isomer, yes.

8 Q. And you told me yesterday that you
9 knew from your earliest contact with Aroclors
10 in the Fifties that Aroclor 1242 would
11 contain a certain percentage of the higher
12 chlorinated biphenyls; is that correct?

13 A. Yes, I think it would have done
14 it. I think I made the point in the Fifties
15 that I was never directly responsible for
16 Aroclor marketing. It was a general
17 knowledge of all the products that were in
18 the company range.

19 Q. That none of the Aroclors are
20 really exactly pure but they contain a range
21 of the biphenyls?

22 A. Correct.

23 Q. And in fact, that's inherent in
24 the manufacturing process?

25 A. Yes. I would expect that.

1 Q. Now, as early as November 1969, at
2 the Corporate Management Committee meeting,
3 there was concern expressed about Aroclor
4 1242. Is that right?

5 A. Yes, a doubt, shall we say, yes.

6 Q. Was that in part because there was
7 knowledge that Aroclor 1242 contained some of
8 the higher chlorinated biphenyls?

9 A. Yes, I think that was true.

10 Q. And was part of the reason that by
11 the Corporate Management Committee meeting
12 that we talked about in April 1970 that there
13 had been a determination to withdraw Aroclor
14 1242 from the NCR use was that there was
15 concern that the 1242 contained the higher
16 chlorinated biphenyls?

17 A. Yes, I think that would be partly
18 the reason. Also, I think it was also the
19 reason was the, the large amounts of any
20 Aroclor which were going to be distributed
21 into the environment.

22 Q. But if the knowledge was that the
23 Aroclor 1242 was completely biodegradable and
24 would not cause any problem, just supposing
25 at that point --

1 A. Excuse me, I don't think I can
2 accept the word "completely biodegradable"
3 because I don't absolutely understand what it
4 means in this context.

5 Q. Okay, let me rephrase it. If
6 there was no concern about Aroclor 1242 --

7 A. Mm-hmm. (Nods head in affirmative
8 manner)..

9 Q. -- in terms of persistence, then
10 there would have been no reason to withdraw
11 Aroclor 1242 from the NCR use, would there
12 have been?

13 A. I think that's probably true.

14 Q. And similarly, if there had been
15 no reason by mid 1970 to think that -- if
16 there had been no reason to think there was
17 any problem with 1242 by mid 1970, there
18 wouldn't have been any concern with the
19 development of replacement products for
20 hydraulic fluids, either, would there have
21 been?

22 A. No, I don't think so, but these
23 are very black-and-white statements, and I'm
24 not sure I'd agree a hundred percent with
25 them.

1 Q. Would you agree with the basic
2 statement, though?

3 A. I would in general, yes.

4 Q. Now, in terms of the Pydraul
5 reformulation, was Dr. Richard an important
6 figure in the Pydraul reformulation?

7 A. Certainly.

8 Q. He was the head of research for
9 Functional Fluids; is that right?

10 A. Yes, he was.

11 Q. And Mr. Bergen, likewise, was an
12 important figure in the Pydraul
13 reformulations as the head of that Business
14 Group; is that right?

15 A. Yes.

16 Q. Are you familiar with a man by the
17 name of Jim Savage?

18 A. Yes.

19 Q. Do you think that he had
20 familiarity with the Product Group of
21 Functional Fluids?

22 A. Yes, a very close familiarity.

23 Q. And why is that?

24 A. What do you mean by that?

25 Q. Why did he have -- what was his

1 position that led to --

2 A. He was involved, very much so, in
3 that area.

4 Q. As -- in manufacturing?

5 A. Yes.

6 Q. So that Dr. Richard, and Mr.
7 Savage, and Mr. Bergen, and the group that
8 worked under him would all, you would rely on
9 what they told you about the Pydraul family
10 in reformulation? If they came to you and
11 made a presentation, you would expect that
12 presentation to be true; is that correct?

13 A. Yes, I would expect it to be. I
14 wouldn't use the word "true," but I would
15 certainly ask questions. I would try to
16 verify in my own mind, and if there were
17 there were holes in it, I might find them.

