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TUESDAY, DECEMBER 21, 1993 A.M. 3683

P.M. 3795

DEPO READING

FARMER, EARL 3683

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1 Q AND WHERE DO YOU RESIDE, SIR?

2 A I RESIDE IN ENGLAND.

3 Q ALL RIGHT. AND IS YOUR WIFE PRESENT WITH
4 YOU HERE TODAY?

5 A YES, SHE IS.

6 Q AND DO YOU AND YOUR WIFE HAVE CHILDREN,
7 SIR?

8 A WE DO, WE HAVE TWO DAUGHTERS.

9 Q AND SOME GRANDCHILDREN?

10 A YES, WE HAVE FOUR GRANDCHILDREN.

11 Q AND WHAT IS YOUR DATE OF BIRTH, SIR?

12 A MY DATE OF BIRTH IS 19 JULY, 1924.

13 Q AND ARE YOU PRESENTLY RETIRED, SIR?

14 A I AM, YES.

15 Q AND WHAT WAS YOUR LAST POSITION -- WHO
16 WAS YOUR LAST EMPLOYER WHEN YOU WERE EMPLOYED, SIR?

17 A MY LAST EMPLOYEE WAS MONSANTO COMPANY.

18 Q AND WHAT WAS YOUR LAST POSITION WITH
19 MONSANTO AT THE TIME OF YOUR RETIREMENT?

20 A MY LAST POSITION WAS CHAIRMAN OF THE
21 BOARD OF DIRECTORS OF MONSANTO OF THE UNITED KINGDOM.

22 Q WHAT IS YOUR EDUCATIONAL BACKGROUND, SIR?

23 A MY EDUCATIONAL BACKGROUND IS I HAVE A
24 QUALIFICATION IN RUBBER CHEMISTRY FROM THE COLLEGE OF
25 CHEMISTRY IN MANCHESTER, ENGLAND.

26 Q WHEN DID YOU RECEIVE YOUR DEGREE FROM
27 THAT INSTITUTION, SIR?

28 A 1949.

1 Q SHORTLY AFTER THE WAR, THEN, YOU WENT TO
2 COLLEGE?

3 A YES, I WAS IN THE NAVY DURING THE WAR.

4 Q AND WHAT DOES RUBBER CHEMISTRY INVOLVE,
5 SIR?

6 A RUBBER CHEMISTRY INVOLVES THE CHEMISTRY
7 OF RUBBER ITSELF AND MANY OTHER POLYMERS, PLASTICS
8 AND THE CHEMISTRY OF VULCANIZATION OF RUBBER, ET
9 CETERA.

10 Q AFTER YOUR STUDIES AT MANCHESTER, SIR,
11 DID YOU SEEK EMPLOYMENT?

12 A YES, I DID.

13 Q AND WHAT WAS YOUR FIRST JOB?

14 A MY FIRST JOB WAS WITH THE DUNLOP TIRE AND
15 RUBBER COMPANY IN THE UNITED KINGDOM.

16 I WAS WORKING FOR THEM WHILE I WAS
17 WORKING PART-TIME AFTER THE WAR.

18 Q WHAT WAS YOUR JOB WITH THAT ORGANIZATION?

19 A I WAS A RUBBER TECHNOLOGIST.

20 Q AND WHAT DID YOU DO AS A RUBBER
21 TECHNOLOGIST?

22 A MOST OF MY WORK WAS ASSOCIATED WITH
23 CONVEYER BELTING, HOSE AND TIRES.

24 I WAS RESPONSIBLE FOR TECHNICAL
25 OPERATIONS ON SOME OF THE SHOP FLOORS IN THE
26 INDUSTRIAL PART.

27 Q AND HOW LONG DID YOU STAY IN THAT
28 POSITION, SIR?

1 A I WAS THERE FROM '46 TO '49 WHEN I
2 GRADUATED.

3 THAT IS WHEN I CAME TO MONSANTO.

4 Q WHAT WAS YOUR FIRST POSITION WITH
5 MONSANTO, SIR?

6 A MY FIRST POSITION WITH MONSANTO WAS AS A
7 CHEMIST IN THE LABORATORIES AT RUABON, NORTH WALES
8 WHICH IS ONE OF THEIR LABS.

9 Q WHAT KIND OF WORK DID YOU DO?

10 A I WAS DOING MAINLY QUALITY CONTROL
11 TESTING AND ALSO DEVELOPMENT OF NEW RUBBER
12 CHEMICALS.

13 Q FOR APPLICATIONS IN A COMMERCIAL SETTING?

14 A YES.

15 Q AND HOW LONG DID YOU REMAIN AS A FIELD
16 SCIENTIST FOR MONSANTO?

17 A I THINK I WAS THERE THREE YEARS BEFORE I
18 TRANSFERRED TO THE MARKETING DEPARTMENT IN LONDON.

19 Q AND WHAT PRODUCTS WERE YOU MARKETING WHEN
20 YOU WERE TRANSFERRED TO LONDON, SIR?

21 A I WAS MARKETING PRIMARILY RUBBER
22 CHEMICALS AND POLYMERS.

23 Q HOW LONG DID YOU STAY IN LONDON WITH THE
24 MARKETING DEPARTMENT FOR RUBBER PRODUCTS?

25 A I THINK -- I THINK IT WAS THREE YEARS.

26 THEN I WAS APPOINTED AS SALES MANAGER FOR
27 RUBBER CHEMICALS.

28 Q AND THAT ALSO WAS IN LONDON?

1 A THAT WAS IN LONDON, YES, WORKING OUT OF
2 LONDON.

3 Q AND HOW LONG DID YOU STAY WITH THAT
4 POSITION, SIR?

5 A I THINK I WAS THERE ABOUT ANOTHER TWO OR
6 THREE YEARS.

7 THEN I WAS PROMOTED TO BE GENERAL MANAGER
8 OF CHEMICAL SALES.

9 Q AND THAT WOULD HAVE BEEN ABOUT WHAT TIME
10 FRAME?

11 A I THINK WE ARE GETTING THERE TO ABOUT
12 1958, '59.

13 Q ALL RIGHT.

14 A I'M SORRY.

15 MY MEMORY IS NOT EXACT ON SOME OF THESE
16 DATES. BUT I DO MY BEST.

17 Q OKAY. AND AS OF THAT TIME, WHEN YOU GOT
18 THAT POSITION AS GENERAL MANAGER OF CHEMICAL SALES,
19 SIR, HAD YOU HAD ANY INVOLVEMENT WITH AROCLOR
20 PRODUCTS?

21 A YES.

22 AROCLORS WERE SOME OF THE PRODUCTS UNDER
23 MY RESPONSIBILITY.

24 Q AND THAT WAS THE FIRST TIME THAT YOU HAD
25 RESPONSIBILITY FOR ANY AROCLOR PRODUCTS IN THE
26 MONSANTO ORGANIZATION?

27 A IT WAS, YES.

28 Q OKAY. TO MAKE IT EASIER FOR THE COURT

1 REPORTER, MR. MASON, TRY TO MAKE SURE THAT YOU LET ME
2 ASK MY QUESTION.

3 A MY APOLOGIES.

4 Q THEN HOW LONG DID YOU REMAIN AS GENERAL
5 MANAGER OF CHEMICAL SALES, SIR?

6 A IT WOULD BE, I SHOULD THINK, THREE YEARS.
7 AND THEN I WAS TRANSFERRED TO BRUSSELS AS
8 DIRECTOR OF MARKETING FOR EUROPE.

9 Q AND THAT WOULD HAVE BEEN EARLY 60'S,
10 THEN?

11 A EARLY 60'S. '62 I THINK IT WAS.

12 Q AND THAT WOULD BE MARKETING ALL MONSANTO
13 PRODUCTS?

14 A ALL MONSANTO PRODUCTS EXCEPT SYNTHETIC
15 FIBERS.

16 Q ALL RIGHT. AND HOW LONG DID YOU REMAIN
17 IN BRUSSELS IN THAT POSITION, SIR?

18 A I WAS THERE JUST OVER SIX YEARS.

19 Q YOUR NEXT POSITION WITH MONSANTO WAS
20 WHAT?

21 A I WAS TRANSFERRED TO ST. LOUIS.

22 I WAS ASSISTANT GENERAL MANAGER OF THE
23 ORGANIC DIVISION.

24 Q AND THAT WOULD HAVE BEEN WHEN?

25 A THAT WAS IN 1969.

26 Q AND HAD YOU BEEN NOTIFIED PRIOR TO THAT
27 TIME OF YOUR APPOINTMENT AS ASSISTANT MANAGER OF THE
28 ORGANIC DIVISION?

1 A I HAD, AT THE END OF 1968.

2 AND I COMMUTED TO THE UNITED STATES ON
3 TWO OR THREE OCCASIONS BEFORE I MOVED MY FAMILY HERE
4 IN, I IT THIS WAS EARLY JUNE OF '69.

5 Q OKAY. AND IS THAT -- WAS THAT YOUR
6 FIRST JOB WITH MONSANTO IN THIS COUNTRY, SIR?

7 A IT WAS, YES.

8 Q WHAT WAS THE BUSINESS OF THE ORGANIC
9 DIVISION?

10 A IT WAS TO MANUFACTURE AND MARKET ORGANIC
11 CHEMICALS.

12 Q AND TO WHOM DID YOU REPORT IN THAT NEW
13 JOB ASSIGNMENT AS ASSISTANT MANAGER?

14 A I REPORTED TO HOWARD MINCKLER WHO WAS THE
15 GENERAL MANAGER OF THE DIVISION.

16 Q AND DID YOU WORK WITH A MR. BERGEN?

17 A YES, I DID.

18 Q OKAY. AND WHAT WAS HIS RELATIONSHIP TO
19 YOU, SIR?

20 A HOWARD BERGEN REPORTED TO ME.

21 HE WAS DIRECTOR OF THE FUNCTIONAL
22 PRODUCTS GROUP.

23 Q AND THE FUNCTIONAL PRODUCTS GROUP
24 INVOLVED WHAT PRODUCT, SIR?

25 A IT INVOLVED A WHOLE RANGE OF FLUIDS,
26 INCLUDING THE AROCLORS.

27 Q NOW, CAN YOU TELL US WHAT THE NATURE OF
28 YOUR JOB AS ASSISTANT GENERAL MANAGER OF THE ORGANIC

1 DIVISION WAS ONCE YOU HAD MOVED YOUR FAMILY TO THIS
2 COUNTRY IN JUNE OF 1969, SIR?

3 A MY JOB WAS TO BE RESPONSIBLE FOR THE
4 PERFORMANCE OF THREE BUSINESS GROUPS, FUNCTIONAL
5 FLUIDS, RUBBER CHEMICALS AND PAPER CHEMICALS.

6 Q AND YOU MENTIONED MR. BERGEN WAS IN
7 CHARGE OF THE FUNCTIONAL FLUIDS?

8 A YES, HE WAS.

9 Q AND IN ADDITION TO THAT GROUP, THEN, YOU
10 ALSO HAD PAPER PRODUCTS AND RUBBER CHEMICALS?

11 A CORRECT.

12 Q ALL RIGHT.

13 DID YOU HAVE ANY SPECIFIC
14 RESPONSIBILITIES AS THEY RELATED TO THE PCB'S
15 SITUATION AS IT EXISTED IN 1969, SIR?

16 A YES, I DID.

17 WHEN I ARRIVED IN THE UNITED STATES IT
18 WAS BECOMING A VERY SERIOUS PROBLEM, OBVIOUSLY, FOR
19 THE COMPANY.

20 AND I WAS CHARGED BY HOWARD MINCKLER WITH
21 LOOKING AT AN OVERALL RESPONSIBILITY TO MAKE SURE THE
22 COMPANY TOOK APPROPRIATE ACTION.

23 Q AND WHAT PERCENTAGE OF YOUR TIME DID YOU
24 SPEND IN '69, '70 AND '71, DURING THAT TIME FRAME,
25 SIR, INVOLVED IN DEALING WITH THE PCB SITUATION AS
26 YOU FOUND IT TO BE?

27 A I WOULD THINK IN THE EARLY STAGES, IN
28 '69, I PROBABLY SPENT ABOUT 20 PERCENT OF MY TIME.

1 LATER, AS WE MOVED INTO '70, '71, IT WAS
2 CERTAINLY UP TO 40 PERCENT IF NOT 50 PERCENT OF MY
3 TIME.

4 Q NOW, ONCE YOU GOT OVER HERE AND HAD
5 SETTLED YOUR FAMILY IN, DID YOU TAKE STEPS TO
6 ACQUAINT YOURSELF WITH THE PCB SITUATION, SIR?

7 A I CERTAINLY DID, YES.

8 Q AND WHAT DID YOU DO TO FAMILIARIZE
9 YOURSELF WITH THAT SITUATION?

10 A FIRST OF ALL, I THINK I INSURED THAT I
11 GOT AS MUCH INFORMATION AS POSSIBLE FROM THE MEMBERS
12 OF MONSANTO INVOLVED.

13 FOR EXAMPLE, THE PHYSICAL SCIENCE
14 DEPARTMENT WORKING IN THE ANALYTICAL DEVELOPMENT AREA
15 AND ALSO ON BIODEGRADATION.

16 I OBVIOUSLY SPENT A LOT OF TIME WITH THE
17 BUSINESS GROUP THEMSELVES CHECKING ON THE MARKETING
18 END OF WHAT WAS GOING ON THERE.

19 OUTSIDE THE COMPANY I TRIED TO ACQUAINT
20 MYSELF WITH AS MANY GOVERNMENT AGENCIES AS POSSIBLE,
21 THE FDA.

22 I ALSO MADE CONTACT WITH A DR. BURGER OF
23 THE OFFICE OF THE PRESIDENT OF THE UNITED STATES WHO
24 WAS INTERESTED IN THIS PROBLEM.

25 AND I TRAVELED AROUND QUITE A BIT WITH
26 DR. KELLY WHO WAS THE MEDICAL OFFICER OF MONSANTO AT
27 THE TIME AND WHO HAD A LOT OF CONTACT WITH GOVERNMENT
28 AGENCIES.

1 Q DID YOU ALSO UNDERTAKE TO READ SOME OF
2 THE WRITTEN MATERIAL THAT HAD BEEN WRITTEN AND
3 EXCHANGED BETWEEN THE COMPANY BEFORE YOUR ARRIVAL?

4 A YES, I READ A LOT OF MATERIAL BOTH FROM
5 THE OUTSIDE PRESS, INTERNALLY, AND FROM VARIOUS
6 UNIVERSITIES AND LEARNED SCIENTISTS.

7 Q AND BASED ON YOUR FAMILIARIZATION
8 PROCESS, SIR, DID YOU FIND THAT CERTAIN ACTIVITIES
9 HAD BEEN COMMENCED BY MONSANTO TO DEAL WITH THE
10 PROBLEM?

11 A YES, THEY HAD.

12 Q ALL RIGHT. AND CAN YOU TELL US GENERALLY
13 WHAT STEPS THAT YOU HAD FOUND HAD ALREADY BEEN
14 COMMENCED BY MONSANTO WHEN YOU ARRIVED ON THE SCENE?

15 A YES.

16 WHEN I ARRIVED ON THE SCENE A VERY GREAT
17 EMPHASIS WAS BEING PUT ON THE DEVELOPMENT OF
18 ANALYTICAL PROCEDURES WHICH WERE ABSOLUTELY CRITICAL
19 TO THE WORK IN THIS AREA.

20 I THINK BY THEN THE COMPANY WAS BEGINNING
21 TO UNDERSTAND CLEARLY WHAT THE PROBLEM WAS.

22 THAT MAY SOUND STUPID TO SAY IT HAD FIRST
23 COME TO LIGHT IN 1966, BUT IN A VERY VAGUE WAY, IT
24 TOOK A LOT OF VERY SOPHISTICATED SCIENTIFIC
25 DEVELOPMENT IN THE ANALYTICAL FIELD TO REALLY DEFINE
26 THAT PROBLEM AND TO KNOW WHAT WAS HAPPENING.

27 THE ONLY WAY WE COULD BEGIN TO FACE UP TO
28 THAT PROBLEM WAS TO CLEARLY UNDERSTAND EVERYTHING

1 ABOUT IT.

2 I THINK THAT WAS THE EMPHASIS AT THE
3 TIME.

4 IN ADDITION TO THAT, OF COURSE, WE WERE
5 ALREADY BEGINNING TO BE CAREFUL WHERE WE SOLD THE
6 PRODUCTS, TO LOOK AT CLOSED SYSTEMS AND OPEN SYSTEMS.

7 THERE WAS AN AD HOC COMMITTEE WORKING AT
8 THAT TIME WITH REPRESENTATIVES FROM MARKETING, THE
9 BUSINESS GROUP, RESEARCH, THE MEDICAL AUTHORITIES WHO
10 WERE BEGINNING TO PUT TOGETHER DEFINITE PLANS.

11 Q ALL RIGHT. DID YOU FIND THAT ANY WORK
12 HAD BEEN COMMENCED IN THE AREA OF BIODEGRADATION
13 STUDIES AT THE TIME THAT YOU CAME?

14 A YES, CERTAINLY.

15 THERE WERE STUDIES GOING ON IN ST. LOUIS
16 AND ALSO IN THE UNITED KINGDOM AT RUABON.

17 Q HOW ABOUT IN THE AREA OF TOXICOLOGY,
18 ANYTHING THAT STARTED THERE?

19 A YES, TOXICOLOGY WORK WAS GOING ON AT THAT
20 TIME.

21 I CAN'T QUITE REMEMBER THE NAME OF THE
22 COMPANY DOING IT FOR US, BUT IT WAS BEING DONE
23 OUTSIDE BY A SEPARATE COMPANY.

24 Q WAS IT IBT?

25 A YES, IT WAS.

26 Q AND YOU MENTIONED THAT YOU HAD FOUND THAT
27 THERE HAD BEEN SOME -- YOU HAD INITIATED, ACTUALLY,
28 SOME COMMUNICATIONS OUTSIDE OF MONSANTO WITH RESPECT

1 TO EXCHANGE OF INFORMATION.

2 DID YOU FIND OUT THAT ALSO HAD BEEN
3 COMMENCED IN THE SCIENTIFIC SIDE OF MONSANTO TO
4 CONSULT WITH SCIENTISTS OUTSIDE OF THE MONSANTO
5 ORGANIZATION ON THIS ISSUE?

6 A YES, IT CERTAINLY HAD.

7 I MEAN, THERE HAD BEEN COMMUNICATIONS
8 WITH SOME OF THE ORIGINAL RESEARCHERS IN THIS AREA,
9 THE SWEDES, FOR EXAMPLE, AND ALSO THERE HAD BEEN
10 SEVERAL MEETINGS IN THE UNITED STATES WITH VARIOUS
11 UNIVERSITY AUTHORITIES AND BODIES WHO WERE INTERESTED
12 IN THIS PROBLEM.

13 Q ALL RIGHT. NOW, YOU MENTIONED THE AD HOC
14 COMMITTEE.

15 YOU FOUND THAT THAT WAS IN EXISTENCE WHEN
16 YOU FIRST CAME; IS THAT RIGHT?

17 A YES, IT WAS, YES.

18 Q AND WHAT WAS YOUR UNDERSTANDING OF ITS
19 PURPOSE, SIR?

20 A IT'S PURPOSE, I THINK, WAS TO INSURE THAT
21 WE CLEARLY UNDERSTOOD WHAT THE PROBLEM WAS AND TO
22 BEGIN TO DEVELOP PLANS TO RESOLVE IT.

23 Q DID THAT COMMITTEE PRESENT ANY
24 RECOMMENDATIONS TO HIGHER MANAGEMENT OF MONSANTO
25 AFTER YOU ARRIVED, SIR?

26 A IT DID.

27 AFTER MY ARRIVAL IN NOVEMBER, 1969, THEY
28 MADE A SERIES OF PRESENTATIONS TO WHAT WAS THEN THE

1 CORPORATE DEVELOPMENT COMMITTEE.

2 THAT WAS THE SENIOR MANAGEMENT COMMITTEE
3 OF THE COMPANY, HEADED UP BY THE PRESIDENT.

4 AND THEY MET WITH THAT COMMITTEE,
5 REPRESENTATIVES FROM RESEARCH, THE MEDICAL
6 DEPARTMENT, MARKETING, THE TWO BUSINESS DIRECTORS
7 INVOLVED, MR. BERGEN AND MR. SPRINGGATE, AS AROCLORS
8 WERE ALSO USED AT THAT TIME IN HIS BUSINESS GROUP.
9 HE WAS HEADING UP PLASTICIZERS.

10 AND THE GENERAL MANAGER OF THE ORGANIC
11 DIVISION AND MYSELF WERE ALL PRESENT AT THAT
12 MEETING.

13 Q SO MR. MINCKLER WAS PRESENT IN ADDITION
14 TO YOU?

15 A HE WAS.

16 Q ALL RIGHT. WAS A MR. WHEELER PRESENT, DO
17 YOU RECALL?

18 A HE WAS.

19 HE REPRESENTED THE MEDICAL DEPARTMENT,
20 YES.

21 Q AND HAD YOU HAD DISCUSSIONS WITH
22 MR. MILLER (SIC) AFTER YOU GOT OVER HERE AFTER MID
23 '79 TO HELP FAMILIARIZE YOURSELF?

24 A YES, I HAD.

25 Q NOW, YOU MENTIONED THAT THE CMC WAS THE
26 TOP MANAGEMENT COMMITTEE.

27 DID THAT ALSO CONSIST OF THE PRESIDENT
28 AND WERE THERE BOARD MEMBERS AS WELL THAT WERE

1 REPRESENTED?

2 A THERE WERE BOARD MEMBERS BUT THEY WERE
3 INTERNAL BOARD MEMBERS, NO EXTERNAL BOARD MEMBERS
4 WERE IN THAT COMMITTEE.

5 Q AND WHO MADE THE PRESENTATION TO THE CMC
6 IN NOVEMBER OF 1969?

7 A THE PRESENTATION WAS MADE BY SEVERAL
8 PEOPLE, BY HOWARD BERGEN, BY SPRINGGATE, BY ELMER
9 WHEELER.

10 WE HAVE JUST MENTIONED HIM FROM THE
11 MEDICAL DEPARTMENT AND ALSO, I THINK, I'M NOT 100
12 PERCENT SURE, DR. KELLER FROM PHYSICAL SCIENCES WAS
13 PRESENT AND MADE A PRESENTATION.

14 I'M NOT 100 PERCENT SURE ON THAT.

15 Q AND YOU YOURSELF WERE PRESENT?

16 A I WAS PRESENT.

17 Q AND WHAT WAS THE NATURE OF THE
18 PRESENTATION, GENERALLY SPEAKING?

19 A THE NATURE OF THE PRESENTATION WAS TO
20 DEFINE THE PROBLEM AS WE UNDERSTOOD IT AND TO MAKE A
21 NUMBER OF RECOMMENDATIONS AS TO WHAT WE SHOULD DO TO
22 RESOLVE IT AND GET IT UNDER CONTROL.

23 Q OKAY. DID THE CMC TAKE ACTION ON THOSE
24 RECOMMENDATIONS?

25 A THEY CERTAINLY DID.

26 Q AND WHAT ACTION DID THEY TAKE?

27 A WELL, ONE OF THE FIRST RECOMMENDATIONS
28 MADE WAS THAT WE SHOULD APPOINT A PROJECT MANAGER

1 WITH OVERALL RESPONSIBILITY FOR THE AROCLOR
2 SITUATION.

3 THE CDC AT THAT TIME ACCEPTED THAT FULLY
4 AND SHORTLY AFTER THAT MEETING HE WAS APPOINTED.

5 Q OKAY.

6 A SORRY.

7 Q LET ME INTERRUPT YOU.

8 MR. MASON, WHAT I WOULD LIKE TO DO AT
9 THIS TIME IS HAVE YOU TURN AROUND, IF YOU WOULD,
10 PLEASE, AND LOCATE IN THE BINDERS THERE, THE BLUE
11 BINDERS, IT WOULD BE THE FIRST EXHIBIT IN VOLUME
12 THREE.

13 IT'S TRANSWESTERN EXHIBIT 111.

14 A YES.

15 Q ALL RIGHT. AND CAN YOU IDENTIFY THIS FOR
16 US, SIR?

17 A YES.

18 THIS IS AN EXTRACT FROM THE MINUTES OF
19 THE CORPORATE DEVELOPMENT COMMITTEE MEETING WHICH I
20 REFERRED TO, NOVEMBER THE 17TH.

21 Q ALL RIGHT. THE ONE IN WHICH THE TASK
22 FORCE MADE ITS PRESENTATION TO THE CMC?

23 A THAT IS CORRECT, YES.

24 Q ALL RIGHT. AND THE PRESIDENT AT THE TIME
25 OF MONSANTO WAS A MR. BOCK?

26 A YES.

27 Q AND THEN THOSE PRESENT SHOWS YOURSELF AND
28 YOU MENTIONED MR. BERGEN.

1 HE WAS THE HEAD OF THE FUNCTIONAL FLUIDS,
2 RIGHT?

3 A YES.

4 Q AND THEN MR. SPRINGGATE?

5 A YES.

6 Q WHAT WAS HIS TITLE AT THE TIME?

7 A HE WAS DIRECTOR OF THE PLASTICIZERS
8 BUSINESS GROUP.

9 Q ALL RIGHT. AND R. E. KELLY WAS WHO?

10 A THAT WAS DR. KELLY, MEDICAL OFFICER OF
11 MONSANTO.

12 Q ALL RIGHT. AND THEN YOU MENTIONED
13 MR. WHEELER?

14 A YES.

15 Q ALL RIGHT.

16 A I WAS IN ERROR WHEN I SAID THAT
17 DR. KELLER WAS AT THE MEETING.

18 Q IT LOOKS LIKE HE WAS NOT.

19 IF YOU TURN TO THE SECOND PAGE, THAT
20 WOULD INDICATE THAT MR. WHEELER MADE A PRESENTATION
21 ON BEHALF OF THE, I GUESS, THE MEDICAL DEPARTMENT.

22 IS THAT THE TITLE OF IT?

23 A YES.

24 Q ALL RIGHT. AND THEN THE RECOMMENDATIONS
25 WERE PRESENTED BY MR. BERGEN AND MR. SPRINGGATE; IS
26 THAT RIGHT?

27 A YES, THAT IS CORRECT, YES.

28 Q AND ONE OF THE RECOMMENDATIONS WAS "TO

1 ESTABLISH A TAILORED PROGRAM FOR EACH BUSINESS GROUP
2 AND EACH CUSTOMER MARKET SITUATION TO ASSURE THAT THE
3 LOSS OF PCB'S IN THE ENVIRONMENT, IF ANY, IS
4 MINIMAL."

5 A YES.

6 Q WHAT WAS THE THRUST OF THAT
7 RECOMMENDATION, SIR?

8 A WELL, I THINK THE THRUST OF THAT WAS
9 FIRST OF ALL, AS I SAID, TO APPOINT A PROJECT
10 MANAGER.

11 I IT THIS WAS VERY IMPORTANT TO HAVE ONE
12 INDIVIDUAL WHO HAD OVERALL RESPONSIBILITY FOR PUTTING
13 THESE PLANS TOGETHER.

14 I THINK WE ALSO FELT VERY STRONGLY THAT
15 WE HAD TO INVOLVE OUR CUSTOMERS AT THAT TIME. THEY
16 HAD TO BECOME FULLY AWARE OF THE PROBLEM AND HAD TO
17 BE EDUCATED, IF NECESSARY, TO HANDLE THE PRODUCTS
18 CORRECTLY AND INSURE THAT THEY WERE HANDLED WITHOUT
19 GOING INTO THE ENVIRONMENT.

20 Q ALL RIGHT. LET'S TAKE THE FIRST THING
21 YOU MENTIONED, WHICH WAS APPOINTMENT OF A PROJECT
22 MANAGER, SIR.

23 A YES.

24 Q THAT WAS THE NUMBER-ONE RECOMMENDATION.
25 WAS THAT CARRIED OUT AFTER THIS MEETING,
26 SIR?

27 A YES, IT WAS, VERY SHORTLY AFTERWARDS.

28 Q WERE YOU INVOLVED IN THAT PROCESS?

1 A I WAS, YES.

2 Q AND WHAT WAS THE NATURE OF YOUR
3 INVOLVEMENT?

4 A MY INVOLVEMENT WAS NOT TO IDENTIFY A
5 CANDIDATE BECAUSE I HADN'T BEEN IN ST. LOUIS FOR LONG
6 ENOUGH TO KNOW ALL THE PEOPLE.

7 IT WAS TO APPROVE A CANDIDATE WHO WAS
8 SELECTED WHO I WAS VERY PLEASED TO DO.

9 IT WAS MR. PAPAGEORGE, OF COURSE, WHO I
10 THINK DID AN OUTSTANDING JOB IN THIS AREA.

11 Q AND YOU PARTICIPATED IN ACTUALLY TALKING
12 TO MR. PAPAGEORGE BEFORE HIS SELECTION, SIR?

13 A I CERTAINLY DID.

14 Q ALL RIGHT. AND YOU MENTIONED ALSO THAT
15 THE -- ONE OF THE RECOMMENDATIONS WAS TO NOTIFY ALL
16 AROCLOR CUSTOMERS OF THE PCB PROBLEM.

17 WAS THAT SOMETHING THAT YOU GOT INVOLVED
18 IN AFTER THIS MEETING, SIR?

19 A IT WAS, NOT BY PERSONALLY VISITING
20 CUSTOMERS.

21 THAT WASN'T MY JOB.

22 I HAD AN OVERALL MANAGEMENT JOB.

23 BUT I WAS CONCERNED VERY MUCH WITH THE
24 BUSINESS GROUP, EDUCATING THEIR SALESMEN, SEEING
25 THEIR SALESMEN DID THE JOB.

26 WE USED TO HOLD QUARTERLY MEETINGS WHERE
27 THE REGIONAL SALES MANAGERS, THOSE ARE THE MONSANTO
28 MANAGERS OUT IN THE FIELD IN THE DIFFERENT PARTS OF

1 THE UNITED STATES, CAME IN TO ST. LOUIS AND WE
2 EXPLAINED TO THEM IN DETAIL WHAT THE PROBLEM WAS.

3 WE CONTINUED TO IMPRESS UPON THEM THE
4 NEED FOR VERY CAREFUL HANDLING OF THESE MATERIALS.

5 AND I CAN REMEMBER TWO OCCASIONS, AT
6 LEAST, WHEN I PERSONALLY MADE A PRESENTATION TO THAT
7 GROUP WHEN THEY CAME TO ST. LOUIS.

8 Q ALL RIGHT. AND "THAT GROUP" BEING THE
9 SALES ORGANIZATION OF MONSANTO THAT WERE --

10 A THAT BEING THE REGIONAL SALES MANAGERS.

11 MONSANTO HAS A REGIONAL SALES MANAGER IN
12 ALL THE MAJOR AREAS OF THE UNITED STATES.

13 THEY HAVE REPORTING IN TO THEM SALESMEN
14 AND AMONG THOSE SALESMEN WOULD BE AN AROCLOR
15 SALESMAN, A FUNCTIONAL FLUIDS SALESMAN.

16 Q OKAY. NOW, AFTER THIS MEETING, SIR,
17 WAS -- LET ME WITHDRAW THAT QUESTION.

18 WERE THESE RECOMMENDATIONS AN ACTION PLAN
19 IN ITSELF TO THE CMC?

20 A NOT IN MY OPINION.

21 I CONSIDER AN ACTION PLAN THAT IS TO BE
22 VERY CLEARLY A LIST OF ACTIONS TIED TO DATES.

23 THIS WAS A SERIES OF GENERAL
24 RECOMMENDATIONS PRIOR TO DEVELOPING A PLAN OF THAT
25 TYPE.

26 Q NOW, WHEN DID MR. PAPAGEORGE TAKE HIS
27 POSITION AS THE HEAD OF ENVIRONMENTAL CONTROL FOR THE
28 COMPANY?

1 A EXCUSE ME?

2 Q WHEN DID MR. PAPAGEORGE COME ON BOARD AS
3 THE HEAD OF THE ENVIRONMENTAL?

4 A I CAN'T REMEMBER THE DATE.

5 BUT I WOULD THINK A FEW WEEKS OF THAT
6 MEETING.

7 Q AFTER HE CAME ON BOARD WAS THERE A
8 SPECIFIC ACTION PLAN, AS YOU HAVE DESCRIBED FOR US,
9 UNDERTAKEN?

10 A HE BEGAN TO DEVELOP THAT PLAN.

11 Q AND DID YOU HAVE ANY INVOLVEMENT IN THE
12 PREPARATION OF THAT PLAN, SIR?

13 A YES. I CERTAINLY DID.

14 I WOULD NOT SAY IN THE INITIAL
15 PREPARATION BUT RATHER IN A SERIES OF MEETINGS WHEN
16 WE REVIEWED THE PLAN THAT WAS BEGINNING TO EMERGE AND
17 ALSO I MADE SEVERAL RECOMMENDATIONS TO MR. PAPAGEORGE
18 PRIOR TO THE PLAN BEING PRESENTED TO THE CORPORATE
19 DEVELOPMENT COMMITTEE.

20 Q ALL RIGHT.

21 YOU USED THE TERM "CORPORATE DEVELOPMENT
22 COMMITTEE."

23 IS THAT SYNONYMOUS WITH THE CORPORATE
24 MANAGEMENT COMMITTEE?

25 A YES, IT IS, SIR.

26 I APOLOGIZE BUT THE COMPANY HAD A HABIT
27 OF CHANGING NAMES OF COMMITTEES.

28 I THINK MOST BIG COMPANIES DO.

1 Q SO WHETHER WE SAY CMC OR CDC WE ARE
2 TALKING ABOUT THE SAME TOP MANAGEMENT GROUP?

3 A YES, SIR.

4 Q AND WAS MR. PAPAGEORGE'S PROGRAM AS
5 DISCUSSED WITH VARIOUS INDIVIDUALS PRESENTED TO THE
6 CMC?

7 A IT WAS, YES.

8 Q DO YOU RECALL WHEN IT WAS INITIALLY
9 PRESENTED?

10 A IT WAS INITIALLY PRESENTED IN APRIL OF
11 1970.

12 I CAN'T REMEMBER THE EXACT DAY.

13 Q AND WHO MADE THE ACTUAL PRESENTATION?

14 A THE PRESENTATION WAS MADE BY
15 MR. PAPAGEORGE.

16 Q AND WERE YOU PRESENT AT THE TIME?

17 A I WAS.

18 Q ALL RIGHT. AND WHAT ACTION, IF ANY, DID
19 THE BOARD TAKE ON THE RECOMMENDED -- THE PLAN OF
20 ACTION THAT WAS BEING PUT FORTH TO THE CDC OR CMC?

21 A WELL, IN GENERAL THEY APPLAUDED THE PLAN
22 AS BEING A SENSIBLE APPROACH.

23 THEY CONSIDERED THAT WE SHOULD BE LOOKING
24 TO MOVE FASTER AND THEY DID POINT OUT THAT THEY FELT
25 WE SHOULD DISCONTINUE THE SALES OF AROCLORS 1254 AND
26 1260, WHICH WERE THE HIGHER-CHLORINATED AROCLORS, THE
27 ONES WHICH, IN GENERAL, WERE BEING FOUND IN THE
28 ENVIRONMENT.

1 Q ALL RIGHT. AND AFTER THAT MEETING WERE
2 REVISIONS MADE TO THE TIMING OF THIS PLAN OF ACTION?

3 A YES, I THINK THEY WERE.

4 Q AND WAS THERE A SUBSEQUENT PRESENTATION
5 TO THE CMC WITH THIS REVISED SCHEDULE?

6 A YES.

7 IN MAY WE WENT BACK TO THE CMC.

8 Q WHO MADE THE PRESENTATION AT THAT TIME,
9 SIR?

10 A I MADE THE PRESENTATION AT THAT TIME.

11 Q ALL RIGHT. AND WHAT ACTION, IF ANY, DID
12 THE CORPORATE MANAGEMENT COMMITTEE TAKE ON THIS
13 REVISED SCHEDULE AND PLAN OF ACTION?

