

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

THE CITY OF BLOOMINGTON, INDIANA;)
THE UTILITIES SERVICE BOARD OF)
BLOOMINGTON, INDIANA; and MONROE)
COUNTY, INDIANA,)

Plaintiffs,)

vs.)

Civ No.
IP 83-9-C

WESTINGHOUSE ELECTRIC CORPORATION,)
a Pennsylvania corporation; and)
MONSANTO COMPANY, a Delaware)
corporation,)

----- Defendants. -----)

The continued deposition of W. B. PAPAGEORGE,
called for examination by the Plaintiffs, pursuant
to notice and pursuant to the provisions of the
Federal Rules of Civil Procedure of the United
States District Courts, pertaining to the taking
of depositions for the purpose of discovery, taken
before Arnold N. Goldstine, a Notary Public and
Certified Shorthand Reporter within and for the
County of Cook and State of Illinois, at 1313
Merchants Bank Building, Indianapolis, Indiana, on
November 25, 1986, at the hour of 10:00 o'clock
a.m.

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APPEARANCES:

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Mr. Joseph V. Karaganis and
Ms. Kathleen M. Donahue
Bell, Boyd & Lloyd
Three First National Plaza
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Suite 3200
Chicago, Illinois 60602

appeared on behalf of the
Plaintiffs;

Mr. Michael R. Fruehwald
Barnes & Thornburg
1313 Merchants Bank Building
Indianapolis, Indiana 46204

appeared on behalf of Defendant
Monsanto Company.

I N D E X

WITNESS:

W. B. PAPAGEORGE

Direct Examination
By Mr. Karaganis

875

E X H I B I T S

BLOOMINGTON DEPOSITION NOS.

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387 A and 387 B	969
389 A	981
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389 C	986
390 A	988
399 B	1003

Longoria & Goldstine

236 1030

Chicago

1 MR. KARAGANIS: Let's go on the record.

2 Let the record show that this is the
3 continued deposition of Mr. William Papageorge,
4 taken pursuant to notice, under rule 30 (b) 6 of
5 the Federal Rules of Civil Procedure.

6 Mr. Fruehwald, you indicated off the
7 record that you had some corrections to make or
8 Mr. Papageorge had some corrections to make to his
9 testimony?

10 MR. FRUEHWALD: Right.

11 In the last session in Chicago, Mr.
12 Papageorge was asked some questions about whether
13 Booz, Allen had audited PCB studies done by the
14 Industrial Bio-Test Laboratories. And a request
15 was made that any report of such an audit be found
16 and produced.

17 In the context of searching for such a
18 report, it was found out that the testimony as to
19 whether there had been a validation was in error,
20 and Mr. Papageorge can, I guess, correct the
21 testimony at this time from what was said at the
22 last session about what Booz, Allen did in
23 connection with the IBT studies of PCB's.

24 MR. KARAGANIS: All right.

1 WILLIAM B. PAPAGEORGE,
2 having been previously duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. KARAGANIS:

6 Q. Go ahead, Mr. Papageorge, if there is
7 anything you want to change about the Booz, Allen
8 testimony.

9 A. Well, I was under the impression that
10 Booz, Allen had audited the PCB studies along with
11 the other studies that they had done for Monsanto.
12 It turns out I was in error.

13 I don't know what else to add, other than
14 that the PCB studies in themselves were not
15 audited because the National Cancer Institute had
16 come out with a report of a study that they had
17 sponsored and that was perceived to be a better
18 way to confirm or to validate the results of the
19 IBT studies, since the two results were similar or
20 identical.

21 Q. What was the National Cancer Institute
22 study to which you refer?

23 A. This was a study, a lifetime study with
24 rats using Aroclor 1254 as the tested material and --

1 as I recall it was performed by the Stanford
2 Research Institute.

3 Q. So it is correct then that Booz, Allen &
4 Hamilton did not audit the Industrial Bio-Test PCB
5 study?

6 A. That is correct.

7 Q. And it is correct also that there was no
8 audit of any kind of the Bio-Test PCB studies?

9 A. There was a review of tissue samples
10 performed as a confirmation of previous findings.

11 Q. A review of --

12 A. Which was a form of audit.

13 Q. By whom was that performed?

14 A. I don't recall the consultant's name.
15 The best I can remember, I believe he was
16 associated with the Eppley Institute in Omaha,
17 Nebraska.

18 Q. That was a tissue analysis?

19 A. IBT was instructed to go back to there
20 research organ samples, prepare new tissues and
21 have those tissues reviewed by their pathologist
22 and by the consultant to make certain that their
23 original conclusions were still valid.

24 Q. And did Eppley come up with a report?

1 A. Yes. There was a report.

2 Q. Other than Eppley, the various animal
3 studies and the methodologies, procedures, various
4 steps in the process, were never audited; is that
5 correct?

6 A. That is correct.

7 Q. I would like to direct your attention,
8 Mr. Papageorge, to the organization called the
9 corporate management committee, which you have
10 discussed previously in your testimony.

11 Did the corporate management committee
12 have any other name?

13 A. A similar committee at other periods of
14 time was referred to as the corporate
15 administration committee. The CAC.

16 Q. Okay.

17 A. I do not recall the periods when the
18 names would change.

19 Q. All right.

20 Was there also, we said the CMC and the
21 CAC are the same, when you use those terms?

22 A. To me they were roughly the same, yes.

23 Q. Was it also called at any time the
24 corporate development committee, CDC?

1 A. I have never heard of that. I don't
2 know.

3 Q. Mr. Papageorge, can you describe the
4 chronology and purpose of the so-called ANSI
5 committee or ANSI taskforce?

6 A. The ANSI taskforce was originally formed
7 by the National Electrical Manufacturers
8 Association, NEMA, in about 1970.

9 Q. All right.

10 A. And the intent was to communicate to
11 manufacturers and users of electrical equipment
12 that used PCB's on the then perceived proper ways
13 to handle PCB's in transit and in use and in
14 disposal.

15 In about 1971, the NEMA group believed
16 that it would be more appropriate that the ANSI,
17 the American National Standards Institute, sponsor
18 such a study, primarily because the individuals
19 and companies that would be impacted represented
20 more than just the electrical manufacturers.

21 And it was the intent at that time also
22 that once an American standard was established,
23 the ANSI organization would help, if appropriate,
24 to make it an international standard.

1 Q. And this standard was supposed to be on
2 the handling, use and disposal of PCB's?

3 A. In the electrical applications, yes.

4 Q. Okay.

5 And why simply in the electrical
6 applications?

7 A. Because the group that originally
8 conceived of this approach were only interested in
9 the electrical application.

10 Q. Well, by the time that the ANSI committee
11 was formed, you had closed off sales to the other
12 applications, had you not?

13 A. The ANSI committee itself was formed when
14 we, if memory serves me right, Monsanto was still
15 selling PCB's to the heat transfer application, in
16 '71.

