JUL 12 1982

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 78 C 1004
	)	
OUTBOARD MARINE CORPORATION and MONSANTO COMPANY,	)	
	)	
Defendants.	)	

The continued deposition of JOHN MASON, called by the Defendant Outboard Marine Corporation for examination, pursuant to adjournment and pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Thea L. Urban, a Notary Public in and for the County of Cook, State of Illinois, and a Certified Shorthand Reporter of said State, at the offices of Kirkland & Ellis, 200 East Randolph Drive, Room 5800, Chicago, Illinois 60601, on the 18th day of June, A.D. 1982, commencing at 9:30 o'clock a.m.

PRESENT:

MS. ELIZABETH STEIN,
(Pollution Control Section
Land & Natural Resources Division
Department of Justice
Washington, D.C. 20530),

and

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PRESENT: (Cont'd.)

MR. JERROLD H. FRUMM,
(Enforcement Division
U.S. Environmental Protection Agency
230 South Dearborn Street
Chicago, Illinois 60604),

appeared on behalf of the United States of America;

MR. RICHARD J. PHELAN,
(Phelan, Pope & John, Ltd.
30 North LaSalle Street
Chicago, Illinois 60602),

and

MS. JOANNA C. NEW,
(Martin, Craig, Chester & Sonnenschein
115 South LaSalle Street
Chicago, Illinois 60603),

appeared on behalf of Outboard Marine Corporation;

MR. JAMES H. SCHINK,
MR. ROBERT E. SHAPIRO,
(Kirkland & Ellis
200 East Randolph Drive
Chicago, Illinois 60601),

appeared on behalf of Monsanto Company.

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I N D E X

WITNESS:	Direct	Cross	Redirect	Recross
JOHN MASON				
By Mr. Phelan	171			
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E X H I B I T S

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- - -

Thea L. Urban
Certified Shorthand Reporter
134 South La Salle Street
Chicago, Illinois 60603

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JOHN MASON,

called as a witness herein, having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION (Resumed)

BY MR. PHELAN:

Q Do you have a copy of the document, again referring to Mason Deposition Exhibit No. 10 which is the Management Plan for PCBs, Environmental Problem, Page 8, Document No. 11238?

A Yes.

Q There is a notation there that the action to "continue studies now under way. Evaluate need for extending studies to include chlorinated terphenyls, hydrogenated terphenyls, alkylated biphenyls and Porocel treated chlorinated biphenyls and to resume fish toxicity studies."

Do you know whether any or all of these suggestions to the plan were in fact completed?

A To the best of my knowledge, yes.

Q What if anything was found as a result of the fish toxicity studies?

A I cannot comment on that. I don't know the answer.

Q Who was in charge of the toxicity studies?

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A That would be Dr. Kelly's department, the Medical Department who did the actual work. I do not know.

I think that probably most of the work was done out of house by companies who specialize in that type of work.

Q In the chlorinated Porocel treated biphenyls, was that done by Dr. Kelly as well?

MR. SCHINK: By done, you mean who had responsibility for it?

MR. PHELAN: Yes.

BY THE WITNESS:

A Yes, he would have responsibility for it, certainly.

BY MR. PHELAN:

Q How about the alkylated biphenyls?

A Yes.

MR. SCHINK: I think the witness testified that Dr. Kelly had responsibility for that area.

THE WITNESS: Overall responsibility for that area.

BY MR. PHELAN:

Q Did you have an opportunity to review any of the results of those studies?

A Yes. On numerous occasions I was present at

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reviews of toxicity work which have been carried out.

Q Were those studies completed by the time you left for Belgium again?

A No, I wouldn't think so.

Q You haven't seen --

A That type of work can normally take several years to complete.

Q The status of toxicity studies that were noted on Page 11238, Document Deposition Exhibit No. 10 done by Industrial Bio-Test Laboratories, what if anything do you recall of the results generally of those tests?

A I don't recall any specific details. I am not a medical man, but what I do recall is that the level of toxicity which was found at that time was low.

Q When you use the term toxicity and the level of toxicity was low, tell me what you mean by that.

A It is very difficult for me to define low. As I say, I am not a medical man, but with quite high dosages, resultswere indicated there it was a low level of toxicity.

Q This management program, the way it is outlined here, is that a form that is used within Monsanto Company?

A No, I think it would be a form which was specific to this particular problem, but it is a normal

thing to define an objective, report on the status and to report on action which has been done to continue the program and to achieve the objective as you defined.

Q You have seen other management reports that follow this form?

A Yes.

Q Statement of the problem, basic strategy?

A Yes.

Q The objectives and the action plan?

A Yes.

Q How long was that plan in the making?

A I can't answer your question. I cannot recollect how long it was in the making, but I think it arose from the Minutes of the CMC Meeting which I think was the early meeting at the end of '69.

Q Yes.

A And from then on, the plan was being developed, being modified and I assume this was the version which was in existence on the date given, April 7, 1970, but a plan like this will constantly evolve and change as more information becomes available.

Q I take it the plan went through a number of drafts before it became a final plan?

A I would think so.

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Q Although it is not signed anywhere, am I to assume that you are as much an author on this as Papageorge?

A No, I would not claim to be an author. I would certainly be involved in and I would certainly have seen drafts and I certainly would have discussed it in detail, not only with Papageorge, but with other people involved.

Q Page 5, Document 11235, the Objective was to, "Develop products to replace Aroclors for those uses in which Aroclors have been demonstrated to be harmful to the environment, are resistant to biodegradation, and cannot be prevented from escaping to the environment."

When were those procedures developed?

A I cannot recall an exact date for that.

Q When, to your knowledge, was the gas chromatograph analytical testing apparatus available?

MR. SCHINK: For what, Aroclors?

THE WITNESS: Specifically for --

BY MR. PHELAN:

Q PCB and the Aroclors.

A Well, gas chromatography had been in existence, of course, for many years. Exactly how long, I don't know, but it was the sort of technique which was constantly

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being improved and it is today probably something which is continuing.

I think in the early days when that first information became available there was possibly PCB in the environment, I don't think the equipment at that time was sufficiently sophisticated enough to really identify parts per billion, for example.

(Mason-OMC Deposition Exhibit No. 11 marked for identification, 6/18/82, TLU.)

MR. PHELAN: For the record, Deposition Exhibit No. 11 is a report dated March 10, 1969, Notes on Meeting on March 6, 1969 at the Research Center from W. R. Richard. It consists of four pages. The document is a little illegible, but Document Nos., what look like 825, 826, 827 and 828.

MR. SCHINK: Do you want the witness to look at this document?

MR. PHELAN: Yes.

BY MR. PHELAN:

Q Have you ever seen this document before?

A Give me a few minutes to look at it, please.

I have no recollection of ever having seen this document before.

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Q Mr. Bergen is copied on it. Do you notice that?

A Yes.

Q In your capacity in Belgium at that time, were you aware generally of the content of that memorandum?

A No, I was not.

Q As you sit there now, does it surprise you that that information was available as early as March 6, 1969?

MR. SCHINK: I object to the form of the question. The witness' surprise is irrelevant.

BY MR. PHELAN:

Q Does it surprise you that that information was available in March of 1969?

MR. SCHINK: What information are you referring to?

MR. PHELAN: The content of the report.