14 A WELL, IT WAS SATISFIED WITH THAT.

15 BUT ONE ISSUE WE RAISED WITH THEM WAS THE
16 ISSUE WE DID NOT FEEL IT WOULD BE WISE TO DISCONTINUE
17 THE MARKETING OF AROCLORS 1254 AND 1260 AT THAT TIME.

18 WE HAD VERY GOOD REASONS FOR THAT.

19 Q WHAT WERE THEY, SIR?

20 A THOSE PRODUCTS WERE BASICALLY USED IN THE
21 ELECTRICAL INDUSTRY AND WE FELT VERY STRONGLY, IN
22 FACT, OUR CUSTOMERS, THE MAJOR ELECTRICAL PRODUCERS
23 AND MANUFACTURERS IN THIS COUNTRY FELT THAT THERE WAS
24 A VERY REAL DANGER IF THEY DID NOT HAVE THOSE
25 PRODUCTS, WHICH WERE THE PRODUCTS USED IN
26 TRANSFORMERS AND CAPACITORS, THEY WOULD BE IN VERY
27 SERIOUS DANGERS OF FIRE RISK IN LARGE BUILDINGS.

28 WE COULD -- IN FACT, ONE MANUFACTURER DID

1 STATE TO US, "WE COULD HAVE A BLACKOUT IN NEW YORK."

2 I PERSONALLY FELT THAT WAS A SLIGHT
3 EXAGGERATION, BUT NONETHELESS WE COULD FORESEE VERY
4 SIGNIFICANT PROBLEMS IF THESE PRODUCTS WERE WITHDRAWN
5 IMMEDIATELY WITHOUT ANY ALTERNATES BEING MADE
6 AVAILABLE.

7 Q ALL RIGHT. WOULD YOU TURN AROUND AND GET
8 FOR US OR REVIEW FOR YOURSELF EXHIBIT 152.

9 ACTUALLY I THINK IT'S IN THAT SAME VOLUME
10 THREE.

11 A OH, GOOD.

12 152?

13 Q YES, SIR.

14 A MINUTES OF THE MEETING OF THE CORPORATE
15 MANAGEMENT COMMITTEE, MAY 11.

16 Q WERE THESE THE MINUTES IN WHICH THE
17 REVISED SCHEDULE AND PLAN OF ACTION WAS APPROVED,
18 SIR?

19 A YES.

20 Q AND THE DATE BEING MAY 11, 1970?

21 A CORRECT.

22 Q AND YOU BEING PRESENT?

23 A YES.

24 Q AND MR. MINCKLER WHO WAS YOUR BOSS WAS
25 ALSO PRESENT?

26 A YES.

27 Q AND, AGAIN, DR. KELLY; IS THAT RIGHT?

28 A DR. KELLY, YES.

1 Q AND THE PLAN AS APPROVED HAD HOW MANY
2 STEPS, SIR?

3 A I THINK THERE WERE SIX; ONE, TWO, THREE,
4 FOUR, FIVE, SIX.

5 Q OKAY. AND WITH RESPECT TO THOSE STEPS,
6 WERE ACTUAL CHRONOLOGIC DEADLINES APPLIED?

7 A YES, THEY WERE.

8 Q FOR THE ACCOMPLISHMENT OF THOSE?

9 A YES, THERE WERE.

10 Q WHY DON'T WE GO THROUGH THE SIX ACTION
11 STEPS AND THE TIME FRAME AS ADOPTED IN THE MAY
12 MEETING.

13 WERE DON'T YOU START WITH THE FIRST ONE,
14 IF YOU WOULD, PLEASE.

15 A "DISCONTINUE SALE OF AROCLOR 1242 TO NCR,
16 THAT IS NATIONAL CASH REGISTER, AND REPLACE WITH
17 HP-40 IN THE UNITED KINGDOM AND MIBP IN THE UNITED
18 STATES. COMPLETE UK, JULY THE 1ST, 1970 AND IN THE
19 U.S. JANUARY 30TH, 1971."

20 THE DIFFERENCE IN THE TIMING IS THE
21 UNITED KINGDOM COMPANY, WIGGINS TEAPE, WHO WERE
22 OPERATING FROM THE LICENSE UNDER NATIONAL CASH
23 REGISTER WERE ABLE TO ADAPT THEIR PROCESS TO USE AN
24 EXISTING MONSANTO PROCESS HP 40.

25 THE PROCESS WAS SLIGHTLY DIFFERENT AND
26 THEY HAD TO HAVE A NEW PRODUCT MADE AND DEVELOPED FOR
27 THEM TO MEET THEIR REQUIREMENTS.

28 HENCE, OF COURSE, IT TOOK TIME TO DEVELOP

1 THAT.

2 Q HOW ABOUT THE NUMBER TWO STEP, SIR?

3 A NUMBER TWO, "CLOSE THE LOOP ON HEAT
4 TRANSFER APPLICATIONS WHERE FIRE RESISTANCE IS VITAL
5 AND REPLACE WITH ALTERNATIVES, ALTERNATES IN OTHER
6 CASES. COMPLETE BY DECEMBER 30TH, 1970."

7 Q ALL RIGHT. AND THE HEAT TRANSFER
8 APPLICATIONS WERE WHAT, SIR?

9 A WELL, THESE WERE WHERE YOU ARE
10 TRANSFERRING HEAT THROUGH A SERIES OF COILS OR PIPES
11 FROM ONE PLACE TO ANOTHER.

12 Q ALL RIGHT. AND NUMBER 3.

13 A NUMBER 3, "REPLACE ALL NON-BIODEGRADABLE
14 CHLORINATED BIPHENYLS IN HYDRAULIC APPLICATIONS.

15 "COMPLETE 20 PERCENT ON AUGUST THE 1ST,
16 40 PERCENT NOVEMBER THE 1ST, AND FULL COMPLETION OF
17 100 PERCENT ON DECEMBER THE 30TH."

18 Q OKAY. AND NUMBER 4?

19 A NUMBER 4, "CLOSE THE LOOP ON ALL
20 NON-BIODEGRADABLE CHLORINATED BIPHENYLS IN
21 TRANSFORMER APPLICATIONS. COMPLETE AUGUST THE 1ST."

22 THIS IS THE APPLICATION I EMPHASIZED
23 BEFORE AND A STRONG FEELING WAS THAT THESE
24 TRANSFORMERS SYSTEMS WERE CLOSED UNITS WHICH WERE
25 MANUFACTURED AND SEALED.

26 HENCE THE LIKELIHOOD OF THE
27 POLYCHLORINATED BIPHENYLS ESCAPING INTO THE
28 ENVIRONMENT WAS VERY SMALL.

1 Q NUMBER FIVE?

2 A NUMBER FIVE, "CLOSE THE LOOP ON
3 CAPACITORS AS FAR AS POSSIBLE AND REPLACE 1242 WITH
4 1242-B."

5 NOW, 1242 WAS A PRODUCT WHICH HAD SOME OF
6 THE HIGHER-CHLORINATED FRACTIONS THERE.

7 1242-B WAS A PRODUCT WHERE THOSE HAD BEEN
8 STRIPPED OUT. HENCE WE WERE HOPING TO DEVELOP A
9 PRODUCT WHICH WAS BIODEGRADABLE SHOULD IT ESCAPE TO
10 THE ENVIRONMENT.

11 Q YOU MEAN TOTALLY BIODEGRADABLE?

12 A TOTALLY BIODEGRADABLE.

13 IN TIME, I HAVE TO EMPHASIZE, IT TAKES
14 TIME.

15 Q FOR THAT PROCESS TO BE ACCOMPLISHED?

16 A CERTAINLY, YES.

17 Q AND THE LAST STEP, SIR?

18 A "TERMINATE SALES OF ALL NON-BIODEGRADABLE
19 CHLORINATED BIPHENYLS TO VARIOUS NON-CONTROLLABLE END
20 USES.

21 "COMPLETE AUGUST 30TH, 1970."

22 Q AND WHAT WAS YOUR UNDERSTANDING OF THE
23 MEANING OF "NON-CONTROLLABLE END USE"?

24 A THAT WAS A USE WHERE IT WAS IMPOSSIBLE TO
25 CLOSE THE LOOP, WHERE THERE WAS GOING TO BE,
26 PROBABLY, ESCAPE TO THE ENVIRONMENT.

27 Q WHERE YOU COULD ANTICIPATE THAT THROUGH
28 NORMAL USE?

1 A YES, I THINK SO.

2 Q AND DID THE CMC PUT ANY RESTRICTION UPON
3 ANY CHANGE IN THIS SCHEDULE WITHOUT THEIR REVIEW?

4 A YES, I THINK YOU WILL REFER TO IT IN A
5 MINUTE.

6 I THINK THEY SAID WE SHOULD NOT MAKE ANY
7 CHANGES TO THE PLAN WITHOUT REFERRING BACK TO THEM.

8 I'M NOT SURE IF IT'S HERE OR NOT.

9 Q I THINK IT'S ON THE BOTTOM OF THE FIRST
10 PAGE HERE.

11 A YEAH.

12 Q AND DID THE CMC CONTEMPLATE THAT THESE
13 STEPS WOULD REQUIRE SOME EXPENSE ON MONSANTO'S
14 BEHALF?

15 A OH, CERTAINLY, YES.

16 Q AND THOSE WERE APPROVED, AS WELL, AT THE
17 MEETING?

18 A YES.

19 I THINK IT'S ON THE NEXT PAGE.

20 I IT THIS WAS ESTIMATED THAT IT REQUIRED
21 SOME \$3.5 MILLION OF NEW CAPITAL TO PUT THIS PLAN
22 INTO FULL EFFECT.

23 Q ALL RIGHT. NOW, AFTER THIS PLAN WAS
24 ADOPTED AND THE SCHEDULE ADOPTED IN MAY, SIR, WERE
25 THERE SUBSEQUENT MEETINGS WITH THE CMC TO CHECK ON
26 THE PROGRESS OF THE COMPANY IN MEETING THE DIRECTIVES
27 OF THE CMC?

28 A YES, SIR.

1 THE CORPORATE MANAGEMENT COMMITTEE
2 NORMALLY MET ONCE A WEEK ON A MONDAY.

3 HOWARD MINCKLER, MY BOSS, THE HEAD OF
4 ORGANIC DIVISION, WAS A MEMBER OF THAT COMMITTEE.

5 SO HE WOULD PUT IN REGULAR BRIEF COMMENTS
6 OR HAPPENINGS THAT OCCURRED DURING THE WEEK.

7 PRIOR TO THE MEETING HE WAS ALWAYS
8 BRIEFED BY MYSELF AND VERY OFTEN BY PAPAGEORGE.

9 HOWEVER, IN ADDITION TO THIS WE MET WITH
10 THE CMC TO MAKE FORMAL PRESENTATIONS TO MEASURE OUR
11 PROCESS ON I THINK THREE MONTHLY BASES.

12 I THINK THE NEXT MEETING AFTER THIS MAY 1
13 WAS A LITTLE LONGER, EXCUSE ME, WAS SEPTEMBER.

14 AND THE NIGHT WE MET EARLY IN 1971 WITH
15 THEM, IN MARCH.

16 AND THE FINAL MEETING WHICH OCCURRED WITH
17 THE BOARD OF DIRECTORS. I SAY "FINAL" BECAUSE I
18 WAS -- I WENT BACK TO EUROPE, MYSELF, AT THE END OF
19 1971, BEGINNING OF 1972. SO I CAN ONLY SPEAK FROM MY
20 OWN PERSONAL EXPERIENCE.

21 Q OKAY. LET'S TAKE IT TO MARCH OF '71,
22 SIR.

23 PERHAPS WE SHOULD GO BACK TO THE SCHEDULE
24 HERE.

25 AND AS OF MARCH OF 1971, SIR, HAD THE
26 STEPS OUTLINED IN THE MAY MINUTES THAT WE JUST
27 REVIEWED BEEN ACCOMPLISHED BY MONSANTO?

28 A THE FIRST STEP, THE NATIONAL CASH

1 REGISTER PLAN, THE UK HAD COMPLETED THAT TURNOVER AND
2 WAS OPERATING SUCCESSFULLY, AS FAR AS WE UNDERSTOOD.

3 THE UNITED STATES, I THINK THAT THEY WERE
4 DUE TO TAKE, COMMENCE A TRIAL RUN ABOUT THE FIRST OF
5 JANUARY, THE END OF JANUARY 1970.

6 I'M NOT EXACTLY SURE OF THE DATE.

7 SO WE WERE PRETTY WELL ON COURSE WITH NO
8 MAJOR PROBLEMS.

9 Q HOW ABOUT THE HYDRAULICS?

10 A THE HYDRAULICS WAS MORE OF A PROBLEM.

11 WE WERE DEALING WITH VERY DIFFERENT TYPES
12 OF OPERATIONS HERE.

13 YOU CAN HAVE HYDRAULICS, FOR EXAMPLE, IN
14 THE AUTOMOTIVE INDUSTRY, IN THE MICHIGAN AREA WHERE
15 THEY WERE USING A NUMBER OF HYDRAULIC PIECES OF
16 EQUIPMENT WHERE YOU HAVE RAMS FORCING THE FLUID UNDER
17 VERY HIGH PRESSURE INTO RUBBER HOSES CONNECTED TO
18 STEEL END FITTINGS.

19 THEY WERE HAVING A LOT OF SERIOUS LEAKS.

20 ALSO WE HAD VERY SMALL APPLICATIONS OF
21 THIS TYPE.

22 WE CONCENTRATED OUR EFFORTS ON GETTING
23 RID OF THESE.

24 SOME BIGGER COMPANIES, SOME CHEMICAL
25 COMPANIES, SOME TIRE COMPANIES, SOME SYNTHETIC RUBBER
26 MANUFACTURING COMPANIES AND FIBER MANUFACTURERS WERE
27 USING MUCH MORE SOPHISTICATED SEAL EQUIPMENT ON A
28 CONTINUOUS PROCESS.

1 AND WE WERE HAVING DIFFICULTY IN FINDING
2 REPLACEMENT PRODUCTS WHICH WERE ACCEPTABLE DUE TO THE
3 VERY SEVERE FIRE RISK IN SOME OF THESE AREAS.

4 IN A SENSE I THINK WE WERE A LITTLE
5 BEHIND THE PLAN ALTHOUGH NOT TOO MUCH, BUT WE WERE
6 CONCERNED IN THIS AREA.

7 Q WAS THERE AN EXTENSION THAT WAS GIVEN BY
8 THE CMC TO THE HYDRAULIC APPLICATIONS?

9 A YES, I ASKED FOR AN EXTENSION OF THREE
10 MONTHS TO INSURE WE COULD DO THE JOB PROPERLY.

11 THAT WAS GRANTED BUT I WAS TOLD NOT TO
12 COME BACK AGAIN.

13 Q AND WAS THAT REVISED SCHEDULE FOR
14 HYDRAULICS MET, SIR?

15 A YES.

16 Q ALL RIGHT. AND THEN HOW ABOUT IN THE
17 ELECTRICAL INDUSTRY, STEPS FOUR AND FIVE HERE.

18 A WELL, ESSENTIALLY THESE WERE BEING
19 ACCOMPLISHED, OF COURSE.

20 WE WERE SPENDING A LOT OF TIME WITH THESE
21 CUSTOMERS TRYING TO INSURE THAT THE LOOP WAS CLOSED
22 AND THAT WE WERE NOT HAVING ANY LEAKS TO THE
23 ENVIRONMENT.

24 Q AND STEP SIX?

25 A STEP ONE, TWO, THREE, FOUR --

26 Q THE NON-BIODEGRADABLE.

27 A IN THIS AREA WE TERMINATED A NUMBER OF
28 USES WHERE WE WERE QUITE CERTAIN WE WOULD -- THE

1 CUSTOMER WOULD NOT BE ABLE TO CONTROL THE OUTFLOW TO
2 THE ENVIRONMENT.

3 ONE PARTICULAR AREA OF THIS, OF COURSE,
4 AN UNUSUAL APPLICATION, WAS THE TEXAS EASTERN GAS.

5 AND HERE WE WERE CONVINCED THAT THEY WERE
6 OPERATING A SYSTEM WHICH WOULD NOT RESULT IN LEAKS TO
7 THE ENVIRONMENT.

8 Q ALL RIGHT. WHAT ABOUT THE PLASTICIZER
9 BUSINESS, SIR.

10 WHAT HAPPENED TO THAT?

11 A THE PLASTICIZER BUSINESS HAD ESSENTIALLY
12 BEEN DISCONTINUED AND BEEN REPLACED BY CHLORINATED
13 TERPHENYLS AND PHOSPHATE ESTERS AND OTHER
14 PLASTICIZERS.

15 Q AND PLASTICIZERS, YOUR USE WAS CONSIDERED
16 A NON-CONTROLLABLE USE?

17 A ABSOLUTELY NON-CONTROLLABLE.

18 Q NOW, AFTER MAY, SIR, TAKING YOU BACK TO
19 MAY AND UP TO THE TIME, GENERALLY, THAT YOU LEFT
20 TOWARD THE END OF 1971, WHAT STEPS DID YOU TAKE
21 YOURSELF IN IMPLEMENTING THIS ACTION PLAN?

22 A WELL, I TOOK THE STEPS WHICH I WAS
23 EXPECTED TO TAKE AS AN OVERALL MANAGER.

24 I TRIED TO MONITOR, CHECK FREQUENTLY WHAT
25 WAS GOING ON, SPEAK VERY FREQUENTLY TO THE PEOPLE
26 INVOLVED.

27 I WOULD ALSO BE AVAILABLE TO THEM
28 WHENEVER I WAS NEEDED.

1 I ALSO CONTINUED WITH VARIOUS CONTACTS
2 WITH GOVERNMENT AGENCIES.

3 IN ADDITION I WAS GIVEN THE JOB BY
4 MR. BOCK, THE PRESIDENT, OF REPLYING TO MAIL WHICH WE
5 RECEIVED FROM THE GENERAL PUBLIC AND FROM VARIOUS
6 PEOPLE CONCERNED ABOUT THIS PROBLEM.

7 MR. BOCK CONSIDERED IT VERY IMPORTANT
8 THAT THIS WAS HANDLED PROPERLY AND IN DEPTH.

9 Q ALL RIGHT. LET'S TALK ABOUT A FEW OF
10 THOSE THINGS.

11 MR. MASON, WHEN YOU SAID YOU WERE IN
12 CONTACT WITH PEOPLE INVOLVED IN IT, DID YOU HAVE
13 MEETINGS WITH MR. PAPAGEORGE?

14 A OH, YES, CERTAINLY, ON A REGULAR BASIS.

15 Q ON A REGULAR BASIS?

16 A OH, YES.

17 Q DID YOU HAVE MEETINGS WITH MR. MINCKLER?

18 A YES.

19 Q AND HE WAS YOUR BOSS?

20 A EVERY DAY.

21 Q OKAY. AND DID YOU HAVE ANY CONTACT WITH
22 ANY MEMBERS OF THE CMC DURING THAT TIME FRAME?

23 A YES, I DID.

24 ONE OF THE MEMBERS OF THE CMC AT THAT
25 TIME WAS A MR. ECK.

26 MR. ECK WAS THE EX PRODUCTION MANAGER OF
27 MONSANTO.

28 I WAS INSTRUCTED BY THE CMC TO MAINTAIN

1 CONTACT WITH MR. ECK IN VIEW OF HIS VERY WIDE
2 EXPERIENCE, OF COURSE, IN THE MANUFACTURING FIELD.

3 I USED TO MEET WITH HIM REGULARLY,
4 PROBABLY ONCE A WEEK TO DISCUSS THE SITUATION.

5 FOR EXAMPLE, IN OUR OLD PLANTS WE
6 RECOGNIZED THAT WE HAD SOME SORT OF A PROBLEM WITH
7 THE OUTFLOW OF OUR OWN PLANTS AND WE WOULD SET VERY,
8 VERY TOUGH TARGETS.

9 WE WOULD SET A TARGET OF 10 PARTS PER
10 BILLION OUT INTO THE ENVIRONMENT.

11 10 PARTS PER BILLION IS A VERY, VERY
12 SMALL AMOUNT.

13 NONETHELESS, WE HAD TO GET THE OUTFLOWS
14 IN OUR PLANTS DOWN TO THIS LEVEL.

15 Q YOU INDICATED THAT YOU ALSO MAINTAINED
16 YOUR CONTACTS WITH CERTAIN GOVERNMENTAL AGENCIES, IS
17 THAT CORRECT?

18 A YES, IT IS.

19 Q AND DID YOU HAVE ANY DISCUSSIONS WITH ANY
20 SUCH AGENCIES REGARDING MONSANTO'S PRODUCTION FIGURES
21 OF ITS AROCLOR PRODUCTS?

22 A YES, I DID.

23 I DISCUSSED THIS ON SEVERAL OCCASIONS
24 WITH DR. BURGER WHO I MENTIONED PREVIOUSLY IN THE
25 OFFICE OF THE PRESIDENT.

26 AND HE WAS AGREEABLE THAT WE SHOULD TRY
27 TO APPROACH THIS PROBLEM IN THE WAY OF DISCLOSING THE
28 FIGURES TO RESPONSIBLE SCIENTIFIC AGENCIES OR THE

1 GOVERNMENT TO ALLOW THEM TO CARRY OUT APPROPRIATE
2 WORK.

3 AND IN RETURN THEY WOULD NOT DISCLOSE
4 THESE FIGURES IN THE PRESS.

5 THEY WOULD ONLY DISCLOSE THEM IN
6 SCIENTIFIC REPORTS WHERE IT WAS NECESSARY.

7 NOW, THERE WAS A GREAT DEAL, I THINK, OF
8 CONTROVERSY AT THAT TIME AS TO WHY MONSANTO WOULD NOT
9 DISCLOSE ITS PRODUCTION FIGURES OF AROCLORS.

10 MONSANTO WAS THE ONLY PRODUCER IN THE
11 UNITED STATES OF AROCLOR. BUT THERE WERE PRODUCERS
12 IN GERMANY, ITALY, CZECHOSLOVAKIA, JAPAN.

13 AND THE SIZE OF THE UNITED STATES MARKET
14 FOR AROCLORS WAS VERY, VERY MUCH GREATER THAN THE
15 TOTALS OF THE OTHERS PUT TOGETHER.

16 AND WE WERE CONCERNED IF WE DISCLOSED
17 THOSE FIGURES THAT WE WOULD THEN HAVE FOREIGN
18 PRODUCERS COMING INTO THE MARKET, NOT ONLY TO TAKE
19 OUR BUSINESS BUT TO STOP US CONTROLLING THE
20 ENVIRONMENT.

21 IT WOULD BE VERY EASY FOR THEM TO SELL TO
22 THE PEOPLE WE SAID WE WOULDN'T SELL TO.

23 THAT WAS OUR BIG CONCERN.

24 AS WE YOU KNOW LATER ON WE DID DISCLOSE
25 THOSE FIGURES TO GOVERNMENT TO ENABLE THEM TO
26 CONTINUE THEIR WORK.

27 Q I WOULD LIKE TO SHOW YOU, SIR, IF I
28 COULD, PLEASE, EXHIBIT 572.

1 THAT IS NOT IN THAT BINDER. I THINK IT'S
2 IN ONE OF THE BLACK BINDERS BEHIND YOU, SIR.

3 A 572?

4 Q RIGHT.

5 A ALL RIGHT. THIS IS IT.

6 Q ALL RIGHT. AND IS THIS CORRESPONDENCE
7 YOU RECEIVED FROM THE EXECUTIVE OFFICE OF THE
8 PRESIDENT REGARDING THIS ISSUE OF MONSANTO'S
9 PRODUCTION FIGURES, SIR?

10 A YES, IT IS.

11 Q AND IT SHOWS THAT IT HAS YOUR NAME THERE
12 ON THE BOTTOM?

13 MR. TALLON: EXCUSE ME, I WILL OBJECT TO THIS.

14 THERE WAS A FOUNDATION OBJECTION
15 SUSTAINED TO THIS.

16 THE COURT: THERE WAS A FOUNDATION OBJECTION.

17 I'M WAITING TO HEAR FOUNDATION.

18 Q BY MR. PREUSS: WAS THE RECEIPT OF THIS
19 LETTER, SIR, PRECEDED BY CONVERSATIONS YOU HAD WITH
20 DR. BURGER IN CONNECTION WITH THE PRODUCTION FIGURES?

21 A YES, IT WAS.

22 Q AND THIS WAS A DISCUSSION YOU PERSONALLY
23 HAD REGARDING THE ISSUE OF PRODUCTION FIGURES FOR
24 MONSANTO BEING RELEASED TO THE GOVERNMENT ON A
25 CONFIDENTIAL BASIS FOR THE REASONS YOU HAVE STATED?

26 A YES, SIR.

27 Q AND WAS THIS THE FORMAL RESPONSE OF THE
28 GOVERNMENT ONCE AN AGREEMENT HAD BEEN REACHED BETWEEN

1 YOU AND THE OFFICE OF THE PRESIDENT FOR THE RELEASE
2 OF THESE FIGURES?

3 A YES, IT WAS.

4 MR. PREUSS: SUBMITTED, YOUR HONOR.

5 THE COURT: ANYTHING FURTHER, MR. TALLON?

6 MR. TALLON: NO.

7 THE COURT: GO AHEAD, MR. PREUSS.

8 MR. PREUSS: THANK YOU.

9 Q ALL RIGHT. THEN THIS IS THE LETTER YOU
10 RECEIVED BACK?

11 THE COURT: MR. PREUSS, LET ME ASK YOU TO TAKE
12 IT OFF THE MACHINE FOR A MOMENT.

13 LET ME SEE COUNSEL AT THE SIDEBAR,
14 PLEASE.

15
16 (THE FOLLOWING PROCEEDINGS WERE HELD
17 AT THE SIDE BAR NOT REPORTED.)

18 Q BY MR. PREUSS: MR. MASON, IN ADDITION TO
19 DISCUSSIONS AND COMMUNICATIONS WITH THE OFFICE OF THE
20 PRESIDENT CONCERNING THE ISSUE OF MONSANTO'S
21 PRODUCTION FIGURES, SIR, DID YOU ALSO HAVE
22 DISCUSSIONS WITH A REPRESENTATIVE IN THE LEGISLATURE
23 OF THE UNITED STATES?

24 A YES, I DID.

25 Q AND WHO WAS THAT, SIR?

26 A THAT WAS CONGRESSMAN RYAN.

27 Q ALL RIGHT. AND DID YOU EXCHANGE A SERIES
28 OF LETTERS WITH CONGRESSMAN RYAN ON THE SUBJECT?

1 A YES, I DID.

2 HE WROTE TO THE PRESIDENT, MR. BOCK, AND
3 MR. BOCK ASKED ME TO HANDLE THE LETTER BECAUSE HE
4 WANTED IT HANDLED IN DETAIL AND CONSTRUCTIVELY.

5 Q DID YOU ALSO MEET WITH MR. RYAN ON
6 OCCASION?

7 A I MET WITH HIM ON TWO OCCASIONS WITH
8 MR. PICKARD WHO WAS MONSANTO'S VICE-PRESIDENT OF
9 GOVERNMENTAL AFFAIRS IN WASHINGTON.

10 Q DID YOU RESPOND TO MR. RYAN'S REQUEST FOR
11 INFORMATION, SIR?

12 A WE DID AT VERY GREAT LENGTH.

13 Q AND IN THAT CORRESPONDENCE DID YOU SEEK
14 TO SET FORTH MONSANTO'S EFFORTS AND POSITIONS ON THE
15 VARIOUS ISSUES THAT CONGRESSMAN RYAN WAS
16 CORRESPONDING TO YOU ABOUT?

17 A YES, I DID.

18 Q AND YOU MENTIONED, SIR, THAT YOU ALSO HAD
19 BEEN GIVEN RESPONSIBILITY TO WRITE TO, SHALL WE SAY,
20 CONCERNED CITIZENS CONCERNING THE PCB ISSUE; IS THAT
21 CORRECT?

22 A THAT IS CORRECT.

23 Q AND THOSE LETTERS WERE DIRECTED TO
24 MR. BOCK, THE PRESIDENT?

25 A YES, THEY WERE.

26 Q AND HE ASKED YOU TO PERSONALLY ATTEND TO
27 THOSE?

28 A THAT IS CORRECT, YES.

1 Q AND DID YOU DO SO?
2 A I DID.
3 Q ALL RIGHT. BRIEFLY, SIR, I WOULD JUST
4 LIKE YOU TO GET, IF YOU WOULD, 549 AND 550, IF YOU
5 WILL.
6 A ARE THEY IN THIS SAME BOOK?
7 Q I'M NOT SURE.
8 A NO. SORRY.
9 Q 549 AND 550, SIR.
10 A 549.
11 Q AND IS THAT A LETTER YOU WROTE TO AN
12 INDIVIDUAL BY THE NAME OF KEVIN HARRIS?
13 A YES, IT LOOKS LIKE IT.
14 YES, IT IS.
15 Q ALL RIGHT. AND WHAT WAS YOUR
16 UNDERSTANDING OF WHO MR. HARRIS WAS AT THE TIME YOU
17 WROTE THIS LETTER?
18 A I ASSUME MR. HARRIS WAS A STUDENT AT
19 CORNELL UNIVERSITY.
20 I DID NOT KNOW IF HE WAS A GRADUATE
21 STUDENT OR POST-GRADUATE STUDENT, PROBABLY THE
22 LATTER, I WOULD THINK.
23 Q THIS IS A LETTER IN WHICH YOU RESPONDED
24 TO HIM CONCERNING HIS INQUIRY?
25 A YES.
26 Q AND PERSONALLY DONE BY YOU, AND THOSE ARE
27 YOUR INITIALS HERE?
28 A YES.

1 Q AND THE PURPOSE OF THE LETTER WAS WHAT,
2 SIR, YOUR PURPOSE?

3 A THE PURPOSE WAS TO ANSWER HIS QUERIES,
4 HIS CONCERNS AND TO TRY TO MAKE IT CLEAR THAT
5 MONSANTO WAS TAKING AN ENTIRELY RESPONSIBLE POSITION
6 IN TRYING TO DEAL WITH THIS PROBLEM.

7 Q ALL RIGHT. THEN 550, IS THAT ALSO A
8 LETTER THAT YOU WROTE, SIR?

9 A YES, IT IS.

10 Q AND THAT WAS TO A MRS. TUCKER?

11 A YES.

12 Q IN ST. LOUIS?

13 A YES.

14 Q AND WHAT WAS YOUR UNDERSTANDING OF WHO
15 SHE WAS, SIR?

16 A I THINK SHE WAS A RESIDENT OF ST. LOUIS
17 WHO HAD A GENERAL CONCERN FOR THE ENVIRONMENT.

18 SHE WROTE TO MR. BOCK EXPRESSING HER
19 CONCERNS.

20 AND HE CONSIDERED IT WORTHY OF A DETAILED
21 REPLY WHICH I ENDEAVORED TO MAKE.

22 Q AND THIS WAS A FOUR-PAGE RESPONSE THAT
23 YOU PREPARED YOURSELF?

24 A YEAH.

25 THE COURT: MR. PREUSS, WE HAVE REACHED THE
26 TIME FOR THE MORNING BREAK.

27 LADIES AND GENTLEMEN, WE WILL BE IN
28 RECESS UNTIL 11 O'CLOCK.

1 PLEASE RETURN AT THAT TIME.

2 (RECESS.)

3 THE COURT: AND RESUMING.

4 MR. PREUSS.

5 MR. PREUSS: THANK YOU, YOUR HONOR.

6 Q MR. MASON, WHEN WE BROKE OFF WE WERE
7 TALKING ABOUT SOME OF THE DISCUSSIONS THAT YOU HAD
8 WITH CONGRESSMAN RYAN AND ALSO WITH THE OFFICE OF THE
9 PRESIDENT.

10 IN THE TIME FRAME, '69 TO '71, WHEN YOU
11 WERE ACTIVELY INVOLVED IN THE MANAGEMENT OF THE PCB
12 ISSUE AT MONSANTO, DID YOU ANTICIPATE ANY REGULATORY
13 ACTIVITY WITH RESPECT TO PCB'S AND MONSANTO'S
14 INVOLVEMENT WITH THAT PRODUCT?

15 A YES.

16 I THINK I WAS EXPECTING THAT WE WERE
17 GOING TO SEE SOME REGULATORY ACTION IN THE FIELD OF
18 USE OF POLYCHLORINATED BIPHENYLS CLOSE TO THE FOOD
19 INDUSTRY.

20 THERE HAD BEEN ONE OR TWO CASES, AS YOU
21 KNOW, WHERE PROBLEMS HAD OCCURRED. I WOULD NOT HAVE
22 BEEN SURPRISED TO SEE LEGISLATION IN THAT AREA.

23 WE WANTED TO ANTICIPATE AND TAKE THAT
24 ACTION OURSELVES.

25 WE DIDN'T NEED TO WAIT FOR LEGISLATION.

26 AND WE DID DISCONTINUE, AS YOU KNOW,
27 SALES TO FOOD-RELATED INDUSTRIES.

28 Q AND THAT WAS ON A VOLUNTARY BASIS PRIOR

1 TO ANY REGULATORY ACTIVITY?

2 A YES, IT WAS.

3 Q NOW, AS OF MARCH OF '71 WHICH YOU
4 INDICATED WAS A FOLLOW-UP MEETING WITH THE CMC TO
5 REVIEW THE PROGRESS OF ACTIONS IN COMPLIANCE WITH THE
6 SCHEDULE SET FORTH IN MAY OF THE PRECEDING YEAR, HAD
7 THE AMOUNT OF SALES OF AROCLOR PRODUCTS BEEN REDUCED?

8 A CERTAINLY HAD.

9 THEY WERE BELOW 60 PERCENT OF WHAT THEY
10 WERE IN 1969.

11 Q AND HAD CAPITAL EXPENDITURES BEEN MADE IN
12 AN EFFORT TO REFORMULATE A NUMBER OF PRODUCTS?

13 A YES, THEY HAD.

14 I CAN'T RECALL THE ACTUAL NUMBER.

15 Q OKAY. AND HAD THE NUMBERS OF CUSTOMERS
16 BEEN REDUCED AS A RESULT OF THIS SIX-POINT PROGRAM?

17 A YES, SIGNIFICANTLY, OF COURSE.

18 FOR A START ALL THE PLASTICIZERS
19 CUSTOMERS HAD DISAPPEARED FROM THE AROCLOR LIST AND
20 THERE WERE SIGNIFICANT REDUCTIONS IN HYDRAULIC FLUIDS
21 AND FIRE-RESISTANT FLUIDS.

22 Q AND WITH THE EXCEPTION OF THE ELECTRICAL
23 INDUSTRY, HAD THE HIGHER-CHLORINATED PRODUCTS BEEN
24 REFORMULATED AND THE OLD PRODUCTS WITH THE HIGHER
25 CHLORINATED COMPOSITIONS BEEN REMOVED OR SALES
26 TERMINATED IN THAT AREA?

27 A YES, THEY HAD, WITH THE EXCEPTION OF THE
28 ELECTRICAL INDUSTRY.

1 Q NOW, SOMETIME AFTER THIS MEETING IN MARCH
2 OF 1971 DID A CERTAIN EVENT OCCUR WHICH REQUIRED
3 FURTHER ACTION ON BEHALF OF MANAGEMENT WITH RESPECT
4 TO CONTROLLING CUSTOMERS AND SALES OF THE PRODUCT?

5 A YES.

6 Q AND WHAT OCCURRED, SIR?

7 A THERE WAS A CASE OF A COMPANY CALLED EAST
8 COAST TERMINALS, I THINK IT WAS, WHO, IT APPEARED,
9 HAD MADE AN ANIMAL FEED WHICH BECAME BADLY
10 CONTAMINATED WITH POLYCHLORINATED BIPHENYLS.