17 Q. Was there anything about handling,
18 discussing a committee to handle the heat transfer
19 applications?

20 A. Not at that time, no.

21 Q. Was there at any other time?

22 A. No.

23 Q. Was there legislation pending at the time
24 the ANSI committee was formed, federal

1 legislation, regarding the ban of PCB's?

2 A. I don't recall any legislation pending at
3 that time, no.

4 BY MR. KARAGANIS:

5 Q. Are you familiar with legislation by
6 Congressman Ryan to ban PCB's about that period of
7 time?

8 A. I recall Congressman Ryan's statements
9 regarding the banning of PCB's. I don't recall
10 whether he introduced any bills.

11 Q. Do you recall whether Congressman Ryan's
12 legislation were ever discussed at ANSI meetings?

13 A. No, they were not discussed.

14 Q. What was the term C 107, why did that
15 term come to be used, ANSI C 107, if you know?

16 A. The ANSI organization once it approves
17 the establishment of a committee assigns for their
18 internal administrative purposes a committee
19 number. This was committee 107.

20 I don't know if it has any specific
21 significance other than that.

22 Q. Do you recall ever -- I am sorry.

23 Do you recall the meeting that you were
24 installed as chairman of the ANSI C 107 committee? ..

1 A. Yes. I recall a meeting. I don't know
2 that it stands out in my mind as unique.

3 Q. The organizational meeting of the ANSI
4 committee, do you recall that?

5 A. I recall the meeting at which I was
6 appointed chairman.

7 Q. And do you recall mentioning at that time
8 Congressman Ryan's bill to prohibit PCB's?

9 A. I don't know that I recall -- I don't
10 recall mentioning a bill.

11 I do recall Congressman Ryan's strong
12 position and I shared that with the group more
13 than once, really.

14 Q. His strong position to your knowledge was
15 what?

16 A. He did not believe PCB's should be in
17 commerce and that they should be banned.

18 Q. You were chairman of the C 107 committee,
19 right?

20 A. Yes.

21 Q. Did you keep minutes or materials
22 regarding your role in the C 107 committee?

23 A. I didn't personally keep any notes, no.

24 Q. You didn't keep any notes?

- 1 A. No.
- 2 Q. Was there a secretary to the committee?
- 3 A. Yes.
- 4 Q. Who was the secretary to the committee?
- 5 A. Mr. Salizar from the NEMA organization
- 6 served as secretary.
- 7 Q. How was the ANSI C 107 committee
- 8 organized, in other words, what was its structure?
- 9 Did it have any subcommittees?
- 10 A. Yes.
- 11 Q. Could you describe what that structure
- 12 was?
- 13 A. We had a steering committee, which
- 14 established the direction that the full committee
- 15 should take, and monitored our activities. And
- 16 the ANSI committee itself broke out into two
- 17 groups. One addressing the use of PCB's in
- 18 transformers, and the other addressing the use of
- 19 PCB's in capacitors.
- 20 Q. Those were the two applications in the
- 21 electrical equipment industry?
- 22 A. The two principal applications.
- 23 Q. Who chaired the steering committee?
- 24 A. I don't recall who chaired that

1 committee.

2 Q. Who was on the steering committee?

3 A. I recall, as best I recall, it was Mr. Ed
4 Raab, Mr. Paul Benignus. I believe Mr. T. K.
5 Sloat. I don't recall the other members

6 Q. T. K. Sloat. Now, Sloat worked for
7 Westinghouse, did he not?

8 A. Yes.

9 Q. Who did Raab work for?

10 A. General Electric.

11 Q. And Benignus worked for Monsanto?

12 A. Correct.

13 Q. Then you said there were two
14 subcommittees, one for capacitors and one for
15 transformers; is that right?

16 A. Yes.

17 Q. Who to your recollection was on the
18 capacitor subcommittee?

19 A. Dr. Pozefsky was the chairman. I don't
20 clearly recall the members, I would be guessing.

21 Q. He was with GE?

22 A. Yes.

23 Q. That was capacitors, right?

24 A. Correct.

1 Q. Do you recall who else was on it?

2 A. Not clearly.

3 Q. Anybody from Westinghouse?

4 A. I believe Don McClain was a member.

5 Q. Okay.

6 Who on transformers?

7 A. The chairman was Mr. Ed Raab.

8 Q. That was the fellow from GE?

9 A. Correct.

10 As best I remember, Mr. T. K. Sloat from
11 Westinghouse was a member. I just don't remember
12 the members.

13 Q. Did you ever review in the ANSI meetings
14 what the various recommendations would be with
15 regard -- or I am sorry -- the impact of the
16 various recommendations on anybody's individual
17 plant?

18 A. No.

19 Q. Did you provide recommendations to the
20 ANSI committee, either of the ANSI subcommittees,
21 or the steering committee, regarding what should
22 be the disposal practices?

23 A. Yes.

24 The recommendations were those that we

1 had been informing our customers of all along.

2 Q. And what were those recommendations, what
3 were your recommendations?

4 A. Oh, avoid mixing it with water, designing
5 the proper facilities at their plants to trap the
6 material that might spill. Improve their sampling
7 techniques to avoid spillage. Handle it at as low
8 a temperature as their process would permit to
9 avoid vaporization.

10 And for liquid wastes, the preferred
11 method of disposal was incineration. For solid
12 waste, the use of permitted landfills was the
13 available technology.

14 Q. Now, for permitted landfills, you mean
15 landfills that had been licensed to handle
16 chemical industrial waste, isn't that correct?

17 A. Yes.

18 Q. Was there ever any discussion -- I am
19 sorry.

20 Was there ever any discussion as to the
21 need to adopt guidelines or standards to prevent
22 or to defer federal regulation?

23 A. I don't know that there was any in-depth
24 discussion. But that was certainly a thought or a

1 premise that was expressed. And lacking any
2 governmental guidance, the group felt that they
3 better come up with their own.

4 Q. Well, was there ever a thought that
5 without industry standards, that government would
6 act, and that one of the purposes of the industry
7 standards was to defer government regulation?

8 A. I don't recall any discussion that talked
9 about deferring regulation. Influencing
10 regulation, yes.

11 Q. In what way in was the intent to
12 influence regulation?

13 A. It was our considered opinion that we
14 found nobody in government that understood this
15 issue. Therefore, they were in no position to
16 come up with any regulations that would have been
17 practical.

18 And one of our intentions was to develop
19 guidelines that would be practical and acceptable
20 to any regulatory body.

21 Q. So it was your intent to develop
22 guidelines or standards which you then hoped you
23 could convince government to adopt; is that right?