18 Q. But these were people who, as far
19 as you were concerned, were most intimately
20 familiar --

21 A. Yes.

22 Q. -- with the issues?

23 A. Yes.

24 Q. With renormulation with Pydrauls,
25 et cetera?

1 A. Correct.

2 Q. I'd like to turn to Exhibit 1072,
3 and you testified earlier that this exhibit
4 was or this document was prepared by Howard
5 Bergen's Business Group, which was Functional
6 Fluids -- I think by that point, it was
7 probably functional products, had changed?

8 A. No, it's always been Functional
9 Products.

10 Q. Functional Fluids?

11 A. Fluids were part of the Functional
12 Products Group.

13 Q. I see. This was prepared as part
14 of the background for your board of directors
15 presentation?

16 A. Yes, but I think I made a point, I
17 cannot be a hundred percent sure on these
18 documents, but from what is in it, I'm
19 pretty -- I'm convinced that it was part of
20 this buildup to the board presentation to
21 really examine the impact of taking more
22 drastic action, yes.

23 Q. And did you rely on this document
24 in part for your board presentation?

25 A. I certainly did, and I also asked

1 a number of questions, I'm sure.

2 Q. I'd like you to turn to the page
3 that's stamped TRAN 002490, and it goes over
4 to the next page, which is 2491 --

5 A. Yes.

6 Q. -- and read for the jury the two
7 kinds of product groups that are referred to,
8 the two broad product groups that are
9 referred to in this section.

10 A. Plasticizers and hydraulic fluids.

11 Q. And could you also read for the
12 jury the example that is given under these,
13 these product groups, the name of the company
14 that's given, on the same page at 2491?

15 A. The bottom of the page,
16 "Examples," is that what you are referring
17 to?

18 Q. Yes.

19 A. "Texas Eastern Gas Transmission
20 Company uses Turbinol 153 in 18 gas turbines
21 supplying major part of East Coast natural
22 gas needs. Turbines were run in on Turbinol
23 153 and have used product for 14 years.
24 Immediate withdrawal of product would be
25 disastrous and could expose Monsanto to a

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1 significant lawsuit."

2 "Major steel companies --

3 Q. That's -- is there any other name
4 mentioned in this document of any particular
5 customer in terms of the product groups that
6 were mentioned? I'm just talking about the
7 last page, where it refers to plasticizers
8 and hydraulic fluids.

9 A. Not on the last page, no.

10 Q. Now, with reference to the
11 six-point program that we talked about that
12 was presented to the Corporate Management
13 Committee starting in mid 1970, was that to
14 include, the six-point program was to
15 include, as far as you know, all of the
16 PCB-containing products? Was it a
17 comprehensive plan on how to deal with it?

18 A. Yes, it was meant to be a
19 comprehensive plan.

20 Q. So in other words, each one of the
21 PCB products would fit into, in a way of
22 speaking, one of the six bullet points? By
23 bullet points, I mean one, two, three, four,
24 five, six?

25 A. Yes.

1 Q. I'd like to turn to Exhibit 1055,
2 please, which is the minutes of meeting of
3 9/14/70.

4 A. File 039452; is that correct?

5 Q. No, it's 037752. Is that the one
6 that you have? It's this one.

7 A. Oh, that's the one where we had
8 the two --

9 Q. Yeah. They're the same; I just
10 happen to have this one right in front of me.
11 That's right, that's it.

12 A. Good.

13 Q. All right. Now, would you agree
14 with me that bullet point 1 -- by "bullet
15 point," I just mean for the plan, and it
16 starts on the first page, where it says,
17 "Terminate sales of all non-biodegradable
18 chlorinated biphenyls to noncontrollable end
19 uses," applies to plasticizer and including
20 carbonless carbon paper applications?

21 A. Yes.

22 Q. Does it apply to any other
23 applications?

24 A. It would certainly apply, I think,
25 to some of the hydraulic applications, yes.

1 Q. Which hydraulic applications would
2 it apply to?

3 A. I can't possibly list them for
4 you. I don't have the information in front
5 of me and it's 22 years ago. I couldn't
6 remember all the customers' names.