11 WE FOUND OUT THAT THIS WAS DUE TO A HEAT
12 TRANSFER SYSTEM THEY WERE USING.

13 THEY HAD A SERIES OF PADDLE BLADES WHICH
14 MIXED THE FEED.

15 THEY WERE HEATING THEM BY CIRCULATING
16 POLYCHLORINATED BIPHENYLS THROUGH THE PADDLE BLADES.

17 NOW, THIS WAS A VERY DIFFICULT PROBLEM
18 BECAUSE WE HAD SOLD THE PRODUCT TO EAST COAST
19 TERMINALS NOT UNDERSTANDING THAT THEY WERE INVOLVED
20 IN ANIMAL FEED. WE THOUGHT IT WAS A NORMAL
21 INDUSTRIAL USE.

22 AS IT TURNED OUT IT WAS A BAD DECISION.

23 THIS GREATLY AFFECTED OUR THINKING AND
24 CERTAINLY AFFECTED MANAGEMENT'S THINKING ON THE BASIS
25 THAT WE WERE GETTING TO THE STAGE THAT WE COULD ONLY
26 SAY THAT APART FROM THE ELECTRICAL INDUSTRY AND VERY
27 SOPHISTICATED USERS, WE HAD NO WAY IN WHICH
28 POLYCHLORINATED BIPHENYLS WERE GOING TO BE RESTRICTED

1 FROM GETTING INTO THE ENVIRONMENT.

2 AS A RESULT OF THIS ISSUE WE PUT TOGETHER
3 A PRESENTATION AND WE WENT TO THE MONSANTO BOARD OF
4 DIRECTORS IN NOVEMBER, 1971.

5 Q WAS IT NOVEMBER OR DECEMBER, SIR?

6 A I THINK THE MEETING WAS IN NOVEMBER.

7 I STAND TO BE CORRECTED, SIR.

8 Q OKAY.

9 A IT WAS EITHER NOVEMBER OR EARLY
10 DECEMBER.

11 Q OKAY. AND YOU SAY A MEETING BEFORE THE
12 BOARD?

13 A THE BOARD OF DIRECTORS, THAT INCLUDED, OF
14 COURSE, THE OUTSIDE DIRECTORS IN ADDITION TO THE
15 INTERNAL DIRECTORS.

16 Q THE BOARD IS DIFFERENT FROM WHAT WE WERE
17 TALKING BEFORE AS THE CMC?

18 A IT IS, YES.

19 Q AND THAT INVOLVED OUTSIDE DIRECTORS AS
20 WELL?

21 A YES.

22 Q OKAY. AND DID THE EAST COAST TERMINAL
23 INCIDENT AFFECT YOU, AS WELL, IN TERMS OF MONSANTO'S
24 APPROACH TO THE ISSUE?

25 A YES. IT DID.

26 I THINK WE FELT WE WERE GETTING TO THE
27 STAGE THERE WAS NO WAY, APART FROM SEVERAL
28 SOPHISTICATED USERS, THAT WE COULD CONTROL THIS

1 PRODUCT.

2 Q PRIOR TO THIS MEETING OF THE BOARD, SIR,
3 DID YOU CONSIDER WHAT AN IMPACT TO STOP SALES OF PCB
4 PRODUCTS EXCEPT IN THE ELECTRICAL APPLICATIONS WOULD
5 CAUSE ON EXISTING CUSTOMERS?

6 A YES, WE DID.

7 WE HELD DISCUSSIONS WITH THE ELECTRICAL
8 INDUSTRY AND ALSO WITH ONE OR TWO VERY SOPHISTICATED
9 USERS IN OTHER APPLICATIONS.

10 THEIR REACTIONS, OF COURSE, WERE VERY
11 MUCH AGAINST OUR DISCONTINUING.

12 IT WAS QUITE APPARENT THAT IF WE WERE TO
13 DO IT PRECIPITOUSLY, WE WERE GOING TO BE INVOLVED IN
14 VERY SERIOUS DIFFICULTIES WITH THEM.

15 Q AND WITH THAT INFORMATION DID YOU,
16 NEVERTHELESS, GO AHEAD AND MAKE A PRESENTATION TO THE
17 BOARD?

18 A WE DID, YES.

19 Q AND WHEN YOU SAY "WE DID," DID YOU, SIR?

20 A I'M SORRY, I DID.

21 I SHOULDN'T USE THE ROYAL "WE."

22 Q AND WHAT DID YOU RECOMMEND TO THE BOARD,
23 IF ANYTHING, IN THAT DECEMBER OF '71 MEETING?

24 A ESSENTIALLY WE RECOMMENDED TO THE BOARD
25 THAT WE SHOULD SELL ONLY TO TRANSFORMER AND CAPACITOR
26 CUSTOMERS AND ONLY ON THE BASIS THAT THEY SUPPLIED US
27 WITH DOCUMENTATION WHICH WOULD GUARANTEE, SHOULD
28 THERE BE ANY SERIOUS PROBLEM, THAT MONSANTO WOULD BE

1 HELD HARMLESS.

2 WE ALSO RECOMMENDED THE COMPLETE PHASEOUT
3 OF THE POLYCHLORINATED TERPHENYLS THAT YOU HAVE HEARD
4 SOMETHING ABOUT, THESE PRODUCTS.

5 THEY DID HAVE A SMALL CONTAMINATORY
6 PROBLEM WITH POLYCHLORINATED BIPHENYLS.

7 ESPECIALLY WE WERE SAYING TO THE BOARD
8 THAT IN A LITTLE TIME WE HAVE TO GO OUT OF THIS
9 BUSINESS. WE HAVE TO GIVE THE ELECTRICAL INDUSTRY
10 AND OTHER SIGNIFICANT USERS, FOR EXAMPLE, TEXAS
11 EASTERN GAS, I THINK, WAS A POSSIBILITY, WE HAVE TO
12 SAY TO THEM, "YOU HAVE TO GET OUT BUT WE ARE GOING TO
13 GIVE YOU TIME.

14 "AND WHILE YOU ARE GETTING OUT OF THE
15 BUSINESS WE HAVE TO HAVE SOME PROTECTION."

16 BUT REALLY WE WERE SAYING, "THAT'S IT."

17 Q AND HOW DID THE BOARD RESPOND TO YOUR
18 RECOMMENDATION AND THOSE OF YOUR FELLOW MANAGERS THAT
19 MADE PRESENTATIONS?

20 A THE BOARD RESPONDED VERY POSITIVELY AND
21 AGREED THOROUGHLY WITH THE RECOMMENDATION.

22 Q AND HOW LONG DID YOU CONTINUE IN YOUR JOB
23 AS ASSISTANT GENERAL MANAGER OF ORGANICS AFTER THAT
24 BOARD PRESENTATION, SIR?

25 A I WAS JUST ABOUT AT THE END OF MY
26 TENURE.

27 I LEFT FOR BELGIUM, RETURNED TO BELGIUM,
28 I THINK, IN THE FIRST WEEK OF JANUARY OF 1972.

1 Q AND WHAT PERCENTAGE OF MONSANTO'S OVERALL
2 BUSINESS, SIR, WAS REPRESENTED BY THE AROCLOR
3 BUSINESS AS OF THE TIME?

4 A A SMALL PERCENTAGE, ONE, TWO, PERCENT,
5 SOMETHING OF THAT ORDER.

6 Q ALL RIGHT. WHAT WAS YOUR -- AFTER
7 LEAVING ST. LOUIS I TAKE IT YOU HAD ANOTHER
8 ASSIGNMENT WITH MONSANTO?

9 A YES, I HAD.

10 Q AND WHAT WAS THAT, SIR?

11 A MY ASSIGNMENT WAS AS DIRECTOR OF MONSANTO
12 INDUSTRIAL CHEMICAL COMPANY IN EUROPE.

13 Q AND WHERE WERE YOU LOCATED?

14 A I WAS LOCATED IN BRUSSELS.

15 Q OKAY. AND HOW LONG DID YOU HOLD THAT
16 JOB?

17 A I HELD THAT JOB FOR -- NEARLY SIX YEARS,
18 FIVE AND A HALF YEARS.

19 Q OKAY. AND AFTER THAT DID YOU RECEIVE
20 ANOTHER ASSIGNMENT FROM MONSANTO?

21 A YES.

22 I WAS ASSIGNED TO BE PRESIDENT OF
23 MONSANTO COMPANY IN SPAIN, A COMPANY CALLED AISCANDEL
24 WHICH WAS IN RATHER SERIOUS FINANCIAL DIFFICULTIES.

25 Q AND YOUR JOB WAS TO SEE IF YOU COULD FIX
26 THAT?

27 A YES.

28 Q HOW LONG DID YOU STAY IN THAT JOB?

1 A THREE AND A HALF YEARS. AND THE COMPANY
2 IS STILL IN EXISTENCE TODAY.

3 Q DID YOU HAVE A FURTHER ASSIGNMENT WITH
4 MONSANTO AFTER THAT?

5 A YES. I RETURNED TO THE UNITED KINGDOM
6 WHERE I BECAME CHAIRMAN OF THE BOARD OF DIRECTORS OF
7 MONSANTO IN THE UNITED KINGDOM UNTIL I RETIRED IN
8 1984.

9 Q NOW, WHILE YOU WERE AT MONSANTO, SIR,
10 WERE YOU AWARE OF ANY OTHER SITUATION THAT A COMPANY
11 WAS FACING INVOLVING AN ENVIRONMENTAL SITUATION SUCH
12 AS PCB'S THAT HAD PRECEDED THE SITUATION THAT
13 MONSANTO WAS FACED WITH?

14 A NO, SIR, I DON'T THINK I WAS.
15 THE ONLY PREVIOUS SITUATION HAD BEEN THE
16 DDT SITUATION.

17 AND I DON'T THINK THAT THAT, IN ANY WAY,
18 WAS MANAGED OR ATTEMPTED TO BE MANAGED.

19 IT WAS SHUT DOWN BY A REGULATORY ACTION
20 AND THAT WAS THE END OF IT.

21 Q NOW, MONSANTO WASN'T INVOLVED IN DDT, WAS
22 IT?

23 A NO.

24 Q WERE THERE ANY PRECEDENTS, THEN,
25 AVAILABLE TO MONSANTO AS TO THE TYPE OF ACTION OR
26 APPROPRIATE RESPONSE IT SHOULD TAKE TO THE PCB
27 SITUATION?

28 A TO THE BEST OF MY KNOWLEDGE, NO. I THINK

1 WE HAD TO LEARN AS WE WENT ALONG.

2 I THINK THAT APPLIES. WE HAVE HAD A
3 LITTLE CRITICISM THAT WE WERE SLOW AT THE BEGINNING.

4 WE HAD TO LEARN. WE HAD TO FIND OUR WAY.

5 PERSONALLY, LOOKING BACK, I THINK
6 MONSANTO DID AN EXCELLENT JOB IN HANDLING THIS
7 PROBLEM.

8 CERTAINLY WE DID SOME THINGS WRONG, OF
9 COURSE WE DID.

10 WHEN YOU ARE LEARNING IT, YOU DO THINGS
11 WRONG.

12 BUT I HAVE NO HESITATION IN SAYING THAT
13 MONSANTO BEHAVED LIKE A RESPONSIBLE COMPANY BOTH TO
14 ITS SHAREHOLDERS, EMPLOYEES AND TO THE GENERAL
15 PUBLIC.

16 MR. PREUSS: THANK YOU, SIR. NO FURTHER
17 QUESTIONS.

18 THE COURT: ALL RIGHT. MR. TALLON.

19 MR. TALLON: THANK YOU, YOUR HONOR.

20

21 CROSS EXAMINATION

22 BY MR. TALLON:

23 Q MR. MASON?

24 A HELLO.

25 Q LET'S SEE.

26 YOU JOINED MONSANTO IN 1949 AND STARTED
27 WORKING AT RUABON, CORRECT?

28 A CORRECT.

1 Q AND YOU RETIRED IN 1984?

2 A YEAH.

3 Q AS CHAIRMAN OF MONSANTO UK.

4 WHEN YOU WERE CHAIRMAN OF MONSANTO UK DID
5 THE BOARD OF DIRECTORS OF THAT ENTITY KEEP MINUTES?

6 A YES, CERTAINLY.

7 Q IT'S PRETTY COMMON PRACTICE FOR A BOARD
8 OF DIRECTORS, RIGHT?

9 A SURELY.

10 Q OKAY. NOW, YOU MOVED TO THE UNITED
11 STATES -- YOU MOVED TO THE UNITED STATES WITH YOUR
12 FAMILY IN JUNE, 1969, RIGHT?

13 A YES.

14 Q BUT YOU ACTUALLY HAD MADE A COUPLE OF
15 TRIPS BACK AND FORTH TO THE UNITED STATES FROM THE UK
16 IN THE FIRST PART OF 1969?

17 A YES, FROM BELGIUM.

18 Q FROM BELGIUM.

19 AND WHEN YOU GOT HERE YOU WERE MADE
20 RESPONSIBLE FOR OVERALL MANAGEMENT OF THE FUNCTIONAL
21 FLUIDS GROUP, INCLUDING RESEARCH AND MARKETING?

22 A YES.

23 Q AND BY THAT TIME THE PCB ENVIRONMENTAL
24 ISSUE WAS PRETTY MUCH A SUBJECT OF DISCUSSION WITHIN
25 MONSANTO, RIGHT?

26 A CORRECT.

27 Q AND WHEN YOU GOT THERE MR. MINCKLER
28 BRIEFED YOU ON THE SITUATION, RIGHT?

1 A YES, SIR.

2 Q AND YOU ALSO LOOKED AT SOME DOCUMENTS AND
3 IN OTHER WAYS GOT YOURSELF UP THE LEARNING CURVE?

4 A YES.

5 Q OKAY. NOW, YOU LEFT THE U.S. AT THE
6 START OF 1972?

7 A YES.

8 Q OKAY. BUT BEFORE YOU ARRIVED IN THE
9 UNITED STATES, BEFORE YOU TOOK ON YOUR JOB WITH THE
10 FUNCTIONAL FLUIDS GROUP, YOU HAD ACTUALLY ALREADY
11 HEARD ABOUT WHAT WIDMARK AND JENSEN HAD DONE IN
12 SWEDEN, RIGHT?

13 A YES.

14 Q AND YOU HEARD ABOUT THAT IN LATE '67 OR
15 '68?

16 A YES.

17 Q AND THAT INITIAL NEWS SURPRISED YOU
18 BECAUSE YOU UNDERSTOOD THAT MONSANTO WAS SELLING ITS
19 PRODUCTS FOR USE IN CLOSED SYSTEMS AND YOU COULDN'T
20 FIGURE OUT HOW PCB'S WERE SHOWING UP IN BIRD FEATHERS
21 IN NORTHERN SWEDEN?

22 A THAT IS PARTLY TRUE.

23 I WAS AWARE THAT MONSANTO WAS SELLING
24 AROCLORS TO NOT ONLY ENTIRELY CLOSED SYSTEMS, FOR
25 EXAMPLE PLASTICIZERS, ALTHOUGH WE DIDN'T HAVE MUCH
26 BUSINESS IN EUROPE IN THAT DIRECTION. BUT I WAS
27 AWARE THEY DID EXIST.

28 Q I THINK YOU SAID WHEN YOU STARTED ON YOUR

1 NEW JOB IN '69 ONE OF THE THINGS YOU DID WAS TO GO
2 AROUND WITH MR. -- DR. KELLY, RIGHT?

3 A YES.

4 Q DID DR. KELLY TELL YOU WHEN HE TOOK YOU
5 ON YOUR JOB THAT HE HAD BECOME PERSONALLY CONVINCED
6 OF THE VALIDITY OF WIDMARK AND JENSEN'S WORK WITHIN A
7 YEAR OF FIRST HEARING IT, THAT IS TO SAY, WITHIN A
8 YEAR OF NOVEMBER OF '66?

9 A ARE YOU REFERRING TO DR. KELLY, THE
10 MEDICAL DIRECTOR?

11 Q I AM.

12 A BECAUSE DR. KELLER OF COURSE IS --

13 Q WE WILL GET TO DR. KELLER.

14 A IT'S DR. KELLY YOU ARE TALKING ABOUT?

15 Q YES.

16 A I DON'T THINK HE TOLD ME THAT, NO, NOT
17 SPECIFICALLY.

18 BUT I COULD BE WRONG.

19 THAT IS 22, 23 YEARS AGO. I'M SORRY.

20 Q CERTAINLY.

21 AND DO YOU RECALL TALKING WITH DR. KELLER
22 IN THAT SAME TIME PERIOD, 1969, AND HIM TELLING YOU
23 THAT HE HAD BECOME PERSONALLY CONVINCED OF THE
24 VALIDITY OF WIDMARK AND JENSEN, WITHIN A YEAR OF
25 HEARING ABOUT IT?

26 A YES, I THINK SO, YES.

27 Q SO YOU COME TO THE UNITED STATES. YOU
28 MOVE TO ST. LOUIS. AND AT THAT POINT LOTS OF PEOPLE

1 WITHIN MONSANTO ARE LOOKING AT THE PCB ISSUE,
2 CORRECT?

3 A YES.

4 Q AMONG OTHER THINGS, THERE IS THE AD HOC
5 COMMITTEE CHAIRED BY ELMER WHEELER, RIGHT?

6 A YES.

7 Q AND THAT AD HOC COMMITTEE PROCESS IS
8 HEADED STRAIGHT FOR A MEETING OF THE CORPORATE
9 MANAGEMENT COMMITTEE IN NOVEMBER, 1969?

10 A YES.

11 Q AT WHICH YOU WERE PRESENT?

12 A YES.

13 Q OKAY. THAT WAS THE CMC MEETING WHERE THE
14 POSITION LATER FILLED BY MR. PAPAGEORGE WAS CREATED?

15 A CORRECT.

16 Q OKAY. AND LET'S LOOK AT THE MINUTES OF
17 THAT MEETING AGAIN, EXHIBIT 111.

18 ARE YOU WITH ME?

19 A YES.

20 Q COULD YOU TURN TO THE SECOND PAGE WHERE
21 THE MINUTES INDICATE "ENVIRONMENTAL ASPECTS, E.P.
22 WHEELER."

23 A YES.

24 Q THAT IS ELMER WHEELER WHO WAS THE CHAIR
25 OF THE PCB AD HOC COMMITTEE?

26 A CORRECT.

27 Q NOW, YOU REMEMBER AT THAT MEETING THAT
28 ONE OF THE THINGS THAT MR. WHEELER TOLD THE CMC WAS

1 THAT THE AROCLOR PRODUCTS ARE NOT TOXIC FROM THE
2 ACUTE STANDPOINT TO MAN OR FISH BUT THERE IS SOME
3 EVIDENCE OF ECOLOGICAL BUILDUP IN CERTAIN WATER
4 DEPOSITS IN FISH AND ALSO IN BIRD LIFE, CORRECT?

5 A CORRECT.

6 Q AND THAT WAS REALLY THE PROBLEM, WASN'T
7 IT?

8 A YES.

9 Q AND THE REASON IT WAS REALLY THE PROBLEM
10 WAS YOU DIDN'T REALLY KNOW WHAT THE LONG-TERM EFFECTS
11 OF HAVING PCB'S IN THE FOOD CHAIN WERE?

12 A NO, WE DIDN'T.

13 Q AND THAT WAS A CONCERN?

14 A YES.

15 Q IN FACT, YOU STARTED HEARING THINGS ABOUT
16 BIOACCUMULATION, RIGHT?

17 A YES.

18 Q AND BIOMAGNIFICATION?

19 A YES.

20 Q AND THE CONCERN WAS WHAT HAPPENS IF PCB'S
21 ARE PICKED UP, BIOMAGNIFIED OR BIOACCUMULATED IN FISH
22 THAT PEOPLE EAT, RIGHT?

23 A YES.

24 Q AND YOU WERE CONCERNED THAT IF PEOPLE ATE
25 ENOUGH FISH OR ENOUGH FOWL WITH PCB'S IN IT, THAT
26 COULD HAVE ENZYMATIC CHANGES IN THE LIVER, RIGHT?

27 A IT WAS A CONCERN, I BELIEVE, YES.

28 Q AND WHY WOULD YOU BE CONCERNED ABOUT

1 ENZYMATIC CHANGES IN THE LIVER?

2 A I'M SORRY.

3 YOU ARE IN A FIELD I DON'T UNDERSTAND
4 PROPERLY.

5 Q OKAY.

6 A BUT THERE WAS TALK OF THIS, I KNOW.

7 Q PART OF THE TALK THAT YOU HEARD WAS THAT
8 THE REASON MONSANTO OUGHT TO BE CONCERNED ABOUT
9 ENZYMATIC CHANGES IN THE LIVER IS THAT ENZYMATIC
10 CHANGES IN LIVER FUNCTION COULD LEAD TO CANCER,
11 RIGHT?

12 A I DON'T KNOW MEDICALLY.

13 BUT YOU ARE PROBABLY RIGHT.

14 Q OKAY.

15 A I'M SORRY.

16 I LOST TRACK OF WHAT YOU ARE TRYING TO
17 GET OUT OF ME HERE.

18 Q LET'S MOVE ON AND TAKE A LOOK AT THIS
19 NEXT PARAGRAPH.

20 MAYBE WE CAN FOCUS TOGETHER.

21 A RIGHT.

22 Q NOW, ONE OF THE THINGS THAT MR. WHEELER
23 TOLD THE CMC IN NOVEMBER OF 1969 WERE THAT AROCLORS
24 1248 AND LOWER IN NUMBER ARE BELIEVED TO BE
25 BIODEGRADABLE. BUT THIS HAS NOT BEEN CONCLUSIVELY
26 ESTABLISHED AS YET, CORRECT?

27 A YES.

28 Q SO THERE WAS MIXED EVIDENCE?

1 A YES.

2 Q AND WOULD YOU FLIP THE PAGE, PLEASE,
3 MR. MASON.

4 A YES.

5 Q OKAY. THESE WERE THE POINTS THAT WERE
6 RECOMMENDED TO THE CMC BY THE AD HOC COMMITTEE,
7 RIGHT?

8 A YES, CORRECT.

9 Q AND ONE OF THEM, POINT SIX, WAS TO
10 INTRODUCE ON THE MARKET REPLACEMENT PRODUCTS FOR 1254
11 AND 1260, RIGHT?

12 A YES.

13 Q NOW, THE REASON THAT RECOMMENDATION WAS
14 MADE, YOU UNDERSTOOD, WAS BECAUSE WHAT WAS SHOWING UP
15 IN THE ENVIRONMENT MOST REGULARLY WERE THE 5/6
16 CHLORINES AND HIGHER, RIGHT?

17 A THAT IS CORRECT.

18 Q AND 1254 AND 1260 WERE THE PRODUCTS THAT
19 HAD THE MOST 5/6 CHLORINES AND HIGHER?

20 A YES.

21 Q OKAY. SO ONE WAY TO DEAL WITH THE
22 PROBLEM WAS TO TAKE 1254 AND 1260 OFF THE MARKET,
23 OKAY?

24 A YES.

25 Q BUT YOU ALSO KNEW THAT AROCLOR 1242
26 CONTAINED 10 PERCENT 5/6 CHLORINES AND HIGHER?

27 A YES.

28 I DOUBT IF I PERSONALLY KNEW THAT AT THAT

1 POINT IN TIME.

2 Q OKAY. THAT IS WHY YOU UNDERSTOOD POINT
3 10 OF THE AD HOC COMMITTEE PLAN WAS TO DETERMINE, THE
4 FEASIBILITY AND COST OF ELIMINATING 5/6 CHLORINES IN
5 AROCLORS 1242 AND 1248, RIGHT?

6 A RIGHT.

7 Q BECAUSE 1242 CONTAINED THE SAME
8 PERSISTENT CHLORINES AS 1254 AND 1260?

9 A IT CONTAINED A MUCH SMALLER PERCENTAGE OF
10 THEM, YES.

11 Q SURE. BUT IT CONTAINED THE SAME
12 CHLORINES?

13 A IT DOES CONTAIN SOME, YEAH.

14 AND THIS BECAME MORE AND MORE EVIDENT AS
15 WE WENT ALONG.

16 Q WELL, IT WAS ALWAYS EVIDENT TO YOU THAT
17 1242 CONTAINED THE CHLORINATED BLEND?

18 A SOME, YES.

19 Q THAT HAD TO BE THE CASE, RIGHT?

20 A YES.

21 NONE OF THE AROCLORS WAS A SINGLE
22 CHEMICAL ENTITY IN ITSELF. IT WAS A BLEND.

23 Q BECAUSE OF THE MANUFACTURING PROCESS IT
24 WAS INEVITABLE FROM THE VERY FIRST TIME THAT MONSANTO
25 MADE 1242 THAT THERE WOULD BE HIGHER CHLORINES IN IT?

26 A CORRECT.

27 Q NOW, ARE YOU STILL WITH ME ON THE BOTTOM
28 OF THAT SAME PAGE UNDER CONCLUSIONS?

1 A YES.

2 Q OKAY. THOSE ARE THE DIRECTIONS OF THE
3 CORPORATE MANAGEMENT COMMITTEE, AS YOU UNDERSTOOD IT?

4 A YES.

5 Q AND ONE OF THE CONCLUSIONS WAS, "WE
6 SHOULD PLAN TO DISCONTINUE THE MANUFACTURE OF
7 AROCLORS 1254 AND 1260.

8 "THE DIVISION IS INSTRUCTED TO DEVELOP A
9 PROGRAM TO DISCONTINUE THESE PRODUCTS AND REPORT THIS
10 TO THE COMMITTEE."

11 A YES.

12 Q OKAY. AND "THE STATUS OF AROCLOR 1242
13 SHOULD CONTINUE TO BE TESTED TO DETERMINE WHETHER IT
14 CONTRIBUTES TO THIS PROBLEM," RIGHT?

15 A YES.

16 Q SO THAT WAS, AS YOU LEFT THE NOVEMBER
17 MEETING, THOSE WERE THE INSTRUCTIONS TO YOU FROM THE
18 CORPORATE MANAGEMENT COMMITTEE AND TO THE PEOPLE THAT
19 WORKED FOR YOU?

20 A CORRECT.

21 Q OKAY. NOW, THE CMC DIRECTED THAT 1242
22 SHOULD BE TESTED BECAUSE THERE WAS A QUESTION IN
23 EVERYONE'S MIND AS TO THE EXTENT TO WHICH IT WAS
24 CONTRIBUTING TO THE ENVIRONMENTAL PROBLEM, RIGHT?

25 A CORRECT.

26 Q IT WAS IMPORTANT TO INVESTIGATE TO SEE IF
27 THE 5/6 CHLORINES IN THE ENVIRONMENT WERE COMING, IN
28 FACT, FROM 1242?

1 A CORRECT.

2 Q OKAY. NOW, MR. PAPAGEORGE COMES ON BOARD
3 THE BEGINNING OF '70 OR THEREABOUTS?

4 A BEFORE THAT, YES.

5 Q OKAY. AND ONE OF THE THINGS THAT YOU
6 TELL MR. PAPAGEORGE TO DO OR THAT SOMEONE WORKING FOR
7 YOU TELLS MR. PAPAGEORGE TO DO IS, PUT TOGETHER OUR
8 PLAN TO RESPOND TO WHAT THE CMC TOLD THE BUSINESS
9 DIVISION TO DO?

10 A CORRECT.

11 Q NOW, THIS WAS A HARD THING FOR YOU AND
12 THE PEOPLE WHO WORKED FOR YOU, RIGHT?

13 A A HARD THING TO EXPLAIN.

14 Q OKAY. WELL, IF YOU WERE GOING TO BE PUT
15 OUT OF THE BUSINESS OF SELLING 1254 AND 1260 AND
16 MAYBE 1242, THAT WAS GOING TO MEAN THAT A LOT OF YOUR
17 BUSINESS WOULD DISAPPEAR, RIGHT?

18 A IT COULD, YES.

19 Q WELL, IF YOU WERE GOING TO STOP SELLING
20 1254 AND 1260, CERTAINLY THE SALES THAT YOUR GROUP
21 ENJOYED FROM THOSE PRODUCTS WOULD GO AWAY UNLESS
22 REPLACED, OKAY?

23 A YES.

24 Q AND THAT WAS NOT PARTICULARLY WELCOME --
25 A WELCOME JOB FOR ANYBODY WORKING FOR YOU BECAUSE
26 NOBODY WANTED TO BE IN CHARGE OF A DIVISION THAT WAS
27 GOING TO BE STRIPPED OF MAJOR PRODUCTS?

28 A NO.

1 Q AND, IN FACT, YOU HAD SOME CONCERN THAT
2 IF YOU TOOK THE ACTION REQUESTED BY THE CMC, PEOPLE
3 WOULD LOSE THEIR JOBS AND THE ORGANIC DIVISION WAS
4 GOING TO LOSE A LOT OF PRODUCT?

5 A I DON'T THINK THAT STATEMENT IS ENTIRELY
6 CORRECT.

7 NOBODY WOULD HAVE LOST THEIR JOBS IF THAT
8 HAD OCCURRED. CERTAINLY THE DIVISION WOULD HAVE LOST
9 SOME PROFIT. LET'S PUT IT IN THE CORRECT
10 PERSPECTIVE, PLEASE.

11 Q SO YOU WERE CONCERNED IF YOU FOLLOWED THE
12 INSTRUCTIONS OF THE CMC TO THE LETTER THE DIVISION
13 OVER WHICH YOU WERE PRESIDING AS ASSISTANT GENERAL
14 MANAGER WOULD LOSE PRODUCTS?

15 A IT WAS A CONCERN, OF COURSE, BUT NOT THE
16 ONLY CONCERN.

17 Q OKAY. MR. PAPAGEORGE PUT TOGETHER WHAT
18 HE THOUGHT OUGHT TO BE THE DIVISION'S, THE ORGANIC
19 DIVISION'S RESPONSE TO THE CMC DIRECTIVES, CORRECT?

20 A YES.

21 Q AND HE CIRCULATED THAT AROUND THE
22 BUSINESS PEOPLE, INCLUDING YOU, FOR COMMENTS BEFORE
23 THE NEXT REGULARLY SCHEDULED CMC MEETING AT WHICH
24 THIS ISSUE WAS TO BE TAKEN UP?

25 A THAT IS CORRECT.

26 Q AND I THINK YOU ARE PROBABLY STILL IN THE
27 SAME BOOK THERE, MR. MASON.

28 BUT IF YOU WOULD LOOK AT TRANSWESTERN

1 135, PLEASE.

2 A 135?

3 Q 135.

4 A YES.

5 Q THAT IS MR. PAPAGEORGE'S APRIL 7, 1970
6 MEMO TO MR. BERGEN, YOU, MINCKLER, SPRINGGATE AND
7 OTHERS?

8 A CORRECT.

9 Q AND WHAT HE IS ENCLOSING WITH HIS COVER
10 MEMO IS HIS PLAN IN DRAFT FOR MANAGING THE PCB
11 PROBLEM?

12 A THAT IS CORRECT.

13 Q OKAY. AND IF YOU WOULD TURN TO THE PLAN
14 ITSELF, MR. MASON, AND PARTICULARLY TO THE SECTION
15 ENTITLED "OBJECTIVES," YOU AGREED WITH MR. PAPAGEORGE
16 THAT THE OVERALL OBJECTIVE OF THE PLAN WAS TO MANAGE
17 THE PCB POLLUTION PROBLEM, TO PREVENT IT FROM
18 ADVERSELY AFFECTING THE ESTABLISHED RETURN ON
19 INVESTMENT OBJECTIVES OF THE FUNCTIONAL FLUIDS AND
20 PLASTICIZER GROUPS WHILE MAINTAINING THE CORPORATE
21 IMAGE OF MONSANTO AS A RESPONSIBLE AND RESPECTED
22 MEMBER OF INDUSTRY WORLDWIDE, RIGHT?

23 A YES, THAT IS WHAT IT SAYS THERE.

24 Q AND YOU WOULD AGREE THAT THAT WAS THE
25 OVERALL OBJECTIVE, RIGHT?

26 A IT WAS A LARGE PART OF THE OBJECTIVE,
27 YES.

28 Q NOW, THE WAY THAT THAT OBJECTIVE WOULD BE

1 CARRIED OUT, AS YOU UNDERSTOOD IT, WAS THAT IT WOULD
2 BE ACCOMPLISHED BY SELLING TO CUSTOMERS WHO USED YOUR
3 PRODUCT IN ENCLOSED SYSTEMS AND REPLACING CERTAIN
4 PRODUCTS WITH NEW PRODUCTS WHERE EMISSIONS TO THE
5 ENVIRONMENT COULD NOT BE CONTROLLED?

6 A YES, THAT IS CORRECT.

7 Q OKAY. NOW, USES WHERE YOU HAD BECOME
8 CONVINCED THAT CUSTOMERS WERE NOT IN A GOOD POSITION
9 TO CONTROL EMISSIONS TO THE ENVIRONMENT WERE
10 PLASTICIZERS AND HYDRAULIC-TYPE APPLICATIONS?

11 A YES, IN GENERAL, THAT'S TRUE.

12 Q AND PLASTICIZERS, THAT WAS A PRETTY EASY
13 CALL BECAUSE PLASTICIZERS WERE IN PAINTS, FOR
14 EXAMPLE.

15 THAT IS CERTAINLY VERY OPEN TO THE
16 ENVIRONMENT IF YOU HAVE A YELLOW LINE DOWN THE CENTER
17 OF THE HIGHWAY WHICH IS PAINTED WITH PCB PAINT,
18 CORRECT?

19 A YES, CORRECT.

20 Q OKAY. AND WITH REGARD TO HYDRAULIC-TYPE
21 APPLICATIONS, THE EVIDENCE YOU WERE LOOKING AT SHOWED
22 YOU THAT CUSTOMERS USING HYDRAULIC FLUIDS WERE HAVING
23 LEAKS AND THAT THOSE LEAKS WERE PROBABLY GETTING INTO
24 THE ENVIRONMENT?

25 A YES, NOT ALL CUSTOMERS BUT SOME.

26 Q SOME.

27 IN FACT, BY THE EARLY PART OF 1970 YOU
28 WERE CONCERNED THAT THE FACT THAT A CUSTOMER HAD

1 ORDERED REPLACEMENT FLUIDS OR ADDITIONAL FLUIDS FROM
2 MONSANTO MEANT THAT A SPILL TO THE ENVIRONMENT COULD
3 HAVE OCCURRED?

4 A IT COULD HAVE, YES.

5 Q SO IF A CUSTOMER WAS BUYING PRODUCT FROM
6 MONSANTO AND KEPT ORDERING IT ON A REGULAR BASIS, YOU
7 UNDERSTOOD THAT IT WAS AT LEAST A POSSIBILITY THAT
8 THE REASON THEY WERE ORDERING MORE WAS SOME OF THE
9 STUFF THEY ALREADY HAD WAS BEING LOST TO THE
10 ENVIRONMENT?

11 A THAT WAS A POSSIBILITY, YES, I WOULD
12 AGREE WITH YOU.

13 Q NOW, YOU HAVE USED THE TERM AND I HAVE
14 USED THE TERM, TOO, "CLOSED SYSTEM," RIGHT?

15 YOU SAID THAT A TRANSFORMER WAS THE SORT
16 OF BEST EXAMPLE OF A CLOSED SYSTEM, RIGHT?

17 A IT'S A GOOD EXAMPLE, YES.

18 Q A GOOD EXAMPLE.

19 THE REASON IT'S SUCH A GOOD EXAMPLE IS
20 THAT IN A TRANSFORMER WHAT YOU DO IS, YOU TAKE A
21 METAL CAN, FILL IT WITH PCB FLUIDS AND THEN SEAL IT
22 IN SOME WAY LIKE WELDING IT SHUT?

23 A YES.

24 Q VERY DIFFICULT FOR THE PCB'S TO GET OUT.
25 THERE IS NO VALVES OR THAT SORT OF THING?

26 A CORRECT.

27 Q OKAY. NOW, YOU REVIEWED PAPAGEORGE'S
28 DRAFT AND YOU SENT HIM COMMENTS ON THAT DRAFT?

1 A I DID.

2 Q AND IF YOU WOULD LOOK AT TRANSWESTERN
3 NUMBER 137, I THINK YOU WILL FIND THAT THAT IS YOUR
4 RESPONSE TO MR. PAPAGEORGE'S DRAFT OF APRIL 7, 1970.