24 A. That's right.

1 Q. In lieu of a ban, for example, on the use
2 of PCB's?

3 A. Yes.

4 Q. Now, were you chairman of the ANSI C 107
5 committee all the way through its existence?

6 A. Yes.

7 Q. And when did it go out of existence?

8 A. 1974.

9 Q. 1974?

10 A. Yes, that is when we published the final
11 report.

12 Q. Did it continue on in existence after the
13 publication of the report?

14 A. Not to my knowledge.

15 Q. Did you ever attend any meetings to your
16 knowledge after 1974?

17 A. I don't recall any.

18 Q. Do you recall serving as chairman until
19 1976?

20 A. No.

21 Q. Do you recall being replaced by Cole
22 Webber in 1976?

23 A. No. I don't remember that. I recall a
24 meeting at which I informed the group -- let me

1 think a bit. I informed the group that I felt it
2 appropriate that someone else chair the group. I
3 believe that was in '74, '75.

4 Q. You had testified previously that you
5 shifted away from PCB responsibilities in 1976, as
6 I recall; is that correct?

7 A. Yes. February. It was really early in
8 '76.

9 Q. Early?

10 A. Yes.

11 Q. Do you recall whether or not your
12 resignation from the ANSI C 107 committee was
13 contemporaneous with that shift internally?

14 A. No. It was before that point in time, as
15 I remember.

16 I do not know who they picked as my
17 successor. I don't recall who they picked.

18 Q. Did you continue on with rewrites of the
19 suggested standards after you published them in
20 1974?

21 A. I don't know of any rewrites.

22 MR. KARAGANIS: Just as a matter of business
23 we are attending to, if you weren't going to show
24 up already, here is a subpoena for your attendance

1 at trial, to make certain. I imagine that you
2 were going to be in attendance, but just to be
3 certain.

4 For the record, Mike, since I don't have
5 the Monsanto documents here, do you have copies of
6 the documents you were adding to the exhibit list?

7 MR. FRUEHWALD: Three of them are in that
8 stack that has just been produced.

9 MR. KARAGANIS: All right.

10 MR. FRUEHWALD: The other one is already on
11 your exhibit list.

12 MR. KARAGANIS: Which one?

13 MR. FRUEHWALD: The bottom one.

14 MR. KARAGANIS: And the first three are just
15 being produced today?

16 MR. FRUEHWALD: Right.

17 Do you want to take a break while you
18 look through them?

19 MR. KARAGANIS: Yes. Could we take a short
20 break.

21 (Whereupon a short recess was had.)

22 MR. KARAGANIS: Let's go on the record. The
23 first thing I am going to do is go through the
24 documents that you handed me today, simply to

1 indicate for the record what the documents are and
2 whether or not Mr. Papageorge has any knowledge of
3 them.

4 (The documents above-referred to
5 were marked Bloomington Deposition
6 Exhibit Nos. 345 through 399, both
7 inclusive, for identification.)

8 Q. Mr. Papageorge, directing your attention
9 to the first document which has been marked as
10 Bloomington Deposition Exhibit 345. It is a
11 memorandum from N. T. Johnson to a list of people
12 dated 4/25/71.

13 Have you ever seen that document before?

14 A. I saw this document earlier this morning
15 for the first time.

16 Q. Now, attached to what has been marked as
17 Bloomington Deposition Exhibit 345 is a summary
18 called major account summary, and it lists various
19 Westinghouse facilities.

20 Can you tell me what the word next to the
21 Bloomington plant is, "Rego," what does it mean?

22 A. Yes. That is the name of the newly
23 assigned salesman to cover that account.

24 Q. Now, could you tell me, maybe you can

1 explain, it says here, "Attached are the summary
2 sheets prepared by Randy Graham on those accounts
3 which you will be taking over."

4 What does that mean?

5 A. Mr. Graham was terminating his employment
6 with Monsanto, and the accounts were reassigned to
7 other Monsanto sales representatives.

8 Q. And Rego was taking over Bloomington; is
9 that right?

10 A. Yes.

11 Q. And Seger was taking over the
12 Westinghouse Cleveland facility?

13 A. Whatever is noted there, yes.

14 Q. Who was N. T. Johnson?

15 A. He was the new market manager, new to PCB
16 dielectric fluids.

17 Q. Who had he replaced?

18 A. Mr. Benignus.

19 Q. When had he replaced Benignus, do you
20 recall?

21 A. I believe it was '72. 1972. I don't
22 remember the exact date here.

23 Q. Now, the notes that are attached. Are
24 those Graham's notes, the notes that are attached

1 to Bloomington Deposition Exhibit 345?

2 A. I don't know.

3 Q. It says in the cover that these are
4 summaries prepared by Randy Graham.

5 Does that indicate to you, having looked
6 at the document, that the attachments to the
7 memorandum, Bloomington Deposition Exhibit 345,
8 were prepared by Randy Graham?

9 A. That is the way I would interpret that.
10 Yes.

11 Q. Now, did Graham keep in touch with you at
12 all with regard to what had been done at the
13 plants that were under his sales supervision?

14 A. Yes.

15 Q. What does he mean by the phrase and I
16 quote, "have made tremendous strides in plant
17 clean up, Papageorge should plan to visit during
18 1971."

19 What were the tremendous strides?

20 A. This referred to Mr. Graham's
21 understanding of what the plant had done to
22 control the loss of PCB's.

23 An example would be the elimination of
24 the use of saw dust to absorb spillages. The

1 plant had taken that step.

2 The attempts to remove PCB's from water
3 effluents. The studies that I believe were
4 underway then to determine different ways of
5 introducing the PCB's into the capacitors.

6 Q. You say the steps to remove PCB's from
7 water effluents. What do you mean?

8 A. Well, I recall some studies that had to
9 do with attempting to determine if centrifuges
10 would be effective.

11 Q. Yes.

12 A. There were several of those studies as I
13 remember.

14 Q. Was a centrifuge ever put in?

15 A. No.

16 Q. All right.

17 So that wasn't a stride. They studied
18 it, but they never put it in, did they?

19 A. That is true.

20 Q. All right.

21 Anything else?

22 A. They also, as I remember, segregated some
23 of their waste and had it incinerated instead of
24 allowing it to go into the sewer system.

1 Q. What waste was that?

2 A. I think it was the wash water. It was a
3 waste with a high concentration of PCB's. I
4 believe it was the wash water.

5 Q. This would have been during 1971?

6 A. Yes. Well, at least that was the status
7 in '71. I don't know when they started some of
8 these things.

9 Q. Did they put in any water pollution
10 control equipment?

11 A. I don't know what you mean by that.

12 Q. Well, had they put in any pollution
13 control equipment on the water, the contaminated
14 water going to the sewer to clean it up?

15 A. Not that I recall.

16 Q. But from a plant standpoint within
17 Monsanto, you were shooting for a 10 ppb, 10 parts
18 per billion, were you not, as a discharge limit?

19 A. Eventually that was a goal. The
20 initial -- it had to evolve. The initial intent
21 was to whatever is technically feasible. With the
22 longer range objective of 10 ppb, yes.

23 Q. There was indication, was there not, and
24 indeed it has been proven out that carbon

1 filtration can produce a 10 ppb or less effluent?