MR. SCHINK: The report consists of four pages, Mr. Phelan. Can you be more specific?

MR. PHELAN: Just generally.

BY THE WITNESS:

A It doesn't surprise me, but I was not aware of that information, no.

BY MR. PHELAN:

Q That --

A I was not directly involved at that time.

Q In the course of your duties at Monsanto in the United States, did you have contact with, by telephone or otherwise, Industrial Bio-Test Laboratories, Incorporated?

A No, I did not.

Q I take it you read some of their reports?

A I can't recollect any specific report, but I would guess I would have done it.

Q Mr. Wheeler and Dr. Richard, do you know whether or not they hired or retained or sought approval to retain Industrial Bio-Test Laboratories, Inc.?

MR. SCHINK: In connection with the projects described in Exhibit No. 11?

BY MR. PHELAN:

Q In connection with the projects which are the subject matter of the Management Paper which is Deposition Exhibit No. 10.

A I think approval or hiring or otherwise of the company like that would have to come from the Medical Department. Whether it was Wheeler that did it himself or Kelly, I don't know.

Q The names that are mentioned here, Dr. Parks, Bill Johnson, are those names that you came in connection with with the PCB problem?

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A May I look at the report again, please?

Q Sure. If you want to read it, it might be better to take a minute and read it.

(Brief pause.)

BY THE WITNESS:

A No.

The reason I asked to read it again was you mentioned Johnson and I was thinking of Norm Johnson. That's why I wanted to make sure.

BY MR. PHELAN:

Q Do you know whether any of the following consultants were actually retained in connection with the management study we just discussed:

Alan Mehler, Marquette U.?

A Not that I remember.

Q Robert Metcalf, University of Illinois; Bert Vallae, Harvard - Enzymes; Jean --

A No.

Q Jean Mayer, Harvard - Nutrition?

A Not to my knowledge.

Q Wayland Jack Hayes, Vanderbilt?

A Not to my knowledge.

Q Thomas Parks, University of Chicago?

A I seem to have heard the name before and I

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can't place it.

Q In connection with the management study did you review the results of the Bio-Test reports on rats, chickens, fish, ducks and so on?

A The ones referred to in there?

Q Yes.

A I would not, no, because I was not in the United States at the time and I'm sure there were many reports afterwards.

Q In connection with the proposed management study which has been marked as Deposition Exhibit No. 10, to your knowledge did Papageorge review all of the literature that had been accumulated both by Monsanto in-house and out-house as well as whatever else had been developed through scientific research?

A I think it would be impossible to say that Papageorge or anyone else reviewed all the literature. I would imagine that he reviewed a very large amount of in-house, out-house literature as it became available. It is impossible to say whether he reviewed all of it or not.

Q What was the size of the Research Department generally at Monsanto Company in 1969?

A Are you talking about Research?

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MR. SCHINK: With respect to PCBs?

BY MR. PHELAN:

Q No, just general, R&D Department.

A Total Monsanto Corporation?

Q Yes.

A I cannot give you an exact figure.

Q I don't expect an exact figure.

A I would assume it was somewhere in the order of that time, let us say 600 graduates, and I could be wrong.

Q They weren't all down in St. Louis, were they?

A The majority were in Creve Coeur.

Q You mentioned the name --

A That is the camp of Monsanto.

Q You had other laboratories around the world though --

A Yes.

Q -- didn't you?

A Yes.

Q All of the people that were in the Research end of it were people who had at least a Bachelor's Degree or equivalent from a European University?

A No, normally you didn't. You have a majority of degrees, but you have lab assistants and other people

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involved.

Q Apart from the assistants, the persons that --

A Certainly a minimum qualification of a Bachelor Degree, high percentage of Ph.D.'s.

Q Would those be in areas which would include chemical engineering, chemistry, biology and most of the organic sciences?

A Well, all sciences, I would say: Physicists, physical chemists, engineers, organic chemists.

Q Was the Research Department under the head of Dr. Richard or Dr. Kelly?

A Neither.

Q Who was the head of Research?

A I think at that time, to the best of my memory, Dr. Throdahl headed up, was Corporate Vice President for Research, but I could be wrong in timing.

Q You saw his name yesterday?

A Yes, on some of the CMC Meetings.

Q Mr. Risebrough, is that name familiar to you?

A Yes, it rings a bell.

Q Did you ever have occasion to talk to Mr. Risebrough?

A No, I did not personally.

Q This area in San Francisco where he suggested

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there was a large number of PCBs that had accumulated, to your knowledge, did anyone ever investigate that area?

A Let me refer to the report, please.

MR. SCHINK: I object to the form of the question. It doesn't say that there were a large quantity of PCBs that had accumulated there. If you are trying to characterize the document, Mr. Phelan, I think you are mischaracterizing and I object to the form of the question.

MR. PHELAN: Who said I was characterizing the document?

MR. SCHINK: You were reading from the document as you posed the question to the witness, Mr. Phelan.

MR. PHELAN: That doesn't mean I was reading from the document, Mr. Schink.

MR. SCHINK: I object to the form of the question. It mischaracterizes the document and the record in this case.

MR. PHELAN: Are you suggesting that every question I have has to relate to that document or a document I have in my hand?

BY MR. PHELAN:

Q Mr. Mason, my question is only whether or not

a study of that area in San Francisco was done subsequent to this?

A By Monsanto?

Q Yes.

A I don't think so.

Q By anyone?

A I don't know.

(Mason-OMC Deposition Exhibit No. 12 marked for identification, 6/18/82, TLU.)

MR. PHELAN: Deposition Exhibit No. 12 is a memorandum from W. B. Papageorge to St. Louis with copies to Bergen and Mason re PCB Environmental Problem, January Status Report, dated February 8, 1971, consisting of --

MR. SCHINK: 13 pages.

MR. PHELAN: 13 pages. It is signed by Mr. Papageorge.

BY MR. PHELAN:

Q Do you want to tell me first, Mr. Mason, whether you have seen what has been marked as Deposition Exhibit No. 12 for identification?

A I can't recall it. However, my name is on as a copy, so I assume I have seen it.

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Q Have you had an opportunity to review this document? Have you read it a number of times prior to today?

A No, I haven't.

Q Yesterday morning did you have an opportunity to review it?

A I don't think I read this one. I don't recall reading this one.

Q On March 8, 1971, there was a meeting of the Corporate Management Committee. There was a PCB status report.

Can you tell me whether at that meeting the document which has just been marked Deposition Exhibit No. 12 was circulated to people that are listed as present on Deposition Exhibit No. 8?

A I cannot. I cannot recall.

Q Do you know whether in fact Deposition Exhibit No. 12 was reviewed by you prior to the March 8, 1971 meeting?

A I can't recall, but I expect it would be.

Q Do you know whether Deposition Exhibit No. 12 was written by you or edited or you had some input into Exhibit 12?

A No.

Q If you look at Page 2 of Deposition Exhibit No. 12, you will notice down there where Mr. Schink has highlighted, Pydraul A200(B). Do you see that?

A Yes, I see it.

Q Do you know what Pydraul A200(B) was?

A No, I can't recall exactly.

Q Marketing was one of your areas of responsibility at Monsanto in St. Louis?

A It applied to the Business Groups that reported to me, yes.

