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## Testimony given in Ward defense

# Doctors doubt PCB threat

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HALIFAX — Two doctors testifying in defense of a Wake County businessman today disputed earlier prosecution testimony that the chemcial PCB is harmful to humans in small amounts.

Asked if the PCB spills in Halifax County last year pose any health problem now, a Chatham County doctor said the PCBs here pose little or no threat.

"It will not be harmful to human or animal life under these conditions," Dr. Leonard Goldwater, who specializes in environmental problems, testified in Superior Court today.

He was testifying at the trial Robert E. (Buck) Ward Jr., president of Ward Transformer Co. near Raleigh. Ward is charged with conspiring to dump PCB-laced oil from his business along North Carolina highways.

The defense rested its case about noon and the trial was recessed until Monday. At that time both sides are expected to begin their final arguments to the jury.

Goldwater said the quantity of PCB determines its effect. "These quantities are so low they would have not have any effect," Goldwater said of the Halifax County spills.

Goldwater said he inspected several roadside spill areas within the last two weeks. In one spill area, he found a puddle containing what he described as a large, healthy colony of tadpoles.



Robert E. Ward

'I was negligent'

Under cross-examination, Goldwater was asked by Asst. Atty. Gen. Donald W. Stephens if the doctor had observed the tadpoles with anything other than the naked eye.

"I did not examine them microscopically," he said. "They looked quite healthy in appearance and behavior."

The spill sites have been treated with activated charcoal by the N.C. Department of Natural and Community Resources, which state officials claim would stabilize the PCB.

Two prosecution witnesses testified earlier this week that PCB administered to rats and monkeys in laboratories caused cancer.

Speaking of the effect of PCB on vegetation, Goldwater said, "If there is any harm, it would be minor."

"It is not going to spread from the four- to five-inch strip in which it was spilled," he said. "The harm to vegetation has long since ceased to exist." "Under the conditions, I don't see how anybody is going to be hurt by the stuff," Goldwater said.

Dr. R. Emmett Kelly, a retired Monsanto Chemical Co. doctor who now lives in Defiance, Mo., testified that the only occupational problem with employees exposed to PCBs was skin acne.

However, Dr. Kelly said under cross-examination that Monsanto stopped manufacturing PCBs for other than completely enclosed systems because studies showed eagles that ate fish containing PCB underwent hormonal changes and are unable to form shells around eggs.

Ward, the head of one of the largest electrical transformer repair companies in the country, testified Thursday that he paid a New York man to properly dispose of used transformer oil containing toxic PCB.

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"I did not buy oil for him to dump," Ward, 55, said of Robert J. Burns of Jamestown, N.Y., who has admitted illegally dumping PCB oil on 210 miles of N.C. highway in 1978.

"There was no benefit to have him (Burns) take my oil and dump it," Ward said.

Ward's testimony dominated the trial on Thursday as he disputed Burns' testimony that Ward was informed in advance of the illegal roadside dumpings.

Looking back on the events, Ward said he realizes he should have stopped the dumpings when he found out. "The oil was almost gone or near the end when I found out. Yes, I was negligent in not stopping them as I see it now," Ward said.

Ward, who is president of Ward Transformer Co. near Raleigh-Durham Airport, put his credibility squarely against Burns, precisely as Burns testified he predicted in a pre-trial conversation with Ward.

"We both knew we would end up in court. It would come down to a confrontation of who was lying," Burns testified Wednesday in Halifax Superior Court.

Burns was describing a conversation he said took place in Buck Ward's apartment in early 1979. Burns had been charged in connection with the spills in the fall of 1978 and had spent almost a month in jail.

Burns said Ward refused to take responsibility for the spills and spurned a Burns' proposal to pay for the clean up operation. Burns said he decided to confess his role after he realized the magnitude of the problem that had been created for the state.

Burns, 50, subsequently testified against Ward before federal and state grand juries, leading to indictments against Ward.

But Ward disputed Burns' account Thursday and said that Burns demanded that Ward pay his legal fees, a demand that was denied by Ward.

Ward is on trial charged with conspiring with Burns to illegally dump the PCB-oil on roadsides in Halifax County on July 26, 1978, and with being an accessory before the fact of the dumpings.

Burns and his two sons, Randall J., 20, and Timothy P., 24, pleaded guilty here Monday to damaging public property in connection with the spills. All three testified against Ward this week and await sentencing. In keeping with a plea bargain, Randall and Timothy Burns are expected to receive probated sentences.

On Thursday, after prosecution testimony ended, Judge Donald L. Smith dismissed all charges against Ward's son, Robert E. (Bob) Ward III, 29, of Raleigh, saying the state had failed to prove that the younger Ward conspired with or had any prior knowledge of the illegal dumpings.

Defense testimony is expected to end early this afternoon, at which time Smith is expected to recess the trial until Monday. On Monday lawyers for both sides will make final arguments to the jury of nine men and three women, and Smith will instruct the jury in the law. Thereafter, the jury will begin deliberations.

Ward and Burns both said they had been close personal friends for about 25 years and had been involved in a variety of generally unsuccessful business ventures over the years. Burns would usually come to Ward with a business idea, and Ward would frequently provide the money.

Over the years Ward said he invested about $250,000 in various Burns' business ventures, losing about $85,000.

Having shut down his salvage business in Olean, N.Y., Burns testified he became interested in acquiring used electrical transformers, draining the PCB oil and selling the empty transformers to Ward Transformer Co., which repairs transformers.

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Burns said transformer users faced problems with PCB in early 1978 because of proposed strict environmental regulations governing proper disposal of the toxic chemical. PCB oil was commonly used until the last few years as the main insulator of transformers, being more non-flammable than regular oil.

Ward said that in early 1978 he decided to stop handling PCB-oil transformers. And Ward said he agreed to buy transformers from Burns if Burns would remove 40,000 gallons of PCB oil from Ward Transformer Co.

Burns and his sons, using a variety of trucks and sometimes hired truck drivers, actually transported about 30,000 gallons to storage facilities in Pennsylvania and New York.

But Burns testified that he had trouble getting 55-gallon barrels and getting dependable drivers. So, Burns ordered and paid for a 750-gallon tank that was installed in Burns' truck.

In June 1978 Ward said he had his first hint that Burns and his sons were dumping the oil in North Carolina instead of transporting it north to proper facilities.

Returning from the beach, Ward said he was in his office when Burns came in. "In the morning he said he had dumped oil at Fort Bragg reservation. I got sort of mad. I said, 'Bob, you know the regulations just as well as I do. You know better than to dump oil.'

He said, 'I'll never do that again. That's the stinkingest mess I ever smelled,' " Ward testified.

When almost all the 40,000 gallons had been removed from Ward Transformer Co., Ward cited another conversation with Burns.

"I was in my office in my chair and Bob Burns was standing to the right of the desk, and I don't know why but I reared back and said, 'Bob, tell me something, are you dumping that oil?' He gave me a smirkish grin and ... walked off, and he turned and smiled and said, 'Do you really want to know?' I was stunned and said no," Ward said.

In early August 1978 the PCB spills became public knowledge through widespread press and TV coverage.

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