2 A. Yes.

3 Q. Did you ever visit during 1971 or any
4 time thereafter, after Bloomington Deposition
5 Exhibit 345?

6 A. No.

7 Q. For the record, until I stop, Bloomington
8 Deposition Exhibit 345 is the first in a series of
9 documents handed to plaintiff in a hand delivered
10 letter dated November 25, 1986 by Mr. Fruehwald,
11 with a list of the documents. It is the first
12 item listed.

13 For the record, Bloomington Deposition
14 Exhibit 346 is item 2 on Mr. Fruehwald's letter of
15 November 24, 1986, it is from Bryant to Schoaff,
16 dated March 16, 1970.

17 I show you 346, Mr. Papageorge, and ask
18 you whether you have seen that document before?

19 A. I saw that this morning for the first
20 time.

21 Q. And that document relates to the Findett
22 program, does it not?

23 A. It doesn't specifically state. So I
24 don't know.

1 Q. All right.

2 Bloomington Deposition Exhibit 346 does,
3 however, deal with the recycle program where scrap
4 Aroclor went back to Monsanto, does it it not?

5 A. May I see that again?

6 Q. Sure.

7 A. There is no reference as to what material
8 is going to be pumped from truck to drums or drums
9 to truck. Whether it is even dielectric is not
10 mentioned. There is no reference to virgin
11 material versus scrap material. I can only guess.
12 I don't know.

13 Q. Based on your knowledge of the program
14 that had been initiated that we have discussed
15 earlier in your deposition, Bloomington Deposition
16 Exhibit 346 relates to the transportation of scrap
17 Aroclor back from the Bloomington Westinghouse
18 plant to Monsanto, does it not?

19 A. I don't know that.

20 Q. Okay.

21 Mr. Bryant, Jim Bryant, did he work for
22 Graham?

23 A. No.

24 Q. He worked for Benignus?

1 A. Yes.

2 Q. Both Graham and Bryant worked for
3 Benignus?

4 A. Yes.

5 Q. Bryant was based where, in St. Louis?

6 A. At that period of time. Yes.

7 Q. Now, directing your attention, and
8 perhaps what may refresh your recollection on
9 Bloomington Deposition Exhibit 346, I show you
10 what has been marked as Bloomington Deposition
11 Exhibit 347, a memorandum dated March 16, 1970
12 from Bryant to Graham, and ask you whether you
13 have seen that document before?

14 A. I saw this document earlier today for the
15 first time.

16 Q. All right.

17 Now that talks about shipping the scrap
18 Aroclor from the Westinghouse plant back to
19 Findett, does it not?

20 A. Yes.

21 Q. So taking 346 and 347 together, and
22 knowing that Mr. Schoaff was in charge of disposal
23 or had some responsibility for disposal of Aroclor
24 at the Bloomington Westinghouse plant, would it

1 not be correct or accurate to conclude that 346
2 refers to shipment of Aroclor back to Monsanto?

3 A. The probability is high that it does, but
4 I cannot vouch for it.

5 Q. That is all right.

6 I would like to direct your attention to
7 Bloomington Deposition Exhibit 348, which is a
8 memorandum dated May 1, 1970 from Olson to Bergen.

9 Are you familiar with that document?

10 A. Yes. I saw this document this morning.
11 I vaguely recall having seen it previously, but I
12 don't know just when.

13 Q. Now, would you describe again who Olson
14 was?

15 A. Olson was the director of marketing for
16 PCB dielectric fluids at that time.

17 Q. So he was Benignus' boss?

18 A. Yes.

19 Q. All right.

20 And Bergen was what, what was his
21 position?

22 A. Bergen was the business director, was Mr.
23 Olson's boss.

24 Q. Mr. Papageorge, would I like to go

1 through each of the items.

2 Would it be correct that Bloomington
3 Deposition Exhibit 348 refers to the part of the
4 overall closing the loop program that had been
5 discussed with the corporate management committee?

6 A. Yes.

7 Q. And item 1 refers to the fact that scrap
8 Aroclor has come back to Monsanto from
9 Westinghouse and General Electric; is that right,
10 item 1 in the memorandum?

11 A. Yes.

12 Q. And when it says for reclamation or
13 disposal, that relates to the fact that for
14 reclamation it was sent to Findett, was it not, at
15 that time?

16 A. Not necessarily.

17 Q. How else would it be reclaimed?

18 A. It is possible for some of the material
19 that didn't meet the electrical specifications,
20 they could have been returned to the plant and
21 used in other applications without any
22 reprocessing required.

23 Q. Okay.

24 But I asked you, now that wouldn't be

1 scrap Aroclor. We went through this earlier in
2 your deposition. That would be material that
3 didn't meet the contractual specifications and was
4 rejected for that reason. Is that correct?

5 A. All right.

6 Q. And we agreed before that scrap Aroclor
7 was related to Aroclor that was sent back that had
8 been lost somewhere in the manufacturing process,
9 is that correct, at either Westinghouse or General
10 Electric?

11 A. Lost?

12 Q. Well, it had dripped into barrels or
13 collected, it was waste Aroclor as opposed to
14 Aroclor --

15 A. Or contaminated.

16 Q. -- or contaminated Aroclor; is that
17 correct?

18 A. That's correct.

19 Q. All right.

20 A. Okay.

21 Q. So what was coming back was either waste
22 or contaminated Aroclor, was it not?

23 A. By that definition, yes.

24 Q. And that's the definition we had agreed

1 early in your deposition was used for the term
2 scrap Aroclor?

3 A. Yes. But I don't know if Mr. Olson used
4 the same definition.

5 Q. But that's the way you understood it?

6 A. Yes.

7 Q. That is the way you understood the term
8 being used in the recycle or closing the loop
9 program, did you not?

10 A. Yes.

11 Q. All right.

12 Just parenthetically, so I can get the
13 record clear. During the period of time from 1970
14 to 1976 while you were involved with the PCB
15 program, who was your immediate superior?

16 A. Initially it was Mr. Bergen, and then I
17 forget the dates, Mr. Corey was my superior at one
18 time and then Mr. Robert Potter.

19 Q. Okay.

20 Now, did Potter come in prior to '76?

21 A. Yes.

22 Q. Okay.

23 We will go back over those dates. It was
24 Bergen, Corey and Potter?

1 A. Yes.

2 Q. Now, when we talk about scrap Aroclor
3 being either waste or contaminated, we talk about
4 reclamation. The reclamation would be the
5 filtering program we talked about at Findett, is
6 it not?

7 Didn't you indicate that Findett had used
8 filters, or for distillation?

9 A. I think the Findett Company attempted
10 filters and distillation or a combination of the
11 two.

12 Q. Okay.

13 But the reclamation for waste or
14 contaminated Aroclor would involve that, would it
15 not?

16 A. Yes.

17 Q. All right.

18 Now, disposal would mean what? This is
19 now 1970.

20 A. 1970. It would mean incineration or
21 storage for, pending incineration.

22 Q. Now, item 2 says Westinghouse and GE have
23 been formally offered our proposal that Monsanto
24 will take responsibility for disposal of fluid

1 from their manufacturing facilities, their service
2 shops and their customers.