7 Q. Okay, so this would be the group
8 that you felt it was most important to
9 terminate right away?

10 A. Yes.

11 Q. Because it was a completely open
12 system?

13 A. Yes.

14 Q. Okay, number 2 specifically refers
15 to NCR.

16 A. Yes.

17 Q. So that would only apply to that
18 application?

19 A. Yes.

20 Q. Number 3 specifically applies to
21 heat transfer applications.

22 A. (Nods head in affirmative manner).

23 Q. And there was a plan for heat
24 transfer applications; is that right?

25 A. Yes.

1 Q. All right, and number 4 applies to
2 hydraulic applications and specifically
3 refers to hydraulic applications; is that
4 right?

5 A. Yes.

6 Q. It says, "Replace
7 non-biodegradable chlorinated biphenyls in
8 hydraulic applications."

9 A. Right.

10 Q. Number 5 specifically refers to
11 capacitor and transformer applications; is
12 that correct?

13 A. Yes.

14 Q. And I believe there was a number 6
15 in the program but it's not in this document.

16 A. There was. We'll have to go back
17 to the presentation --

18 MR. PREUSS: I think you'll find
19 that the five-year combines 5 and 6. They
20 had separate ones for capacitor and
21 transformer.

22 MS. WELCH: Oh, I see. So those
23 capacitors were slightly different. We were
24 looking for a lower-chlorinated product.

25 MR. PREUSS: In the earlier one, I

1 think, and some of the subsequents --

2 THE WITNESS: Yes, that's correct.

3 MR. PREUSS: 5 was capacitor, and
4 6 was transformers or vice versa --

5 THE WITNESS: That's correct.

6 MR. PREUSS: -- and they were
7 combined in this.

8 BY MS. WELCH:

9 Q. So in summary, 1 is the
10 plasticizers and some hydraulics, 2 is the
11 NCR paper, 3 is the heat transfer, 4 are
12 whatever remaining hydraulic applications are
13 not covered by 1, which one is the immediate
14 phase out and 5 combines 5 and 6, which is
15 transformers and capacitors.

16 Mr. Mason, where did Turbinol 153
17 fit into this plan?

18 A. Turbinol 153 would fit in as a
19 controllable end use application, a special
20 product.

21 Q. And which one of these one, two,
22 three, four, five points would it fit into?
23 Because I don't see a point that says
24 "controllable end use."

25 A. No, you don't. I don't think it

1 would fit 100 percent into all of these.

2 Q. And you testified earlier that
3 these points were to cover the written points
4 were to cover each one of the PCB containing
5 products?

6 A. They were meant to do it, yes.

7 Q. And so where does Turbinol 153 fit
8 into each one of these five points?

9 A. Well, all I can say, it was a
10 special application. It would fit into, --
11 it would not be terminated because it was, as
12 far as we were concerned, a controlled end
13 use, a special product.

14 Q. So in other words, that -- it was
15 not part of these six points, five or six
16 points?

17 A. If, if you -- no, I could not -- I
18 could fit it -- could not fit it into one of
19 those, no, except if you look at point number
20 1, which states that "All non-biodegradable
21 chlorinated biphenyls to noncontrollable end
22 uses will be terminated."

23 Q. You told me before that that
24 referred to plasticizers use, plasticizers
25 and some hydraulic fluids.

1 A. Hydraulic fluids, yes.

2 Q. In other words, the most open of
3 systems.

4 A. Yes.

5 Q. So this applies to the plan for
6 those particularly open, very open systems?

7 A. Yes.

8 Q. So --

9 A. All I -- excuse me.

10 Q. Go ahead.

11 A. All I can say is, if you -- many
12 of the documents which have been raised have
13 shown this as a separate specialty product
14 for Eastern gas terminals. A closed system
15 product, several of the exhibits have stated
16 this. One or two have indicated it under the
17 section of Pydrauls, I agree. So we are
18 arguing, really, about terminology and the
19 way you include this.