Q And did you know whether Mr. Johnson or Mr. Damiani would have been the person who would have reported to Mr. Papageorge that Pydraul A200(B) is now fully accepted by Johnson Motors?

A That would have been Mr. Johnson reported that.

Q What did you take that to mean when you read this, "is now fully accepted"?

A I can't say what I took it to mean at that time because I can't recall. Reading it now, I would say that it is fully accepted for use by Johnson Motors as a replacement for A200.

Q This report is dated February 8, 1971.

A Yes.

Q Did you take that to mean that by that date,

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Johnson Motors was receiving only A200(B) and no other fluid?

A I cannot recall.

Q Do you know whether A200(B) contained any polychlorinated biphenyls?

A I don't know.

Q Is it your opinion that it probably did not?

MR. SCHINK: Objection, no foundation. He doesn't know one way or the other.

BY THE WITNESS:

A I don't think I can express an opinion. I don't remember what the product is.

BY MR. PHELAN:

Q You wouldn't have expected it to contain PCBs, would you?

A No, I don't think I would have.

Q At least Monsanto didn't intend it to have PCBs?

A No.

Q On Page 4, we talked earlier about Industrial Bio-Test and their testing. You will notice on Document 11422, mention of Dr. Keplinger of Industrial Bio-Test.

Did you have a chance to meet with him?

A No, I didn't personally.

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Q Page 5, Document 11423 of Deposition Exhibit No. 12, we talked earlier about "closing the loop" and escape of this material. Note the third paragraph. Would you read that, Mr. Mason?

A Where it says "supporting"?

MR. SCHINK: Do you want him to read it to himself?

BY MR. PHELAN:

Q Yes, "Advice and assistance has been given to the Newport Plant" --

A Sorry, I had the wrong one.

Yes.

Q You note there that the last clause indicates that "occasional high levels indicate the need for constant vigilance."

Can you amplify on that?

A No, I can't.

Q Do you know what it was that would cause these high levels notwithstanding the control?

A In this particular instance, no, sir, I cannot recall it.

Q I would like to have you take a look at Page 9 of Deposition Exhibit No. 12, Document 11427, and Page 10, Document 11428, and ask if you would just read through the Aroclor Pollution Study - Anniston and their

WATER_PCB-SD0000048550

Conclusions and Future Work and I will ask you questions.

A Yes.

(Brief pause.)

BY MR. PHELAN:

Q You and I talked a little bit about this yesterday. Did you ever have a chance to visit the Anniston Plant in Alabama?

A Yes, I visited it.

Q This was the same plant that Mr. Papageorge was the Plant Engineer?

A Yes.

Q We talked a little bit yesterday about the carbon filters.

A Yes.

Q Which were used to adsorb on the material as it came from the plant.

MR. SCHINK: I object to that characterization of his testimony. I don't think he testified they were used for that purpose. There is some reference in the document to some experimental work that was done, but I don't think that he testified -- what the document implies is that this equipment was operational as that term is generally understood.

MR. PHELAN: I was not suggesting that. I thought

what I said was he and I discussed the carbon which was used as a filter.

BY MR. PHELAN:

Q You note there, Mr. Mason, that,"The effectiveness of sand in removing Aroclor is not sufficient at the experimental bed depth."

The report further says:

"Solids removal is a primary concern in any final clean-up method."

To your knowledge, was that statement true, that conclusion that "the effectiveness of sand in removing Aroclor" --

A I can't comment any further on that. I was not involved in the details of it.

Q Incidentally, would you generally call this Pydraul fluid you were using, would you describe it generally as an oil?

A I wouldn't, no.

Q How would you describe it?

A I would describe it as a synthetic fluid.

Q Synthetic fluid?

A Yes.

Q It does have the appearance of oil, doesn't it?

MR. SCHINK: You mean does it float on water, is

that what you are asking?

BY MR. PHELAN:

Q To an average person, wouldn't you say it has the appearance of oil?

MR. SCHINK: I object to the question.

MS. STEIN: I object to the form.

MR. SCHINK: I don't know what you mean by that. We certainly have had abundant testimony throughout on the water slick if this is what you are referring to.

MR. PHELAN: There is no question. I didn't say it floated on water. I said it appeared to have the appearance of oil.

MS. STEIN: I would object to the form.

BY MR. PHELAN:

Q Would you disagree or would you agree?

A I wouldn't think of it as an oil, no. There are certainly different types of oils, for a start.

Q If you look at Page 11, Document 11429, Deposition Exhibit No. 12 concerning this "Aroclor losses during January averaged 1.8 pounds per day."

Do you know how that loss was measured?

A No, I can't recall the detail of how it was measured.

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Q We were speaking yesterday about closing the loop.

A Yes.

Q And material and how it was lost. Do you think there was that much material that was being lost?

MR. SCHINK: I object to the form of the question. It assumes that a loss, as the witness defines it, in closing the loop. If that is what you are referring to in this document, there is no foundation for that, Mr. Phelan. I object to the form of the question.

MR. PHELAN: Apparently every question I am going to ask, I'm not going to get a spontaneous answer to my questions. I am going to get an answer that will be filtered through the carbon sitting next to you, Mr. Mason.

I would like the witness to give me his answer to my question rather than have it come filtered from the attorney.

MR. SCHINK: I'm certain you would.

BY MR. PHELAN:

Q Would it surprise you that that much material was being lost? I am only using the word that is used in the report.

A No, I don't think so at that time.

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Q The bottom of the page, 11429, Page 11 of Document Exhibit 12, it says Projects and Evaluations and then it says "had no spills of Aroclor in January."

What did that refer to?

A What does it?

Q Yes, "had no spills of Aroclor in January." What does that refer to?

A Had no spills of Aroclor in January.

Q How would that occur, a spill of Aroclor in the Anniston, Alabama Plant?

A Does it refer to the Anniston, Alabama Plant?

Q It certainly does.

A I don't know. I cannot answer that question.

Q From your own observation of the plant, your visits there or visits wherever, would you or could you tell us how that spill might occur?

MR. SCHINK: I object to the form of the question. It calls for the witness to speculate. He indicated that he does not have manufacturing expertise. If you ask him whether spills occurred while he was there --

BY THE WITNESS:

A No.

BY MR. PHELAN:

Q Pardon me?

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A No.

Q No, you don't know how they occurred?

A No, I could not give the answer to that.

Q I take it in your position as Assistant to the General Manager, part of your responsibility was the business of producing Aroclors?

A No, sir. I didn't have direct manufacturing responsibility.

Q You didn't have direct, you had indirect? These people reported to you, didn't they?

A No, they did not.

Q Do you know whether the contents of this report were discussed at the Corporate Management Committee Meeting which took place on March 8, 1971?

A I cannot recall that.

(Mason-OMC Deposition Exhibit No. 13 marked for identification, 6/18/82, TLU.)

MR. PHELAN: For the record, Deposition Exhibit No. 13 appears to be a report of a PCB Meeting of German Ministry of Health on September 27, 1971 at Brussels, dated October 20, 1971, consisting of four pages.

Do you have a copy of that?

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THE WITNESS: Yes.

BY MR. PHELAN:

Q Can you tell me first whether you have ever seen this document before?

A No, I don't recall seeing it. I notice I'm on the list of people who are copied, but I don't recall it.