3 Do you recall how and when Westinghouse
4 and GE were formally offered that proposal?

5 A. This was a letter to customers, informing
6 them of our intent to install incineration
7 equipment and offering to have that material
8 stored on our premises until the unit was able to
9 be put into service.

10 Q. Do you recall who sent out that letter?

11 A. I think it was signed by Mr. Olson.

12 MR. KARAGANIS: Mike, we may have had this
13 produced, we may not have. I will ask
14 specifically either to identify or produce the
15 letter that Mr. Papageorge refers to for item 2
16 on --

17 MR. FRUEHWALD: All right.

18 MR. KARAGANIS: -- Bloomington Deposition
19 Exhibit 348.

20 Q. It says here, item 4:

21 "We have worked
22 directly with 16 customer
23 locations to review their
24 scrap situation with the aim

1 "of reducing product loss and
2 upgrading the scrap material
3 returned."

7
4 Can you tell me what that means..

5 Reducing product loss and upgrading scrap material
6 returned?

7 A. This was the program that included plant
8 visits by Monsanto representatives to review,
9 control disposal practices.

10 Q. All right.

11 To reduce product loss and to upgrade the
12 quality of the scrap Aroclor?

13 A. That was part of their discussion, yes.
14 How to try to improve it, so it is reusable.

15 Q. It says:

16 "With the capacitor
17 industry, we have helped
18 change impregnation processes
19 which will give lower loss of
20 product and less contaminated
21 absorbent."

22 Can you tell me what activities you
23 engaged in to change impregnation processes?

24 A. Well, the major one was the introduction --

1 of a method for individually piping up the
2 capacitors to a system for delivering the liquid
3 into the unit, rather than flooding a chamber in
4 which the units were stacked.

5 Q. Okay.

6 So you were engaged in working with the
7 capacitor manufacturing industry to deal with
8 direct impregnation as opposed to flooding?

9 MR. FRUEHWALD: Are we talking about you here,
10 Bill Papageorge?

11 MR. KARAGANIS: No. You, Monsanto.

12 A. Representatives from Monsanto were
13 suggesting to customers the use of this approach.

14 Q. Which representatives of Monsanto?

15 A. It would be individuals such as Mr.
16 Benignus, Mr. Graham, Mr. Bryant.

17 Q. Just as a matter of clarification here.

18 Why wouldn't you be listed as a recipient
19 of this memorandum, bloomington Deposition Exhibit
20 348?

21 A. That I don't know.

22 Q. All right.

23 You had the specific charge for PCB
24 containment, did you not, environmental control of

1 PCB's?

2 A. To coordinate the activities. Yes.

3 Q. And yet the people who received it are
4 Benignus, Bryant and Mason but not you.

5 Is there a reason for that?

6 A. I don't know what Mr. Olson had in mind.

7 Q. All right.

8 Directing your attention to Bloomington
9 Deposition Exhibit 349 for identification,
10 memorandum dated July 13, 1970 from Papageorge to
11 Sido.

12 Do you recall seeing that document
13 before?

14 A. Yes.

15 Q. And when did you see it?

16 A. At about the time it was typed for me.

17 Q. Did you also see it today?

18 A. Yes.

19 — Q. Mr. Papageorge, can you tell us what that
20 memorandum refers to?

21 A. It refers to an approval we received, we,
22 Monsanto, received from Westinghouse regarding the
23 addition of the environmental statement for PCB's
24 to the Inerteen product labels.

1 Q. This is the label that would be put on
2 either the tankcar or the drums?

3 A. Correct.

4 MR. KARAGANIS: And we have an outstanding
5 request for the originals of the labels we talked
6 about.

7 MR. FRUEHWALD: All right.

8 BY MR. KARAGANIS:

9 Q. Directing your attention to what has been
10 marked as Bloomington Deposition Exhibit 350 for
11 identification, memorandum from Wood to Paton,
12 P-a-t-o-n, dated November 7, 1974 with copies to
13 Bergen, Moore and Papageorge.

14 Do you recall seeing this document
15 before?

16 A. Yes.

17 I recall when it was first issued and I
18 again saw this document this morning.

19 Q. All right.

20 What does it relate to?

21 A. It refers to a Monsanto effluent sampling
22 program, which was underway at or on about the
23 date of the memo, 1974.

24 Q. Now, when you say effluent sampling

1 program. Would you describe what that program
2 was?

3 A. This was a program that Monsanto was
4 requested to participate in, which involved the
5 sampling of several PCB customer effluents,
6 submitting them to one laboratory and Monsanto to
7 be analyzed for PCB content.

8 Q. Who requested Monsanto to conduct such a
9 program?

10 A. This request, as I remember it, came from
11 a committee, the PCB ad hoc committee of the
12 Electronic Industries Association, EIA.

13 Q. What was the purpose of the sampling
14 program?

15 A. The committee wanted to establish, if it
16 could, the lowest achievable concentration of
17 PCB's in the typical plant effluent.

18 Q. And their sampling program, did it relate
19 to a proposed government regulation?

20 A. Yes.

21 This was in response to a proposed
22 regulation by EPA regarding the amount of PCB's
23 which would be permissible in water effluents.

24 Q. To your knowledge -- I am sorry.

1 What was your role in the sampling
2 program?

3 A. I was aware of the request and I
4 recommended that we participate, if at all
5 possible.

6 Q. And did you?

7 A. Yes.

8 Q. And what plant did you sample?

9 A. I don't remember all the plants.

10 Q. Did you sample the Bloomington
11 Westinghouse plant?

12 A. Bloomington I do remember. Yes.

13 Q. So there was a sample by Monsanto as
14 opposed to Westinghouse sending you a sample of
15 their effluent?

16 A. Yes.

17 MR. KARAGANIS: If we don't have it already, I
18 would request the sampling results by Monsanto.

19 MR. FRUEHWALD: You have got it. You got it
20 in the first production, many years ago.

21 BY MR. KARAGANIS:

22 Q. How frequently or how often did you --

23 MR. FRUEHWALD: As a matter of fact, there is
24 a copy, a more legible copy of Ed Stewart's notes

1 in the stack.

2 MR. KARAGANIS: No, I know it is as legible
3 as --

4 MR. FRUEHWALD: We keep improving the
5 legibility, and that is a better copy than one of
6 the original documents produced to you a while
7 ago.

8 BY MR. KARAGANIS:

9 Q. How frequently did you sample the
10 Bloomington plant, do you recall?

11 A. I am only aware of one by Monsanto.

12 Q. Directing your attention to Bloomington
13 Deposition Exhibit 351 for identification, which
14 is a memorandum dated 2/17/72 from Rego to Cumming
15 Paton.