5 A IT IS.

6 Q OKAY.

7 A IT IS.

8 Q AND YOU WERE -- YOU HAD A LOT OF THINGS
9 ON YOUR PLATE.

10 SO BASICALLY WHAT YOU DID WAS READ
11 THROUGH MR. PAPAGEORGE'S DOCUMENT AND SEND HIM BACK A
12 MEMO SAYING, "HERE IS THINGS I WOULD LIKE YOU TO
13 CHANGE"?

14 A ESSENTIALLY, YES.

15 Q OKAY. AND, LET'S SEE.

16 THE FIRST PARAGRAPH, YOU SAY TO HIM, "IN
17 MY OPINION WE NEED TO TAKE A MUCH MORE AGGRESSIVE
18 ATTITUDE TO THIS SUBJECT.

19 "OTHERWISE WE WILL FIND OURSELVES
20 DIRECTED TO A COURSE OF ACTION WHICH MAY NOT BE IN
21 THE DIVISION'S BEST INTEREST," OKAY?

22 A CORRECT.

23 Q AND WHEN YOU SAID THAT, WHEN YOU WROTE
24 "WE NEED TO TAKE A MUCH MORE AGGRESSIVE ATTITUDE,"
25 YOU MEANT YOU WANTED TO AVOID LOSING THE ENTIRE PCB
26 BUSINESS OR A PART OF IT?

27 A THAT IS NOT ENTIRELY WHAT I MEANT.

28 THAT WAS CERTAINLY A PART IN MY MIND, BUT

1 ALSO I FELT THAT THE PLAN HAD TO HAVE MUCH MORE
2 PUNCH.

3 I PREFERRED A SHORTER PLAN WITH MUCH MORE
4 PUNCH IN IT.

5 THAT IS WHAT I WANTED TO GET THROUGH.

6 Q IT IS TRUE, MR. MASON, THAT ONE OF THE
7 THINGS YOU MEANT WAS YOU WANTED TO AVOID PUTTING THE
8 PLAN BEFORE THE CMC THAT WOULD RESULT IN YOUR LOSING
9 THE ENTIRE PCB BUSINESS OR A MAJOR PART OF IT?

10 A I THINK THAT OBVIOUSLY WAS IN MY MIND.
11 BUT IT ALSO COULD HAVE BEEN A BAD
12 DECISION TO TAKE AT THAT POINT IN TIME.

13 THAT WAS IN MY MIND, TOO.

14 Q OKAY. NOW, YOU ASKED MR. PAPAGEORGE TO
15 LIST SOME MAJOR DEVELOPMENTS, CORRECT?

16 A YES.

17 Q AND AMONG THOSE YOU IDENTIFIED WAS THE
18 IDENTIFICATION OF PCB'S IN COW'S MILK IN OHIO, RIGHT?

19 A YES.

20 Q AND THAT, IN FACT, HAD BEEN THE SUBJECT
21 OF COMMUNICATIONS BETWEEN STATE HEALTH OFFICIALS IN
22 OHIO AND MONSANTO?

23 A YES, THAT WAS DUE TO A SILO PAINT.

24 Q A SILO PAINT?

25 A YES, I THINK SO.

26 Q SO WHAT HAD HAPPENED WAS THE PAINT EITHER
27 FLAKED OFF THE WALLS OF THE SILO AND CONTAMINATED THE
28 CORN --

1 A YES, OVER A NUMBER OF YEARS THAT HAD
2 HAPPENED, YES.

3 Q -- OR THE PCB'S HAD ACTUALLY LEACHED OUT
4 OF THE PAINT INTO THE CORN?

5 A I THINK THE FORMER, PERSONALLY.

6 Q OKAY.

7 A FROM WHAT I CAN RECALL.

8 Q AND YOU ASKED MR. PAPAGEORGE TO REFER TO
9 THE PROBABLE INTERVENTION OF THE FDA TO FIX MINIMUM
10 LEVELS OF PCB'S IN FOOD STUFFS, ITEM C?

11 A YES, THANK YOU.

12 Q AND YOU ASKED HIM TO REFER TO THE FACT
13 THAT THERE HAD BEEN A MEETING BETWEEN SOME OF YOUR
14 PEOPLE AND THE FEDERAL WATER POLLUTION CONTROL
15 AUTHORITIES?

16 A YES.

17 Q AND YOU ASKED THEM TO REFER TO THE FACT
18 THAT THERE WAS INCREASING CONCERN IN THE UNITED
19 KINGDOM AND THE INTERVENTION OF THE MINISTRY OF
20 AGRICULTURE, FISHERIES AND FOOD?

21 A YES.

22 Q OKAY. NOW, YOU RECOMMENDED TO
23 MR. PAPAGEORGE THAT THERE WAS NO POINT IN
24 DISCONTINUING THE SALE OF 1254 AND 1260, RIGHT?

25 A YES.

26 Q IN FACT, WHAT YOU SAID TO HIM WAS, ON
27 PAGE -- THE BOTTOM OF PAGE 2, POINT 10, "AT THIS
28 STAGE THERE IS NO POINT IN DISCONTINUING THE

1 MANUFACTURE OF 1254 AND 1260. THAT RESTRICTION OF
2 THEIR USE IS FAR MORE LIKELY TO GET US OFF THE HOOK
3 AND ENABLE US TO MAINTAIN MAXIMUM PROFITABILITY WHILE
4 PRESERVING A RESPONSIBLE IMAGE AS A COMPANY."

5 A YEAH.

6 Q OKAY. NOW, WHAT YOU MEANT WAS THAT YOU
7 WANTED TO AVOID GOVERNMENTAL INTERVENTION AND
8 PRESSURE, RIGHT?

9 A I'M NOT SURE I WAS WORRIED ABOUT
10 GOVERNMENTAL INTERFERENCE AT THAT STAGE.

11 YOU ARE TALKING ABOUT THE STATEMENT IN
12 ITEM 10?

13 Q YES, I AM.

14 A NO, I DON'T THINK THAT IS CORRECT.

15 I THINK I WAS VERY CONCERNED THAT WE WERE
16 LOOKING AT TWO SIDES OF A PROBLEM.

17 ONE WAS POLYCHLORINATED BIPHENYLS GETTING
18 INTO THE ENVIRONMENT.

19 TWO, A VERY SERIOUS FIRE HAZARD IN THE
20 ELECTRICAL INDUSTRY, IN THE TRANSFORMERS AND
21 CAPACITORS WHICH THE MAJOR CUSTOMERS, SUCH AS GENERAL
22 ELECTRIC AND WESTINGHOUSE, CONTINUED TO IMPRESS UPON
23 US.

24 AND I FELT WE OUGHT TO TRY TO TAKE A
25 BALANCED ATTITUDE AND TRY TO SELL THE STUFF AND MAKE
26 SURE IT WAS CONTAINED AND THAT THE LOOP WAS CLOSED.

27 CERTAINLY I WAS CONCERNED ABOUT LOSING
28 SOME BUSINESS, OF COURSE, BUT THAT WASN'T THE ONLY

1 POINT.

2 Q AND YOU WERE CONCERNED ABOUT GOVERNMENTAL
3 INTERVENTION?

4 A NOT PARTICULARLY AT THAT STAGE.

5 I WAS IN THE FOOD STUFFS AREA AS I SAID
6 BEFORE, BUT NOT IN THE TOTAL PCB BUSINESS, NOT AT
7 THAT STAGE, NO, SIR.

8 Q MR. MASON, I WOULD LIKE TO READ FROM
9 VOLUME ONE OF YOUR DEPOSITION OF OCTOBER 21, 1992,
10 PAGE 102, LINES 14 THROUGH 16.

11 A IS IT HERE?

12 Q NO. NOT EXACTLY.

13 THE COURT: GO AHEAD.

14 MR. TALLON: ACTUALLY WE WILL START ON 101,
15 LINE 11 THROUGH 103, LINE 1. (READING):

16 "Q. TURNING TO THE VERY
17 LAST PAGE, ACTUALLY THE SENTENCE
18 THAT BEGINS ON PAGE 2 IS
19 PARAGRAPH 10 WHEN YOU SAY, QUOTE,
20 'RESTRICTION OF THEIR USES,'
21 UNQUOTE, AND YOU ARE REFERRING
22 BACK TO 1254 AND 1260, QUOTE, 'IS
23 FAR MORE LIKELY TO GET US OFF THE
24 HOOK AND ENABLE US TO MAINTAIN
25 MAXIMUM PROFITABILITY WHILE
26 PRESERVING A RESPONSIBLE IMAGE AS
27 A COMPANY,' UNQUOTE. WERE YOU
28 REFERRING TO THE APPEASEMENT OF

1 THE PRESSURES FROM THEIR VARIOUS
2 POINTS OF PRESSURE THAT YOU
3 REFERRED TO BEFORE WHEN YOU --
4 WHEN YOU MADE THE STATEMENT,
5 QUOTE, 'GET US OFF THE,' QUOTE
6 UNQUOTE.

7 "A. MAY I JUST READ THIS
8 IN ITS ENTIRETY, JUST NUMBER 10,
9 IN ITS ENTIRETY?

10 "Q. OF COURSE.

11 "A. YES, PRIMARILY I WAS
12 REFERRING TO THAT.

13 "Q. DID YOU MEAN ANYTHING
14 ELSE?

15 "A. NO, I DON'T THINK SO.
16 I'VE GOT TO COME BACK TO THE
17 QUESTION YOU ASKED ME ABOUT THE
18 FDA SOMEWHERE.

19 I DON'T REMEMBER EXACTLY BUT --

20 "Q. IS PARAGRAPH C WHICH
21 REFERS TO PROBABLE INTERVENTION
22 OF THE --

23 "A. THAT WOULD BE IN MY
24 MIND. I'M QUITE SURE OF THAT.

25 "Q. YOU WERE CONCERNED
26 ABOUT THE INTERVENTION OF
27 GOVERNMENTAL AGENCIES?

28 "A. YES. THIS IS -- MY

1 WHOLE FEELING OF BEING AGGRESSIVE
2 IS I THOUGHT THIS SHOULD BE A
3 PROBLEM WHICH MONSANTO SHOULD
4 TACKLE ITSELF, SHOULD SOLVE AND
5 SHOULD NOT BE IN A POSITION WHERE
6 IT WAS FORCED TO DO VARIOUS
7 THINGS BY GOVERNMENTAL AGENCIES.
8 I HONESTLY BELIEVE MONSANTO DID A
9 VERY GOOD JOB IN TACKLING THIS
10 PROBLEM, GOING OUT, DOING THE JOB
11 IT HAD TO DO WITHOUT BEING FORCED
12 TO DO IT BY REGULATIONS, BY
13 GOVERNMENT AGENCIES."

14 Q OKAY. NOW, MR. PAPAGEORGE DID MAKE A
15 PRESENTATION AT THE MEETING OF THE CMC THAT OCCURRED
16 IN APRIL?

17 A CORRECT, APRIL, 1970.

18 Q ALL RIGHT. AND MR. PAPAGEORGE PRESENTED
19 A PLAN WHICH WAS BASED ON HIS INITIAL DRAFT WHICH WE
20 HAVE SEEN AND YOUR COMMENTS TO IT, CORRECT?

21 A SOME MODIFICATIONS, YES.

22 Q AND AT THE CMC MEETING OF APRIL 20, 1970
23 THE CMC WAS NOT SATISFIED WITH THAT?

24 A NOT COMPLETELY.

25 Q THEY WANTED MORE?

26 A YEAH.

27 Q THEY HAD DISCUSSED WITH YOU IN NOVEMBER
28 DISCONTINUING THE SALE OF 1254 AND 1260 AND YOU

1 REPRESENTING THE BUSINESS DIVISION WITH
2 MR. PAPAGEORGE CAME BACK IN APRIL AND SAID, "WE DON'T
3 THINK THAT IS A GOOD IDEA," RIGHT?

4 A CORRECT.

5 Q OKAY. AND THE CMC WANTED THE BUSINESS
6 PEOPLE IN THE DIVISION TO TAKE MORE AGGRESSIVE
7 ACTION, RIGHT?

8 A YES.

9 Q OKAY. IN FACT, THE CMC TOLD THE BUSINESS
10 PEOPLE THAT ONE OF THE THINGS THEY WANTED TO HAVE
11 DONE WAS TO DEVELOP A SUBSTITUTE FOR THE NCR
12 APPLICATION ON A CRASH BASIS, RIGHT?

13 A YES.

14 Q IN FACT, IF YOU LOOK AT TRANSWESTERN 152,
15 MR. MASON -- WELL, SKIP IT.

16 AT THE APRIL '70 MEETING THE CMC ASKED
17 FOR DEVELOPMENT OF A SUBSTITUTE FOR THE NCR
18 APPLICATION ON A CRASH BASIS, RIGHT?

19 A I THINK THAT IS TRUE.

20 I DON'T HAVE IT IN FRONT OF ME, SIR.

21 Q OKAY. AND THE REASON WHY THE CMC ASKED
22 FOR A SUBSTITUTE FOR THE NCR APPLICATION ON A CRASH
23 BASIS WAS THAT THE NCR APPLICATION WAS CARBONLESS
24 CARBON PAPER, RIGHT?

25 A CORRECT.

26 Q AND CARBONLESS CARBON PAPER WAS ANOTHER
27 EXAMPLE OF A USE BY A CUSTOMER OF PCB'S THAT WAS VERY
28 OPEN?

1 A YES.

2 Q AND THE NCR CARBON PAPER WAS MADE WITH
3 1242?

4 A IT WAS, YES.

5 Q OKAY. SO AT THE APRIL 20, 1970 MEETING
6 YOU AND MR. PAPAGEORGE AND THE OTHER FOLKS
7 REPRESENTING THE BUSINESS GROUP WERE INSTRUCTED TO GO
8 DO A BETTER PLAN?

9 A YES.

10 Q OKAY. AND, IN FACT, YOU DID THAT?

11 A YES, WE DID.

12 Q YOU RETURNED TO THE CMC ON MAY 11, 1970?

13 A YES.

14 Q AND THAT WAS WITH THE SIX-POINT PLAN THAT
15 YOU AND MR. PREUSS TALKED ABOUT JUST A MOMENT AGO?

16 A THAT IS CORRECT.

17 Q NOW YOU CAN TURN TO 152.

18 A YES.

19 Q THOSE ARE THE MINUTES OF THE CMC FOR MAY
20 11, 1970, RIGHT?

21 A THAT IS CORRECT.

22 Q AND AS YOU AND MR. PREUSS DISCUSSED, THE
23 FIRST PAGE OF THAT DOCUMENT OUTLINES THE SIX POINT
24 PLAN WHICH WAS RECOMMENDED AND ADOPTED?

25 A YES.

26 Q OKAY. FLIP OVER IN THAT SAME VOLUME, IF
27 YOU WOULD, PLEASE, TO 154, MR. MASON.

28 A YES.

1 Q THAT IS A COPY OF A MEMO FROM YOU TO
2 HOWARD BERGEN AND MR. SPRINGGATE OF MAY 11, 1970
3 ENCLOSING THE PRESENTATION MATERIALS THAT YOU HAD
4 USED TO ACTUALLY TALK TO THE COMMITTEE?

5 A YES.

6 Q OKAY. AND THESE WERE THE ACTUAL NOTES
7 AND/OR SLIDES THAT YOU HAD USED IN YOUR DISCUSSION
8 WITH THEM ON MAY 11, 1970?

9 A YES.

10 Q OKAY. AND ONE OF THE THINGS YOU TOLD THE
11 CMC WAS THAT YOUR OBJECTIVE IN PUTTING TOGETHER THIS
12 PLAN WAS TO MAINTAIN A PROFITABLE BUSINESS SERVING
13 THE NEEDS OF FUNCTIONAL FLUIDS USERS AND THE
14 CARBONLESS DUPLICATING PAPER INDUSTRY WHILE
15 MINIMIZING THE ESCAPE OF NON-BIODEGRADABLE BIPHENYLS
16 INTO THE ENVIRONMENT, RIGHT?

17 A CORRECT.

18 Q NOW, AT THAT POINT THERE WAS CONCERN
19 ABOUT 1242 IN THE CARBONLESS CARBON PAPER, RIGHT?

20 A YES.

21 Q AND WE HAVE ALREADY ESTABLISHED THAT THE
22 CIC WANTED A SUBSTITUTE DEVELOPED FOR THAT BECAUSE IT
23 WAS A PRODUCT THAT CONTAINED THE HIGHER-CHLORINATED
24 ISOMERS, RIGHT?

25 A CORRECT.

26 I THINK I HAVE TO SAY -- EXCUSE ME, I
27 LOST MY VOICE.

28 I HAVE TO SAY AT THIS POINT THAT THERE

1 WAS ALSO BEGINNING TO BE AN UNDERSTANDING THAT 1242,
2 ITSELF, WAS A PRODUCT WHICH SHOULDN'T BE GETTING INTO
3 THE ENVIRONMENT, ANYMORE THAN 1254 SHOULD.

4 Q OKAY. NOW, IF YOU WILL TURN TO THE VERY
5 NEXT PAGE, THE ONE ENTITLED "ACTION TO ACHIEVE
6 OBJECTIVES," THAT IS BASICALLY THE OVERALL ACTION
7 THAT YOU WERE RECOMMENDING AT THE TIME?

8 A IT IS.

9 Q AND ONE OF THOSE THINGS WAS, "PHASEOUT OF
10 ALL NON-CONTROLLABLE APPLICATIONS REPLACING WITH
11 BIODEGRADABLE CHLORINATED BIPHENYLS OR OTHER
12 SATISFACTORY PRODUCTS"?

13 A YEAH.

14 Q OKAY. HAD YOU CONSIDERED THAT THE BEST
15 WAY TO INSURE LACK OF ENVIRONMENTAL CONTAMINATION WAS
16 TO COMPLETELY DISCONTINUE SALES?

17 A OF POLYCHLORINATED BIPHENYLS?

18 Q YES.

19 A IT CERTAINLY WAS ONE ALTERNATIVE WHICH WE
20 LOOKED AT AND OBJECTED, PRIMARILY FOR THE REASONS I
21 EXPLAINED TO YOU, THAT WE HAD THE ELECTRICAL
22 INDUSTRY, THE SEVERE FIRE RISK.

23 THAT ALSO EXISTED IN HEAT TRANSFER FLUIDS
24 TO A CERTAIN EXTENT.

25 Q UH-HUH.

26 A I RECOGNIZE WHAT YOU ARE SAYING.

27 BUT WE FELT IT WAS NOT THE RIGHT
28 OBJECTIVE AT THAT POINT IN TIME.

1 Q OKAY. LET'S FOCUS FOR A SECOND ON THE
2 ELECTRICAL INDUSTRY.

3 A YEAH.

4 Q AT THAT TIME THE ELECTRICAL INDUSTRY USED
5 PCB'S TO PREVENT THE RISK OF FIRE IN TRANSFORMERS AND
6 CAPACITORS?

7 A YES.

8 Q AND THERE WAS NO ALTERNATIVE AVAILABLE TO
9 THEM?

10 A THAT IS CORRECT, AT THAT TIME.

11 Q AT THAT TIME.

12 A YES.

13 Q LATER ON OTHER SUBSTITUTES WERE MADE
14 AVAILABLE?

15 A I BELIEVE SO, YES.

16 Q YOUR CONCERN WAS IF WE TAKE THE PCB'S OFF
17 THE MARKET FOR THE ELECTRICAL CUSTOMERS THEY WON'T
18 HAVE ANYTHING TO USE AND THAT COULD, AS YOU SAY,
19 PERHAPS CAUSE A BLACKOUT IN NEW YORK CITY, ALTHOUGH
20 YOU THOUGHT THAT WAS KIND OF AN EXAGGERATED CLAIM?

21 A YES, BUT CERTAINLY A SERIOUS FIRE AND
22 EXPLOSION RISK PARTICULARLY IN HIGH-RISE BUILDINGS.

23 Q THAT WAS PARTICULARLY A PROBLEM BECAUSE
24 THERE WERE NO SUBSTITUTE PRODUCTS FOR THIS USE?

25 A THAT IS CORRECT.

26 Q DID YOU KNOW AT THAT TIME THERE WERE
27 SUBSTITUTE PRODUCTS THAT TRANSWESTERN COULD HAVE USED
28 AS A LUBRICATING FLUID?

1 A WE ARE CHANGING THE SUBJECT.
2 NOW WE ARE TALKING NOW ABOUT
3 TRANSWESTERN?

4 Q WE ARE.

5 A I PERSONALLY DID NOT.

6 I UNDERSTOOD THAT WHEN TEXAS EASTERN GAS
7 DEVELOPED TURBINOL WITH MONSANTO THAT THEY HAD
8 REJECTED CERTAIN OTHER FLUIDS AS BEING UNSUITABLE FOR
9 THEIR PURPOSES.

10 NOW, ARE YOU TALKING ABOUT ANYTHING ELSE?

11 Q DO YOU WANT TO TALK ABOUT 1958?

12 A I'M SORRY?

13 Q YOU ARE TALKING ABOUT DEVELOPMENT OF
14 OS-81?

15 A I'M TALKING ABOUT THE ORIGINAL EVENT,
16 WHICH IS TURBINOL-153.

17 Q THAT WAS SOMETHING YOU DIDN'T HAVE ANY
18 PERSONAL KNOWLEDGE OF?

19 A I CERTAINLY DID NOT.

20 Q SO YOU DON'T KNOW WHAT ROLE TEXAS EASTERN
21 PLAYED OF YOUR OWN PERSONAL KNOWLEDGE?

22 A NO, I ONLY KNOW WHAT I WAS TOLD BY THE
23 MEMBERS OF THE BUSINESS GROUP WHO HAD BEEN INVOLVED.

24 Q OKAY. AND YOU WERE AWARE THAT WHEN THAT
25 PRODUCT WAS FIRST DEVELOPED IN 1958 THERE WERE NO
26 CONCERNS ABOUT WHETHER IT WAS AN ENVIRONMENTAL
27 CONTAMINANT, RIGHT?

28 A THAT IS CORRECT.

1 Q IN FACT IT DIDN'T EVEN COME UP WITHIN
2 MONSANTO FOR THE FIRST TIME UNTIL 1966?

3 A CORRECT.

4 Q SO YOU WOULD HAVE NO BASIS FOR SAYING
5 THAT TEXAS EASTERN OR ANY PURCHASER OF TURBINOL HAD A
6 BASIS TO KNOW ANYTHING ABOUT ENVIRONMENTAL
7 CONTAMINATION IN 1958 OR LATER?

8 A NO, NO, THEY CERTAINLY WOULDN'T.
9 IT DEPENDS HOW MUCH LATER.

10 Q OKAY. WE WILL GET TO THAT.
11 NOW, YOUR PRESENTATION FOCUSED IN PART ON
12 AROCLOR 1242, CORRECT?

13 A YES, IT MUST HAVE BEEN.

14 Q OKAY. WHY DON'T YOU TURN TO THE PAGE
15 THAT IS TITLED "BIODEGRADATION."

16 MR. MASON, IF YOU LOOK IN THE LOWER
17 RIGHT-HAND CORNER OF EACH PAGE, THEY ARE NUMBERED AND
18 THIS PARTICULAR PAGE NUMBER IS 85287.

19 A FINE, I'VE GOT IT, THANK YOU.

20 Q OKAY. NOW, ONE OF THE THINGS YOU TOLD
21 THE CMC WHEN YOU MET WITH THEM IN MAY WAS THAT THE
22 CRITICAL PRODUCT IS 1242, RIGHT?

23 A YES.

24 Q BECAUSE IT CONTAINS SOME 50 ISOMERS, GOOD
25 RESPONSE ON TWO, THREE AND SOME FOUR CHLORINES
26 ISOMERS, RIGHT?

27 A YES.

28 Q AND THAT MEANT TO YOU THAT THE 5/6

1 CHLORINE ISOMERS IN 1242 WERE NOT HAVING A GOOD
2 RESPONSE TO BIODEGRADATION TESTS?

3 A CORRECT.

4 Q SO THIS WAS A CRITICAL PRODUCT IN YOUR
5 MIND?

6 A YES.

7 Q AND A REASON THAT IT WAS A CRITICAL
8 PRODUCT IN YOUR MIND WAS THAT 1242 WAS THE BIGGEST
9 SELLING AROCLOR, RIGHT?

10 A THAT IS CORRECT, YEAH.

11 Q AND IT WAS CRITICAL BECAUSE IN ADDITION
12 TO THE TWO, THREE AND FOUR CHLORINE ISOMERS IT ALSO
13 CONTAINED THE 5/6 CHLORINE ISOMERS?

14 A YES.

15 Q SO THERE WAS A CONCERN IN YOUR MIND THAT
16 WHAT WAS BEING SEEN IN THE ENVIRONMENT COULD VERY
17 WELL HAVE BEEN AROCLOR 1242 WITH THE TWO, THREE AND
18 FOUR WASHED OUT BY RAIN AND WIND AND WATER OR RAIN
19 AND WIND AND SUN?

20 A IT COULD.

21 THAT IS, OF COURSE, THE REASON FOR
22 TACKLING THE NCR PROBLEM AS A SERIOUS MATTER, WHICH
23 WE WERE DOING.

24 Q THAT IS THE REASON YOU TOOK THE PRODUCT
25 AWAY FROM NCR, IS BECAUSE YOU WERE CONCERNED ABOUT
26 THE RISK OF INTRODUCING THE CRITICAL PRODUCT 1242
27 INTO A USE WHERE IT COULD BE WIDESPREAD?

28 A CORRECT.

1 Q OKAY. NOW, YOU WERE WORKING AT THAT
2 POINT ON A SUBSTITUTE FOR 1242, RIGHT?

3 A YES, WE WERE.

4 Q AND THAT WAS A PRODUCT THAT WAS SPECIALLY
5 DISTILLED 1242 TO REMOVE THOSE HIGHER-CHLORINATED
6 BLENDS, THE 5/6'S AND HIGHER?

7 A YES.

8 Q LOOK BACK FOR ME, FOR A MOMENT, IF YOU
9 WOULD, PLEASE, AT 152.

10 IT'S THE MINUTES OF THE MAY MEETING.

11 A UH-HUH. YES, I'M WITH YOU.

12 Q NOW, THE FIRST POINT OF YOUR SIX-POINT
13 PLAN WAS "DISCONTINUE SALE OF 1242. TO NCR"?

14 A YES.

15 Q AND THE REASON YOU WANTED TO DO THAT WAS
16 BECAUSE YOU RECOGNIZED THE RISK THAT IT WAS AN
17 ENVIRONMENTAL CONTAMINANT?

18 A WE DID.

19 Q SO POINT ONE DEALS ONLY WITH NCR; AM I
20 CORRECT?

21 A YES.

22 Q POINT TWO, "CLOSE THE LOOP ON HEAT
23 TRANSFER APPLICATIONS." SO POINT TWO DEALS ONLY WITH
24 HEAT TRANSFER APPLICATIONS?

25 A YES.

26 Q POINT THREE, "REPLACE ALL
27 NON-BIODEGRADABLE CHLORINATED BIPHENYLS IN HYDRAULIC
28 APPLICATIONS," RIGHT?

1 A YES.

2 Q AT THIS TIME YOU UNDERSTOOD THAT ALL
3 NON-BIODEGRADABLE CHLORINATED BIPHENYLS INCLUDED
4 1242, RIGHT?

5 A YES, PARTS OF 1242 ARE NON-BIODEGRADABLE,
6 RIGHT.

7 Q BECAUSE IF YOU TRIED TO DEGRADE 1242 THE
8 FIVES AND SIXES WOULD STILL BE LEFT?

9 A THAT IS CORRECT.

10 Q SO POINT THREE MEANT THAT YOU WANTED TO
11 TAKE THE -- YOU WANTED TO TAKE 1242 OUT OF THE
12 HYDRAULIC APPLICATIONS?

13 A YES.

14 Q AND THAT WAS BECAUSE IT WAS UNACCEPTABLE
15 TO MONSANTO THAT IN SOME FACTORY SOMEWHERE A
16 HYDRAULIC PRESS OR OTHER MACHINE COULD BREAK DOWN AND
17 SPRAY 1242 ALL OVER THE PLACE?

18 A THAT IS CORRECT, YES.

19 Q OKAY. THEN POINT FOUR, "CLOSE THE LOOP
20 ON NON-BIODEGRADABLE CHLORINATED BIPHENYLS IN
21 TRANSFORMERS."

22 SO POINT FOUR DEALS WITH TRANSFORMERS
23 ONLY?

24 A YES.

25 Q OKAY. "CLOSE THE LOOP ON CAPACITORS AS
26 FAR AS POSSIBLE."

27 SO POINT FIVE IS CAPACITORS, OKAY?

28 A YES, IT IS.

1 Q AND THE LAST POINT IS "TERMINATE SALES OF
2 ALL NON-BIODEGRADABLE CHLORINATED BIPHENYLS TO
3 VARIOUS NON-CONTROLLABLE END USES."

4 A YES.

5 Q OKAY. NOW, WHERE DOES TURBINOL FIT IN
6 HERE, MR. MASON?

7 A TURBINOL DOESN'T FIT INTO THAT LAST
8 CATEGORY.

9 WE UNDERSTOOD TURBINOL TO BE A PRODUCT
10 WHICH WAS IN A CONTROLLED APPLICATION.

11 Q HOW MANY OTHER PRODUCTS WAS MONSANTO
12 SELLING AT THIS TIME WHICH WERE NOT COVERED BY THE
13 SIX-POINT PLAN?

14 A I DON'T THINK THERE ARE ANY PRODUCTS.
15 IT IS COVERED.

16 I DON'T UNDERSTAND WHAT YOU MEAN.

17 LET ME PUT IT THIS WAY.

18 WHEN YOU ARE TRYING TO PRESENT A SPECIFIC
19 PLAN LIKE THIS, YOU DO COVER A LOT OF PRODUCTS IN
20 EACH ITEM.

21 THE BOTTOM ONE, IF YOU LIKE, IS A
22 NEGATIVE REFERRAL TO TURBINOL-153, ON THE BASIS THAT
23 WE BELIEVED THAT TEXAS EASTERN GAS WERE OPERATING A
24 CLOSED SYSTEM. THEY ARE A HIGHLY SOPHISTICATED
25 COMPANY WITH HIGHLY EXPERIENCED ENGINEERS.

26 Q OKAY. SO BY NEGATIVE IMPLICATION
27 TURBINOL WAS NOT COVERED BY ANY POINT ON THIS?

28 A THAT'S CORRECT.

1 Q WHAT OTHER PRODUCTS WERE NOT COVERED?

2 A I WILL BE HONEST.

3 I CAN'T THINK OF ONE AT THE MOMENT.

4 BUT THERE COULD BE.

5 Q SO IS IT YOUR TESTIMONY, MR. MASON, THAT
6 OF ALL THE PCB PRODUCTS MONSANTO WAS SELLING AT THIS
7 POINT, THE ONLY ONE NOT COVERED BY YOUR SIX-POINT
8 PLAN WAS TURBINOL?

9 A I THINK THAT IS TRUE.

10 BUT TURBINOL WAS A SPECIAL APPLICATION.
11 TO THE BEST OF MY KNOWLEDGE, WE WEREN'T
12 SELLING TO OTHER COMPANIES WITH THIS PRODUCT.

13 Q WAS THAT ARGUMENT ACTUALLY PRESENTED TO
14 THE CMC AT THIS MAY 11, 1970 MEETING?

15 A NO, I DON'T THINK IT WAS.

16 Q AND THAT IS BECAUSE YOU HADN'T REALLY
17 CONSIDERED TURBINOL?

18 IN FACT, YOU HAD FORGOT ABOUT IT?

19 A THAT IS NOT TRUE.

20 Q IN FACT, TURBINOL REPRESENTED ONLY A
21 FRACTION OF MONSANTO'S PCB FLUID SALES, RIGHT?

22 A THAT IS TRUE.

23 Q OKAY.

24 A BUT WE WENT ON SELLING THE PRODUCT TO
25 TEXAS EASTERN BECAUSE WE BELIEVED IT WAS IMPORTANT TO
26 IT.

27 Q AND YOU SOLD IT TO COLUMBIA GULF?

28 A I BELIEVE SO.

1 Q OKAY. NOW, THE COMMITTEE SAID THERE
2 SHOULD BE NO DELAY?

3 A YES.

4 Q OKAY. AND THE DIVISION, THE BUSINESSMEN,
5 THEN STARTED WORKING OUT THE ACTUAL ADOPTION OF THE
6 SIX-POINT PLAN TO THE PRODUCTS?

7 A YES.

8 Q OKAY. NOW, AT THE TIME YOU WERE MAKING
9 THESE RECOMMENDATIONS TO THE CMC, DID YOU KNOW THAT
10 TURBINOL WAS USED UNDER HIGH PRESSURE, OVER 900
11 POUNDS PER SQUARE INCH?

12 A I DON'T THINK I PERSONALLY WAS AWARE OF
13 THAT AT THAT TIME.

14 Q DID ROGER HATTON EVER TELL YOU WHETHER
15 COLUMBIA GULF HAD LOST SEVERAL THOUSAND GALLONS OF
16 TURBINOL DOWN THEIR PIPELINE?

17 A HE CERTAINLY DID NOT.

18 Q HAD YOU KNOWN THAT INFORMATION WOULD YOU
19 HAVE FELT DIFFERENTLY ABOUT TURBINOL?

20 A I COULD HAVE FELT -- I COULD HAVE FELT
21 DIFFERENTLY ABOUT COLUMBIA.

22 BUT I CERTAINLY WOULD HAVE BEEN VERY
23 CONCERNED.

24 Q WELL, WOULD YOU HAVE FELT DIFFERENTLY
25 ABOUT TEXAS EASTERN OR TRANSWESTERN?

26 A I WOULD CERTAINLY HAVE EXPECTED OUR
27 SALESMEN, ENGINEERS TO CONTACT THE COMPANY AND
28 DISCUSS THAT PROBLEM WITH THEM.

1 Q OKAY.

2 A BUT I WOULD HAVE BEEN VERY SURPRISED AT
3 THAT INFORMATION.

4 Q YOU RELIED ON THE SALESMEN AND THE PEOPLE
5 INVOLVED IN THE FIELD TO PASS ON INFORMATION, RIGHT?

6 A YOU HAVE TO, YES.

7 Q ACTUALLY YOU NEVER HAD ANY DIRECT
8 COMMUNICATIONS WITH TEXAS EASTERN OR TRANSWESTERN?

9 A NO, I DID NOT.

10 Q OKAY. YOU TESTIFIED EARLIER IN RESPONSE
11 TO QUESTIONS FROM MR. PREUSS THAT YOU MET
12 PERIODICALLY WITH THE REGIONAL SALESPEOPLE TO DISCUSS
13 WITH THEM WHAT WAS GOING ON IN THE PCB ENVIRONMENTAL
14 ISSUE?

15 A CORRECT.

16 Q OKAY. SO YOU WOULD EXPECT THAT SALESMEN
17 ON THE FRONTLINE, LIKE MR. FREDERICKSON, WOULD KNOW
18 THINGS ABOUT BIODEGRADATION, FOR EXAMPLE?

19 A YES, I CERTAINLY WOULD.

20 HE WOULD HAVE A GENERAL KNOWLEDGE ABOUT
21 BIODEGRADATION.

22 Q AND HE WOULD KNOW WHAT BIOACCUMULATION
23 WAS?

24 A I WOULD THINK SO.

25 Q AND BIOMAGNIFICATION?

26 A I WOULD THINK IF NOTHING ELSE THAT HE
27 WOULD HAVE SEEN IT IN SOME ARTICLES WE READ.

28 Q ALL RIGHT. NOW, YOU REPORT IN SEPTEMBER,

1 1970 TO THE CMC ON THE PROGRESS BEING MADE ON THE
2 SIX-POINT PLAN, CORRECT?