Q Was this one of the meetings that you had discussed at the Corporate Management Committee Meeting where you were going to inform the Health Agencies of the Government both here in the United States and elsewhere?

A I don't think so, by looking at the objectives of this meeting. I think it was called by the German Ministry of Health, not by Monsanto; my interpretation of that.

Q The gentlemen, women, the persons listed on the right-hand side, aside from Mr. Bergen, are all the remaining people employees of Monsanto? That is Cumming Paton, Dahlstrom, Gaeriner, Gossage, Heyden-Linden, Vodden --

A Yes, they were at that time.

Q The initials there, AA/BKR/JNH. Are those all Monsanto employees?

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A B. K. Roger, yes, they are.

Q Papageorge and Mason, is that right?

A Yes.

Q Dr. Tombergs, who is he, do you know?

A I don't know.

Q Note on Page 2, Document 10269 and the document is signed by a S. Roehr, R-o-e-h-r:

"Dr. Tombergs' intention to get an official statement from the PCB suppliers as to their withdrawal came as a surprise to Bayer's delegation."

Do you know anything about that?

A No, I can't comment on that.

Q Who is Bayer?

A Bayer is one of the biggest German manufacturers, Farbenfabrik Bayer, b.e.g.

Q Do you know what was being referenced here with respect to getting an official statement from the PCB suppliers?

A No, I don't.

Q Have you ever heard of such a thing?

A No, I have not.

Q Is this the first time you have --

A Yes.

Q -- read about something like this or heard

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about it?

A The first time I can recall seeing it put on paper.

Q Do you speak German, Mr. Mason?

A No, I do not.

Q I was going to ask you what the last two pages were.

A I'm a little dusty; a few other languages.

Q Look at Roman II on Page 1 of Document 268, Deposition Exhibit No. 13. It states:

"Moreover, Dr. Tombergs obviously intended to get statements from the Delegates of Bayer and Monsanto as to their position on the withdrawal of PCBs."

Did Monsanto make or give at any later time a written statement as to their withdrawal of PCBs?

MR. SCHINK: You are talking about to the German Ministry of Health?

MR. PHELAN: Presumably to the German Ministry of Health.

BY THE WITNESS:

A I cannot recall.

BY MR. PHELAN:

Q Did you ever make a statement or give a statement to anyone formally?

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A The report here states that there --

MR. SCHINK: The question is did you ever give.

THE WITNESS: Me personally?

BY MR. PHELAN:

Q Yes.

A No, sir.

Q How about the company?

A I can't recall.

(Mason-OMC Deposition Exhibit No. 14 marked for identification, 6/18/82, TLU.)

MR. PHELAN: Deposition Exhibit No. 14 is a Pydraul Product Line Memorandum dated May 5, 1970, authored by Mr. D. A. Olson to Mr. Mason, consisting of two pages, 11255 and 11256.

BY MR. PHELAN:

Q The first question I have, Mr. Mason, is have you seen that document before?

A I can't recall having seen it before.

Q Who is Mr. Olson?

A Mr. Olson I think at that time was the Marketing Director from the Functional Fluids Group which included PCBs.

Q Did he report to you?

WATER_PCB-SD0000048560

A No, he did not report to me. He reported to Mr. Bergen.

Q Was this written direction?

A It says so.

Q Was that normally the way he would operate?

A Yes, in a case like this.

Q The first sentence, he says:

"Pydraul 625, AC and AC (Winter Grade) have been reformulated without PCB and are now being manufactured."

Was this date the first time that you were aware that Pydraul was being manufactured or reformulated without PCBs?

A I cannot recall.

Q On the second indentation, July 15, Mr. Olson states:

"Most customers will have converted. Letters to others that we will not offer old products after August 15."

What does that have reference to?

A It has reference to the reformulated Pydrauls.

Q Most customers will have converted?

A Means exactly what it says there.

Q So that some customers will not have converted

and thus they will be using fluid that apparently has PCBs?

A It appears to be right.

Q Following that it says, "We will not offer old products after August 15."

What does that mean?

A Exactly what it says.

Q That there are some customers that will not get replacement fluids or just not get the old product?

A No, just the old product.

Q But will be offered the replacement product?

A I would assume so. I would assume they would be offered it.

Q In connection with that last question, namely, "Letters to others that we will not offer old products after August 15," do you know whether that was intended to mean that some customers simply would not receive any further hydraulic fluids including replacement?

MR. SCHINK: Excuse me, you are referring now to these three Pydrauls, Pydraul 625, AC and AC (Winter Grade)?

MR. PHELAN: I have no idea.

MR. SCHINK: I object to that characterization of those as hydraulic fluids.

MR. PHELAN: Why don't we just let the witness answer, Mr. Schink.

BY THE WITNESS:

A My interpretation is that it means they would not receive any further supplies of Pydraul which contained PCBs. They would have the opportunity to purchase the reformulated materials if they so required or wished.

BY MR. PHELAN:

Q Do you recall yesterday we looked at two separate sets of minutes for April 20, 1970? Those were each separately marked as Deposition Exhibit Nos. 2 and 3.

A Yes.

Q In Deposition Exhibit No. 3, Document 11463, the minutes state as follows:

"Sales are being terminated to a number of industrial users where there is inadequate possibilities (sic) of control, for such uses as pesticide extenders; medicinal, dental and cosmetic; cutting oils; distributor sales."

Does that date, July 15, refer to those users?

MR. SCHINK: As July 15 is used in this document under the heading of Pydraul 625, AC and AC (Winter

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Grade)?

MR. PHELAN: I am asking a simple question.

MR. SCHINK: The question is very confusing and I object to the form of it.

MR. PHELAN: Depositions are designed to get spontaneous answers through witnesses, but not filtered through lawyers.

MR. SCHINK: I object to the question.

BY MR. PHELAN:

Q It is a straightforward question.

Are those two linked together?

A No.

Q The reference is to specifically Pydraul?

A It says so in this report.

Q All right.

If you look at Page 2 of Deposition Exhibit No. 14, Document 11256, the author states in Paragraph 2:

"When viewing the magnitude of the Pydraul situation, however, we should be sure that proper perspective is maintained since the customer operations are not uncontrolled."

He drops down to the next paragraph where he says:

"Several factors at customers in the die casting (and foundry) applications help to minimize environmental loss. These are:

"a. Larger customers have in several instances developed reclamation programs for capture and reuse of fluid," and then he goes on to say, "Active reclamation programs are being accomplished by Johnson Motors."

What knowledge do you have of the reclamation program, the active reclamation program which had been developed by Johnson Motors?

A I don't have any details of that.

Q When you read this document, what idea or concept did you have in your mind?

A Of reclamation processes?

Q Yes.

A I think that basically it would be two parts. One would be the collection of the waste fluid, spilled fluid, spent fluid by the customer which would probably then return to the company, if I recall, like Findett who carried out the filtration and cleaning up and then returned the material back to the customer.

That would be the type of reclamation process that I would consider.

Q I take it from your statement then that anyone who had a reclamation program which was active and ongoing and had been ongoing was aware that something was leaving the plants?

MR. SCHINK: I object to the form of the question.

BY THE WITNESS:

A No.

BY MR. PHELAN:

Q No?

A No.

Q That was a reclamation program within the plant?