16 Do you recall seeing this document?

17 A. I saw this document for the first time
18 this morning.

19 Q. Okay.

20 Cumming Paton was whom, what was his
21 position?

22 A. Cumming Paton was the marketing manager
23 for the 19 -- 1972, as best I he call. Dr. Paton
24 was involved with dielectric PCB fluids located in --

1 St. Louis, supporting the field representatives in
2 a role very similar to that played or that
3 performed by Mr. Benignus and Mr. Bryant.

4 Q. He gave technical support to the field
5 representatives?

6 A. Yes.

7 Q. Showing you what has been marked as
8 Bloomington Deposition Exhibit 352, by Rego to
9 Cumming Paton, dated 5/31/72. Does that
10 memorandum discuss a similar problem as Exhibit
11 351?

12 A. It does.

13 Q. That is the question of the leaking
14 tankcars?

15 A. Yes.

16 Q. All right. Let's take a break.

17 (Whereupon a short recess was had.)

18 The next document which has been marked
19 as a deposition exhibit is Deposition Exhibit 353
20 for identification, dated 8/29/72.

21 Directing your attention to Exhibit 353,
22 are you familiar with that document?

23 A. I saw this document this morning for the
24 first time.

1 Q. And to what does it relate?

2 A. It refers to the transmittal of a drawing
3 of a catch basin to Mr. McClain at Bloomington.

4 Q. Now, what was the purpose of the catch
5 basin, to your knowledge?

6 A. This was to trap any spilled, major
7 spilled PCB's and prevent it from getting into the
8 plant sewer system.

9 Q. And at the time of the letter, such catch
10 basin did not exist, is that not correct?

11 A. Exist where?

12 Q. At the Bloomington plant.

13 A. To my knowledge, that is correct.

14 Q. Directing your attention to Bloomington
15 Deposition Exhibit 354 for identification, which
16 is a memorandum from Corlew dated January 15, 1971
17 to Graham.

18 Will you tell me what that document
19 relates to and whether you have seen it before?

20 A. I saw this document for the first time
21 this morning. And it refers to to PCB scrap
22 material from two sources, Westinghouse at
23 Bloomington and General Electric at Rome.

24 Q. Rome, New York?

1 A. Rome, Georgia.

2 Q. Georgia?

3 A. Yes.

4 Q. All right.

5 Exhibit 354 then relates to the scrap
6 Aroclor return program with Monsanto, does it not?

7 A. Yes.

8 Q. The next document has been marked as
9 Bloomington Deposition Exhibit 355, dated March
10 16, 1970 from Bryant to Graham.

11 MR. FRUEHWALD: It is it is a repeat of 347.
12 Missed that in duplication.

13 MR. KARAGANIS: All right. I will just move
14 on.

15 356 is also a repeat, is it not?

16 MR. FRUEHWALD: I think so.

17 MR. KARAGANIS: Of which one, do you know?

18 MR. FRUEHWALD: That is the same date. That
19 is 347.

20 BY MR. KARAGANIS:

21 Q. Exhibit 356 for identification is a
22 memorandum from Bryant to Schoaff dated March 16,
23 1970, relating to the transportation of bulk scrap
24 Aroclor.

1 Directing your attention to Bloomington
2 Deposition Exhibit 357 for identification, which
3 is a letter from Raleigh Garcia to Keith Kelly
4 dated May 20, 1971, can you tell me who Mr. Garcia
5 was?

6 A. Monsanto sales representative.

7 Q. For whom did he work?

8 A. I don't recall the district manager. I
9 don't remember.

10 Q. Directing your attention to Bloomington
11 Deposition Exhibit 357. Have you seen that
12 before?

13 A. I saw this document this morning.

14 Q. This document, Exhibit 357, relates to a
15 price increase regarding Inerteen, does it not?

16 A. Let me see it again.

17 A. It does.

18 Q. One of the reasons for the price increase
19 was the reduction in volume because of the
20 termination of sales to essentially non-closed
21 loop industries; is that right?

22 A. That is correct.

23 Q. Directing your attention to what has been
24 marked as Bloomington Deposition Exhibit 358 for

1 identification, letter from Benignus to Kelly,
2 dated July 7, 1971. Have you seen that document
3 before?

4 A. I saw this document this morning.

5 Q. That document describes the economic
6 relationship of the closed loop program, does it
7 not, in terms of credits versus charges?

8 A. It does refer to that. Yes.

9 Q. And if the material could be reclaimed
10 and then resold as a PCB product, Westinghouse got
11 cash from Monsanto, did it not, or a cash credit?

12 A. They got credit. Yes.

13 Q. And if the material could not be
14 reclaimed or refinished and resold, it was
15 incinerated and Monsanto or Westinghouse was
16 charged an incineration charge, was it not?

17 A. That's correct.

18 Q. And that was the 3 cents a pound referred
19 to there, 3 cents a pound charge referred to
20 there?

21 A. Yes.

22 Q. Directing your attention to Bloomington
23 Deposition Exhibit 359 for identification,
24 memorandum from Benignus to A. Leisy, dated

1 September 1, 1972. Do you recall who Mr. Leisy
2 was?

3 A. He was the superintendent at the Sauget,
4 Illinois plant under whom the PCB department
5 reported.

6 Q. Directing your attention to Bloomington
7 Deposition Exhibit 359, have you seen that
8 document before?

9 A. I saw this document this morning.

10 Q. Now, directing your attention
11 specifically to the second paragraph of that
12 document and keeping in mind the date of the
13 document, do you know what the phrase means:

14 "They are very
15 sensitive about PCB pollution
16 and keenly feel that Monsanto
17 transferred responsibility to
18 Westinghouse for anything that
19 happens after the material
20 leaves our plant."?

21 A. Was that a question?

22 Q. Yes.

23 A. I am sorry.

24 Q. Do you know what that phrase means, what

1 that terminology means?

2 A. The first part tells me that they are
3 aware of the need not to pollute. They are
4 sensitive to PCB pollution. And the second part
5 refers to the legal responsibility, which was
6 assumed by Westinghouse signing a special
7 agreement with Monsanto.

8 Q. That was the indemnification agreement?

9 A. Yes.

10 Q. Directing your attention to Bloomington
11 Deposition Exhibit 360 for identification, memo
12 from Corlew to Graham, have you seen that document
13 before?

14 A. I saw this document earlier today.

15 Q. Now, for our purposes, the document
16 refers at the bottom to the sending of some basin
17 drawings to Mr. Pickett, does it not?

18 A. It refers to a request. Yes.

19 Q. And the fact that those drawings are
20 being sent?

21 A. I don't know that this specifically says
22 they will be sent. It is just a documentation of
23 a request.

24 Q. Directing your attention to Bloomington

1 Deposition Exhibit 361 for identification, a
2 letter from Luzar of Westinghouse to Tucker of
3 Monsanto, dated November 1, 1972. Have you seen
4 that document before?