20 Q. Well, I think my question goes
21 more to something more fundamental, not only
22 terminology, but whether Turbinol 153 was
23 part of the Pydraul reformulation plan, and I
24 would like you to look at, once again,
25 Exhibit 1056. I believe it was 1056.

1 A. Which is 1056?

2 MS. WELCH: It's dated October 6,
3 1970 -- I can't -- let me show it to you.

4 (Pause)

5 BY MS. WELCH:

6 Q. Success. Now, before we talk
7 about the Pydraul reformulation plan, earlier
8 you testified that Mr. Papageorge was
9 appointed the project manager for the PCB
10 problem. Is that correct?

11 A. Correct.

12 Q. And you testified that he was a
13 very competent gentleman who did an excellent
14 job.

15 A. Yes.

16 Q. And in fact pretty rapidly
17 familiarized himself -- himself with all
18 the various issues that had to do with PCBs,
19 including the reformulation of products?

20 A. I assume so, yes.

21 Q. And by October 6, 1970, he had
22 been on the job for approximately nine to ten
23 months; is that correct?

24 A. Yes, correct.

25 Q. All right, so you would expect

1 that he would be familiar with the various
2 reformulations in the product groups?

3 A. Yes.

4 Q. All right, please turn to page 5,
5 which has the identifying stamp of 4020, and
6 please read for the jury the sentence under
7 "Industrial Hydraulics." The first sentence.

8 A. "The removal of Aroclor 1242 from
9 all Pydrauls will require reformulation of A
10 200, 281, 540, 312, 230, 135, 150, MCS 153
11 and MCS 974."

12 Q. Now, MCS 153, you testified
13 yesterday, was another name for Turbinol 153?

14 A. It was a previous name for
15 Turbinol 153.

16 Q. Putting that document aside, Mr.
17 Mason, by 1970, had you had contact with
18 various government agencies with respect to
19 their concern of the finding of PCBs in the
20 environment?

21 A. Yes.

22 Q. Did that include, are you aware of
23 a contact with a water quality agency in the
24 bay area which was concerned about the
25 presence of PCBs in the San Francisco Bay?

1 A. I never met with them myself, no.

2 Q. Were you aware that they had
3 corresponded with them people at Monsanto?

4 A. Yes.

5 Q. And that was by, at least, mid
6 1970?

7 A. I would think so. I cannot be
8 sure.

9 Q. Were you aware of contacts with
10 the Ohio Department of Health over concerns
11 of the finding of PCBs in milk?

12 A. Yes, I think I remember that.

13 Q. Were you also aware of contacts
14 between Monsanto and the Georgia Department
15 of Agriculture with respect to the findings
16 of PCB in milk by mid 1970?

17 A. I think so, yes.

18 Q. Were you aware of any other
19 contacts with governmental agencies that had
20 written to Monsanto expressing concern over
21 the finding of PCBs in environmental samples?

22 A. I can't think of any at this point
23 in time.

24 Q. But you were aware that generally,
25 there had been correspondence and contacts

1 with various governmental agencies?

2 A. Certainly, yes.

3 Q. And environmental authorities.

4 Now, EPA didn't exist then, did it?

5 A. No, it didn't. I think that's
6 correct.

7 Q. When -- do you know when EPA was
8 formed?

9 A. I think it was after I left the
10 United States, but I'm -- I thought, what, it
11 was '72, '73, but I'm sure it was after I
12 left the United States.

13 Q. Are you familiar with the bill
14 that ultimately became TOSCA?

15 A. Well, I'm broadly familiar, but
16 again, I wasn't here and I wasn't involved in
17 the details.

18 Q. Are you familiar with the fact
19 that when TOSCA was actually implemented in
20 1977, polychlorinated biphenyls were the only
21 chemical that was singled out by name?

22 A. Yes, I think that's true.

23 Q. Finally, I'd like to turn to
24 Exhibit 1064, which is the letter that was
25 introduced this morning to Mr. Kevin Harris.