A Within the plant.

Q I see.

(Mason-OMC Deposition Exhibit No. 15 marked for identification, 6/18/82, TLU.)

MR. PHELAN: Deposition Exhibit No. 15 is a report which is described as being an official paper by the U.K. Government in consultation with Monsanto, entitled Control of Polychlorinated Biphenyl Pollution in the United Kingdom, consisting of, the exhibit is 11 pages. The paper is 10 pages beginning at 10256 through 10266.

BY MR. PHELAN:

WATER_PCB-SD0000048566

Q First of all, have you read the document before, Mr. Mason?

A In the past I have, yes. I do recollect the document.

Q The top of the left-hand side of the page, the first page of the document, Document 10256 appears to be in script, for John Mason. That is what it reads to me.

A Yes.

Q Is that in your hand?

A No.

Q Do you know whether this paper was written by a Monsanto person?

A I don't think so. My recollection is it was written by the Government with a response from Monsanto, in discussion.

Q Did Monsanto approve the publications?

A This document, prior to it being published? I do not think so.

Q Pardon?

A I would not think so.

Q Did Monsanto consult with the U.K. and refuse to sign off on this paper?

A Not to the best of my memory.

Q Are the opinions that are expressed in this document not the opinions of Monsanto?

A I cannot recall. I will have to read right through it if you want me to answer that question.

Q Was the research done for this paper paid for by Monsanto?

A I am going to have to read the reports. Is there a section on research?

Q I presume that --

MR. SCHINK: Are you talking about, for example, research that Jensen and Widmark referred to in the first page of the document?

MR. PHELAN: I am just referring to research, et cetera.

MR. SCHINK: I object to the question. I don't know what you mean by research.

MR. PHELAN: I suppose you and I could have a difference of meaning over every word, Mr. Schink.

MR. SCHINK: Mr. Phelan, there are nine documents referred to in the notes, the references which all appear to be research reports. Is that what you are referring to? Describe what you mean by research, Mr. Phelan.

BY MR. PHELAN:

Q You are presently the Chairman of the Board of

Monsanto, Ltd. of U.K., Mr. Mason?

A Yes, sir.

Q This is a document published by the United Kingdom in consultation with Monsanto?

A Yes.

Q I just assumed you would be somewhat familiar with it.

MR. SCHINK: This document was published 11 years ago, Mr. Phelan.

MR. PHELAN: I understand that, Mr. Schink.

MR. SCHINK: At a time when the witness was in the United States.

MR. PHELAN: I understand that.

BY THE WITNESS:

A I already said I recall this document.

MR. PHELAN: Fine.

BY MR. PHELAN:

Q On Page 8 of this document, the following statement is made and I will ask you whether it is true or not:

"Accordingly from March 1, 1971 Monsanto, without any directive from the U.K. Government, introduced a voluntary ban on all uses where PCBs were not confined to a closed system."

Is that a true statement?

A To the best of my recollection, yes.

Q Thank you.

To your knowledge, was the operation at Johnson Motors in Waukegan, Illinois confined to a closed system?

MR. SCHINK: When?

MR. PHELAN: In 1971.

BY THE WITNESS:

A I don't think I can answer that question. I never visited the plant. I have no firsthand knowledge.

BY MR. PHELAN:

Q So your answer is you cannot answer it?

A I cannot answer it.

Q Thank you.

Are you familiar generally speaking with the studies that have been done on fish, Mr. Mason, with respect to the concentration of PCBs in fish?

A Only in general terms.

Q Look at Page 7 of the report, if you would, the first full paragraph on Page 7.

A Yes.

Q Are you at all familiar with the information that is contained in that paragraph?

A Yes, generally, yes; in the general terms.

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Q Do you agree with that?

A Yes, I think so, in general terms.

Q Page 3, I think we discussed earlier, gas chromatography using electron capture detection.

If you will drop down to the last sentence in the last parenthetical statement there, if you would read that and then I will just ask you a question.

A Yes, I have.

Q You are done reading it?

A Yes.

Q Do you agree with the parenthetical statement there?

A I don't think I am qualified to agree or disagree. I am not an expert analyst to answer the question. I am not an expert in gas chromatography.

(Mason-OMC Deposition Exhibit No. 16 marked for identification, 6/18/82, TLU.)

MR. PHELAN: Deposition-Mason Exhibit No. 16 is a document dated November 8, 1971 entitled Specialty Products Monthly Report, October 1971 to Mr. Bergen from Mr. Gossage without attachments, consisting of three pages.

BY MR. PHELAN:

WATER_PCB-SD0000048571

Q Have you seen that document before?

A I cannot recall having seen it.

Q You didn't see it yesterday morning?

A No, I did not see it yesterday morning.

Q First, who is Mr. Gossage?

A At that time?

Q Yes, in November of '71.

A At that time he would have been Marketing Director, in succession to Mr. Olson who I have referred to previously, reporting to Mr. Bergen.

Q Mr. Johnson and Mr. Damiani reported to him?

A Yes, Johnson would.

Q If you would turn to Page 1, Document 11434 of Deposition Exhibit 16, the third to the last paragraph beginning with:

"Buick in Flint and Chevrolet in Saginaw have been cited for PCBs in their effluent. Johnson Motors in Waukegan is having problems with the State of Illinois over phenolic content in their effluent."

What do you know of the phenolic content of effluent that Johnson Motors had?

A I don't. I don't know anything about that. That doesn't mean anything to me.

Q The phenomena of having phenolic content in

the effluent in your opinion, is that probable from the use of a hydraulic fluid which contained phosphate ester?

A I just don't know. I am puzzled by that statement.

Q Do you know whether at that time or before that time Monsanto was selling to Johnson Motors a product which would result in phenolic content in their effluent?

A I do not know.

Q Do you know whether Monsanto after or around November of 1971 was assisting Johnson Motors in determining the source of the phenolic content in their effluent?

A No, I cannot recall any knowledge of that.

(Mason-OMC Deposition Exhibit No. 17 marked for identification, 6/18/82, TLU.)

MR. PHELAN: Exhibit No. 17 appears to be to Mr. Gossage regarding Industrial Hydraulic Fluids Transition Plan. I am looking at an expurgated version, more expurgated than anything. It is a fabricated exhibit consisting also of another statement dated November 24, 1971. It consists of 19 pages.

BY MR. PHELAN:

WATER_PCB-SD0000048573

Q Can you tell me, Mr. Mason, what that is, first?

A No, I cannot, sir. All I can do is read that it is Industrial Hydraulic Fluids Transition Plan.

Q But the document identified as Deposition Exhibit 17 has a lot of blank pages.

A I have not even been through that.

Q If you look through it, apparently Monsanto is in the business of making paper.

A What am I expected to comment on that?

MR. SCHINK: There is no question pending.

BY MR. PHELAN:

Q Have you seen this document with the pages filled in?

A No, sir, I have not. I have no recollection of ever having seen this document before.

Q Have you seen a report dated December 8, 1971 to Mr. Gossage?

A Have I?

Q I am just trying to find out who the author is.

MR. SCHINK: I suggest you look at the first line, Mr. Bradford and Mr. Davidson.

MR. PHELAN: All right, I guess that is right.

BY MR. PHELAN:

Q Have you seen this report before?