5 A. I saw this document this morning and I
6 think I saw it as a previous exhibit.

7 Q. All right.

8 Directing your attention to Bloomington
9 Deposition Exhibit 362 for identification, a
10 letter from Keller to Kleinvehn of Aqua Technics
11 dated February 9, 1971. Have you seen that
12 document before?

13 A. Yes.

14 Q. And what did that relate to?

15 A. This is a letter of transmittal, which
16 Dr. Keller of Monsanto sent to Mr. Kleinvehn of
17 Westinghouse Aqua Technics. The analytical
18 procedures for determining PCB's in materials.

19 Q. Directing your attention to what has been
20 marked as Bloomington Deposition Exhibit 363 for
21 identification. Are you familiar with that
22 document?

23 MR. FRUEHWALD: Excuse me. Can we go off the
24 record for a minute.

1 (Discussion had off the record.)

2 A. I saw this document earlier today and I
3 believe I saw this previously as one of the
4 exhibits.

5 BY MR. KARAGANIS:

6 Q. Can you tell me what it is?

7 A. It appears to be a copy of a page out of
8 someone's notebook, which consists of handwritten
9 notes referring to Westinghouse Bloomington.

10 Q. All right.

11 Do you know whose notes those are?

12 A. I am under the understanding that these
13 are notes taken by Mr. Ed Stewart of Monsanto.

14 Q. And what is the time, on what date?

15 A. These are dated January 8 and 9, 1975.

16 Q. Okay.

17 Directing your attention to Exhibit 363,
18 the sampling by Ed Stewart reflected in
19 Bloomington Exhibit 363, is this the single sample
20 event by Monsanto at the Bloomington plant to
21 which you earlier referred?

22 A. Yes.

23 Q. In 1975, when Stewart went through the
24 plant --

1 MR. FRUEHWALD: It doesn't say that.

2 MR. KARAGANIS: I take that back.

3 MR. FRUEHWALD: He didn't go through the
4 plant.

5 BY MR. KARAGANIS:

6 Q. In 1975 when Stewart visited the plant,
7 did he make any notes about the kind of wash
8 system they had?

9 A. The only reference to washing that I see
10 in this document is the reference to detergent
11 waste.

12 Q. Where it says --

13 MR. FRUEHWALD: It could be wash.

14 BY MR. KARAGANIS:

15 Q. Where it says, "have detergent alkaline
16 wash." I realize the handwriting --

17 A. Oh. All right. I thought that was
18 waste.

19 Q. Do you recall when you said you had gone
20 back in 1970 through the plant, I believe in your
21 earlier testimony you made reference to
22 recommending an alternative to washing capacitors,
23 compacitor cans. You talked about vapor
24 degreasing.

1 Do you recall having made that
2 recommendation?

3 A. I referred to solvent degreasing, not
4 vapor.

5 Q. Solvent degreasing. What is solvent
6 degreasing?

7 A. This is the use of a liquid material that
8 will remove the PCB off the surface of the
9 capacitors.

10 Q. Okay.

11 Instead of washing with a caustic or a
12 detergent?

13 A. That is correct.

14 Q. And what would you have done with the
15 solvent, when you talk about a solvent degreaser?

16 A. Solvent. There is two approaches. One
17 is to incinerate it or to distill and recover the
18 usable solvent and incinerate the residue
19 material.

20 Q. All right.

21 But in any event, the solvent would be
22 captured and either recycled or incinerated; is
23 that correct?

24 A. That's correct.

1 Q. So it wouldn't go down a sewer; is that
2 right?

3 A. Yes.

4 Q. Do you know whether Westinghouse ever
5 adopted that proposal?

6 A. I do not know.

7 Q. Did you ever go back to check?

8 A. No.

9 Q. Directing your attention to Bloomington
10 Deposition Exhibit 364, for identification, which
11 is a memorandum from Papageorge to Sido, dated
12 April 28, 1970. Are you familiar with that
13 document?

14 A. Yes, I am.

15 Q. Okay.

16 And can you explain what the purpose of
17 that document was and what the handwritten or
18 whose notes those are in handwriting on the
19 document?

20 A. I do not recognize the handwritten notes,
21 so I don't know who wrote them. The intent of the
22 memorandum to Mr. Sido was to request that he take
23 whatever steps were necessary to include a new
24 paragraph on labels that would be attached or

1 affixed to containers of the various PCB products.

2 Q. All right.

3 Now, who inserted the words, "extreme,
4 use," and, "entry," in the quotation, the language
5 of the label?

6 A. I don't recognize the penmanship.

7 Q. Were those words ultimately used in the
8 label?

9 A. Yes.

10 Q. So, someone at Monsanto added those words
11 in addition to the language that you had drafted?

12 A. That is correct.

13 Q. Now, the handwriting on the bottom,
14 5/1/70, is that your handwriting?

15 A. No.

16 Q. Do you know whose handwriting that is?

17 A. No, I don't.

18 MR. KARAGANIS: For purposes of discovery, do
19 you know on Exhibit 364 whose handwriting it is?

20 MR. FRUEHWALD: I do not.

21 MR. KARAGANIS: Do you know whose file it came
22 from?

23 MR. FRUEHWALD: No.

24 MR. KARAGANIS: Do you know?

1 MR. FRUEHWALD: No, I am just saying, on the
2 copy, the carbon copy recipient's writing, it is
3 speculation that probably the most likely
4 candidates for having a copy of the memo and
5 writing on it are those four. But I really have
6 no idea.

7 BY MR. KARAGANIS:

8 Q. Okay.

9 Directing your attention to what has been
10 marked as Bloomington Exhibit 365 for
11 identification, a memorandum from Papageorge to
12 Richard dated November 23, 1970. Do you recognize
13 that document?

14 A. I do.

15 Q. Can you tell me what that document
16 relates to?

17 A. This relates to sampling of PCB -- I am
18 sorry, correct that. It is the analysis of PCB
19 samples by Monsanto's laboratory.

20 Q. Now, what is the Ohio litigation to which
21 it refers?

22 A. This refers to dairy farm cases in the
23 State of Ohio.

24 Q. By dairy farm cases, what do you mean?

11

1 A. These were milk contamination allegations
2 that were thought to result from a coating which
3 was used inside of silos that got into the feed to
4 which cattle were exposed.

5 Q. And Tucker's lab was being asked to
6 conduct analyses on these samples; is that right?

7 A. Yes.

8 Q. Directing your attention to what has been
9 marked as Bloomington Deposition Exhibit 366 for
10 identification, a memorandum by J. R. Savage dated
11 June 18, 1974 to Paton.

12 Do you recall having seen that document
13 before?

14 A. Yes. I do.

15 Q. When did you see it?

16 A. On or about the date of its issuance,
17 June, 1974.

18 Q. What subjects are being discussed there?

19 A. This is the reference to drums of scrap
20 Inerteen waste, this is askarels, which arrived at
21 the Monsanto, Illinois plant from Westinghouse in
22 Bloomington.