1 A. 1016?

2 Q. Yes. It's a May 28th, 1970,
3 letter that you wrote to Mr. Kevin Harris.

4 A. Yes.

5 Q. And this morning, you testified
6 that the purpose of this letter was -- and
7 correct me if I'm wrong -- that you have
8 testified that the purpose of this letter was
9 to, in part, demonstrate to Mr. Harris, who I
10 assume was a student at Cornell University,
11 that Monsanto was concerned about the
12 problems of PCB in the environment. Is that
13 correct?

14 A. Yes.

15 Q. Okay, can you please read for the
16 jury the last sentence of the second full
17 paragraph?

18 A. "Any contamination of the
19 environment from this source" -- well, that's
20 out of context. It doesn't say from what
21 source. -- "-- can be described as
22 infinitesimal and is certainly not a major
23 factor in causing the problems you describe."

24 MS. WELCH: I have no further
25 questions.

1 MR. PREUSS: I have nothing at
2 this time. Thank you, Mr. Mason.
3 MS. WELCH: Thank you, Mr. Mason.
4 THE WITNESS: Thank you.
5 MS. WELCH: And have a good trip
6 back to Rhode Island.
7 THE WITNESS: Thank you.
8 (Whereupon, at 11:10 a.m.,
9 the deposition was
10 concluded.)
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COMES NOW THE WITNESS, JOHN MASON,
and having read the foregoing transcript of
the deposition taken on the 21st and 22nd day
of October, 1992, acknowledges by signature
hereto that it is a true and accurate
transcript of the testimony given on the date
hereinabove mentioned.

JOHN MASON

Subscribed and sworn to before me
this _____ day of _____, 1992.

My Commission expires: _____

Notary Public

1 STATE OF MISSOURI)

2 SS:)

3 CITY OF ST. LOUIS)

4 I J. Bryan Jordan, notary public
5 in and for the State of Missouri, duly
6 commissioned, qualified and authorized to
7 administer oaths and to certify depositions,
8 do hereby certify that pursuant to agreement
9 in the civil cause now pending and
10 undetermined in the Superior Court of the
11 State of California, to be used in the trial
12 of said cause in said court, I was attended
13 at the offices of Bryan Cave, in the City of
14 St. Louis, State of Missouri, by the
15 aforesaid witness and by the aforesaid
16 attorneys, on the 21st and 22nd days of
17 October, 1992.

18 The said witness, being of sound
19 mind and being by me first carefully examined
20 and duly cautioned and sworn to testify the
21 truth, the whole truth, and nothing but the
22 truth in the case aforesaid, thereupon
23 testified as is shown in the foregoing
24 transcript, said testimony being by me
25 reported in shorthand and caused to be

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1 transcribed into typewriting, and that the
2 foregoing pages correctly set forth the
3 testimony of the aforementioned witness,
4 together with the questions propounded by
5 counsel and remarks and objections thereto,
6 and is in all respects a full, true, correct
7 and complete transcript of the questions
8 propounded to and the answers given by said
9 witness; that signature of the deponent was
10 not waived by agreement of counsel.

11 I further certify that I am not of
12 counsel or attorney for either of the parties
13 to said suit, not related to nor interested
14 in any of the parties or their attorneys.

15 Witness my hand and notarial seal
16 at St. Louis, Missouri, this 5th day of
17 November, 1992.

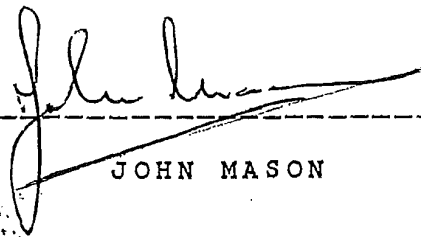
18 My commission expires July 20,
19 1994.