3 A YES.

4 Q AND IF YOU WOULD LOOK, PLEASE, AT
5 TRANSWESTERN 178, MR. MASON, I THINK YOU WILL SEE --
6 IT MAY BE IN A DIFFERENT VOLUME THAN THE ONE YOU
7 HAVE.

8 IN FACT, I BELIEVE IT'S IN VOLUME 4.

9 A 178?

10 Q YES. OKAY?

11 A OKAY. YES.

12 Q NOW, THOSE ARE THE MINUTES OF THE
13 CORPORATE MANAGEMENT COMMITTEE FOR THEIR SEPTEMBER
14 30, 1970 MEETING THAT YOU ATTENDED, RIGHT?

15 A CORRECT.

16 Q AND AT THAT MEETING YOU PRESENTED TO THEM
17 A STATUS UPDATE ON WHERE THINGS STOOD ON THE
18 SIX-POINT PLAN?

19 A YES.

20 Q OKAY. NOW, TURN TO PAGE 2, IF YOU WOULD,
21 PLEASE, MR. MASON.

22 OKAY. POINT FOUR, "REPLACE
23 NON-BIODEGRADABLE CHLORINATED BIPHENYLS IN HYDRAULIC
24 APPLICATIONS."

25 THAT WAS ONE OF THE POINTS OF THE
26 ORIGINAL SIX-POINT PLAN, RIGHT?

27 A YES, IT WAS.

28 Q AND ACTUALLY BY THIS POINT THE SIX-POINT

1 PLAN HAS BECOME A FIVE-POINT PLAN BECAUSE YOU HAVE
2 MELDED POINTS FIVE AND SIX?

3 A YES.

4 Q OKAY. AND WHAT YOU WERE DOING AT THAT
5 MEETING WAS THAT YOU WERE ASKING THE CMC FOR MORE
6 TIME?

7 A IN THE CASE OF HYDRAULIC FLUIDS, YES.

8 Q AND A REASON FOR THAT WAS THAT
9 REPLACEMENT PRODUCTS WEREN'T AVAILABLE?

10 A PART OF THE REASON, YES.

11 Q OKAY. WHEN YOU WERE IN THE PROCESS OF
12 MAKING A REPLACEMENT PRODUCT, YOU WOULD SELL THE
13 PCB-CONTAINING PRODUCT UNTIL THE REPLACEMENT WAS
14 AVAILABLE, RIGHT?

15 A YES, WE WOULD.

16 Q OKAY. NOW, THE -- AFTER THIS MEETING THE
17 NEXT TIME YOU GO TO THE CMC TO UPDATE THEM,
18 PERSONALLY, ON THE PCB ENVIRONMENTAL ISSUE IS MARCH,
19 1971?

20 A YES, CORRECT.

21 Q AND IF YOU WOULD LOOK AT EXHIBIT 193,
22 PLEASE, THAT WOULD BE IN THE SAME VOLUME.

23 A YES, I HAVE IT.

24 NO.

25 173?

26 Q 193.

27 A I'M SORRY, 193.

28 THIS IS THE ONE FROM THE DESK OF

1 PAPAGEORGE?

2 Q YES, YES.

3 IT'S -- IT HAS, "FROM THE DESK OF W.B.
4 PAPAGEORGE."

5 A YES, THANK YOU.

6 Q AND THOSE WERE THE MATERIALS YOU USED TO
7 MAKE A PRESENTATION TO THE CMC IN MARCH, 1971?

8 A YES.

9 Q OKAY. AND, AGAIN, WHAT YOU ARE DOING IS
10 REPORTING TO THEM ON THE STATUS OF WHAT IS GOING ON
11 IN THE WORLD OF PCB'S?

12 A CORRECT.

13 Q OKAY. TURN WITH ME, IF YOU WOULD,
14 PLEASE, MR. MASON, TO THE PAGE TITLED "HYDRAULIC
15 APPLICATIONS."

16 A YES, I'M THERE.

17 Q NOW, YOU TITLED THIS PAGE "HYDRAULIC
18 APPLICATIONS."

19 UNDER POINT TWO YOU WROTE, "AROCOR 1242
20 IS STILL PRESENT IN TWO FLUIDS USED IN GAS
21 TRANSMISSION CLOSED SYSTEMS." AND YOU LISTED MCS-974
22 AND TURBINOL-153, RIGHT?

23 A YES.

24 Q AND IT SAYS, "PLAN TO USE MCS-1016 WHEN
25 AVAILABLE," RIGHT?

26 A YES.

27 Q SO AT THIS TIME YOU WERE STILL SELLING
28 TURBINOL-153 WITH THE 1242 IN IT, RIGHT?

1 A YES, CORRECT.

2 Q BECAUSE AT THAT TIME YOU WERE WORKING ON
3 BUT HADN'T DEVELOPED THE APPROPRIATE SUBSTITUTE WITH
4 MCS-1016, RIGHT?

5 A YES.

6 Q OKAY. NOW, WHEN YOU LISTED TURBINOL-153
7 UNDER HYDRAULIC APPLICATIONS, YOU WERE CERTAINLY
8 RECOGNIZING THAT TURBINOL FELL WITHIN THE HYDRAULIC
9 FAMILY?

10 A NOT NECESSARILY.

11 I THINK I WAS PUTTING IT IN THERE FOR
12 CONVENIENCE.

13 IT FIT IN THERE BETTER THAN ANYPLACE ELSE
14 IN THE SIX-POINT PLAN.

15 Q I'M SORRY?

16 A BETTER THAN ANY PLACE ELSE IN THE SIX
17 POINT -- THE FIVE-POINT PLAN FOR SIMPLICITY.

18 Q AND IT FIT IN THERE BETTER THAN ANYWHERE
19 ELSE BECAUSE TURBINOL WAS BLENDED AT QUEENY, RIGHT?

20 A YES, BUT I DON'T SEE WHAT THAT'S GOT TO
21 DO WITH IT.

22 Q AND ALL THE PYDRAULS THAT WERE HYDRAULIC
23 FLUIDS WERE BLENDED AT QUEENY, RIGHT?

24 A I SEE NO REASON FOR THAT BEING WHY IT WAS
25 INCLUDED.

26 Q AS A FUNCTIONAL MATTER THE BUSINESS
27 DIVISION TREATED TURBINOL AS A PYDRAUL, RIGHT?

28 A NO. I THINK THEY TREATED IT AS A VERY

1 SPECIAL PRODUCT.

2 Q AND ALL THE PYDRAULS WERE HYDRAULIC
3 APPLICATIONS, RIGHT?

4 A YES.

5 MR. TALLON: WE CAN BREAK NOW, YOUR HONOR.

6 THIS IS A CONVENIENT TIME.

7 THE COURT: WE WILL TAKE THE NOON RECESS NOW,
8 LADIES AND GENTLEMEN.

9 AND I KNOW, OF COURSE, YOU WILL STAY
10 SOBER.

11 ENJOY YOUR LUNCH.

12 DO REMEMBER THAT THE AFTERNOON,
13 ESPECIALLY THE BEGINNING OF THE AFTERNOON AFTER A BIG
14 LUNCH CAN BE DIFFICULT.

15 SO KEEP THAT IN MIND.

16 HAVE A NICE LUNCH.

17 WE WILL SEE YOU AT TWO O'CLOCK.

18 (AT 12:00 NOON, A RECESS WAS TAKEN
19 UNTIL 2:00 P.M. OF THE SAME DAY.)
20
21
22
23
24
25
26
27
28

1 LOS ANGELES, CALIFORNIA; TUESDAY, DECEMBER 21, 1993

2 2:00 P.M.

3 DEPARTMENT NO. 31

G. KEITH WISOT, JUDGE

4 ---0---

5 (APPEARANCES AS HERETOFORE NOTED.)

6 (DAVID A. SALYER, OFFICIAL REPORTER.)

7
8 THE COURT: AND RESUMING.

9 MR. TALLON, YOU MAY CONTINUE.

10
11 JOHN MASON,

12 CALLED AS A WITNESS BY THE DEFENDANT, MONSANTO,

13 HAVING BEEN PREVIOUSLY SWORN TESTIFIED AS FOLLOWS:

14
15 CROSS EXAMINATION (CONTINUED.)

16 BY MR. TALLON:

17 Q MR. MASON, JUST BEFORE THE LUNCH BREAK WE
18 WERE TALKING ABOUT THE PRESENTATION YOU MADE TO THE
19 CMC IN MARCH OF '71.

20 A YES, SIR.

21 Q AND WE WERE BOTH LOOKING AT TRANSWESTERN
22 193.

23 COULD YOU PULL THAT UP AGAIN, PLEASE.

24 A 193?

25 Q 193, YES.

26 A THANK YOU.

27 YES, I HAVE READ IT.

28 Q AND WE LOOKED AT THE PAGE ENTITLED

1 "HYDRAULIC APPLICATIONS," RIGHT?

2 A YES.

3 Q OKAY. AND THEN I TAKE IT, PART OF WHAT
4 YOUR JOB WAS AT THAT TIME WAS TO REPORT TO THE CMC ON
5 DEVELOPMENTS IN THE PCB STORY, BASICALLY, WHAT WAS
6 GOING ON?

7 A YES.

8 Q FOR EXAMPLE, ON THE PAGE THAT HAS THE
9 NUMBER AT THE BOTTOM 86390, YOU WERE REPORTING TO THE
10 CMC ON SOME DEVELOPMENTS IN THE INTERNATIONAL AREA.

11 A YES, I HAVE IT.

12 Q OKAY. AND ONE OF THE THINGS THAT YOU HAD
13 TO LEARN ABOUT IN ORDER TO MAKE THIS PRESENTATION WAS
14 WHAT WAS GOING ON NOT ONLY IN THE U.S. BUT WHAT WAS
15 GOING ON IN EUROPE WITH RESPECT TO PROPOSED AND
16 ACTUAL REGULATION OF PCB'S?

17 A THAT IS CORRECT.

18 Q AND ONE OF THE THINGS THAT YOU TOLD ME
19 ABOUT THE CMC IN MARCH OF '71 WAS THAT IN CONTINENTAL
20 EUROPE, NORWAY AND SWEDEN WERE PLANNING A BAN AND
21 LICENSING OF PCB, RIGHT?

22 A YES.

23 Q AND THAT GERMANY IS BECOMING MORE
24 CONCERNED, RIGHT?

25 A CORRECT.

26 Q AND THAT IN JAPAN CONSIDERABLE INTEREST
27 WAS BEING GENERATED?

28 A CORRECT.

1 Q OKAY. SO SOME ADDITIONAL TIME GOES BY
2 AND ACTIVITY IN THE WORLD WITH RESPECT TO PCB'S
3 CONTINUES TO PICK UP.

4 THERE IS MORE INTEREST IN THE ISSUE,
5 CORRECT?

6 A THERE IS MORE INTEREST IN THE ISSUE, YES,
7 FROM OUTSIDE AGENCIES.

8 BUT MANUFACTURERS IN EUROPE ARE NOT VERY
9 INTERESTED AT ALL.

10 THEY ARE STILL CONTINUING TO OPEN
11 APPLICATIONS.

12 Q YOU MEAN MANUFACTURERS NOT ASSOCIATED
13 WITH MONSANTO?

14 A YES, CORRECT, GERMANY, FRANCE, ITALY.

15 Q AND BY THE TIME OF THE NOVEMBER, 1971
16 PRESENTATION THAT YOU MAKE TO THE CMC -- IS IT THE
17 CMC AND THE BOARD OR JUST THE CMC?

18 A I'M SORRY.

19 WE ARE TALKING ABOUT NOVEMBER OF '71?

20 Q YES?

21 A JUST THE CMC.

22 EXCUSE ME.

23 I'M SORRY, I'M GETTING MY DATES MIXED UP.
24 THAT WAS A BOARD PRESENTATION, A FULL
25 BOARD.

26 Q LOOK, IF YOU WOULD, PLEASE, AT EXHIBIT
27 220.

28 A STATUS REPORT.

1 Q IS THAT THE PRESENTATION MATERIALS YOU
2 USED FOR A MEETING OF THE BOARD OR A MEETING OF THE
3 CMC?

4 A I THINK THIS IS THE BOARD PRESENTATION
5 I'M LOOKING AT, I THINK.

6 Q SO THAT WOULD PLACE THE BOARD
7 PRESENTATION ROUGHLY IN MID-NOVEMBER, 1971?

8 A I THINK IT WAS, YES.

9 Q OKAY. WAS THE TURBINOL USE ACTUALLY
10 DISCUSSED AT THAT BOARD MEETING?

11 A I CAN'T RECALL WITHOUT LOOKING AT THESE.
12 MAY I GO THROUGH THEM?

13 Q SURE. PLEASE GO AHEAD.

14 A IT DOESN'T APPEAR ON THE TRANSPARENCIES
15 OR SLIDES I USED. THAT DOESN'T MEAN TO SAY IT WASN'T
16 DISCUSSED. I JUST CAN'T REMEMBER, TO BE PERFECTLY
17 FRANK.

18 Q LOOK, IF YOU WOULD, AT THE PAGE THAT HAS
19 THIS NUMBER ON THE BOTTOM RIGHT-HAND CORNER 21538.
20 IT'S TITLED "FEDERAL AND STATE
21 AGENCIES."

22 A YES, I HAVE IT.

23 Q AT THE TOP IT SAYS "FEDERAL AND STATE
24 AGENCIES" AND THERE ARE TWO ENTRIES HERE.

25 ONE DEALS WITH THE OFFICE OF SCIENCE AND
26 TECHNOLOGY AND THAT IS WHERE DR. BURGER WORKED,
27 RIGHT?

28 A CORRECT.

1 Q AND THE SECOND THING YOU NOTE FOR YOUR
2 PRESENTATION IS THAT THE MICHIGAN WATER QUALITY BOARD
3 WAS IMPOSING SEVERE RESTRICTIONS ON PCB LEVELS IN
4 AUTOMOBILE PLANT EFFLUENT, RIGHT?

5 A CORRECT.

6 Q OKAY. AND IF YOU TURN THE PAGE, THE
7 SLIDE OR THE INFORMATION SHEET IS TITLED "SPECIAL
8 PROBLEMS PROPOSED LEGISLATION," CORRECT?

9 A CORRECT.

10 Q AND ONE OF THE THINGS YOU WERE TELLING
11 THE BOARD ABOUT WAS THAT THE RYAN BILL HAD BEEN
12 INTRODUCED AND IT WAS PROPOSED IN THE RYAN BILL THAT
13 THERE WOULD BE A TOTAL BAN ON PCB'S?

14 A YES.

15 Q THAT WAS CONGRESSMAN RYAN WHOM YOU
16 REFERRED TO EARLIER IN YOUR DISCUSSION WITH
17 MR. PREUSS?

18 A YES.

19 Q BY THIS TIME, ACTUALLY SOMEWHAT EARLIER
20 IN 1971, HE HAD INTRODUCED A BILL TO THE UNITED
21 STATES CONGRESS CALLING FOR A COMPLETE BAN ON PCB?

22 A YES, I BELIEVE HE HAD.

23 Q AND PCB WAS BEING USED AS YOU PUT IT AS
24 AN EXAMPLE IN JUSTIFYING THE TOXIC SUBSTANCES ACT,
25 RIGHT?

26 A I BELIEVE SO AT THE TIME, YES.

27 Q BY THAT TIME PRESIDENT NIXON HAD SENT A
28 BILL TO CONGRESS PROPOSING A TOXIC SUBSTANCES ACT

1 THAT, AMONG OTHER THINGS, WOULD ADDRESS PCB'S, RIGHT?

2 A YES, AMONGST OTHER THINGS.

3 Q ALL RIGHT. AND IN THE BOTTOM SECTION OF
4 THIS SAME PAGE TITLED "SPECIAL PROBLEMS, PROPOSED
5 LEGISLATION," YOU REVIEWED FOR THE BOARD LAWSUITS
6 THAT HAD COME UP, RIGHT?

7 A YES.

8 Q AND THE FIRST OF THOSE WAS HOLLY FARMS
9 SUING MONSANTO AND OTHERS FOR 56M WITH A LINE OVER
10 IT, THAT MEANS 56 MILLION, CORRECT?

11 A CORRECT.

12 Q EAST COAST TERMINALS INCIDENT?

13 A WHICH I HAVE ALREADY MENTIONED IN MY
14 PREVIOUS TESTIMONY.

15 Q THAT WAS THE INCIDENT WHERE ONE OF --
16 RATHER A USER OF A HEAT TRANSFER FLUID HAD AN
17 EXPERIENCE WHERE THE TRANSFER MEDIUM WAS LEAKED INTO
18 THE FISH MEAL, RIGHT?

19 A CORRECT.

20 Q AND IT CONTAMINATED THE FISH MEAL WHICH
21 WAS FED TO CHICKENS?

22 A CORRECT.

23 Q AND THE CHICKENS GOT SICK AND DIED?

24 A YES, QUITE A LOT OF CHICKENS DID DIE.

25 Q SO THERE WAS A LAWSUIT AGAINST MONSANTO
26 LOOKING FOR \$56 MILLION IN 1971 DOLLARS, RIGHT?

27 A YES.

28 Q AND THERE WAS THREE LAWSUITS FOR MILK

1 CONTAMINATION.

2 WERE THOSE RELATED TO THOSE INCIDENTS
3 WHERE YOU DESCRIBED THE PCB PAINT FLAKING OFF AND
4 CONTAMINATING THE COW'S FEED?

5 A IN SILOS, YES.

6 Q YES. AND YOU NOTED THERE COULD BE MORE
7 OF THOSE, RIGHT?

8 A YES, WE THOUGHT IT A POSSIBILITY AT THE
9 TIME, CERTAINLY.

10 Q AND SOMETHING HAPPENING UP IN MINNESOTA
11 WHERE TURKEYS HAD BEEN EXPOSED TO OR CONTAMINATED
12 WITH PCB'S AND THERE WAS, IN YOUR THINKING, A
13 POSSIBLE LAWSUIT THERE?

14 A THERE WAS A POSSIBLE ONE.

15 I DON'T KNOW IF IT EVER MATERIALIZED.

16 Q AND THE ENVIRONMENTAL DEFENSE FUND HAD
17 DEMANDED THAT MONSANTO RELEASE PRODUCTION FIGURES AND
18 WERE PERHAPS THREATENING A LAWSUIT OR INJUNCTION TO
19 SEE THAT MONSANTO DID THAT?

20 A CORRECT.

21 Q OKAY. SO AT THIS MEETING OF THE BOARD OF
22 DIRECTORS -- STRIKE THAT.

23 BY THE WAY, HAVE YOU SEEN A COPY OF THE
24 MINUTES OF THIS BOARD MEETING RECENTLY?

25 A NO, BUT I WOULDN'T SEE A COPY OF THE
26 BOARD MINUTES.

27 I WOULD ONLY SEE EXTRACTS FROM CMC OR CDC
28 MINUTES, NOT BOARD MINUTES.

1 Q YOUR EXPERIENCE AS THE CHAIRMAN OF A
2 BOARD OF AN ENTITY, MONSANTO UK, YOUR EXPERIENCE IS
3 THAT BOARD MINUTES WOULD BE KEPT?

4 A CORRECT.

5 Q OKAY. THIS WAS THE BOARD MEETING WHERE
6 THE BOARD SAID, "IF WE ARE GOING TO CONTINUE SELLING
7 THIS STUFF IT'S ON CONDITION THAT OUR CUSTOMERS AGREE
8 TO HOLD US HARMLESS"?

9 A THAT IS CORRECT, SIR, YES.

10 Q AND WHEN YOU WERE TESTIFYING IN RESPONSE
11 TO QUESTIONS FROM MR. PREUSS YOU DESCRIBED MONSANTO'S
12 WITHDRAWAL FROM THE PCB BUSINESS, EXCEPT ON THE BASIS
13 OF THOSE HOLD HARMLESS LETTERS AS BEING VOLUNTARY,
14 RIGHT?

15 A YES.

16 Q THERE WAS, IN FACT, NO LEGISLATION WHICH
17 SAID YOU HAD TO STOP DOING WHAT YOU WERE DOING?

18 A THAT IS CORRECT. THERE WAS NOT.

19 Q BUT YOU WERE AWARE THAT THERE WAS, AT
20 THIS TIME, A BAN IN SWEDEN?

21 A YES.

22 I'M NOT SURE WHETHER THAT BAN ABSOLUTELY
23 WAS IN PLACE AT THAT TIME.

24 THERE WAS CERTAINLY A THREAT OF THE BAN.
25 IT WAS LIKELY TO HAPPEN, I AGREE.

26 Q SWITZERLAND?

27 A WHERE?

28 Q SWITZERLAND.

1 A I DIDN'T KNOW THAT.

2 THEY WOULDN'T USE ANY PCB'S. I DON'T
3 KNOW OF ANY COMPANY THAT DID.

4 Q A BAN HAD BEEN PROPOSED IN FINLAND?

5 A I WOULD EXPECT THAT AFTER SWEDEN, YES.

6 Q AND IN THE UNITED STATES CONGRESSMAN RYAN
7 INTRODUCED A BILL CALLING FOR A COMPLETE BAN ON
8 PCB'S?

9 A AS AGAINST THAT, FOR EXAMPLE, ON THE
10 UNITED KINGDOM MONSANTO HAD AGREED WITH GOVERNMENT
11 AGENCIES ON HOW TO HANDLE THE PROBLEM AND WERE
12 GETTING SUPPORT.

13 Q IN ADDITION, LAWSUITS WERE BEGINNING TO
14 PILE UP, SHALL WE SAY?

15 A THEY WERE.

16 Q SO WHEN MONSANTO WITHDREW FROM THE PCB
17 BUSINESS EXCEPT WHERE CUSTOMERS WERE WILLING TO SIGN
18 HOLD HARMLESS AGREEMENTS, WOULD YOU SAY, MR. MASON,
19 THAT THE HANDWRITING WAS ON THE WALL?

20 A I WOULD THINK, YES, IT WAS ON THE WALL,
21 CERTAINLY.

22 Q SO THE PROPOSED LEGISLATION AND THE
23 ACTUAL LEGISLATION INFLUENCED YOUR THINKING THAT WE
24 MIGHT AS WELL GET OUT OF THIS BUSINESS BECAUSE SOONER
25 OR LATER WE ARE GOING TO BE FORCED TO?

26 A I THINK THAT MUCH MORE IMPORTANT THAN
27 THAT WERE THE INCIDENTS THAT WERE HAPPENING WHICH
28 SHOWED US WE COULD NOT CONTROL AS WE THOUGHT WE COULD

1 CONTROL.

2 POSSIBLE LEGISLATION, CERTAINLY. BUT I
3 THINK FIRST INSTANCE WAS WE REALIZED THAT WE HAD A
4 BIGGER PROBLEM THAN WE THOUGHT.

5 AND CLOSING THE LOOP WAS SOMETHING WE
6 COULDN'T ACHIEVE.

7 Q THE MORE YOU THOUGHT ABOUT IT AND THE
8 MORE YOU STUDIED THE USE OF PCB'S IN INDUSTRY, THE
9 MORE IT BECAME APPARENT TO YOU THAT IT WAS JUST
10 REALLY NOT POSSIBLE TO CLOSE THE LOOP?

11 A YES, I HAVE TO SAY THAT.

12 Q OKAY. NOW, LET'S TALK FOR A SECOND ABOUT
13 CONGRESSMAN RYAN.

14 IN TESTIMONY YOU WERE GIVING THIS MORNING
15 IN TALKING TO MR. PREUSS, YOU SAID THAT CONGRESSMAN
16 RYAN HAD CALLED FOR MONSANTO TO RELEASE PRODUCTION
17 RECORDS?

18 A YES.

19 Q AND ON BEHALF OF MR. BOCK, THE PRESIDENT
20 OF MONSANTO, YOU WROTE BACK TO CONGRESSMAN RYAN AND
21 SAID, "NO, WE CAN'T DO THAT"?

22 A I DID A LITTLE BIT MORE THAN THAT.

23 I WENT TO SEE HIM, FIRST OF ALL, BEFORE I
24 WROTE A LETTER.

25 I HAD A LONG DISCUSSION WITH HIM.

26 Q YOU VISITED WITH HIM IN WASHINGTON?

27 A I CERTAINLY DID.

28 Q AND THEN YOU WROTE TO HIM?

1 A YES.

2 Q AND YOU TWO EXCHANGED LETTERS A COUPLE OF
3 TIMES?

4 A I ALSO VISITED HIM LATER AND WE ALSO HAD
5 TELEPHONE CONVERSATIONS.

6 Q AND HE CONTINUED TO DEMAND THAT MONSANTO
7 RELEASE PRODUCTION FIGURES?

8 A HE DID.

9 Q AND YOU CONTINUED TO REFUSE?

10 A WITHOUT A CONDITION THAT THEY SHOULD BE
11 CONFIDENTIAL AND USED FOR SCIENTIFIC PURPOSES ONLY.

12 Q NOW, YOU SAID IN TESTIMONY THAT YOU GAVE
13 THIS MORNING IN TALKING TO MR. PREUSS THAT YOUR
14 DISINCLINATION OR DECISION NOT TO GIVE UP THOSE
15 PRODUCTION FIGURES WAS RELATED TO A CONCERN YOU HAD
16 ABOUT THE EUROPEAN PRODUCERS?

17 A THAT'S CORRECT.

18 Q WHAT WAS THAT CONCERN AGAIN?

19 A THE CONCERN WAS THAT MONSANTO IS THE ONLY
20 PRODUCER IN THE UNITED STATES.

21 THE MARKET HERE, THE WAY THE MARKET HAD
22 BEEN DEVELOPED, WAS MUCH, MUCH BIGGER THAN THE TOTAL
23 EUROPEAN MARKET.

24 WE FELT THAT IF WE DISCLOSED THOSE
25 FIGURES AND IF WE WERE, THEN, GETTING OUT OF
26 BUSINESSES, THE WAY WOULD BE OPEN FOR THE CONTINENTAL
27 EUROPEANS TO COME INTO THIS MARKET AND PROBABLY SELL,
28 FOR EXAMPLE, TO OPEN APPLICATIONS LIKE PLASTICIZERS.

1 Q IN WHAT WAY WOULD YOUR PRODUCTION FIGURES
2 BEING AVAILABLE INVITE EUROPEAN PRODUCTION OF PCB'S
3 IN UNITED STATES?

4 A IT WOULD SHOW THEM THE SIZE OF THE
5 MARKET.

6 WHEN YOU SEE A BIG MARKET, IF YOU ARE A
7 GOOD MARKETING MAN, YOU GO AFTER IT.

8 Q IN YOUR EXPERIENCE DO COMPANIES LOOK AT
9 MARKETS IN THE ABSENCE OF PRODUCTION FIGURES FROM
10 SPECIFIC COMPANIES?

11 A I'M SORRY.

12 WOULD YOU CLARIFY THAT QUESTION?

13 Q SURE.

14 YOU HAVE DONE A LOT OF WORK IN MARKETING,
15 RIGHT?

16 A YES.

17 Q AND YOU DON'T OFTEN HAVE YOUR
18 COMPETITORS' PRODUCTION FIGURES AVAILABLE TO YOU?

19 A NO, THAT IS TRUE.

20 Q WHAT YOU WOULD DO TO TRY TO FIGURE OUT
21 HOW THE MARKET IS DIVIDED UP IS YOU WOULD GO OUT AND
22 GET SOME MARKET INTELLIGENCE THAT WOULD TELL YOU WE
23 THINK WE HAVE 35 PERCENT OF THE HEAT TRANSFER
24 BUSINESS BUT PROTOLAX HAS ANOTHER 10 AND BAYER HAS
25 THE REST?

26 A YOU WOULD DO SO IF THAT HAD BEEN THE
27 SITUATION.

28 BUT NONE OF THOSE COMPANIES WERE, TO THE

1 BEST OF MY KNOWLEDGE, SELLING IN THE UNITED STATES
2 NOR, TO THE BEST OF MY KNOWLEDGE, HAVE SALESMEN ON
3 THE ROAD IN THIS COUNTRY.

4 HOWEVER, IF THEY SAW THOSE FIGURES, SAW
5 THE SIZE OF THE MARKET, THERE WOULD BE A VERY STRONG
6 DESIRE ON THEIR PART, WE FELT, TO COME INTO THIS
7 MARKET, NOT ONLY TO TAKE OUR BUSINESS BUT THAT WOULD
8 HAVE DEFEATED THE VERY THING WE WERE TRYING TO DO
9 WHICH WAS TO GET OUT OF OPEN APPLICATIONS AND CONTROL
10 THE EMISSIONS TO THE ENVIRONMENT.

11 Q IF THE FOREIGN MANUFACTURERS WANTED TO
12 COME INTO THE UNITED STATES TO SELL PCB'S, NOTHING
13 THAT YOU COULD HAVE DONE WOULD HAVE STOPPED THAT,
14 RIGHT?

15 A CERTAINLY NOT.

16 Q AND WHETHER OR NOT YOU RELEASED YOUR
17 PRODUCTION FIGURES THE OPPORTUNITY WAS ALWAYS
18 AVAILABLE TO THEM TO SAY THERE ARE A LOT OF PEOPLE IN
19 THE UNITED STATES AND A LOT OF BUSINESS, SO WE COULD
20 GO THERE?

21 A BUT THEY HADN'T DONE THAT.

22 CERTAINLY THE PRODUCTION FIGURES WOULD
23 HAVE BEEN AN OPEN INVITATION.

24 Q MONSANTO WAS THE ONLY SELLER OF PCB IN
25 THE UNITED STATES?

26 A TO THE BEST OF MY KNOWLEDGE, YES.

27 Q SO IT WAS MORE ECONOMICAL FOR MONSANTO TO
28 SELL PRODUCT IN THE UNITED STATES THAN FOR A FRENCH

1 MANUFACTURER TO SHIP PCB'S ACROSS THE OCEAN, RIGHT?

2 A I WOULD THINK SO BUT THAT DOESN'T ALWAYS
3 STOP YOU FROM GOING INTO EXPORT MARKETS.

4 Q OKAY. NOW, MR. MASON, WHEN YOU -- YOU
5 TESTIFIED IN RESPONSE TO QUESTIONS THAT I ASKED YOU
6 EARLIER THAT WHEN YOU GOT THE JOB AND MOVED TO THE
7 UNITED STATES YOU CAME UPON A LEARNING CURVE AND YOU
8 LEARNED WHAT HAD BEEN DONE BEFORE YOU ARRIVED AND YOU
9 WERE PRETTY MUCH ON TOP OF THE SITUATION UNTIL YOU
10 RETURNED TO ENGLAND, RIGHT?

11 A I HOPED SO, YES.

12 Q OKAY. LET ME SEE IF YOU AGREE WITH ME IN
13 THIS SENSE.

14 IN LATE 1966 MONSANTO LEARNED OF WORK
15 THAT WAS BEING DONE IN SWEDEN BY JENSEN AND WIDMARK,
16 CORRECT?

17 A CORRECT.

18 Q THIS WAS NOT PARTICULARLY WELCOME NEWS?

19 A NO, I WOULDN'T THINK IT WAS.

20 BUT IT WAS VERY CONFUSING NEWS AT THE
21 TIME AND IT DID NOT SAY TO US THAT POLYCHLORINATED
22 BIPHENYLS WERE ESCAPING INTO THE ENVIRONMENT.

23 Q SO DAVID WOOD WENT TO SWEDEN AND MET WITH
24 JENSEN AND WIDMARK?

25 A HE DID.

26 Q AND HE WROTE BACK TO ST. LOUIS AND SAID,
27 THEY ARE TALKING ABOUT AROCLORS, CORRECT?

28 A CORRECT.

1 Q AND IN FEBRUARY, 1967 ST. LOUIS TELLS
2 WOOD, "WE WOULD LIKE TO KEEP IN THE BACKGROUND ON
3 THIS PROBLEM"?

4 A I WAS NOT AWARE OF THAT.
5 I HAVE NOT SEEN ANY CORRESPONDENCE WHICH
6 SAID THAT.

7 Q OKAY. AND IN FEBRUARY, 1967 ST. LOUIS
8 TELLS WOOD, "WE ARE PAYING PARTICULAR ATTENTION TO
9 NCR AS A CUSTOMER IN THIS MATTER."

10 A DID THEY?
11 I'M NOT AWARE OF THAT.
12 IS THERE CORRESPONDENCE WHICH SAYS THAT?

13 Q WELL, YES, THERE IS.
14 WOULD YOU LIKE TO TAKE A LOOK AT IT?

15 A I WOULD, PLEASE, YES.

16 Q WHY DON'T WE LOOK AT EXHIBIT 37.

17 A SORRY?

18 Q 37.
19 IT'S IN THE VERY FIRST VOLUME.

20 A IT SAYS A MEMO FROM DR. KELLY.
21 IS THAT CORRECT?

22 Q YES?

23 A MAY I READ IT, PLEASE?

24 Q YES, PLEASE DO.

25 A I READ IT BUT I COULDN'T QUITE AGREE WITH
26 THE INFERENCES YOU DREW FROM THIS.

27 THE CONSENSUS IN ST. LOUIS IS THAT WHILE
28 MONSANTO WOULD LIKE TO STAY IN THE BACKGROUND WE

1 DON'T SEE HOW WE WOULD BE ABLE TO DO SO, ET CETERA.
2 THAT DOESN'T SAY WE WOULD LIKE TO STAY IN THE
3 BACKGROUND, THAT IS THE END OF IT.

4 WE WOULD LIKE TO DO A LOT OF THINGS BUT
5 WE CAN'T.

6 Q WOULD YOU AGREE WITH ME ON PAGE 1
7 DR. KELLY SAYS TO MR. WOOD THAT "WE HAVE BEEN
8 RECEIVING QUITE A FEW COMMUNICATIONS FROM OUR
9 CUSTOMERS BUT THE MOST CRITICAL ONE IS NCR WHO WERE
10 VERY MUCH INVOLVED WITH THEIR CARBONLESS CARBON
11 PAPER"?

12 A THAT'S CORRECT.
13 IT IS IN THE MEMO.

14 Q IN FACT, AFTER FEBRUARY OF 1967 NOT A LOT
15 HAPPENS IN THE UNITED STATES IN THE PUBLIC SPHERE?

16 A MAYBE NOT IN THE PUBLIC SPHERE BUT
17 CERTAINLY WITHIN MONSANTO A LOT WAS HAPPENING.

18 Q IN FACT, IT'S PRETTY QUIET EXCEPT THAT IN
19 1967 AND 1968 SOME ADDITIONAL SCIENTISTS FILE REPORTS
20 LIKE IN THE UK SAYING, "WE ARE CONFIRMING WHAT
21 WIDMARK AND JENSEN HAVE DONE"?

22 A YES.

23 Q AND THE ISSUE FINALLY SURFACES IN THE
24 UNITED STATES IN THE PUBLIC PRESS IN THE SAN
25 FRANCISCO CHRONICLE IN FEBRUARY OF '69?

26 A I THINK THAT WAS IT, YES.

27 Q IN FACT, THAT PREDATES YOUR FIRST COUPLE
28 OF TRIPS TO THE UNITED STATES, BUT YOU CERTAINLY

1 HEARD ABOUT IT?

2 A YES, I HEARD ABOUT IT AND I THINK I SAW
3 THE ARTICLES.

4 Q AND WHAT THE SAN FRANCISCO CHRONICLE IS
5 REPORTING ON IS THE WORK OF DR. ROBERT RISEBROUGH WHO
6 FINDS PCB'S PRESENT IN THE ENVIRONMENT IN CALIFORNIA,
7 RIGHT?

8 A HE DOES.

9 Q AND THE PUBLIC ANNOUNCEMENT OF THAT
10 INFORMATION REALLY GETS THINGS TO MOVE?

11 THERE IS A LOT MORE ACTIVITY IN
12 MONSANTO. FOR EXAMPLE, THE AD HOC COMMITTEE IS
13 FORMED?

14 A YES.

15 Q AND IN FEBRUARY SCOTT TUCKER FOR THE
16 FIRST TIME RUNS ENVIRONMENTAL SAMPLES THROUGH HIS
17 EQUIPMENT AND CONFIRMS THAT PCB'S CAN BE FOUND IN THE
18 ENVIRONMENT, RIGHT?