A No, I have no recollection of ever having seen this report.

Q Look at the page of Exhibit 17, Document 10948, and if you will read the point on Johnson Motors.

A Yes.

Q Have you read that, sir?

A Yes, I have.

Q Does that refresh your recollection as to --

A No, it does not.

MR. SCHINK: Let him finish the question.

MR. PHELAN: How do you have any idea what I'm going to ask you, Mr. Mason?

THE WITNESS: You asked me to answer quickly and directly.

BY MR. PHELAN:

Q You're probably right, but we spoke in the last exhibit which was Deposition Exhibit No. 16 and referred in the third to the last paragraph that, "Johnson Motors in Waukegan is having problems with the State of Illinois over phenolic content in their effluent."

First, does your review of Deposition Exhibit No. 17, and in particular Page 2 which refers to Johnson Motors, refresh your recollection?

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A No, it doesn't refresh my recollection. I just don't recall this incident at all.

Q On Page 2 in the last sentence, the authors Bradford and Davidson quote:

"In terms of pricing and incineration, we will handle them in the same way as General Motors and, if necessary, make the same concessions."

What does that refer to?

A I have no idea.

MR. PHELAN: Why don't we take a five-minute break.

(Mr. R. Shapiro entered the room.)
(Brief recess had.)

MR. SCHINK: Go ahead.

BY MR. PHELAN:

Q Mr. Mason, I am looking at the document in Exhibit No. 17, the No. 10960, dated November 24, 1971.

It states, and this is Bradford re Pydraul Accounts dated November 24, 1971:

"The following are those accounts which I feel may require product group participation during the transition to reformulated Pydrauls," and we have an expurgated version. You apparently don't.

MR. SCHINK: We have the Government version.

BY MR. PHELAN:

Q Which is not the expurgated document. Why is mine expurgated and not yours?

MS. STEIN: You picked up the wrong one from Roseann.

BY MR. PHELAN:

Q Anyway, it says Outboard Marine, Waukegan, Illinois.

What do you know about the product group participation during the transition?

A As referred to in this memorandum?

Q Yes.

A I have no recollection of this at all.

Q Do you know of any plans to go out and actually have a number of people discuss this transition with the people from Johnson?

A Yes.

Q Would that have been the group participation that is referred to here?

A I'm sure it would be.

(Mason-OMC Deposition Exhibit No. 18 marked for identification, 6/18/82, TLU.)

MR. PHELAN: Deposition Exhibit No. 18 is a memorandum from Dr. R. Emmett Kelly to Mr. E. V. John, copy

to Mr. Mason.

BY MR. PHELAN:

Q Incidentally, would the B and a number after indicate a breakdown in St. Louis?

A Yes, internal postal codes, Building B, internal postal codes.

Q First of all, have you read this letter before?

A Yes, I have.

Q Did you read it on or about the date it bears?

A Excuse me?

Q Did you read the letter on or about the date it bears?

A I cannot recall it.

Q The first sentence refers to a PCB/fish meal episode. What was that, if you know?

A I cannot recall exactly. I remember an episode which I can neither recall the company's name nor the time where some fish meal was contaminated with PCBs, but I cannot be more specific.

Q Generally I would like to ask you some concluding questions on the Committee and your role in the Committee.

Yesterday when we discussed the Committee, I think you recalled you were not familiar with its

charter or its purpose, is that correct?

A Are you talking about the Corporate Management Committee?

Q Yes, the CMC, because you were not a member of it and never have seen it?

A No.

Q During the period when you were in the States, '69, '70, '71 and then you left in '72 --

A Very beginning of '72.

Q Did you report to that Committee, any other matters other than PCBs?

A Yes.

Q Give me some estimate as to how often that Committee met.

A I believe it met once a week or once every two weeks.

Q And of the times that it met, what percentage of time would you yourself be in attendance at the meetings?

A That's almost impossible for me to say.

Q Once a month?

A Yes, it may be once a month. That is an approximate guestimate. I can't recall.

Q When you would go to the Committee meetings

and you were present at them, would you remain only for that --

A Yes.

Q -- period of time?

A For the particular item on the agenda for which I was concerned.

Q To your knowledge, what was the regular duration of the Committee meetings?

A I have no exact idea of that.

Q But it would be at least as far as you were concerned, a meeting approximately once a week?

A I would say once a week or once every two weeks. I cannot recall accurately that time.

Q Where did the Committee meet?

A It normally used to meet in D Building, which is the administrative building.

Q Where would the meeting be?

A It would be in the main conference room.

Q Is that the Board of Directors?

A No, it is not the Board Room.

Q Is there a conference room or several conference rooms?

A Only one conference room, somewhat similar to this, but it's large.

Q Same type of room, similar to the room we are in?

A It is somewhat similar.

Q Would you prior to the Corporate Management Committee Meeting be aware that your presence was required at that meeting?

A Yes.

Q Would you be told what the subject was that you would address?

A Yes.

Q Would you be asked to present any material in advance?

A On occasion. It would depend on the subject.

Q Had you in previous time submitted material in advance to members of the Committee for their review prior to your presentation?

A Yes.

Q I think yesterday you told us that after the meeting, you would see excerpts from the minutes that related to the subject that you presented.

A Yes.

Q Were you ever called simply to be in attendance rather than to be a presentor?

A Yes.

Q Now, the PCB problem to your knowledge, the first time the Corporate Management Committee took up that matter was reflected in the minutes in November of 1969?

A To the best of my knowledge, yes.

Could I correct that statement?

Q Sure.

A That was certainly the first time I was involved in the Corporate Management Committee. I do not know if that Committee could have taken up the problem. It certainly could.

Q Prior to that time?

A Yes.

Q Generally the President was the Chairman of the Committee?

A Yes.

Q And he presided over the meeting?

A Yes. If he was in town, yes. If he wasn't, somebody else would do it.

Q I think you indicated yesterday that there were formalized meetings.

A Yes, very formal.

Q Not that the Roberts Rules of Order were followed, but at least there were rules of order to

them?

A Yes.

Q When you were through speaking, how were matters decided at that Corporate Management Committee during the period that you were there, either in attendance or presenting?

A I find it very difficult to generalize. On occasion there were, if you went forward with a sales proposal, you would very often get an answer yes or no, approval or disapproval.

Q The very time you presented it?

A Yes. On other occasions you would be asked to leave and the subject might be discussed after you had left.

Q In those matters in which you were participating in the discussions, did you ever participate in the decision?

A A decision as it came from the Corporate Management Committee?

Q Yes.

A No.

Q You were asked for your advice and recommendation?

A Normally to make a recommendation, which we did.

Q Were you ever there when a decision was eventually

made on a proposal that you were offering?

A Yes.

Q Was that done by vote or was it --

A No, never by formal vote. It was consensus.

Q If there was a strong objection, someone would put it off for further study?

A Probably, that's probably it.

Q The Secretary would be the person who would officially take the notes of the meeting?

A Yes.

Q But people would generally make notes as they thought necessary?

A Yes.

Q I think you mentioned yesterday when you saw the excerpts from the minutes, if there was something in the minutes that you thought was not accurate, you would then send them back to the --

A In that case, Howard Minckler.

Q Mr. Minckler?

A Yes.