20
21 -----

22 J. Bryan Jordan

23 Notary Public in and for the
24 State of Missouri
25

1 COMES NOW THE WITNESS, JOHN MASON,
2 and having read the foregoing transcript of
3 the deposition taken on the 21st and 22nd day
4 of October, 1992, acknowledges by signature
5 hereto that it is a true and accurate
6 transcript of the testimony given on the date
7 hereinabove mentioned.
8

9
10 
11 _____
12 JOHN MASON
13

14 Subscribed and sworn to before me
15 this 27th day of November, 1992.
16

17 My Commission expires: Permanent Commission
18

19
20
21 D. W. BAGGALL, Barnaguan.
22 3, BRIDGE ST., LEATHERHEAD, SURREY.
23 SOLICITOR, COMMISSIONER FOR OATHS Notary Public
24 AND NOTARY PUBLIC.
25

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DEPOSITION CORRECTION SHEET

In Re:

Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page 26 Line 5 Should read: -- AISCONDER --
Reason assigned for change: (Spelling correction.)

Page 33 Line 1 Should read: -- ED BOCK --
Reason assigned for change: (Incorrect name.) *

Page 85 Line 20 Should read: -- reporting to the business
Reason assigned for change: director was the
(text garbled)

Page 85 Line 21 Should read: director of marketing and
there was also
Reason assigned for change: (text garbled)

Page 85 Line 22 Should read: a director of field sales --
(text garbled).
Reason assigned for change:

Page 96 Line 4 Should read: -- -- -- . We agreed that
Reason assigned for change: (text garbled)

Page 96 Line 5 Should read: there was a change of names.
Reason assigned for change: (text garbled).

Page 106 Line 7 Should read: -- -- to biodegradation of some
of the isomers of --
Reason assigned for change: (incorrect word).

Page 110 Line 20 Should read: albeit in a land fill,
Reason assigned for change: (deletion of or somewhat
~~the human~~ there yet) - sense,

DEPOSITION CORRECTION SHEET

In Re:

Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page 140 Line 16 ~~16~~ Should read: the classification of Turbinal 153 as a ---

Reason assigned for change: (Incorrect product name).

Page 164 Line 1 Should read: Ehlers, revised extract of Corporate ---

Reason assigned for change: (Incorrect word)

Page 164 Line 25 Should read: -- or what I submitted a name to John Ehlers. --

Reason assigned for change: (Typographical error).

Page 165 Line 1 Should read: refers Air Mason's memo of 9-30-70.

Reason assigned for change: (Typographical error).

Page 202 Line 22 Should read: that the CDC adopted a policy of a tailored ---

Reason assigned for change: (Typographical error).

Page 212 Line 9 Should read: impossible to effectively control emissions --

Reason assigned for change: (Incorrect reporting see 1041.)

Page 223 Line 18 Should read: Where would Turbinal 153 fit ---

Reason assigned for change: (Incorrect product number.)

Page 229 Line 9 Should read: April 28th, with Sam Pickard

Reason assigned for change: who at that --- (Incorrect name).

Page 269 Line Should read: industrial fluid application of Turbinal 153

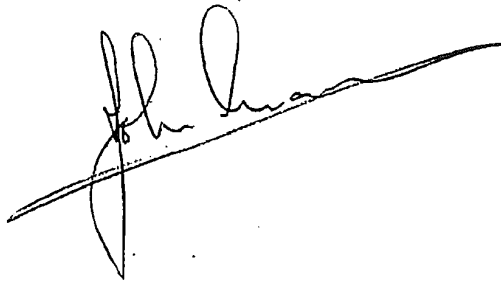
Reason assigned for change: (Incorrect product number)

addition to Deposition Correction Sheet

* Correction to Page 33 Line 1 — should read
ED Bock not BACH.

This error occurs also on the following pages

Page 112	Line 17
Page 147	Line 1
Page 167	Line 19.
Page 167	Line 24.
Page 198	Line 21.
Page 228	Line 15.
Page 235	Line 16.
Page 239	Line 2.
Page 239	Line 4.
Page 282	Line 14.
Page 283	Line 2.
Page 283	Line 11.

A handwritten signature, possibly "John H. [unclear]", written in dark ink. The signature is stylized and appears to be written over a horizontal line.