19 A WAS THAT IN FEBRUARY? WAS THAT THE FIRST
20 TIME?

21 I STAND TO BE CORRECTED. I DON'T KNOW
22 WHEN BUT IT WOULD BE ROUND ABOUT THEN.

23 Q OKAY. THE AD HOC COMMITTEE REPORTS TO
24 THE CMC IN NOVEMBER OF '69?

25 A YES.

26 Q WE HAVE TALKED ABOUT THAT.

27 AND CMC SAYS, "DEVELOP A PLAN TO GET OUT
28 OF 1254 AND THE 1260," CORRECT?

1 A CORRECT.

2 Q BECAUSE THOSE WERE THE TWO COMPOUNDS WITH
3 THE MOST 5/6 CHLORINES IN THEM, RIGHT?

4 A LET'S GET THIS IN PERSPECTIVE.

5 IF YOU COMPARE IT WITH 1242, 1242 HAS A
6 VERY SMALL PERCENTAGE OF THE -- WE CAN'T CLASS THEM
7 ALL TOGETHER.

8 Q 1254 AND 1260 ARE PREDOMINANTLY 5/6
9 CHLORINES?

10 A THEY ARE. THAT IS CORRECT.

11 Q AND AROCLOR 1242 HAS 10 PERCENT 5/6?

12 A IT ALSO HAS A LARGE PART BIODEGRADABLE AS
13 WELL.

14 Q AND THE REST IS FOUR CHLORINES OR FEWER?

15 A CORRECT.

16 Q AT THAT SAME MEETING IN NOVEMBER OF 1969
17 CMC SAYS YOU HAVE TO STUDY 1242, RIGHT?

18 A YES.

19 Q BECAUSE THE CONCERN WAS THE 5/6 CHLORINES
20 THAT THEY WERE SEEING IN ENVIRONMENTAL SAMPLES COULD
21 JUST AS LIKELY BE 1242 AS IT WAS ON THE OTHER
22 PRODUCTS?

23 A THAT WAS THE POSSIBILITY, YES.

24 Q AND WHY WOULD 1242 BE A CONCERN?

25 WELL, ONE CONCERN WOULD BE THAT NCR IS
26 USING 1242 IN ITS CARBONLESS CARBON PAPER AND
27 CARBONLESS CARBON PAPER PRETTY MUCH GOES EVERYWHERE?

28 A YES, THAT IS CORRECT.

1 THAT WOULD BE ONE CONCERN, I AGREE.

2 Q AND CARBONLESS CARBON PAPER WOULD GO INTO
3 LANDFILLS?

4 A YES.

5 Q AND ALL KINDS OF GARBAGE DUMPS AND
6 POSSIBLY STREAMS AND RIVERS?

7 A POSSIBLY.

8 RECYCLING WOULD BE MUCH MORE OF A
9 PROBLEM.

10 Q IN FACT, 1242 AT THAT TIME WAS THE
11 BIGGEST SELLING AROCLOR?

12 A IT IS, YEAH.

13 Q NOW, MR. PAPAGEORGE POINTED AT THAT
14 MEETING, OR RATHER THE POSITION IS CREATED AT THAT
15 MEETING AND HE TAKES HIS JOB SHORTLY THEREAFTER?

16 A YES.

17 Q HE DEVELOPS A PLAN THAT WE HAVE LOOKED AT
18 FOR DEALING WITH THE PROBLEM, RIGHT?

19 A YES.

20 Q AND IT SAYS, "WE WANT TO STAY IN 1254 AND
21 1260. WE THINK THE ELECTRICAL INDUSTRY NEEDS IT"?

22 A WE DIDN'T ONLY THINK.

23 IT HAD BEEN IMPRESSED UPON US BY THE
24 ELECTRICAL INDUSTRY THAT THEY HAD TO HAVE THOSE
25 PRODUCTS AT THAT TIME.

26 I ALSO UNDERSTAND THAT DISCUSSIONS HAD
27 TAKEN PLACE WITH SOME OF THE AGENCIES ON THIS MATTER,
28 TOO.

1 Q DID YOU PERSONALLY MEET WITH THE GE
2 REPRESENTATIVES WHEN THEY CAME TO ST. LOUIS?

3 A I DID NOT MEET AT THAT TIME BUT I
4 PERSONALLY MET WITH SOME OF THE VICE-PRESIDENTS ON
5 OTHER OCCASIONS, LATER IN THE YEAR.

6 Q GE WAS A VERY BIG BUYER OF AROCLORS,
7 RIGHT?

8 A CERTAINLY, YES.

9 Q AND A VERY IMPORTANT CUSTOMER, THEREFORE?

10 A YES.

11 Q SO PERSONAL MEETINGS WERE ARRANGED WITH
12 THEM AT WHICH THE ISSUE WAS DISCUSSED?

13 A CORRECT.

14 Q AND THEY RESISTED TAKING 1254 AND 1260
15 OFF THE MARKET, RIGHT?

16 A THEY CERTAINLY DID.

17 Q AND AS YOU SAID BEFORE, THAT WAS BECAUSE
18 THERE WASN'T ANYTHING ELSE THEY COULD USE FOR THE
19 SAME PURPOSE?

20 A NOT AT THAT TIME, NO.

21 Q BUT NO MEETING WAS ARRANGED WITH TEXAS
22 EASTERN OR TRANSWESTERN OR COLUMBIA GULF TO TALK
23 ABOUT WHETHER THERE WAS SOMETHING ELSE THEY COULD
24 USE, RIGHT?

25 A I UNDERSTAND THAT SEVERAL DISCUSSIONS HAD
26 TAKEN PLACE WITH THAT COMPANY ABOUT POSSIBLE
27 ALTERNATIVES.

28 Q NONE THAT YOU WORKED ON?

1 A I WAS NEVER THERE, NO, CERTAINLY NOT.

2 Q NOW, YOU DEVELOPED A SIX-POINT PLAN AS WE
3 HAVE SEEN, RIGHT?

4 A YES.

5 Q AND IT INCLUDED PHASING OUT HYDRAULIC
6 FLUIDS, RIGHT?

7 A CORRECT.

8 Q OKAY. AND THOSE HYDRAULIC FLUIDS WERE
9 BASICALLY MADE OF 1242, RIGHT?

10 A YES, THAT IS TRUE.

11 Q OKAY. AND AT SOME POINT IT BECOMES CLEAR
12 THAT TURBINOL IS A PRODUCT WITH 1242 IN IT, RIGHT?

13 A AT SOME POINT.

14 IT WAS ALWAYS KNOWN IT WAS PRODUCT WITH
15 1242 IN IT.

16 Q YOU DIDN'T SPECIFICALLY RAISE TURBINOL AT
17 ANY OF THE CMC MEETINGS WE HAVE DISCUSSED?

18 A I DON'T THINK SO.

19 I DON'T SEE ANY REASON WHY.

20 IT WAS A CLOSED APPLICATION TO THE BEST
21 OF MY KNOWLEDGE, AND A VERY SPECIALIZED ONE.

22 Q DID YOU TALK TO MR. PAPAGEORGE, AT ALL,
23 ABOUT THE FACT THAT TURBINOL WAS GETTING INTO THE GAS
24 PIPELINE?

25 A NO, I DON'T THINK I WAS AWARE OF THAT.

26 Q DID YOU TALK TO NORM JOHNSON, AT ALL, WHO
27 WAS THE SALES DIRECTOR ABOUT THE FACT THAT TURBINOL
28 WAS GETTING INTO THE GAS PIPELINE?

1 A I THINK I DO REMEMBER SOME DISCUSSIONS.
2 BUT AS FAR AS I KNOW, A COMPANY CONCERNED
3 HAD THE AVAILABILITY TO DEAL WITH THAT IN TRAPS.

4 Q IN TRAPS IN THE PIPELINE?

5 A AS FAR AS I UNDERSTAND IT.

6 Q YOU KNEW THAT MONSANTO WAS MONITORING THE
7 EFFLUENT IN ITS OWN PLANTS DOWN TO 10 PARTS PER
8 BILLION, RIGHT?

9 A YES.

10 Q DID YOU CONSIDER WHETHER IT WAS POSSIBLE
11 TO GET TURBINOL OUT OF THE PIPELINE DOWN TO 10 PARTS
12 PER BILLION IN A TRAP?

13 A I CAN'T SAY I DO BECAUSE I WAS NOT
14 SPECIFICALLY INVOLVED IN THE TECHNICAL ASPECTS OF
15 IT.

16 Q OKAY. SO YOU DIDN'T -- YOU DID KNOW THAT
17 TURBINOL COULD GET INTO THE PIPELINE?

18 A I HAD HEARD IT COULD, YES.

19 AS I UNDERSTOOD, IT COULD STILL BE
20 RETAINED AND REMOVED IN TRAPS.

21 Q BUT YOU WOULD LOOK TO THE BUSINESS PEOPLE
22 TO GIVE YOU THAT EXPLANATION?

23 A THE TECHNICAL PEOPLE, YES.

24 Q TECHNICAL PEOPLE.

25 WAS ONE OF THOSE DR. HATTON?

26 A YES, HATTON WAS A TECHNICAL PERSON.

27 Q AND HATTON WAS THE TECHNICAL GUY WHO
28 REALLY KNEW A LOT ABOUT THIS PRODUCT, RIGHT?

1 A YES, HE DID.

2 Q DID HATTON EVER TELL YOU HE WAS AWARE
3 THAT TURBINOL COULD GET INTO THE INSIDE OF A
4 PIPELINE?

5 A NOT TO ME, NO.

6 Q OKAY. NOW, IN 1970 THERE IS A LOT OF
7 INTEREST IN THE ENVIRONMENT, RIGHT?

8 A CORRECT.

9 Q FOR EXAMPLE, THE VERY FIRST EARTH DAY WAS
10 MAY 1ST, 1970, RIGHT?

11 A I BELIEVE SO, YES.

12 Q AND YOUR EXPERIENCE WITH CONGRESSMAN RYAN
13 AND THE OTHER GOVERNMENT PEOPLE YOU DEALT WITH WAS
14 THAT THEY WERE PUTTING INCREASING PRESSURE ON YOU TO
15 DEAL WITH THE PCB PROBLEM, RIGHT?

16 A THEY WERE PUTTING INCREASING PRESSURE,
17 MOST OF THEM, TO DISCLOSE MANUFACTURING FIGURES.

18 I DON'T THINK CONGRESSMAN RYAN PUT
19 PRESSURE ON US TO DEAL WITH THE PROBLEM.

20 ONE OF THE THINGS HE WANTED WAS EVERY
21 PRODUCT WHICH CONTAINED PCB'S TO BE LABELED.

22 THAT WAS COMPLETELY AN IMPOSSIBLE TASK.

23 Q IT WAS A COMPLETELY IMPOSSIBLE TASK TO
24 LABEL ALL OF THOSE PCB PRODUCTS?

25 A NO, NOT PCB PRODUCTS, PRODUCTS
26 MANUFACTURED ELSEWHERE WHICH CONTAINED PCB'S.

27 HE COULD HAVE BEEN TALKING ABOUT TENS OF
28 THOUSANDS.

1 THAT WAS HIS IDEA.

2 HE WANTED THAT DONE.

3 Q WHAT WAS THE IDEA, MR. MASON, BEHIND THE
4 HOLD HARMLESS AGREEMENT?

5 A YOU MEAN AFTER THE BOARD MEETING?

6 Q YES?

7 A TO GIVE THE USERS AT THAT TIME, THE
8 ELECTRICAL INDUSTRY AND CERTAINLY AS FAR AS I'M
9 CONCERNED TEXAS EASTERN GAS, THE OPPORTUNITY TO FIND
10 SOME REPLACEMENT PRODUCTS AND TO PHASEOUT.

11 Q SO THE IDEA WAS, WE WILL CONTINUE TO SELL
12 TO YOU BUT IF WE DO SO TO GIVE YOU TIME TO FIND
13 ANOTHER PRODUCT --

14 A CORRECT.

15 Q -- YOU MUST HOLD US HARMLESS?

16 A YES.

17 Q YOU MUST AGREE THAT LEGALLY YOU HAVE NO
18 CASE AGAINST US?

19 A YES.

20 Q AND, IN FACT, YOU KNOW THAT NO PURCHASER
21 OF TURBINOL EVER SIGNED SUCH A LETTER, RIGHT?

22 A NOT TO THE BEST OF MY KNOWLEDGE.

23 REMEMBER, I LEFT THE UNITED STATES AT
24 THAT POINT IN TIME.

25 Q RIGHT.

26 A BUT TO THE BEST OF MY KNOWLEDGE, NO.

27 Q WELL, BEFORE YOU LEFT THE UNITED STATES
28 YOU WERE AWARE THAT THE PLAN WAS TO SELL OUT THE

1 INVENTORY OF TURBINOL ON HAND AND HOPE THAT THE
2 CUSTOMER WOULD THEN SWITCH TO ANOTHER MONSANTO
3 PRODUCT?

4 A I DIDN'T -- THAT IS NOT THE WAY I
5 UNDERSTOOD IT.

6 THE WAY I UNDERSTOOD IT WAS GOING ON TO
7 FIND A REPLACEMENT PRODUCT WHICH COULD BE ADDED TO
8 THE SYSTEM AT THE PRESENT TIME WITHOUT TEXAS EASTERN
9 HAVING TO GO THROUGH THE DIFFICULTY AND EXPENSE OF
10 COMPLETELY DRAINING THE SYSTEM.

11 Q SO IN YOUR MIND THE PLAN WAS TO FIND A
12 PRODUCT WHICH COULD BE MIXED WITH THE TURBINOL AND
13 THEY COULD CONTINUE TO USE IT?

14 A YES.

15 Q OKAY.

16 MR. TALLON: I HAVE NOTHING FURTHER.

17 THE COURT: REDIRECT, MR. PREUSS?

18 MR. PREUSS: NO, YOUR HONOR, NO QUESTIONS.

19 THE COURT: MAY THIS WITNESS NOW BE EXCUSED?

20 MR. PREUSS: YES, SIR.

21 THE COURT: AND MR. TALLON?

22 MR. TALLON: YES, YOUR HONOR.

23 THE COURT: WE THANK YOU, SIR, FOR YOUR
24 ATTENDANCE AT THIS TRIAL.

25 YOU ARE EXCUSED FROM FURTHER ATTENDANCE.

26 A FURTHER WITNESS, MR. PREUSS?

27 MR. PREUSS: YES, YOUR HONOR.

28 MR. ZIMMER: YES, YOUR HONOR, MONSANTO WOULD

1 LIKE TO CALL MILTON SMID.

2 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN.

3

4 MILTON J. SMID,

5 CALLED AS A WITNESS BY THE DEFENDANT, MONSANTO, WAS
6 SWORN AND TESTIFIED AS FOLLOWS:

7

8 THE WITNESS: I DO.

9 THE CLERK: PLEASE, BE SEATED.

10 PLEASE STATE AND SPELL YOUR NAME FOR THE
11 RECORD.

12 THE WITNESS: MY NAME IS MILTON, M-I-L-T-O-N,
13 J., S-M-I-D, SMID.

14 THE COURT: MR. SMID, COULD I ASK YOU TO TAKE
15 THAT MICROPHONE AND SLIDE IT FORWARD.

16 KEEP YOUR CHAIR RELATIVELY CLOSE SO THE
17 MICROPHONE WILL TAKE UP YOUR VOICE.

18 WE WILL TAKE THE AFTERNOON BREAK AT FIVE
19 BEFORE THREE, JUST FOR YOUR PLANNING.

20 MR. ZIMMER: THANK YOU, YOUR HONOR.

21

22 DIRECT EXAMINATION

23 BY MR. ZIMMER:

24 Q GOOD AFTERNOON, MR. SMID.

25 A GOODS AFTERNOON.

26 Q HOW ARE YOU TODAY?

27 A FINE.

28 Q WOULD YOU TELL US WHERE YOU RESIDE.

1 A YES, I LIVE AT ST. LOUIS MISSOURI.

2 Q ARE YOU MARRIED?

3 A YES, I AM.

4 WE HAVE FIVE MARRIED CHILDREN AND 13
5 GRANDCHILDREN.

6 Q I'M SORRY TO TAKE YOU AWAY FROM THEM
7 DURING THE HOLIDAYS.

8 ARE YOU EMPLOYED, SIR?

9 A NO, I'M NOT.

10 I RETIRED IN 1991.

11 Q ALL RIGHT. WHERE DID YOU RETIRE FROM?

12 A FROM MONSANTO.

13 Q HOW DO YOU SPEND YOUR TIME NOW, SIR?

14 A WELL, I SPEND MY TIME PLAYING GOLF,
15 TRAVELING TO SEE MY GRANDCHILDREN, TROUT FISHING,
16 TYING FLIES FOR TROUT FISHING, WHITTILING WOOD AND
17 MAKING GLASS ORNAMENTS.

18 Q IT SOUNDS LIKE VISITING THE GRANDCHILDREN
19 ALONE WOULD TAKE A FAIR AMOUNT OF TIME?

20 A YES, IT DOES.

21 Q NOW, YOU WERE LAST EMPLOYED AT MONSANTO
22 IN WHAT CAPACITY, SIR?

23 A AS MANAGER OF PACKAGING, LABELING AND
24 MATERIALS HANDLING.

25 Q ALL RIGHT. AND WHERE WERE YOU PHYSICALLY
26 LOCATED AT THAT TIME?

27 A I WAS LOCATED IN THE GENERAL OFFICES AT
28 CREVCORE, MISSOURI, JUST OUTSIDE OF ST. LOUIS.

1 Q COULD YOU DESCRIBE FOR US, SIR, YOUR
2 EMPLOYMENT HISTORY AT MONSANTO.

3 WHAT WAS YOUR FIRST POSITION?

4 A MY FIRST JOB, WHEN I CAME OUT OF THE
5 SERVICE, WAS AT THE WILLIAM G. KRUMMRICH PLANT. I
6 WAS A MAINTENANCE ENGINEER.

7 Q WHEN WAS THAT?

8 A IN THAT JOB I WAS RESPONSIBLE FOR
9 ENGINEERING MAINTENANCE REPAIR JOBS AND SMALL
10 INSTALLATION PROJECTS, LINING UP THE KIND OF CRAFTS
11 THAT WERE REQUIRED AND THE EQUIPMENT AND MAKING
12 SKETCHES AND DRAWINGS.

13 Q WHEN DID YOU START THAT JOB?

14 A IN 1956.

15 Q AND YOU SAID THAT WAS WHEN YOU JUST GOT
16 OUT OF THE SERVICE?

17 A I JUST GOT OUT OF THE SERVICE.

18 Q IN WHAT BRANCH OF THE SERVICE WERE YOU?

19 A I WAS IN THE ARMY CORPS OF ENGINEERS.

20 Q HOW LONG WERE YOU IN THE SERVICE?

21 A I WAS IN FOR TWO YEARS, A COMPANY OFFICER
22 IN THE BASIC TRAINING UNIT AND THEN A COMPANY
23 COMMANDER IN A BASIC TRAINING UNIT AND FROM THERE I
24 MOVED ON TO POST SCHEDULING OFFICER WHERE I SCHEDULED
25 ALL OF THE BASIC TRAINING CLASSES, THE LOCATION, THE
26 TEACHERS, THE -- I DIDN'T DO IT PERSONALLY.

27 I HAD A GROUP THAT DID THAT.

28 Q NOW, IN 1956 YOU SAID YOU WERE WORKING AT

1 THE KRUMMRICH PLANT; IS THAT RIGHT?

2 A THAT'S CORRECT.

3 Q WHERE IS THE KRUMMRICH PLANT?

4 A THE KRUMMRICH PLANT IS LOCATED IN SAUGET,
5 ILLINOIS WHICH IS ACROSS THE RIVER FROM ST. LOUIS,
6 JUST SOUTH OF DOWNTOWN, I WOULD SAY A COUPLE OF MILES
7 SOUTH.

8 Q COULD YOU TELL THE JURY, SIR, WHAT YOU
9 NEXT DID FOR MONSANTO?

10 A AT ABOUT 1960 I WAS PROMOTED TO MATERIALS
11 HANDLING ENGINEER, MATERIALS HANDLING SPECIALIST. I
12 DON'T RECALL THE TITLE SPECIFICALLY. AT THE
13 KRUMMRICH PLANT.

14 Q WHAT DID YOU DO AS A MATERIALS HANDLING
15 ENGINEER?

16 A THAT JOB I HELPED DEPARTMENTS OR
17 PEOPLE -- SELECT OR DESIGN PACKAGES.

18 I COORDINATED THE PACKAGES WITH THE
19 GENERAL OFFICES.

20 I COORDINATED ALL THE LABELING EFFORTS OF
21 THE PLANT WITH THE GENERAL OFFICES.

22 IN OTHER WORDS, IF WE HAD A NEED AT THE
23 PLANT, I WOULD COMMUNICATE THAT TO THE GENERAL
24 OFFICES AND VICE VERSA IF THEY HAD ONE.

25 THE COURT: SIR, YOUR VOICE IS DROPPING.

26 THE WITNESS: THEY COMMUNICATED THAT BACK TO
27 ME.

28 SO I ALSO DID A LOT OF WORK IN THE WAY OF

1 RECOMMENDING MATERIALS HANDLING SYSTEMS FOR FILLING
2 PACKAGES AND HOW TO LOAD THEM IN THE CARS AND TRUCKS
3 AND HOW TO BRACE THEM, THAT SORT OF THING.

4 Q BY MR. ZIMMER: WERE AROCLOR PRODUCTS
5 MANUFACTURED AT THE KRUMMRICH FACILITY IN THE 1960
6 TIME FRAME?

7 A YES, THEY WERE.

8 Q AND HOW LONG DID YOU STAY IN THAT
9 POSITION AS MATERIALS HANDLING?

10 A ABOUT SIX YEARS, UNTIL 1966.

11 Q AND THEN WHAT POSITION DID YOU TAKE ON IN
12 1966?

13 A IN 1966 I WAS PROMOTED TO SUPERINTENDENT
14 OF MATERIALS HANDLING AT THE J.F. QUEENY PLANT IN
15 ST. LOUIS, MISSOURI.

16 Q AND WHERE IS THE J.F. QUEENY PLANT
17 LOCATED IN ST. LOUIS?

18 A AGAIN, IT'S CLOSE TO THE RIVER.
19 IT'S ON SOUTH SECOND STREET IN ST. LOUIS,
20 VERY CLOSE TO DOWNTOWN.

21 AND SECOND STREET IS TWO STREETS FROM THE
22 RIVER.

23 THERE WAS A RAILROAD YARD IN BETWEEN. SO
24 IT WAS HALF A MILE FROM THE RIVER, THE MISSISSIPPI
25 RIVER.

26 Q WHAT DID YOU DO AT THE J.F. QUEENY PLANT
27 BEGINNING IN 1966?

28 A I WAS RESPONSIBLE FOR THE PEOPLE THAT

1 HANDLED ALL OF THE WAREHOUSING. THEY HANDLE ALL OF
2 THE MATERIAL THAT WENT IN AND OUT OF THE VARIOUS
3 DEPARTMENTS, THE FINISHED GOODS, EMPTY PACKAGES AND
4 FILLED PACKAGES.

5 I WAS RESPONSIBLE FOR THE PEOPLE THAT
6 ORDERED THE EMPTY PACKAGES AND THE RAW MATERIALS THAT
7 PLACED THE ORDER, COORDINATED THEM IN.

8 I WAS ALSO RESPONSIBLE FOR THE PERSONS
9 THAT HANDLED THE LABELING COORDINATION, SIMILAR TO
10 WHAT I DID AT THE KRUMMRICH PLANT.

11 THE QUEENY PLANT FUNCTION, THAT WAS A
12 LITTLE BIT MORE INVOLVED.

13 Q WAS YOUR TITLE THE SAME AT QUEENY AS IT
14 HAD BEEN AT KRUMMRICH?

15 A NO, MY TITLE WAS MATERIALS HANDLING
16 SPECIALIST AT THE KRUMMRICH PLANT.

17 BUT AT THE QUEENY PLANT I WAS PROMOTED TO
18 SUPERINTENDENT.

19 ANOTHER FUNCTION THAT I HAD IN ADDITION
20 TO THOSE WAS I WAS RESPONSIBLE FOR A MANUFACTURING
21 AREA WHICH WAS CALLED CENTRAL DRUMMING OR CENTRAL
22 LIQUIDS HANDLING, WHICHEVER YOU WANT TO CALL IT.

23 THERE WE RECEIVED MANY MATERIALS FROM
24 VARIOUS DEPARTMENTS IN THE PLANT AS WELL AS MATERIALS
25 THAT WERE BROUGHT IN FROM OTHER MONSANTO LOCATIONS
26 AND SOME THAT WERE PURCHASED.

27 AND WE WOULD BLEND THEM TO MAKE FINISHED
28 PRODUCTS.

1 AND WE WOULD EITHER SHIP THEM IN BULK OR
2 WE WOULD SHIP THEM IN 55-GALLON DRUMS OR FIVE-GALLON
3 CANS.

4 Q ALL RIGHT. SIR, HOW LONG DID YOU STAY IN
5 YOUR POSITION AS SUPERINTENDENT AT THE QUEENY PLANT?

6 A FOR ABOUT TEN YEARS.

7 Q ALL RIGHT. AND WHAT WAS YOUR NEXT
8 POSITION WITHIN MONSANTO?

9 A MY NEXT POSITION WAS RAIL EQUIPMENT
10 SPECIALIST.

11 BEING IN MATERIALS HANDLING I ALSO HAD
12 THE RAILROAD RESPONSIBILITIES AT BOTH PLANTS.

13 SO I HANDLED THE REPAIRS OF RAIL
14 EQUIPMENT AND I ALSO CONDUCTED CLASSES ON HOW TO
15 INSPECT RAIL CARS FOR SAFETY FOR CRACKS IN BOLSTERS,
16 THAT SORT OF THING.

17 I DID THAT FOR ONE YEAR.

18 Q WHAT DID YOU DO AFTER THAT?

19 A THEN I BECAME PROMOTED AGAIN TO PACKAGING
20 MANAGER FOR THE CORPORATION.

21 Q AND WHAT DID THAT JOB ENTAIL?

22 A THAT ENTAILED ASSURING THAT ALL PACKAGES
23 WERE IN COMPLIANCE WITH REGULATIONS, WHATEVER THEY
24 MIGHT BE AND TARIFFS WHICH ARE TYPES OF REGULATIONS
25 PUT OUT BY THE VARIOUS SHIPPING COMPANIES.

26 I ALSO RECOMMENDED IMPROVED PACKAGING FOR
27 THE -- FOR ALL OF THE PLANTS IN MONSANTO.

28 I DID, NOT PERSONALLY, ALONE, ALL OF

1 THEM. I HAD PEOPLE, ENGINEERS THAT WORKED FOR ME.

2 WE ASSISTED IN THE TESTING. WE ASSISTED
3 IN GETTING EXEMPTIONS FROM STANDING PACKING FROM THE
4 D.O.T. IF THEY WERE NEEDED BECAUSE WE HAD AN
5 INNOVATION THAT WE THOUGHT WAS BETTER.

6 Q WHAT IS THE D.O.T., SIR?

7 A DEPARTMENT OF TRANSPORTATION, THE UNITED
8 STATES DEPARTMENT OF TRANSPORTATION.

9 Q DID THE JOB YOU ARE DESCRIBING FOR US
10 INVOLVE LABELING RESPONSIBILITIES?

11 A NOT DIRECTLY.

12 I -- THE LABELING WAS ONLY A PART OF --
13 FOR EXAMPLE, A BAG, LIKE YOU SEE A BAG OF FERTILIZER
14 HAS PRINTING ON IT. THAT IS THE LABEL ON THE BAG.

15 SO FROM THAT STANDPOINT IT INVOLVED THAT
16 BUT NOT DIRECTLY ANY LABEL DESIGNS OR ANYTHING LIKE
17 THAT.

18 Q OKAY. DID YOU HOLD ANY OTHER POSITIONS
19 AT MONSANTO BEFORE YOU RETIRED?

20 A ONE OF THE THINGS I WANT TO SAY IN THAT
21 POSITION I ALSO WAS PART OF A NATIONAL COMMITTEE
22 CALLED PACKAGING INSTITUTE U.S.A.

23 AND I WAS IN THE CHEMICAL PACKAGING
24 COMMITTEE OF THAT.

25 WE HAD A LOT OF EXPERTISE WITHIN THAT
26 COMMITTEE AS FAR AS PACKAGING WAS CONCERNED AND
27 LABELING FOR THE DEPARTMENT OF TRANSPORTATION,
28 DIFFERENT KIND OF LABELING REQUIREMENTS.

1 IN FACT I WAS THE CHAIRMAN OF THAT
2 ORGANIZATION UNTIL THE TIME I MOVED TO THE LABELING
3 DEPARTMENT IN 1982.

4 Q AND THAT WAS DURING YOUR TENURE AS --

5 A AS PACKAGING MANAGER.

6 THEN I BECAME -- THEN AFTER THAT I BECAME
7 LABELING MANAGER FOR MONSANTO.

8 Q SO THE LABELING MANAGER FOR MONSANTO WAS
9 THE NEXT POSITION YOU HAD AFTER PACKAGING MANAGER?

10 A YES, UH-HUH.

11 Q TRY, SIR, TO WAIT UNTIL I'M FINISHED WITH
12 MY QUESTION.

13 IT WILL MAKE THE COURT REPORTER'S LIFE A
14 LOT EASIER. AND SAVE US ALL SOME TIME.

15 THANK YOU.

16 I KNOW IT'S DIFFICULT TO SIT UP THERE.

17 NOW, AFTER YOU WERE LABELING MANAGER DID
18 YOU THEN RETIRE OR DID YOU HOLD ANY OTHER POSITIONS
19 WITHIN MONSANTO?

20 A NO.

21 MY NEXT POSITION WAS MANAGER OF
22 PACKAGING, LABELING AND MATERIALS HANDLING.

23 Q HOW DID THAT DIFFER FROM WHAT YOU HAD
24 BEEN DOING JUST BEFORE THAT?

25 A HE HAD ALL OF THE FUNCTIONS.

26 HE HAD THE PACKAGING, DESIGN PEOPLE.

27 I HAD THE LABELING AND THE MATERIALS
28 HANDLING ENGINEERS, ALL OF THOSE REPORTING TO ME.

1 Q NOW, DOES THAT TAKE US UP TO ABOUT 1991
2 WHEN YOU RETIRED?

3 A YES, THAT'S CORRECT.

4 Q OKAY. LET'S FOCUS ON YOUR JOB
5 RESPONSIBILITIES BETWEEN 1966 AND 1975 AT THE QUEENY
6 PLANT.

7 AND YOUR TITLE, AGAIN, SIR, DURING THAT
8 PERIOD?

9 A SUPERINTENDENT OF MATERIALS HANDLING.

10 Q AND IS THE QUEENY PLANT A PLANT AND A
11 WAREHOUSE?

12 A THE QUEENY PLANT HAD WAREHOUSES WITHIN
13 THE PLANT THAT WAREHOUSE THE MATERIALS, THE RAW
14 MATERIALS BEFORE THEY WERE USED AT THE DEPARTMENT AND
15 FINISHED PRODUCT BEFORE IT WAS SHIPPED TO CUSTOMERS.

16 WE HAD OUR OWN WAREHOUSES WITHIN IT.

17 Q YOU MENTIONED BLENDING EARLIER IN PART OF
18 YOUR ANSWER.

19 WHAT BLENDING WAS DONE AT THE QUEENY
20 PLANT BETWEEN 19, SAY, '68 AND '72?

21 A WE BLENDED SEVERAL FAMILIES OF PRODUCTS.

22 WE BLENDED PLASTICIZERS WHICH WERE
23 PRODUCTS WHICH WENT INTO, LIKE, WIRE COATINGS AND
24 FURNITURE AND AUTOMOBILE PARTS.

25 WE BLENDED SKYDROL PRODUCTS WHICH WERE
26 HYDRAULIC FLUIDS FOR AIRPLANES, STILL USED RIGHT
27 NOW.

28 WE BLENDED PYDRAUL PRODUCTS WHICH WERE

1 HYDRAULIC PRODUCTS.

2 WE ALSO BLENDED A TURBINOL PRODUCT WHICH
3 WAS USED FOR LUBRICATING TURBINES.

4 WE HAD ANOTHER SPECIALITY FAMILY OF
5 PRODUCTS WHICH WERE CALLED COOLINOLS.

6 THEY WERE USED FOR MISSILE GUIDANCE
7 SYSTEMS, NASA CAPSULES, THAT SORT OF THING.

8 Q DID YOU BLEND THERMINOL PRODUCTS?

9 A NO, WE DIDN'T.

10 Q WERE AROCLORS COMPONENTS OF ALL OF THE
11 FAMILIES OF PRODUCTS THAT YOU JUST MENTIONED?

12 A NO, THEY WEREN'T.

13 AROCLORS WERE ONLY PART OF THE PYDRAUL
14 PRODUCTS AND THE TURBINOL.

15 Q NOW, DURING THAT TIME FRAME THAT I JUST
16 MENTIONED, '68 TO '72, WHERE DID THE COMPONENT PARTS
17 THAT WERE BLENDED COME FROM WHEN YOU BLENDED PRODUCTS
18 AT THE QUEENY PLANT?

19 A THEY CAME FROM WITHIN THE PLANT.

20 THEY WERE MANUFACTURED BY SOME OF THE
21 DEPARTMENTS WITHIN THE PLANT.

22 THEY CAME FROM THE KRUMMRICH PLANT. THEY
23 CAME FROM TEXAS CITY.

24 THEY CAME FROM CHOCOLATE BAYOU.

25 THEY CAME FROM BRIDGEPORT, NEW JERSEY.

26 Q LOTS OF DIFFERENT PLACES?

27 A MANY PLACES.

28 I CAN'T RECALL ALL OF THEM.

1 Q YOU MENTIONED BLENDING TURBINOL BETWEEN
2 1968 AND 1972 AT QUEENY, CORRECT?

3 A YES.

4 Q TO YOUR KNOWLEDGE, WAS TURBINOL BLENDED
5 AT ANY OTHER MONSANTO FACILITY BETWEEN 1968 AND 1972?

6 A NOT TO MY KNOWLEDGE.

7 Q DID TURBINOL CONTAIN AROCLORS?

8 A YES, IT DID.

9 Q AND YOU MENTIONED THAT SOME OF THE OTHER
10 FAMILY OF PRODUCTS ALSO CONTAINED AROCLORS?

11 A YES.

12 Q WHICH ONES DO YOU RECALL THAT WERE
13 BLENDED AT QUEENY DURING THAT TIME PERIOD CONTAINED
14 AROCLORS?

15 A SOME OF THE PYDRAULS THAT WE BLENDED
16 CONTAINED AROCLORS DURING THAT TIME PERIOD. SOME OF
17 THEM DID NOT.

18 Q NOW, SIR, AS PART OF YOUR JOB IN THE '68
19 TO '72 TIME PERIOD, WERE YOU FAMILIAR WITH THE
20 PACKAGING OF LABELING PRACTICES THAT WERE FULFILLED
21 AT THE QUEENY PLANT?

22 A YES, I WAS VERY FAMILIAR WITH THEM,
23 PARTICULARLY IN MY AREA OF RESPONSIBILITY.

24 BUT THEY WERE -- OVERALL I WAS -- I HAD
25 PEOPLE THAT DID THE COORDINATION OF IT FOR THE WHOLE
26 PLANT SO THAT I WAS VERY FAMILIAR WITH IT.