Q With respect to the PCB problem and Mr. Papageorge and you --

A Yes.

Q -- can you tell us exactly what authority Mr.

Papageorge had with respect to the PCB problem and what authority you had as given by the Corporate Management Committee?

A I will try.

Papageorge was assigned the task of what I seem to remember was Project Manager. This was to ensure we had a man full time that was going to concern himself with every aspect of the PCB problem, pull the people together, all the people going to be involved: Manufacturing, Marketing, Research, Technical Service, et cetera.

In that context, I remember, and I may be incorrect, but if my memory serves me correctly, he actually reported to Howard Bergen first and Bergen reported to me.

I had the overall responsibility for reporting to the General Manager of the Division, Howard Minckler. Papageorge's job was liaison, pulling together of the team and making sure all aspects of the problem were attended to.

Q Would it be fair to state with your military background, Mr. Papageorge was really a person who was on the staff as opposed to --

A I think so. That would be the fairest comment

I could make, staff with some clout, if I might put it that way.

Q But he received the clout only directly from the Corporate Management Committee?

A Yes.

Q You would either approve or disapprove what he recommended?

A Yes.

Q As ex-officio, he had no doubt authority only from the Corporate Management Committee?

A In effect that's it. It came down that way from the Corporate Management Committee.

Q With respect to the discussions of the PCB problems as you recall them, and I think we discussed this yesterday who was present on the Corporate Management Committee from time to time, of those people who were on the Committee, to your knowledge who was the person who was most involved in the PCB problem other than yourself and Mr. Papageorge and I think you mentioned you had several meetings with President Bock?

A Well, obviously Howard Minckler was the most important because he was General Manager of the Division that produced the product. John Eck was quite heavily involved and also extremely interested in the problem.

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Eck was, as I mentioned, Vice President of Manufacturing Operations at the time.

Mr. Throdahl was also fairly knowledgeable inasmuch as he was Vice President of Research at that time.

I would say those were the people who had the best understanding, if you like, of what we were talking about or of what the problem is.

Q Let me review that batting order.

Mr. Bock is the President?

A Yes.

Q Where is Mr. Bock presently?

A He is retired.

Q And Minckler is --

A Retired.

Q Mr. Eck?

A Retired.

Q And --

A I'm last of the Mohicans.

Q You mentioned Throdahl?

A Research person.

Q Where is he?

A Throdahl is still a Vice President of Monsanto and a Board member and he is responsible for all environ-

mental matters.

Q Is he still present in St. Louis someplace?

A Yes.

Q You have in your corporate life and professional life dealt with Boards of various sorts, I'm sure; Boards of Directors and Administrative Boards and so on.

Did this Board or this Committee function in any significant way differently from these other Boards and Committees that you have dealt with?

A No, I wouldn't think so.

Q When you first came to Monsanto, St. Louis Headquarters in 1969, did you find that this Corporate Management Committee was more of an initiator or more of an approving validating body?

MR. SCHINK: With respect to what?

MR. PHELAN: Any problem.

BY THE WITNESS:

A I can only speak from my own experience with the issues in which I was involved.

BY MR. PHELAN:

Q Of course.

A I would say more of an approval body in general, but willing to initiate as and when necessary.

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Q With respect to the PCB problem, were they generally an approver or were they an initiator?

A In the initial stage of my dealings with them, I think they tended to be an approving or disapproving body, but as the problem progressed, they became strongly an initiating body, a body that put very, very strong pressure on us to act.

Q In your recollection today, was there any recommendation you made with respect to the PCB problem that was rejected by the Corporate Management Committee?

A I cannot think of any specific recommendation, but I can think of timing which was rejected. I think on several occasions they insisted on more rapid timing, more rapid movement.

Q I noted from the minutes you were always giving them dates on when you expected to finish a project and I assume from what you are telling me, the date was too long and they wanted it shorter?

A Yes, pushed it up.

Q Can you tell us of any specific recommendation that they initiated during the period that you presented and were in attendance at the Corporate Management Committee?

A We're talking specifically the PCB problem?

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Q Yes.

A I can't be specific on that, no, sir. I just --

Q You don't have any recollection of any one thing they initiated?

A No. I think much more it was a timing situation, move faster.

Q Generally speaking, were most of the people that were interested in this problem that you mentioned, Throdahl, Eck, Bock, Minckler, were they always originally in attendance when the PCB problem was to be discussed?

A I would think so, yes.

Q Did they have an agenda which was set up a week in advance or two weeks in advance for the meeting or how did that work with their agenda?

A I think the agenda at that time was normally a week in advance, something of that order.

MR. PHELAN: Thank you, Mr. Mason. I have no further questions.

CROSS EXAMINATION

BY MS. STEIN:

Q Mr. Mason, turning to what has been marked as Page 11479 in Deposition Exhibit No. 5, there is an objective there and that is "to maintain a profitable

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business serving the needs of Functional Fluids users and the carbonless duplicating paper whilst minimizing the escape of non-biodegradable" -- is that chloro-biphenyls "into the environment"?

A Yes.

Q Can you tell me why the objective was limited to minimizing the escape of non-biodegradable chloro-biphenyls into the environment?

A Yes, I think so. At the time we are talking about, in May of 1970, we had reason to believe that only certain of the polychlorinated biphenyls were completely non-biodegradable and were building up in the environment. The results from lab work we were doing showed that they would biodegrade, albeit slowly, and I think what we were trying to say is the ones we were certain would not biodegrade, we would not stay with if we had materials which were biodegradable and then we tried to continue in business with them at some point in time.

Q Do you recall what the source of your information was or who was in charge of the lab?

A On biodegradability, it comes back to the work that I referred to previously.

Q Do you know who was conducting the laboratory

work?

A Yes, Keller I think was responsible for the particular program on biodegradation.

Q On the next page which is marked 11480, Action to Achieve Objectives, No. 1 is:

"Market non-biodegradable chlorinated biphenyls only for closed system applications where control is possible."

Can you describe to me what was a closed system as you used it in this document?

A As we understood it at that time, yes. I think it was a system or application where the poly-chlorinated biphenyls were either sealed into a device, for example, capacitors; contained in a closed chamber, for example, a transformer or contained in a closed system which we considered at that time to be hydraulic systems and in addition to heat transfer systems.

Q Did Monsanto consider a hydraulic application --

A We did, obviously.

Q -- to be a closed system?

At the time that you made that presentation to the Corporate Management Committee in May of 1970, had you had any experience with die casting showing that there had been any escape of PCBs?

A I had not personally.

Q Had anyone reported to you there had been any escape of PCBs from hydraulic applications of the hydraulic fluids?

A By escape, meaning leakage from the system?

Q Leakage or spillage.

A Yes, I think at that time there was some indication that was happening, but I could not be specific because I was not personally aware of the details.

Q But even with these occasions of leaks and spills from hydraulic fluids in May of 1970, Monsanto was going to consider hydraulic systems to be a closed use that they would continue to market PCB products for?

A I believe so, but I believe, if you go further along here, we do refer to working on replacement products in this area.

Q On the page that is marked 11483 or Exhibit No. 5 under Biodegradation --

(Mr. Shapiro left the room.)

BY MS. STEIN:

Q (Continuing.) -- on Page 11488 on toxicity, under Item 2, it says:

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"We have analyzed Aroclors 1248 and 1254 for octochloro dibenzo p-dioxin."