27 Q DURING THE BLENDING OPERATION AND THEN
28 THE DRUM FILLING FOR A PRODUCT LIKE TURBINOL AT

1 QUEENY, WHERE WOULD THAT TAKE PLACE?

2 A THE TURBINOL WAS DRUMMED AT CENTRAL
3 DRUMMING OR WE HAD A FAIRLY SOPHISTICATED SYSTEM FOR
4 DRUMMING.

5 PRODUCT WOULD BE MADE UP IN A BLEND TANK
6 AND IT WOULD -- WE WOULD EMPTY DRUMS STORED UP ABOVE
7 ON LONG CONVEYORS.

8 THE OPERATOR WOULD CALL FOR HOW MANY
9 DRUMS OF WHAT TYPE HE WANTED.

10 WE HAD MORE THAN ONE TYPE OF DRUM.

11 DIFFERENT PRODUCTS REQUIRED DIFFERENT
12 DRUMS.

13 Q LET ME STOP YOU THERE FOR A MINUTE THEN
14 AND ASK YOU WHAT TYPE OF DRUM WAS USED DURING THIS
15 TIME PERIOD WE ARE TALKING ABOUT FOR TURBINOL.

16 A IT WAS A 55-GALLON DRUM.

17 Q DO YOU KNOW WHAT IT WAS MADE OF?

18 A IT WAS MADE OF STEEL.

19 Q AND WHAT COLOR WAS IT?

20 A TO THE BEST OF MY RECOLLECTION THE HEADS
21 WERE WHITE AND IT WOULD HAVE TWO WHITE M'S ON THE
22 SIDES.

23 Q AND WHAT COLOR WAS THE DRUM ITSELF?

24 A THE DRUM WAS BLACK.

25 THE DRUM WAS A HEAVY-GAUGED DRUM BECAUSE
26 OF THE WEIGHT OF THE TURBINOL. IT WAS A HEAVY
27 PRODUCT.

28 Q HEAVY GAUGE OF WHAT MATERIAL?

1 A HEAVY GAUGE.

2 IT WAS A THICK METAL.

3 WE HAD MORE THAN ONE THICKNESS
4 AVAILABLE.

5 Q AND YOU, SIR, HAVE OBSERVED DRUMS OF
6 TURBINOL AND OTHER AROCLOR-CONTAINING PRODUCTS FILLED
7 AT THE QUEENY PLANT?

8 MS. GRADY: COMPOUND.

9 THE COURT: OVERRULED.

10 YOU MAY ANSWER.

11 THE WITNESS: I WOULD SAY THAT DURING THE
12 COURSE OF MY TIME THERE THAT I OBSERVED ALL PRODUCTS
13 BEING DRUMMED OR HANDLED.

14 BUT I SPENT EVERY DAY IN AND OUT OF THE
15 DEPARTMENT. BUT I CAN'T SAY SPECIFICALLY THAT ANY
16 ONE PRODUCT, I JUST CAN'T REMEMBER THAT.

17 Q WHY DON'T YOU GO ON TO DESCRIBE FOR US
18 WHAT THE OPERATORS WOULD DO AT THE CENTRAL DRUMMING
19 STATION WHEN FILLING.

20 A THEY WOULD GET THEIR DRUMS DELIVERED.

21 THEY WOULD COME DOWN ON A LITTLE ELEVATOR
22 AND ACCUMULATE THEM.

23 THEN AFTER THEY HAD THEIR DRUMS SET UP
24 THEY WOULD TAKE A BUNG FITTING, WHICH WAS THE
25 APPROPRIATE ONE FOR THAT PRODUCT, AND A COVER AND A
26 LABEL AND START A FIRST DRUM.

27 AND THEN GENERALLY THEY WOULD LABEL THE
28 FIRST DRUM.

1 THE LABEL, BY THE WAY, ALREADY HAD A LOT
2 NUMBER STAMPED ON IT.

3 Q AND WHAT IS A LOT NUMBER?

4 A A LOT NUMBER WAS AN IDENTIFICATION NUMBER
5 FOR THAT PARTICULAR PRODUCT THAT WAS MADE THAT DAY.

6 THAT LOT WAS SAMPLED AND THE SAMPLES WERE
7 TESTED AND PART OF THEM WERE RETAINED FOR REFERENCE
8 IN THE EVENT SOMETHING WAS NOT RIGHT OR WHATEVER OF
9 THAT PRODUCT, IF IT DEGRADED, FOR SOME REASON, OUT IN
10 SERVICE, WHATEVER.

11 Q WAS A PRODUCT LIKE TURBINOL MADE EVERY
12 DAY?

13 A EXCUSE ME?

14 Q WAS A PRODUCT LIKE TURBINOL MADE EVERY
15 DAY ON A CONTINUING BASIS?

16 A NO, TURBINOL WAS NOT MADE EVERY DAY.

17 IT WAS PROBABLY NOT MADE ONCE A MONTH.

18 I WOULD GUESS THAT BECAUSE IT WAS NOT A
19 HIGH-VOLUME PRODUCT FOR US.

20 BUT HE WOULD GO ON AND HE WOULD STAMP
21 THAT SAME LOT NUMBER ON THE LID.

22 HE WOULD DO IT WITH A SMALL HALF-INCH OR
23 A SMALLER STAMP. THE LOT NUMBER WOULD BE LIKE A
24 COUPLE OF LETTERS AND A NUMBER.

25 THEN HE WOULD PUSH A BUTTON WHICH WOULD
26 LOWER THE LANCE DOWN INTO THE DRUM AND IT WOULD FILL
27 IT TO A CERTAIN WEIGHT.

28 AFTER IT WAS FILLED, HE WOULD -- THE

1 LANCE CAME OUT AND HE WOULD PUT A BUNG IN LOOSELY,
2 MOVE IT OVER AND START ANOTHER DRUM.

3 NOW, WHILE THAT WAS GOING ON, WHILE THAT
4 DRUM WAS FILLING, HE WOULD BE APPLYING A LABEL TO THE
5 NEXT DRUM AND PUTTING THE FITTINGS ON THE TOP.

6 NOW, THE FITTINGS HAD TO BE ON TOP
7 BECAUSE THEY WERE PART OF THE GROSS WEIGHT OF THE
8 DRUM. SO YOU COULDN'T JUST HAVE THE DRUM SITTING
9 THERE. IT WOULD BE OFF BY THE WEIGHT OF THOSE TWO
10 PIECES.

11 SO THE BUNG, THE BUNG FITTING IS THE
12 FITTING THAT GOES IN, CAPS OFF THE WHOLE WHERE YOU
13 ARE FILLING THROUGH.

14 Q WHAT IS THE BUNG?

15 A THE BUNG IS THE WHOLE IN THE DRUM THAT IS
16 THREADED, GENERALLY, THAT YOU FILL THROUGH OR TAKE
17 OUT.

18 IT HAS A THREADED FITTING.

19 AND THAT FITTING HAS A GASKET ON IT AND
20 THAT GASKET HAS TO BE COMPATIBLE WITH THE PRODUCT.

21 THAT IS WHY YOU HAD TO PICK THE RIGHT
22 BUNG FITTING FOR THE RIGHT DRUM PLUS SOME OF THE
23 DRUMS WERE LINED AND THEN YOU HAD TO HAVE A LINE
24 FITTING.

25 Q OKAY. LET'S TALK ABOUT THE LABELING PART
26 OF WHAT YOU HAVE BEEN DESCRIBING.

27 WHERE WERE LABELS FOR PRODUCTS LIKE THIS
28 STORED?

1 A THE LABELS FOR ALL PRODUCTS THAT WERE
2 MADE AT CENTRAL DRUMMING, THERE WAS A -- IN THE ROOM
3 WHERE THE DRUMMING WAS PERFORMED THERE WAS A SET OF
4 BINS UP AGAINST THE WALL AND EACH BIN WAS MARKED WITH
5 WHAT LABEL FIT IN THAT.

6 NOW, THERE WAS A BACKUP, A LARGE
7 INVENTORY OF LABELS IN ANOTHER BUILDING THAT WAS --
8 WHICH WAS LABELED "STORAGE." ALL THE DIFFERENT
9 LABELS FOR THE PLANT WERE IN THAT BUILDING. BUT THIS
10 JUST HAD THE LABELS FOR CENTRAL DRUMMING.

11 Q WHY WAS LABELING IMPORTANT?

12 A LABELING WAS IMPORTANT. WE COULDN'T
13 OPERATE WITHOUT IT.

14 FIRST OF ALL IT WAS A COMPANY RULE YOU
15 HAD TO HAVE A LABEL ON IT.

16 SECONDLY, THE ONLY WAY YOU COULD IDENTIFY
17 WHAT WAS IN THE MATERIAL WAS TO LABEL IT.

18 THE ONLY EXCEPTION TO THAT WAS GOVERNMENT
19 OLIVE DRAB DRUMS, WHEN WE HAD A GOVERNMENT ORDER THEY
20 REQUIRED ABOUT 16 LINES OF WRITING ON THERE.

21 WELL, WE WOULD GET ALL OF THE WRITING
22 APPROVED WITH THE EXCEPTION OF, SAY, ONE NUMBER OR
23 LETTER THAT THE GOVERNMENT WANTED CHANGED, THE
24 MILITARY WANTED CHANGED, LIKE A SEQUENTIAL NUMBER OR
25 WHATEVER THEY MIGHT WANT OR PART OF THE LOT NUMBER.

26 THEY WOULD APPROVE IT ALL.

27 WE WOULD HAVE THE DRUM, PURCHASE THE DRUM
28 IN AN OLIVE DRAB COLOR, PRE-PRINTED EXCEPT FOR THAT

1 LINE.

2 I WOULD GET PERMISSION FROM THE
3 GOVERNMENT TO USE A PERMANENT MARKER AND MARK THAT
4 NUMBER IN.

5 BECAUSE THE PERSON THAT WAS FILLING THE
6 DRUMS COULD NOT STENCIL. WE DIDN'T -- AT THE QUEENY
7 PLANT, THE UNION RULES WERE THAT OPERATORS DID NOT
8 STENCIL AT CENTRAL DRUMMING SO THEY DID NOT STENCIL.

9 Q SIR, LET ME BACK YOU UP ONE MOMENT.
10 YOU MENTIONED THAT THESE GOVERNMENT
11 OLIVE-DRAB COLORED DRUMS WERE AN EXCEPTION TO
12 SOMETHING.

13 WHAT WERE THEY AN EXCEPTION TO?

14 A EXCEPTIONS TO OUR REGULAR LABELING
15 PRACTICE AND WITH OUR LOGO THEY WOULDN'T ALLOW THE
16 LOGO.

17 THEY WOULDN'T ALLOW -- THEY HAD THEIR OWN
18 IDENTIFICATION AND THEY WERE -- THEIR CONTRACTS WERE
19 VERY SPECIFIC AS TO HOW YOU HAD TO SATISFY THAT.

20 AS A MATTER OF FACT, THEY WERE SO
21 DIFFICULT TO DO THAT WE WOULD HAVE THE INSPECTOR
22 APPROVE IT BEFORE WE PRINTED THEM UP.

23 Q HOW WERE YOU INFORMED OF THE REGULAR
24 COMPANY LABELING PRACTICES FOR PRODUCTS BLENDED AT
25 QUEENY?

26 A I WAS INFORMED VARIOUS WAYS.

27 I EITHER -- FROM -- YOU MEAN THE
28 PRACTICES WHERE A LOT OF THEM WERE PART OF LIKE A

1 BULLETIN THAT WAS PUT OUT BY THE LABELING DEPARTMENT.

2 WE HAD PLANT STANDARDS FOR LABELING.

3 WE HAD -- I MEAN, IT WAS PART OF
4 EVERY-DAY LIFE. BECAUSE THE DRUMS AFTER THEY WERE
5 PACKAGED, THEY LEFT THE PACKING AREA. THEY WENT TO A
6 PALLETIZER. THAT MACHINE PUT FOUR DRUMS ON A
7 PALLET. THEY NO LONGER BELONGED TO THAT DEPARTMENT,
8 TO THE DRUMMING DEPARTMENT. THEY BECAME A WAREHOUSE
9 MATERIAL.

10 AND THE WAREHOUSEMAN WOULD MOVE THEM INTO
11 THE WAREHOUSE AND STACK THEM FIVE HIGH, WHICH IS
12 ABOUT 15 FEET.

13 SO THE ONLY WAY YOU COULD IDENTIFY WHAT
14 WAS IN THAT STACK WOULD BE TO READ THE LABEL.

15 ALL OF OUR LABELS COULD BE READ FROM A
16 SUBSTANTIAL DISTANCE.

17 WE USED TO TEST THEM THAT WAY TO MAKE
18 SURE WE COULD READ THE PRODUCT AND THE NET WEIGHT AND
19 THAT SORT OF THING.

20 AND IF IT HAD A GRADE, WE WOULD BE ABLE
21 TO IDENTIFY IT AT A DISTANCE. IN CASE SOMEBODY HAD
22 EYES LIKE I DO AND DIDN'T WEAR THEIR GLASSES.

23 THE COURT: MR. ZIMMER, WE WILL TAKE THE
24 AFTERNOON BREAK AT THIS POINT.

25 LADIES AND GENTLEMEN, WE WILL RESUME AT
26 10 MINUTES AFTER THREE SO PLEASE RETURN JUST BEFORE
27 THEN SO WE CAN RESUME AT 10 MINUTES AFTER THREE.

28 THANK YOU.

1 (RECESS.)

2 THE COURT: AND RESUMING.

3 GO AHEAD, MR. ZIMMER.

4 MR. ZIMMER: THANK YOU, YOUR HONOR.

5 Q SIR, WE WERE TALKING ABOUT LABELING AT
6 THE QUEENY PLANT BEFORE THE BREAK.

7 I WANTED TO ASK YOU IF THERE WERE ANY
8 REQUIREMENTS BY OUTSIDE AGENCIES, WHEN I SAY
9 "OUTSIDE" I MEAN OUTSIDE OF MONSANTO, THAT MANDATED
10 LABELS ON PRODUCTS?

11 A PRODUCTS HAD TO BE PROPERLY IDENTIFIED
12 AND AS FAR AS I WAS CONCERNED LABELED BY REQUIREMENTS
13 OF THE VARIOUS SHIPPING ORGANIZATIONS LIKE THE
14 AMERICAN ASSOCIATION OF RAILROAD AND THEIR TARIFFS
15 WOULD SPELL THAT OUT.

16 AND THE NATIONAL MOTOR FREIGHT COUNSEL
17 WOULD ALSO HAVE REQUIREMENTS.

18 A CARRIER WOULDN'T ACCEPT A PACKAGE OF
19 CHEMICALS THAT WASN'T PROPERLY MARKED.

20 Q HOW DID YOU BECOME AWARE OF THOSE
21 REQUIREMENTS?

22 A WE HAD, AS PART OF OUR -- WE HAD AS PART
23 OF THE ORGANIZATION WE HAD TRAFFIC PEOPLE THAT WERE
24 RESPONSIBLE FOR COMMUNICATING THOSE REQUIREMENTS AND
25 KEEPING UP WITH THE VARIOUS TARIFFS.

26 AND THOSE SORTS OF REQUIREMENTS BECAME
27 PART OF OUR, YOU KNOW, WHEN I DID MY JOB LATER ON,
28 THEN I KNEW WHERE ALL THE DATA WOULD COME FROM.

1 WHEN I WAS AT THE PLANT, I JUST DID WHAT
2 I WAS TOLD TO DO. WE DID IT THAT WAY. THAT WAS OUR
3 POLICY.

4 Q DID YOU ENFORCE THAT POLICY?

5 A YES, I DID.

6 Q NOW, YOU MENTIONED STENCILING EARLIER.

7 I WANTED TO ASK YOU, WAS STENCILING TO
8 YOUR KNOWLEDGE EVER DONE AT THE QUEENY PLANT?

9 A STENCILING, IF A CUSTOMER IN HIS SPECIAL
10 SHIPPING INSTRUCTIONS REQUIRED A CODE NUMBER OR
11 SOMETHING OF THAT SORT FOR A PRODUCT CODE, LET'S SAY
12 HE BOUGHT MORE THAN ONE TYPE OF MATERIAL AND HE
13 BOUGHT FROM MORE THAN ONE VENDOR, THEN HE MIGHT
14 REQUIRE A CODE NUMBER TO BE STENCILED SOMEWHERE
15 LIKE -- AND THAT WOULD BE DONE BY THE PERSON IN
16 CHARGE OF SHIPPING.

17 THAT WAS IN ADDITION TO ANY MARKINGS THAT
18 WERE ALREADY ON THERE.

19 IT WOULD BE DONE BY A SHIPPING PERSON.

20 THEY WERE THE ONES THAT WERE ALLOWED TO
21 STENCIL.

22 Q BETWEEN '68 AND '72 WAS STENCILING EVER
23 DONE AT THE CENTRAL DRUMMING LOCATION FOR TURBINOL,
24 TO YOUR KNOWLEDGE?

25 A NOT TO MY KNOWLEDGE.

26 Q OKAY. NOW, SIR, HAVE YOU EVER HEARD OF A
27 PRODUCT CALLED MCS-153?

28 A YES.

1 Q IS THAT THE SAME THING AS TURBINOL?

2 A IT'S THE PREDECESSOR TO IT.

3 WE WENT THROUGH MANY -- MANY PRODUCTS
4 WENT THROUGH THE MCS SERIES BEFORE THEY RECEIVED A
5 NAME THAT WAS, SAY, A TRADEMARK NAME OR COPYRIGHT
6 NAME. WE WOULD USE THE MCS SYMBOL FOR THEM.

7 Q AT ANY POINT IN TIME WHILE YOU WERE AT
8 THE QUEENY PLANT, SIR, DID YOU EVER SEE A DRUM OF
9 MCS-153 THAT HAD NO LABELS ON IT AND NO IDENTIFYING
10 MARKINGS, OTHER THAN A STAMP OR LOGO WITH A COMPANY
11 NAME ON THE LID?

12 MS. GRADY: OBJECTION, LACK OF FOUNDATION.

13 THE COURT: SUSTAINED.

14 THE WITNESS: YOU SAID "SUSTAINED"?

15 THE COURT: YES.

16 MR. ZIMMER: COULD WE HAVE A SIDEBAR, YOUR
17 HONOR?

18 THE COURT: YES.

19

20 (THE FOLLOWING PROCEEDINGS WERE HELD
21 AT THE SIDE BAR NOT REPORTED.)

22 Q BY MR. ZIMMER: MR. SMID, YOU TOLD ME
23 BEFORE THAT YOU HAD OBSERVED THE FILLING OF DRUMS AT
24 THE CENTRAL FILLING STATION?

25 A MANY, MANY TIMES.

26 Q AND YOU HAD SEEN VIRTUALLY ALL OF THE
27 PRODUCTS PACKED AND AT QUEENY DRUMMED?

28 A YES.

1 Q HAVE YOU SEEN DRUMS OF MCS-153 BEFORE?

2 A I CAN'T RECALL SPECIFICALLY ANY SPECIFIC
3 DRUM OF -- I MEAN, THERE WERE SEVERAL HUNDRED
4 PRODUCTS.

5 AND I CAN'T SAY, YES, I SAW THAT DRUM.

6 Q OKAY. LET ME ASK YOU THIS, SIR.

7 DID YOU EVER SEE DRUMS OF ANY PRODUCT AT
8 THE QUEENY PLANT AFTER THEY WERE FILLED AT CENTRAL
9 DRUMMING WITH --

10 A THOUSANDS.

11 Q SIR, LET ME FINISH MY QUESTION.

12 A I'M SORRY.

13 Q DID YOU EVER SEE DRUMS OF ANY PRODUCT AT
14 THE QUEENY PLANT AFTER HAVING BEEN FILLED AT CENTRAL
15 DRUMMING THAT HAD NO LABELS ON THEM AT ALL?

16 A NO. NO.

17 Q NOW, SIR, DO YOU RECALL ANY CHANGES
18 HAVING BEEN MADE TO LABELS THAT WERE APPLIED TO
19 AROCLOR-CONTAINING PRODUCTS IN THE EARLY 70'S?

20 A I RECALL HAVING TO MAKE AN ADDITION TO
21 THE LABEL.

22 WE HAD WHAT THEY CALLED -- THERE WAS AN
23 ISSUE, A MAJOR ISSUE ABOUT ADDING A PCB STICKER TO
24 FURTHER IDENTIFY THE HAZARDS ASSOCIATED WITH THE
25 MATERIALS THAT CONTAINED AROCLOR.

26 Q ALL RIGHT. LET ME SHOW YOU AN EXHIBIT,
27 SIR, NUMBER 719 AND ASK YOU IF YOU CAN IDENTIFY THAT
28 FOR ME.

1 IS THAT THE STICKER YOU ARE REFERRING TO?

2 A THAT'S IT.

3 Q AND WHAT WAS DONE WITH THIS STICKER?

4 A IT WAS APPLIED ADJACENT TO THE LABEL.

5 Q ALL RIGHT. I WILL SHOW YOU SOME OTHER
6 LABELS IN A MOMENT.

7 LET ME ASK YOU WHAT UNDERSTANDING WHAT
8 PRODUCTS OF THIS WAS TO BE APPLIED TO?

9 MS. GRADY: OBJECTION, LACK OF FOUNDATION.

10 THE COURT: REPHRASE IT, MR. ZIMMER.

11 Q BY MR. ZIMMER: SIR, WHAT WAS YOUR
12 UNDERSTANDING OF WHAT PRODUCTS THIS LABEL WAS
13 INTENDED FOR?

14 A THIS LABEL WAS INTENDED TO BE APPLIED TO
15 ALL PRODUCTS WHICH CONTAINED AROCLOR.

16 Q AND HOW DID YOU FIRST LEARN OF THAT
17 INTENT?

18 A EXACTLY WHEN IT WAS OR EXACTLY -- I
19 REMEMBER CONVERSATIONS WHICH INVOLVED THIS WITH MY
20 SUPERVISORS THAT WERE IN CHARGE OF THE CENTRAL
21 DRUMMING AND THE LABELING SUPERVISOR.

22 BUT I CAN'T GIVE YOU THE EXACT DATE.

23 I CAN'T -- I CAN JUST TELL YOU THAT THE
24 CONVERSATIONS WERE THERE.

25 I REMEMBER THE MANDATE AND WE WERE A VERY
26 PRECISE ORGANIZATION.

27 WE SATISFIED THAT MANDATE, THAT
28 REQUIREMENT.

1 Q WHAT STEPS DID YOU TAKE, SIR, TO CARRY
2 OUT THAT MANDATE?

3 A I GAVE MY PEOPLE THE ORDER, THE CHARGE TO
4 DO IT.

5 Q AND WHAT PEOPLE?

6 I'M SORRY.

7 A THE PEOPLE WHO DID IT WERE THE
8 SUPERVISOR, QUINTON CAPOCEFALO AND GEORGE MURRAY WERE
9 THE SUPERVISORS THAT WERE PRIMARILY INVOLVED IN WHAT
10 I WOULD CALL THE MAJOR INCIDENT KIND OF THING.

11 IT WAS A MAJOR THING YOU HAD TO DO. IT
12 WASN'T SOMETHING THAT YOU JUST DAY IN AND DAY OUT HAD
13 TO DO. YOU HIT SOMETHING THAT HAD TO BE DONE AND IT
14 HAD TO BE DONE PRECISELY AND QUICKLY.

15 Q ARE MR. CAPOCEFALO AND MR. MURRAY STILL
16 WITH MONSANTO?

17 A NO, THEY BOTH RETIRED AND ARE DECEASED.

18 Q ALL RIGHT. HOW WERE STICKERS OF THIS
19 SORT OBTAINED BY THE QUEENY PLANT?

20 A IN MANY DIFFERENT WAYS.

21 THEY COULD HAVE BEEN -- WHERE YOU HAD A
22 MAJOR INCIDENT LIKE THIS, THEY COULD HAVE BEEN
23 BROUGHT DOWN BY SOMEONE FROM THE GENERAL OFFICES.

24 MOST LIKELY, IN MY MIND, THEY WERE
25 BROUGHT FROM THE PEOPLE ACROSS THE RIVER AT THE
26 KRUMMRICH PLANT WHERE THEY USED HUNDREDS OF THESE A
27 DAY. WE WERE A VERY, VERY SMALL USER COMPARED TO
28 THEM.

1 SO THEY HAD A GIANT INVENTORY OF
2 SOMETHING LIKE THIS AVAILABLE.

3 WE HAD MESSENGERS THAT MADE THE RUN EVERY
4 DAY, SEVERAL TIMES A DAY BETWEEN THE PLANTS AND
5 GENERAL OFFICES OR THEY COULD HAVE BEEN ORDERED
6 DIRECTLY.

7 I CAN'T SPEAK FOR GEORGE MURRAY,
8 UNFORTUNATELY.

9 Q DID YOU YOURSELF, SIR, EVER APPLY ANY OF
10 THESE STICKERS TO DRUMS OF AROCLOR-CONTAINING
11 PRODUCTS AT THE QUEENY PLANT?

12 A NO, I DIDN'T. BUT I DID SEE THEM ON THE
13 DRUMS.

14 Q WHERE DID YOU SEE THEM?

15 A ALL OF THOSE PRODUCTS WERE STORED AT A
16 CERTAIN SECTION OF THE WAREHOUSE. THEY WERE THERE.

17 Q AND YOU YOURSELF OBSERVED THAT?

18 A YES, I DID.

19 Q DO YOU RECALL BILL PAPAGEORGE?

20 A YES, I DO.

21 Q DO YOU KNOW IF MR. PAPAGEORGE HAD EVER
22 WORKED AT THE QUEENY PLANT?

23 A MR. PAPAGEORGE -- I WORKED FOR A GENERAL
24 SUPERINTENDENT. MR. PAPAGEORGE HAD THAT JOB PRIOR TO
25 HIM.

26 SO MR. PAPAGEORGE WAS THE BOSS OF THE
27 PERSON WHOSE PLACE I TOOK AT ONE TIME.

28 Q DID MR. PAPAGEORGE EVER VISIT THE QUEENY

1 PLANT WHILE YOU WERE SUPERINTENDENT?

2 A MANY, MANY TIMES, FOR MANY, MANY
3 REASONS.

4 Q SIR, TO YOUR KNOWLEDGE, DID ALL DRUMS
5 LEAVING THE QUEENY PLANT AND WAREHOUSE AFTER JUNE OF
6 1970 HAVE THIS STICKER ON THEM, IF THEY CONTAINED
7 AROCLORS?

8 A TO THE BEST OF MY KNOWLEDGE I'M
9 ABSOLUTELY CERTAIN THEY DID BECAUSE OF PEOPLE I HAD
10 RESPONSIBILITY FOR TOLD ME IT WAS DONE.

11 AND I HAD FULL FAITH IN THEM.

12 Q SIR, I WANT TO SHOW YOU A FEW DIFFERENT
13 EXHIBITS, BEGINNING WITH NUMBER 41.

14 IF I COULD ASK YOU TO TURN AROUND AND
15 PULL OUT THE BLUE BINDER THAT WOULD HAVE THAT
16 NUMBER.

17 A OH, IT MUST BE HERE.
18 NUMBER 41?

19 Q PLEASE.
20 DO YOU HAVE THAT ONE?

21 A YES, SIR.

22 Q COULD YOU TELL US WHAT THAT IS, SIR.

23 A THIS IS A COPY OF A THREE-BY-FIVE CARD
24 THAT WAS, I FOUND THOUSANDS OF THESE IN THE LABELING
25 DEPARTMENT WHEN I TOOK IT OVER.

26 IT'S A RECORD THAT SHOWS PROGRESSION OF A
27 LABEL.

28 Q AND THOSE WERE KEPT ON FILE IN THE

1 LABELING DEPARTMENT?

2 A ON FILE IN THE CORPORATE LABELING AND
3 REGISTRATION DEPARTMENT.

4 Q WAS THE INFORMATION THAT IS REFLECTED
5 THEIR PART OF THE SYSTEM THAT YOU TOOK OVER WHEN YOU
6 ASSUMED THE HEAD OF THE LABELING DEPARTMENT?

7 A YES, IT IS.

8 Q AND WHAT SORT OF INFORMATION IS REFLECTED
9 ON THIS CARD?

10 A WELL, FIRST OFF, IT TELLS THE PRODUCT
11 CODE AND THE GRADE AND THE LABEL NUMBER AND THE
12 MANUFACTURER OF THE LABEL.

13 DO YOU WANT ME TO IDENTIFY WHAT EACH
14 NUMBER IS?

15 Q NO, I THINK YOU HAVE TOLD US ENOUGH ABOUT
16 THAT.

17 IS THAT THE TOP NUMBER I HAVE
18 HIGHLIGHTED?

19 A THE TOP NUMBER IS PART OF THE NUMBER.
20 THEN IT TELLS YOU THE NAME OF THE
21 PRODUCT, IT TELLS YOU THE SALES CODE, THE NAME OF THE
22 PRODUCT. IT TELLS YOU THAT IT HAD A 605 NET POUND
23 WEIGHT, A 48-POUND TEAR RATE WHICH FOR A DRUM WAS ON
24 ALL 18 GAUGE.

25 THAT IS THE ONE I DESCRIBED EARLIER WHICH
26 HAS THE WHITE ENDS AND HEADS.

27 Q WHAT IS A TEAR WEIGHT?

28 A A TEAR WEIGHT IS THE WEIGHT OF THE

1 CONTAINER.

2 LIKE IF YOU PURCHASE ANYTHING AND THE
3 CONTAINER HAS A WEIGHT, YOU DON'T BUY THE CONTAINER.
4 YOU BOUGHT THE PRODUCT THAT IS IN IT.

5 THE NET WEIGHT IS THE PRODUCT IN IT.

6 SO THE PRODUCT HERE WEIGHED 605 POUNDS.
7 THEN, OF COURSE, YOU ADD THOSE TWO TOGETHER TO GET
8 THE GROSS WEIGHT. THAT IS NOT ON THIS.

9 IT ALSO TELLS THE SIZE OF THE LABEL.

10 IN THIS CASE IT TELLS THEY WERE ORDERED,
11 1,000 OF THEM WERE ORDERED BY THE QUEENY PLANT.

12 THEN IT ALSO HAS A CHANGE ON 12-2-69
13 WHERE THEY HAVE CHANGED TO POINT TWO AND THEY HAVE
14 CHANGED THE NAME FROM MCS-153 TO TURBINOL.

15 IT SAYS ALL ELSE IS THE SAME AND 1,000
16 ORDERED BY THE QUEENY PLANT.

17 Q LET ME SHOW YOU, SIR, EXHIBIT 722.

18 I ASK YOU IF THAT IS THE TURBINOL LABEL
19 THAT IS DESCRIBED.

20 A CAN I LOOK AT IT UP THERE?

21 Q YOU CAN LOOK AT IT THERE, IF YOU LIKE, OR
22 PULL IT OUT OF THAT BINDER.

23 722 IS THE NUMBER.

24 A ARE WE FINISHED WITH THIS ONE HERE?

25 Q YES, SIR.

26 A I HAVE IT.

27 YES, SIR.

28 Q MY QUESTION, SIR, IS THAT THE LABEL THAT

1 WAS REFERRED TO IN EXHIBIT 41 THAT YOU REVIEWED A
2 MOMENT AGO?

3 A YES, IT IS.

4 Q ALL RIGHT.

5 A THIS IS THE LABEL.

6 IT HAS THE NUMBER ON THE BOTTOM.

7 Q ALL RIGHT. LET ME, THEN, SHOW YOU
8 EXHIBIT 721.

9 DO YOU HAVE THAT ONE?

10 A YES, I DO.

11 Q AND DO YOU RECOGNIZE THAT AS THE LABEL
12 THAT PRECEDED THE TURBINOL LABEL?

13 A THAT WOULD BE THE ONE THAT PRECEDED THE
14 TURBINOL.

15 Q OKAY.

16 A IT HAS THE NUMBER 1.01.

17 Q LET ME ASK YOU, SIR, TO TAKE A LOOK AT
18 EXHIBIT 513.

19 DO YOU HAVE THAT?

20 A YES, I DO.

21 Q AND IS THIS A MEMO THAT YOU WERE COPIED
22 ON IN 1964?

23 A YES, IT IS.

24 Q AND WHERE WERE YOU WORKING AT THE TIME?

25 A I WAS AT THE KRUMMRICH PLANT AT THAT TIME
26 COORDINATING THE LABEL FOR THE PLANT.

27 Q OKAY. AND YOU WILL NOTE THAT THE TITLE
28 OF THE MEMO FROM A MR. SIDO IS "POLYCHLORINATED

1 POLYPHENYL DRUM LABELING, AROCLORS, PYDRAULS,
2 INERTEENS AND PYRANOLS."

3 MY QUESTION IS, SIR, WHAT DID THE TERM
4 "CHLORINATED POLYPHENYL" MEAN TO YOU IN 1964?

5 A I DON'T KNOW.

6 I KNOW THAT IT REPRESENTED -- I KNEW THAT
7 THE RAW MATERIAL FOR AROCLOR CONTAINED A PHENYL, A
8 DIPHENYL, BIPHENYL, WHATEVER.

9 BUT I AM REALLY NOT A CHEMIST.

10 SO I'M NOT SURE WHAT THAT MEANS.

11 Q OKAY. YOU SAID BIPHENYL OR DIPHENYL.
12 DO YOU USE THE TERM PCB'S TODAY?

13 A I DO TODAY.

14 BUT I DON'T THINK I USED THEM YEARS AGO.
15 IT WASN'T A TERM THAT WAS THAT COMMON.
16 I MEAN, THAT IS ALMOST LIKE A CHEMISTRY
17 TERM.

18 Q WHAT TERM DID YOU USE YEARS AGO TO
19 DESCRIBE PCB'S?

20 A PCB'S?

21 WE USED THE TERM CHLORINATED HYDROCARBON
22 ON OUR LABELS WHICH WAS A MUCH MORE INCLUSIVE TYPE
23 WORD AND NOT BEING A CHEMIST. I CAN'T TELL YOU THE
24 DIFFERENCE.

25 Q SO YOU USED THE TERM "CHLORINATED
26 HYDROCARBON"?

27 A YES, WE DID.

28 Q WERE AROCLORS CHLORINATED HYDROCARBONS?

1 A YES, THEY WERE.

2 Q OKAY. SIR, DO YOU RECALL THERE BEING A
3 REFORMULATION OF PYDRAUL FLUIDS IN THE EARLY PART OF
4 THE 1970'S?

5 A YES, I DO. I RECALL THAT THE PROGRAM
6 STARTED PRIOR TO THAT.

7 Q AND WAS TURBINOL A PYDRAUL?

8 A NO. TURBINOL WAS A STAND-ALONE.
9 IT DIDN'T -- IT WAS NOT A PYDRAUL.
10 IT HAD SOME OF THE SAME RAW MATERIALS IN
11 IT.

12 IT'S NOT -- SKYDROL IS A HYDRAULIC FLUID
13 FOR AIRPLANES.

14 PYDRAUL IS A HYDRAULIC FLUID FOR
15 INDUSTRIES.

16 TURBINOL WAS A LUBRICANT-TYPE FLUID.

17 I DON'T KNOW -- IT'S NOT THE SAME.

18 Q THANK YOU, SIR.

19 MR. ZIMMER: NOTHING FURTHER AT THIS TIME.

20 THE COURT: MS. GRADY.

21 MS. GRADY: THANK YOU, YOUR HONOR.

22

23 CROSS EXAMINATION

24 BY MS. GRADY:

25 Q GOOD AFTERNOON, MR. SMID.

26 A GOOD AFTERNOON. GOOD SEEING YOU.

27 Q I WANT TO GO OVER A FEW OF THE THINGS
28 THAT YOU TALKED ABOUT WITH MR. ZIMMER. BUT I WANT TO

1 TALK ABOUT A MUCH NARROWER TIME FRAME.

2 THE TIME FRAME I WANT YOU TO DIRECT YOUR
3 ATTENTION TO IS MAY, 1970 THROUGH JANUARY, 1971.

4 SO WHEN I ASK YOU QUESTIONS, I WILL
5 REMIND YOU.

6 BUT WHEN I ASK YOU QUESTIONS, I WANT YOU
7 TO HAVE THAT TIME PERIOD IN MIND, OKAY?

8 A I WILL TRY.

9 Q OKAY. THAT'S --

10 A I DON'T KNOW THAT I CAN GET THAT SPECIFIC
11 BECAUSE YOU ARE TALKING ABOUT AN AWFUL LONG TIME AGO.

12 YOU ARE TALKING ABOUT AN AWFUL LOT OF
13 THINGS THAT WENT ON.

14 SO I DON'T FEEL COMFORTABLE BEING THAT
15 SPECIFIC.

16 YOU ARE PINNING ME DOWN ON SOMETHING THAT
17 I COULD TALK ABOUT -- I MEAN, I WILL TRY.

18 Q THAT IS WHAT I ASK YOU TO DO.

19 A LOT OF IMPORTANT THINGS THAT HAPPENED
20 IN THIS CASE HAPPENED IN THAT TIME PERIOD. SO THAT
21 IS WHY I NEED YOU TO TRY TO BE AS SPECIFIC AS
22 POSSIBLE ABOUT THE TIME PERIOD, WHICH IS MAY, 1970 TO
23 JANUARY, 1971, OKAY?

24 ALL I CAN DO IS ASK YOU TO TRY.

25 YOU WILL DO THAT, RIGHT?

26 A YES. YES, I WILL.

27 Q NOW, AT THE QUEENY PLANT DURING THIS
28 PERIOD THERE WERE TWO SOURCES OF INFORMATION KEPT AT

1 THE PLANT ABOUT HOW PRODUCTS WERE TO BE LABELED.

2 AND THOSE WERE THE PLANT MANUAL AND THE
3 OPERATING MANUAL, RIGHT?

4 A THAT'S CORRECT.

5 Q AND THE PLANT MANUAL WAS A THREE-RING
6 BINDER OF INFORMATION THAT HAD TABS IN IT, RIGHT?

7 A YES, IT WAS.

8 Q AND THE TABS WERE SAFETY AND TRAINING AND
9 PACKAGING.

10 ONE OF THE TABS WAS LABELING, RIGHT?

11 A THAT'S CORRECT.

12 Q AND WHAT WAS INCLUDED BEHIND THE LABELING
13 TAB WAS INFORMATION ABOUT WHERE TO APPLY THE LABELS
14 AND ABOUT WHICH LABELS TO PUT ON AND HOW THE LABELS
15 WERE TO BE APPLIED, RIGHT?

16 A IT -- YOU WENT ONE STEP TOO FAR WHEN YOU
17 SAID WHICH LABELS WOULD BE PUT ON.

18 BECAUSE -- IT'S POSSIBLE THAT -- IT
19 REALLY WAS A FORMAT THAT SAID YOU PUT THE LABEL HERE
20 AND YOU PUT A -- ON A BAG YOU PRE-PRINT IT AND PUT IT
21 HERE.

22 IT WAS THAT TYPE OF A -- IT WAS IN
23 GENERALITIES.

24 THE PLANT MANUAL WAS IN GENERALITIES.

25 Q OKAY. BUT IT INCLUDED INFORMATION ABOUT
26 WHERE TO APPLY THE LABELS, RIGHT?

27 A THAT'S RIGHT.

28 Q AND THE PLANT MANUAL WAS UPDATED, RIGHT,

1 AS NEW INFORMATION CAME IN AS TO WHERE TO APPLY THE
2 LABELS, THE PLANT MANUAL GOT UPDATED, RIGHT?

3 A YES, IT DID.

4 Q OKAY. BUT IT WASN'T YOUR RESPONSIBILITY
5 TO UPDATE THAT PLANT MANUAL SECTION THAT HAD TO DO
6 WITH LABELING, RIGHT?

7 A IT WAS.

8 THE PERSON THAT DID THAT WORKED FOR ME.

9 Q MR. MURRAY'S RESPONSIBILITY?

10 A BUT HE WORKED FOR ME.

11 ANYTHING THAT MR. MURRAY DID I DID.

12 I MEAN, IF HE DID SOMETHING -- DIDN'T DO
13 SOMETHING, I WAS RESPONSIBLE FOR IT.

14 Q RIGHT.

15 BUT YOU DON'T KNOW WHAT INFORMATION
16 MR. MURRAY RELIED ON TO UPDATE THE PLANT MANUAL
17 SECTION ON LABELING, RIGHT?

18 A FROM MY EXPERIENCE AT THE KRUMMRICH PLANT
19 WHERE I WAS -- WHERE I HAD THE TYPE OF JOB THAT
20 GEORGE MURRAY DID IN SOME RESPECTS AND FROM MY LATER
21 EXPERIENCE I DON'T FIND THAT THERE WAS MUCH CHANGE IN
22 THAT, THAT 90 PERCENT OF THE INFORMATION CAME FROM
23 THE LABELING SECTION AT CREVCORE.

24 Q I'M ASKING YOU ABOUT THE PERIOD BETWEEN
25 MAY, 1970 AND JANUARY, 1971.

26 IF THE PLANT MANUAL AT QUEENY LABELING
27 SECTION WAS UPDATED, THAT WAS DONE BY MR. MURRAY,
28 RIGHT?

1 A BY MR. MURRAY.

2 AND IF I HAD A CHANCE TO REVIEW IT, I
3 WOULD REVIEW IT.

4 Q YOU DON'T KNOW WHAT INFORMATION
5 MR. MURRAY RELIED ON, RIGHT?

6 A I DON'T REMEMBER.

7 Q YOU OCCASIONALLY GAVE MR. MURRAY UPDATE
8 INFORMATION, RIGHT?

9 A YES.

10 Q BUT YOU DON'T RECALL ANY SPECIFIC
11 INSTANCES OF UPDATE INFORMATION THAT YOU PROVIDED TO
12 MR. MURRAY FOR THE PLANT MANUAL, RIGHT?

13 A NOT TODAY.

14 Q ALL RIGHT.

15 A I DON'T REMEMBER ANY THAT WERE BIG ENOUGH
16 THAT I WOULD REMEMBER THEM.

17 Q RIGHT.

18 YOU DON'T RECALL IF YOU EVER GOT
19 INFORMATION FROM MR. SIDO THAT YOU PASSED ON TO
20 MR. MURRAY TO UPDATE THE PLANT MANUAL SECTION ON
21 LABELING DURING THIS PERIOD, RIGHT?

22 A NO, I DON'T.

23 Q BY THE WAY, YOU INDICATED TO MR. ZIMMER
24 THAT MR. PAPAGEORGE VISITED THE QUEENY PLANT, RIGHT?

25 A YES, HE DID.

26 Q DID MR. PAPAGEORGE VISIT THE QUEENY PLANT
27 BETWEEN MAY, 1970 AND JUNE, 1971?

28 A I CAN'T SAY SPECIFICALLY, BUT I CAN TELL

1 YOU THAT MR. PAPAGEORGE VISITED THE QUEENY PLANT ON
2 MANY, MANY OCCASIONS.

3 IF HE DIDN'T COME DURING THAT PERIOD OF
4 TIME, I WOULD BE EXTREMELY, EXTREMELY SURPRISED.

5 Q BUT YOU DON'T RECALL IF HE DID OR NOT?

6 A NO, I CAN'T TELL YOU THAT HE DID.

7 Q AND YOU DON'T RECALL WHERE THE PLANT
8 MANUAL WAS KEPT IN CENTRAL DRUMMING, RIGHT?

9 A PHYSICALLY?

10 Q PHYSICALLY KEPT.

11 A I DON'T RECALL.

12 I CAN TELL YOU THAT EVERY DEPARTMENT AND
13 MYSELF HAD A COPY OF THE PLANT MANUAL.

14 Q BUT YOU DON'T RECALL WHERE IT WAS KEPT IN
15 CENTRAL DRUMMING, RIGHT?

16 A THERE WERE A LOT OF MANUALS IN CENTRAL
17 DRUMMING.

18 I CAN'T TELL YOU EXACTLY WHERE THAT
19 PARTICULAR ONE WAS SITTING.

20 Q THAT IS BECAUSE IT WAS MR. MURRAY'S
21 OBLIGATION TO UPDATE LABELING INFORMATION IN THE
22 PLANT MANUAL AND YOU DON'T RECALL ANY DISCUSSIONS
23 WITH MR. MURRAY REGARDING UPDATING THAT PLANT MANUAL
24 DURING THE PERIOD WE ARE TALKING ABOUT, RIGHT?

25 A NO, THAT DOESN'T HAVE ANYTHING TO DO WITH
26 MY DISCUSSIONS WITH MR. MURRAY.

27 THE REASON I DON'T REMEMBER WHERE IT WAS
28 IN CENTRAL DRUMMING IS BECAUSE IT WAS A SUPERVISOR'S

1 RESPONSIBILITY THERE WHO WAS QUINTON CAPOCEFALO.

2 YOU ARE GOING ALL THE WAY TO THAT PERIOD
3 OF TIME, I JUST CAN'T -- I CAN'T REMEMBER, NO, NOT
4 EXACTLY.

5 Q OKAY. THE OTHER PLACE --

6 A MURRAY'S JOB COVERED THE WHOLE PLANT.

7 Q I'M GOING TO ASK YOU, MR. SMITH, TO TRY
8 TO ANSWER MY QUESTIONS DIRECTLY, OKAY.

9 THE OTHER PLACE LABELING INFORMATION WAS
10 KEPT WAS IN OPERATING MANUALS, RIGHT?

11 A THAT'S CORRECT.

12 Q AND THERE WERE OPERATING MANUALS FOR
13 EVERY PRODUCT THAT WAS MANUFACTURED AT THE QUEENY
14 PLANT, RIGHT?

15 A THAT'S CORRECT.

16 Q AND THERE WERE OVER 300 PRODUCTS THAT
17 WERE DRUMMED IN CENTRAL DRUMMING DURING THIS PERIOD
18 THAT WE ARE TALKING ABOUT, BETWEEN MAY, 1970 AND
19 JANUARY, 1971, RIGHT?

20 A NO, THAT'S NOT RIGHT.

21 THERE WAS PROBABLY SOME NUMBER LESS THAN
22 THAT.

23 BECAUSE DURING THAT PERIOD OF TIME WE
24 MANUFACTURED ABOUT 300 PRODUCTS BUT WE DIDN'T DRUM
25 ALL OF THEM.

26 Q WHAT DID YOU DO WITH THE ONES YOU DIDN'T
27 DRUM?

28 A WE SHIPPED THEM IN BULK.

1 Q OKAY. BUT THERE WERE 300 PRODUCTS -- LET
2 ME REPHRASE.

3 THERE WERE OVER 300 PRODUCTS BLENDED OR
4 MANUFACTURED IN CENTRAL DRUMMING, RIGHT?

5 A THAT IS AN ESTIMATE.

6 Q BUT IT'S AN ACCURATE ESTIMATE AS FAR AS
7 YOU ARE CONCERNED?

8 A IT COULD BE 50 PERCENT OFF.

9 I MEAN, I SAID IT BECAUSE YOU WANTED AN
10 ESTIMATE. I GAVE YOU AN ESTIMATE, A BEST GUESS.

11 I -- HOW MANY PAGES IS A COMPUTER RUN
12 THAT IS THAT THICK? THAT IS HOW MANY COST SHEETS I
13 HAD.

14 Q BUT THAT IS YOUR BEST ESTIMATE, RIGHT?

15 A YES, IT IS.

16 Q AND YOU DIDN'T HAVE ANY RESPONSIBILITY
17 FOR LABELING THE UPDATE INFORMATION IN THE OPERATING
18 MANUALS, RIGHT?

19 A RESTATE THAT?

20 Q SURE.

21 IN CENTRAL DRUMMING THERE WAS AN
22 OPERATING MANUAL FOR EVERY PRODUCT THAT WAS
23 MANUFACTURED IN CENTRAL DRUMMING, RIGHT?

24 A THAT'S CORRECT.

25 Q AND THE OPERATING MANUAL HAD INFORMATION
26 IN IT ABOUT WHAT LABEL WAS TO BE PLACED ON THE DRUM
27 OF THAT PRODUCT, RIGHT?

28 A THAT'S CORRECT.

1 Q AND THAT INFORMATION HAD TO BE UPDATED IF
2 THE LABELING INFORMATION CHANGED, RIGHT?

3 A THAT'S CORRECT.

4 Q AND IN CENTRAL DRUMMING WHERE TURBINOL
5 WAS BLENDED, THAT WAS THE RESPONSIBILITY OF THE
6 SUPERVISOR AND THE FOREMAN, RIGHT?

7 A THAT'S CORRECT.

8 Q IT WASN'T YOUR RESPONSIBILITY TO UPDATE
9 THE OPERATING MANUAL?

10 A IT WAS MY RESPONSIBILITY IN THAT THEY
11 REPORTED TO ME AND WHAT THEY DID AND WHAT THEY WERE
12 SUPPOSED TO DO I HAD TO RELY ON 100 PERCENT THAT THEY
13 DID THEIR JOB.

14 BECAUSE WE HAD A FUNCTION THAT YOU DON'T
15 JUST SAY IT'S NOT YOUR JOB.

16 THEY WORKED FOR ME. IT WAS MY JOB.

17 Q OKAY. BUT YOU DIDN'T UPDATE THE
18 OPERATING MANUALS YOURSELF FOR THE PRODUCTS IN
19 CENTRAL DRUMMING, RIGHT?

20 A THAT'S CORRECT.

21 Q OKAY. AND FOR OTHER MANUFACTURING
22 DEPARTMENTS WITHIN THE QUEENY PLANT YOU DON'T KNOW
23 WHO UPDATED THOSE OPERATING MANUALS, RIGHT, WHEN
24 LABELING INFORMATION CHANGED?

25 A THAT'S CORRECT.

26 Q AND THE OPERATING MANUAL FOR THE
27 INDIVIDUAL PRODUCT MANUFACTURED WAS THE ONLY RECORD
28 OF WHAT LABELS WENT ON THE DRUMS, RIGHT?

1 A I'M NOT SURE.

2 BUT I WILL SAY I FEEL THAT THAT WAS
3 PROBABLY THE BEST RECORD.

4 Q OKAY. AND YOUR BEST RECOLLECTION AT THIS
5 POINT IS THAT QUINTON CAPOCEFALO -- IS THAT HOW YOU
6 PRONOUNCE HIS NAME?

7 A YES.

8 Q -- WAS THE SUPERVISOR OF CENTRAL DRUMMING
9 IN THE SUMMER OF 1970, RIGHT?

10 A YES, IT IS.

11 Q BUT YOU ARE NOT SURE OF THAT, ARE YOU?

12 A YES, I FEEL THAT HE WAS.

13 I AM AS SURE AS I CAN GET WITH THAT KIND
14 OF TIME FRAME THAT YOU ARE JUST VERY NARROWLY PUTTING
15 ON ME HERE.

16 BECAUSE IT'S DIFFICULT TO SAY MONTH BY
17 MONTH WHO WAS EXACTLY WHERE.

18 I FEEL THAT HE WAS.

19 Q THE FELLOW THAT --

20 A HE IS THE ONE THAT I WORKED ON MOST OF
21 THESE ISSUES.

22 Q THE FELLOW THAT FOLLOWED MR. CAPOCEFALO
23 IN THAT JOB WAS SOMEBODY CALLED MR. WAGNER, CORRECT?

24 A THAT IS CORRECT.

25 Q WHAT WAS MR. WAGNER'S FIRST NAME?

26 A RICHARD.

27 Q AND IT COULD HAVE BEEN THAT MR. WAGNER,
28 DURING THE SUMMER OF 1970, WAS THE SUPERVISOR IN

1 CENTRAL DRUMMING, RIGHT?

2 A THAT IS VERY POSSIBLE.

3 BECAUSE HE CAME IN AROUND THEN.

4 THAT IS VERY POSSIBLE.

5 Q OR IT COULD HAVE BEEN THE FELLOW THAT
6 SUCCEEDED MR. WAGNER, RIGHT?

7 A I DON'T -- THAT ISN'T RIGHT. I'M SURE.

8 Q SO YOU THINK IT WAS EITHER MR. CAPOCEFALO
9 OR MR. WAGNER?

10 A THAT'S RIGHT.

11 Q AND AS FAR AS YOU CAN REMEMBER, AL BENDER
12 WAS THE FOREMAN IN CENTRAL DRUMMING, RIGHT?

13 A AL BENDER WAS THE FOREMAN FOR A LONG
14 PERIOD OF TIME AND HE WAS REPLACED BY ANOTHER FELLOW
15 NAMED AL ALIF (PH) WHO HE WAS ALSO DISCUSSED AND HE
16 ALSO DIED, DECEASED.

17 I DON'T REMEMBER THE DATE.

18 Q YOU DIDN'T UPDATE ANY OPERATING MANUALS
19 IN CENTRAL DRUMMING TO INCLUDE THE ENVIRONMENTAL
20 STICKER, DID YOU?

21 A I DIDN'T, NO.

22 Q AND YOU DON'T RECALL ANY DISCUSSIONS --
23 LET ME MAKE SURE WE'RE ON THE SAME WAVELENGTH HERE.

24 EXHIBIT 719 IS WHAT I'M GOING TO CALL THE
25 PCB ENVIRONMENTAL STICKER, OKAY, MR. SMID?

26 A OKAY.

27 Q AND YOU DON'T RECALL ANY DISCUSSIONS WITH
28 MR. MURRAY OR WITH MR. CAPOCEFALO CONCERNING UPDATING

1 THE OPERATING MANUALS TO INCLUDE THE PCB STICKER,
2 RIGHT?

3 A I RECALL CONVERSATIONS TELLING THEM THAT
4 WE WERE REQUIRED TO DO THAT, TO PUT THE PCB STICKER
5 ON AROCLOR LABELS.

6 BUT I DON'T RECALL SAYING SPECIFICALLY
7 THAT YOU HAVE TO UPDATE THE MANUAL.

8 BECAUSE I FEEL THAT WAS AN AUTOMATIC.
9 IT WAS AN UNDERSTANDING.

10 THIS WASN'T JUST SOMETHING THAT CAME ONE
11 DAY AND LEFT THE NEXT.

12 THIS WAS A BIG ISSUE FOR US, SOMETHING
13 THAT WE PAID A LOT OF ATTENTION TO, SOMETHING THAT
14 HAD TO BE DONE.

15 Q OKAY.

16 I WOULD LIKE TO READ FROM MR. SMID'S
17 DEPOSITION AT PAGE 90, LINE 8 THROUGH LINE 23.

18 THE COURT: AND THE DATE OF THE DEPOSITION,
19 MS. GRADY?

20 MS. GRADY: (READING):

21 "Q. DID YOU HAVE ANY
22 CONVERSATIONS WITH MR. MURRAY
23 ABOUT UPDATING THE MANUALS TO
24 REFLECT THE NEW PCB STICKERS

25 "A. THE PCB STICKER WOULD
26 NOT BE AN UPDATE BY MR. MURRAY,
27 IT WOULD BE AN UPDATE BY
28 MR. CAPOCEFALO IN CENTRAL

1 LABELING AND HANDLING, CENTRAL
2 DRUMMING.

3 "Q. DID YOU HAVE ANY
4 DISCUSSIONS WITH MR. CAPOCEFALO
5 ABOUT UPDATING THE OPERATING
6 MANUALS TO REFLECT THE NEW PCB
7 LABEL?

8 "A. DID I -- I
9 SPECIFICALLY RECALL? NO.

10 "Q. ANY THAT --

11 "A. DID I --

12 "Q. CAN YOU GENERALLY
13 RECALL?

14 "A. NO.

15 A THAT IS WHAT I JUST SAID TO YOU.
16 THAT IS THE SAME THING I JUST REPEATED.

17 Q YOU DON'T RECALL IF LABELS FOR CENTRAL
18 DRUMMING WERE EVER CHANGED TO REFLECT A PCB WARNING,
19 RIGHT?

20 A NO, I DON'T.

21 Q AND YOU DON'T REMEMBER HOW YOU GOT THE
22 INFORMATION THAT A NEW STICKER HAD TO BE PLACED ON
23 AROCLOR PRODUCTS, RIGHT?

24 A SPECIFICALLY? I DON'T REMEMBER.
25 THAT TYPE OF INFORMATION CAME IN PERIODIC
26 MEETINGS THAT WE ALL GOT TOGETHER WITH THAT WERE
27 CONDUCTED BY A FELLOW BY THE NAME OF JIM SAVAGE.

28 AND I -- YOU KNOW THAT WAS THE TYPE OF

1 TOPIC.

2 SO FAR AS I'M CONCERNED, MOST LIKELY THAT
3 IS WHERE THAT INFORMATION CAME FROM, WAS ONE OF THOSE
4 GET-TOGETHERS WHERE WE HAD EVERYBODY CONCERNED IN THE
5 THING AND WE WENT OVER THE LIST.

6 WE DISCUSSED IT AND IT WAS DONE.

7 Q BUT YOU ARE SPECULATING ABOUT THAT,
8 AREN'T YOU, MR. SMID?

9 A I'M ONLY SPECULATING IN THAT I DON'T KNOW
10 EXACTLY BUT I KNOW IT WAS DONE.

11 Q YOU DON'T RECALL HOW YOU ACQUIRED THE
12 INFORMATION THAT A NEW STICKER HAD TO BE PLACED ON
13 AROCLOR PRODUCTS, RIGHT?

14 A I REMEMBER THAT WE WERE TOLD TO DO THAT.
15 I REMEMBER THAT IT WAS DONE BECAUSE IT
16 WAS AN ISSUE.

17 LIKE I SAID, MOST OF THAT TYPE OF ISSUE,
18 THAT TYPE OF TOPIC, WAS ONE THAT CAME FROM MR. SAVAGE
19 BECAUSE HE WAS IN CHARGE OF THAT GROUP, AS FAR AS I
20 WAS CONCERNED.

21 I REPORTED TO HIM FOR THOSE KIND OF
22 PRODUCTS.

23 Q OKAY. BUT YOU DON'T HAVE ANY SPECIFIC
24 RECOLLECTION OF HOW YOU GOT THE INFORMATION, RIGHT?

25 A THAT'S RIGHT.

26 Q AND THE BEST RECOLLECTION THAT YOU HAVE
27 ABOUT WHEN YOU GOT THE INFORMATION IS SOMETIME IN THE
28 EARLY 1970'S, RIGHT?

1 A VERY EARLY.

2 Q SO YOU DON'T RECALL IF YOU GOT THIS
3 INFORMATION BETWEEN JUNE, 1970 AND JANUARY, 1971,
4 RIGHT?

5 A LET ME SAY THIS.

6 I DO RECALL I WAS PART OF A PROGRAM THAT
7 WAS GOING ON.

8 SO WHEN THAT PROGRAM WAS INITIATED, WE
9 WERE A PART OF IT.

10 Q THAT WASN'T MY QUESTION, MR. SMID.

11 A I KNOW WHAT YOU SAID.

12 I'M JUST TELLING YOU WE WERE PART OF THE
13 PROGRAM.

14 I REMEMBER THAT.

15 I DON'T REMEMBER THE DATE.

16 BUT I REMEMBER THE PROGRAM THAT WAS GOING
17 ON.

18 WE WERE A PART OF IT.

19 Q BUT YOU DON'T RECALL --

20 A I REMEMBER THAT WE HAD TO DO IT.

21 Q YOU DON'T RECALL THE DATE, DO YOU?

22 A NO, I DON'T.

23 Q AND YOU DON'T RECALL ANY DISCUSSIONS WITH
24 MR. PAPAGEORGE ABOUT RELABELING OF THE PYDRAUL
25 PRODUCTS, DO YOU?

26 A NO, I DON'T.

27 Q NOW, MR. SMID, ISN'T IT THE CASE THAT THE
28 MOST YOU CAN SAY IS THAT SOMETIME IN THE EARLY 1970'S

1 YOU SAW SOME DRUMS OF PRODUCT AT THE QUEENY PLANT
2 THAT HAD THIS STICKER ON IT?

3 A NO, THAT'S NOT THE MOST I CAN SAY.

4 I CAN SAY THAT I SAW -- I CAN SAY THAT.
5 AND IN ADDITION TO THAT I CAN SAY THAT THE QUEENY
6 PLANT WAS PART OF A PROGRAM TO GET THE WHAT I CALL
7 THE PCB STICKER ON EVERY DRUM THAT CONTAINED
8 AROCLOR.

9 Q DID YOU EVER REVIEW ANY OPERATING MANUALS
10 OF PCB-CONTAINING PRODUCTS TO SEE THAT THE LABEL
11 INFORMATION HAD BEEN UPDATED?

12 A NO, I DIDN'T.

13 Q YOU DON'T RECALL --

14 A THAT I CAN RECALL.

15 Q YOU DON'T RECALL WHAT PRODUCTS YOU SAW
16 THIS STICKER ON, DO YOU?

17 A SPECIFICALLY, NO.

18 Q YOU DIDN'T SEE A LOT OF PRODUCTS WITH
19 THIS STICKER ON IT, DID YOU?

20 A I SAW PART OF MY WAREHOUSE THAT HAD THAT
21 STICKER ON IT.

22 BUT I HAVE NO REASON TO DOUBT THAT IT
23 WASN'T A COMPLETE JOB.

24 BECAUSE IT WAS THAT KIND OF A PROGRAM
25 THAT WAS GOING ON.

26 I HAVE NO REASON TO DOUBT MY PEOPLE.

27 YOU ARE TELLING ME I SHOULD DOUBT THAT
28 THE PEOPLE WHO WORK FOR ME DID THEIR JOB. I CAN'T DO

1 THAT.

2 Q NO, I'M JUST HERE TO ASK YOU ABOUT YOUR
3 PERSONAL KNOWLEDGE, NOT ABOUT WHAT OTHER PEOPLE WERE
4 DOING.

5 A I'M GIVING YOU MY PERSONAL KNOWLEDGE.

6 Q ABOUT YOUR PERSONAL KNOWLEDGE.

7 YOU DIDN'T SEE A LOT OF PRODUCTS WITH PCB
8 STICKERS ON THEM, DID YOU?

9 A YES, I DID.

10 Q ALL RIGHT.

11 A I SAW -- I DON'T KNOW HOW MANY.

12 BUT, I MEAN, I SAW THEM IN THE WAREHOUSE.

13 Q DID YOU SEE A LOT?

14 A WELL --

15 MR. ZIMMER: OBJECTION, VAGUE, YOUR HONOR.

16 THE COURT: OVERRULED.

17 YOU MAY ANSWER.

18 DID YOU SEE A LOT?

19 THE WITNESS: WELL, I DON'T KNOW WHAT SHE MEANS
20 BY "A LOT," SIR.

21 I DON'T KNOW, COMPARED --

22 THE COURT: YOU HAVE ANSWERED THE QUESTION.

23 MS. GRADY: I WOULD LIKE TO READ FROM

24 MR. SMID'S DEPOSITION ON PAGE 94.

25 THE COURT: THE DATE OF THE DEPOSITION,
26 PLEASE?

27 MS. GRADY: APRIL 16, 1993.

28 LET'S SEE, PAGE 94, LINE 19 THROUGH LINE

1 22. (READING):

2 "Q. DID YOU SEE A LOT OF PRODUCTS WITH
3 THIS LABEL ON IT COMING OUT OF CENTRAL DRUMMING?

4 "A. NO."

5 Q YOU HAVE NO RECOLLECTION, MR. SMID, THAT
6 YOU SAW THIS LABEL ON TURBINOL DURING THE PERIOD MAY,
7 1970 TO JANUARY, 1971, DO YOU?

8 A I ANSWERED THAT WHEN I SAID I DON'T
9 REMEMBER ANY SPECIFIC PRODUCT THAT IT WAS ON.

10 I CANNOT REMEMBER THAT.

11 AND I -- IT'S TOO LONG AGO.

12 MS. GRADY: NOTHING FURTHER AT THIS TIME.

13 THE COURT: ALL RIGHT.

14 BRIEF REDIRECT, MR. ZIMMER? GO AHEAD.

15 MR. ZIMMER: VERY BRIEF.

16

17 REDIRECT EXAMINATION

18 BY MR. ZIMMER:

19 Q MR. SMID, WHAT BECAME OF THE OPERATING
20 MANUALS THAT YOU DISCUSSED WITH MS. GRADY AFTER A
21 PRODUCT WAS DISCONTINUED?

22 A WE PITCHED THEM.

23 IN SOME CASES, IF THEY WERE PROPRIETARY,
24 WE SHREDDED THEM.

25 Q SO THEY WERE DISCARDED?

26 A YES, THEY WERE.

27 MR. ZIMMER: THANK YOU, NOTHING FURTHER.

28 MS. GRADY: YOUR HONOR, JUST ONE QUESTION.

1 THE COURT: GO AHEAD.

2

3

RECROSS EXAMINATION

4

BY MS. GRADY:

5

6

7

Q ARE YOU AWARE OF THE DIRECTIVE FROM
MONSANTO'S LEGAL OFFICE IN THE EARLY 1970'S TO RETAIN
ALL RECORDS THAT HAD ANYTHING TO DO WITH PCB'S?

8

MR. ZIMMER: NO FOUNDATION, YOUR HONOR.

9

10

THE COURT: I WILL ALLOW IT SUBJECT TO A LATER
FOUNDATION.

11

12

13

THAT MEANS, LADIES AND GENTLEMEN, THAT IF
WE DO NOT LEARN THAT THERE WAS SUCH A DIRECTIVE, THEN
YOU WOULD DISREGARD ANY ANSWER TO THIS QUESTION.

14

YOU MAY ANSWER THE QUESTION.

15

THE WITNESS: STATE THE QUESTION AGAIN.

16

17

Q BY MS. GRADY: DO YOU WANT ME TO REPEAT
IT?

18

A YES, PLEASE. IT'S KIND OF --

19

20

21

22

Q WERE YOU AWARE IN THE EARLY 1970'S OF A
DIRECTIVE, AN ORDER FROM MONSANTO'S LEGAL DEPARTMENT,
TO KEEP ALL RECORDS THAT HAD ANYTHING TO DO WITH PCB
PRODUCTS?

23

24

A I WAS AWARE OF THE DIRECTIVE THAT WAS
SIMILAR TO THAT.

25

26

BUT I DIDN'T INTERPRET IT LIKE YOU ARE
INTERPRETING IT.

27

28

Q SO YOU DIDN'T INTERPRET IT TO HOLD ONTO
OPERATING MANUALS THAT HAD LABELING INSTRUCTIONS FOR

1 PCB PRODUCTS?

2 A NO, I DIDN'T.

3 MS. GRADY: NOTHING FURTHER.

4 THE COURT: ANYTHING FURTHER, MR. ZIMMER?

5 MR. ZIMMER: NO, I DON'T.

6 THE COURT: MAY THIS WITNESS NOW BE EXCUSED?

7 MR. ZIMMER: HE MAY.

8 THE COURT: AND MS. GRADY?

9 MS. GRADY: YES.

10 THE COURT: MR. SMID, THANK FOR YOUR ATTENDANCE
11 AT THIS TRIAL.

12 YOU ARE EXCUSED FROM FURTHER ATTENDANCE.
13 COUNSEL, MAY I SEE YOU AT SIDEBAR,
14 PLEASE.

15
16 (THE FOLLOWING PROCEEDINGS WERE HELD
17 AT THE SIDE BAR NOT REPORTED.)

18 THE COURT: LADIES AND GENTLEMEN, BEFORE I
19 EXCUSE YOU FOR THE EVENING, LET ME BRING YOU UP AN
20 UNDERSTANDING OF THE SCHEDULING THAT I HAVE JUST BEEN
21 REVIEWING WITH THE LAWYERS.

22 WE ARE STILL VERY MUCH ON SCHEDULE IN
23 TERMS OF THE ORIGINAL IDEA OF THE CASE.

24 AND WHAT WE HAVE DETERMINED TO DO IS TO
25 DO SOME WORK ON THURSDAY MORNING RATHER THAN SPEND A
26 HALF DAY WITH YOU ON THURSDAY MORNING BECAUSE THERE
27 WILL BE SOME TESTIMONY ON JANUARY 3RD WHEN WE RESUME.

28 SO WHAT I'M SAYING TO YOU IS WE WILL HAVE

1 A NORMAL DAY TOMORROW FROM 9:30 TO 4:00 BUT YOU WILL
2 NOT COME IN ON THURSDAY OR ON FRIDAY.

3 TOMORROW AFTERNOON I WILL EXCUSE YOU TO
4 RETURN ON JANUARY 3, HAVING A SAFE AND SOBER HOLIDAY
5 IN BETWEEN.

6 WHAT DOES THIS MEAN? (INDICATING.)

7 SO YOU WON'T BE HERE ON THURSDAY.

8 YOU WILL BE DOING NO WORK WITH THE
9 LAWYERS ON THURSDAY.

10 DOES THAT RAISE A CONCERN IN CONNECTION
11 WITH YOUR WORK? IS THAT WHAT I'M HEARING?

12 IT COUNTS. ALL YOU HAVE TO DO TO MAKE IT
13 COUNT IS COME HERE TO THE COURTHOUSE AND SAY "GOOD
14 MORNING" TO MS. MARTINEZ.

15 I'M SERIOUS. I'M SURE SHE WILL SAY GOOD
16 MORNING OVER THE PHONE.

17 JUROR SUAREZ: FOR THE 27TH TO THE 30TH, I KNOW
18 31ST IS A HOLIDAY.

19 IS IT THE 27TH TO 30TH WE NEED TO GO
20 BACK?

21 THE COURT: IN TERMS OF YOUR JURY DAYS I THINK
22 WHAT YOU ARE ASKING IS THAT THE LAST WEEK OF DECEMBER
23 DOES NOT COUNT AS JURY DAYS.

24 THOSE ARE DAYS THAT YOUR EMPLOYER MAY
25 EXPECT YOU TO BE AT WORK.

26 JUROR SUAREZ: OKAY.

27 THE COURT: FROM DECEMBER 28TH THROUGH DECEMBER
28 30TH, UNLESS THAT IS A HOLIDAY AT YOUR WORK.

1 THAT IS YOUR REGULAR WORK.

2 JUROR SUAREZ: NOT THE 27TH.

3 THE COURT: I'M LOOKING AT A '94 CALENDAR.

4 THE WEEK OF THE 27TH BELONGS TO YOUR
5 EMPLOYER, NOT TO THE COURT.

6 JUROR SUAREZ: OKAY.

7 THE COURT: THEN I WILL REMIND YOU NOT TO THINK
8 ABOUT THE CASE, FORM ANY IMPRESSION OR SAY ANYTHING
9 TO ANY OTHER PERSON ABOUT ANYTHING HAVING TO DO WITH
10 IT.

11 HAVE A NICE EVENING, WE WILL HAVE A
12 NORMAL DAY TOMORROW FROM 9:30 TO 4:00.

13 WE WILL SEE YOU TOMORROW.

14
15 (AT 4:00 P.M., THE PROCEEDINGS WERE ADJOURNED
16 UNTIL WEDNESDAY, DECEMBER 22, 1993 AT 9:30 A.M.)

17
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28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT NO. 31 HON. G. KEITH WISOT, JUDGE
4

5 TRANSWESTERN PIPELINE COMPANY,)
6 A DELAWARE CORPORATION,)
7 PLAINTIFF- RESPONDENT,)
8 VS.) NO. BC 026959
9 MONSANTO COMPANY AND DOES 1) REPORTER'S
10 THROUGH 200, INCLUSIVE,) CERTIFICATE
11 DEFENDANTS- APPELLANTS.)

12 STATE OF CALIFORNIA)
13 COUNTY OF LOS ANGELES) SS.
14

15 I, DAVID ALAN SALYER, OFFICIAL REPORTER OF THE
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
17 COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
18 FOREGOING PAGES, 3,683 THROUGH 3,872, INCLUSIVE,
19 COMPRISE A TRUE AND CORRECT TRANSCRIPT OF THE
20 PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER, AS
21 DESIGNATED BY COUNSEL TO BE INCLUDED IN THE
22 TRANSCRIPT ON APPEAL, REPORTED BY ME ON December 21,
23 1993.

24 DATED THIS _____ DAY OF APRIL, 1994.

25
26 _____, CSR # 4410
27 OFFICIAL REPORTER
28