Do you recall what the limits of octochloro dibenzo p-dioxin were?

A No, I do not, but they are extremely small.

Q Do you know who would know what the detection limits for octochloro dibenzo p-dioxin was for 1970?

A In those tests?

Q That is correct.

A Again, I think Keller is probably the best man. He was responsible for analytical, all analytical work in the Organic Division at that point.

Q On Item 3 on that same page, Central Institute for Nutrition and Food Research, Zeist, Holland examined Bayer, Prodelac and Monsanto chlorinated biphenyls for dibenzofurans; none found in Monsanto material.

Do you know whether Monsanto ever conducted any tests of its own to ascertain whether dibenzofurans were present in Monsanto-marketed and manufactured PCB's?

A I do not.

Q Do you know who would know whether Monsanto conducted any tests?

A Again, I think Keller would be the man.

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Q Do you recall what the levels of detection were in 1970 with respect to what is referred to in Item 3 on that page?

A No, I don't; very small again, trace.

Q Were you ever presented by anyone at Monsanto with any test results of customers' plant effluent samples?

A Was I personally?

Q Yes.

A No, I cannot recall ever having been.

Q Do you recall whether you received any oral reports from anyone at Monsanto during the period that you were in St. Louis with regard to plant effluent sample analyses from customers' plants?

A I'm sorry, I can't specifically recall.

Q Do you know whether Monsanto conducted any effluent sample analyses from the Johnson Motors Plant in Waukegan?

A I believe so.

Q Do you know what the results of those sample analyses were?

A No, I am sorry. That is what I was trying to remember and I cannot.

Q Did you have any discussions with anyone at

Monsanto regarding presence of PCBs in the Johnson Motors Plant?

A I have no specific recollection, but I have recollection of talking about the problem in general, not specifically with Johnson but with several other customers.

Q Do you recall whether Mr. Pogue did any work on taking samples of plant effluent at Johnson Motors?

A I don't recall personally, but I have seen some report in the last two days when there was mention of some, and I suppose that is in my mind, but I cannot recall that specifically myself.

(Mason-USA Deposition Exhibit No. 19 marked for identification, 6/18/82, TLU.)

MS. STEIN: Mason Deposition Exhibit 19 is a four-page document from R. E. Keller to W. B. Papageorge, copy of which went to Mr. Mason, entitled Environmental Materials Analyzed by Monsanto for PCBs. It bears the number in the right-hand corner of 11244 through 11247.

BY MS. STEIN:

Q In response to my earlier question, you said you had seen something in the last couple of days. Was that the document you were referring to?

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A That is what I was referring to.

Q I refer you to the second page which is marked 11245, the last site on that page is Johnson Motors, Waukegan, Illinois. There is a column there that is marked PCB Levels and under that it says PPM.

Do you recall --

A Yes.

Q Do you recall whether there was a specific number that appeared in that column?

A No, but I don't think there would be because there is a specific number quoted in the first one. I think it merely reports the fact that it was parts per million or parts per billion or if you go on to Monsanto, Krummrich, you see parts per billion and percentage; higher on one sample, higher amount detected. I think it is merely an indication of the level rather than being very specific figures where you would have to quote every sample if you were that specific.

Q Do you know whether the information regarding presence of PCBs in the plant effluent of Johnson Motors was communicated to Johnson Motors?

A I am quite certain it would be. I am quite certain any tests would have been discussed with them and communicated.

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Q Was that a routine procedure at Monsanto?

A It would be, absolutely.

Q To discuss sample results with the customer?

A Yes, absolutely.

Q Have you ever met any employee of Johnson Motors Corporation?

A Not to the best of my recollection. I have somewhat in the back of my mind, a feeling that there was a group from Johnson Motors visited Monsanto in St. Louis and spent a day, maybe two days in the laboratories and dealing with our Research people and our Marketing people. I have a vague recollection that they were brought into my office and shook hands with me and spent five minutes, but I am not 100 percent positive, but it is somewhere in the back of my mind, but certainly I never discussed detailed information with them myself, personally.

Q Do you recall what the purpose of the Johnson Motors visit to Monsanto, St. Louis was?

A Not the specific purpose, but I am quite sure the visit was concerned with polychlorinated biphenyls, replacement for them and the whole problem associated with it.

Q Can you in any way give me the time, the date

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of that meeting? Do you have any recollection of when that was?

A No.

Q Only between the time that you started in St. Louis and the end of '71 when you left?

A I'm sure it was '69. That's all I can tell you.

Q Do you recall during the time you were in St. Louis, Monsanto did any testing to ascertain whether PCTs were biodegradable?

A I think so.

Q Do you recall what the results of that were?

A No, I don't recall any results.

Q Do you today have any knowledge of whether PCTs are biodegradable?

A I understand that they also biodegrade, only with extreme difficulty.

Q Mr. Mason, I am going to refer a moment here to what has been previously marked as Mason Deposition Exhibit No. 14, a two-page document bearing the number 11255.

Turning to the second page of the document under the item a, there appears the sentence:

"We have long assisted in these efforts

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and include discussion of reclamation in our technical literature."

Do you recall, do you have any knowledge of what the basis of Mr. Olson's statement was regarding the long assistance that apparently Monsanto was giving it, these efforts, referring to reclamation programs?

A Yes. I think he is referring to the fact that once we learned that we had a problem here, I think we discussed these matters very openly with customers. We endeavored to help them wherever possible to help their reclamation systems.

I don't think it was something that Monsanto could handle themselves, but we certainly worked with customers, tried to give them the best advice we could and did the best to find other companies that might be able to carry out reclamation for them. I think a big part of our program was to work as closely as we could with our customers.

Q That same item also lists active reclamation programs and you include Johnson Motors as one listed as having an active reclamation program. Do you have any knowledge of what constituted the active reclamation program at Johnson Motors that was referred to by Mr.

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Olson?

A I do not personally and it is improper of me to try and guess.

Q Do you know whether the Johnson Motors facility recycled its cooling water at the Waukegan facility?

A I do not. I cannot recollect, but again, the last two days I have seen some references somewhere in a report to it.

Q Were you involved in the development of an expanded program of customer information regarding reclamation?

A Was I personally?

Q Yes.

A No.

MS. STEIN: No further questions. Thank you.

(Witness excused.)

FURTHER DEPONENT SAYETH NOT. . .

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UNITED STATES OF AMERICA)
NORTHERN DISTRICT OF ILLINOIS)
EASTERN DIVISION) SS:
STATE OF ILLINOIS)
COUNTY OF COOK)

I, Thea L. Urban, a notary public in and for the County of Cook and State of Illinois, do hereby certify that JOHN MASON was by me first duly sworn to testify the whole truth and that the above deposition was recorded stenographically by me and was reduced to typewriting under my personal direction, and that the said deposition constitutes a true record of the testimony given by said witness.

I further certify that the reading and signing of said deposition was not waived by the witness and his counsel.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Chicago, Illinois, this _____ day of June, A.D. 1982.

_____
Notary Public, Cook County, Illinois.
My commission expires May 31, 1983.

Thea L. Urban
Certified Shorthand Reporter
134 South La Salle Street
Chicago, Illinois 60603
312 - 782-3332

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