23 Q. Okay.

24 There is an indication in the memorandum

1 that there are photographs attached to the
2 memorandum.

3 A. There is a reference to pictures, yes.

4 Q. We would request those photographs.

5 So as of 1974, as of June 18, 1974,
6 Westinghouse Bloomington was still shipping back
7 Inerteen waste for incineration, was it not?

8 A. Yes.

9 Q. And among other things, the shipment was
10 characterized by barrels having loose and missing
11 bungs and the barrels were leaking onto the
12 trailer floor; is that correct?

13 A. That is what it refers to, yes.

14 Q. And the purpose of the saw dust was an
15 attempt to prevent the leaking liquid from leaking
16 out the truck; is that right?

17 A. That is correct.

18 Q. Directing your attention to what has been
19 marked as Bloomington Deposition Exhibit 367 dated
20 November 22, 1968 from Richard to Stark and
21 Bannister.

22 Are you familiar with that document?

23 A. I saw this document this morning for the
24 first time.

1 Q. Do you know what the letter refers to or
2 the memorandum refers to?

3 A. It refers to the presence of a chemical
4 in askarel material received from Westinghouse and
5 its potential use in industrial fluids other than
6 dielectric uses.

7 Q. All right.

8 So the memorandum refers, does it not, to
9 the program where Westinghouse would send back
10 scrap Aroclor and it would be reclaimed and used
11 for other -- and sold as another form of askarel;
12 is that right?

13 A. Not askarel.

14 Q. I am sorry.

15 Another form of dielectric fluid -- not
16 dielectric fluid. What form would it then be
17 resold in?

18 A. Well, it refers in this particular memo
19 to an industrial hydraulic fluid.

20 Q. Okay.

21 A. And to other, they are both industrial
22 fluids.

23 Q. The concept would be if it was reclaimed
24 by Findett, it would then be resold for other

1 nondielectric purposes; is that right?

2 A. That is correct.

3 Q. And would it be fair to say that Monsanto
4 would not only pay Westinghouse for the material,
5 but, then, would also make a profit on the resale?

6 A. I don't know about paying Westinghouse.

7 Q. We indicated there was a credit given, a
8 cash credit for this material, was there not, if
9 it was reclaimable?

10 To refresh your recollection, we talked
11 about an earlier letter.

12 MR. FRUEHWALD: That is a later letter than
13 that.

14 MR. KARAGANIS: An earlier exhibit.

15 MR. FRUEHWALD: We are talk about '68 here.

16 A. Yes, 1968. I don't know what the
17 practice was in 1968 regarding credits for
18 material that at that time was not perceived to be
19 an environmental problem.

20 I just can't speak to that. I don't
21 know.

22 BY MR. KARAGANIS:

23 Q. Well, the letter indicates that the
24 recovery program, the reclamation program, began

1 as early as '68, did it not?

2 A. This is one of the very first periods,
3 yes.

4 Q. And the program as it ultimately
5 developed, whether in '68 or later, was that for
6 material that was reclaimable and could be resold,
7 Westinghouse was given a cash credit, was is not?

8 A. In later years, yes. But I don't know
9 about 1968.

10 Q. All right.

11 On the resale of the material, would it
12 be correct to say that Monsanto priced it so as to
13 produce a profit for Monsanto?

14 A. Yes.

15 Q. Next document is Bloomington Deposition
16 Exhibit 368, a letter dated October 23, 1959 from
17 Wheeler to Speicher. Have you seen Exhibit 368
18 before?

19 A. I saw this exhibit earlier today.

20 Q. All right.

21 Had you had any knowledge of it prior to
22 this date?

23 A. No.

24 Q. Would it be fair to say, Mr. Papageorge,

1 looking at the 1959 letter by Mr. Wheeler to Mr.
2 Speicher, that Mr. Wheeler knew as of 1959 that
3 care needed to be taken in the handling of
4 Aroclor?

5 A. Yes.

6 Q. Directing your attention to Bloomington
7 Deposition Exhibit 369 for identification, which
8 is a letter dated April 25, 1962 from Speicher to
9 Wheeler. Have you seen that document before?

10 A. I saw this document this morning for the
11 first time.

12 Q. Directing your attention to Bloomington
13 Deposition Exhibit 370, an April 30, 1962 letter
14 from Wheeler to Speicher, have you seen that
15 document before?

16 A. I saw this document earlier today.

17 Q. Now, it references a bulletin O-P-115,
18 are you familiar with that bulletin?

19 A. I don't recall O-P-115.

20 Q. Directing your attention to what has been
21 marked as Bloomington Deposition Exhibit 371 for
22 identification, a letter from Benignus to Viland,
23 dated June 10, 1970. Are you familiar with that
24 document?

1 A. Yes, I am.

2 Q. Have you seen it prior to today?

3 A. Yes.

4 Q. When did you see it?

5 A. I received a copy on or about July 10,
6 1970, the date of the letter.

7 Q. Was that in response to a letter from
8 Viland?

9 A. Let me refresh my memory here.
10 Yes, it is in response.

11 Q. All right.

12 Directing your attention to the phrase
13 that is in paragraph 2, numbered paragraph 2 of
14 Bloomington Deposition Exhibit 371 and I quote:

15 "On this point we
16 quote the statement from our
17 legal people, 'All companies,
18 whether selling or buying,
19 must recognize a
20 responsibility to prevent the
21 entry into the environment of
22 products which could prove
23 harmful.'"

24 Are you familiar with the statement from

1 the legal people referred to?

2 A. I was aware of that statement at the time
3 of this letter.

4 Q. Who made that statement?

5 A. Somebody in Monsanto's law department. I
6 don't recall the specific person.

7 Q. Was it given to you in writing or
8 verbally?

9 A. It was not given to me. I saw it as
10 quoted in this letter.

11 Q. You saw it in another document?

12 A. No. In this letter.

13 Q. Did you ever see it in the legal
14 documents?

15 A. No.

16 Q. All right.

17 Obviously the author of the letter had
18 seen it to quote it, had he not?

19 MR. FRUEHWALD: Or heard it.

20 A. That I don't know.

21 MR. KARAGANIS: We would ask for any and all
22 documents relating to the legal department
23 quotation that is referenced in Bloomington
24 Deposition Exhibit 371.

1 Q. Okay.

2 The next document is identified as
3 Bloomington Deposition Exhibit 372, memorandum
4 from Randall Graham to Benignus, dated 1/8/70.

5 Have you seen that document before?

6 A. I saw this document for the first time
7 this morning.

8 Q. Exhibit 372 relates to a visit by Graham
9 and Benignus to the Westinghouse Bloomington
10 plant, does it not?

11 A. Yes.

12 Q. Directing your attention to Bloomington
13 Deposition Exhibit 373, which is a memorandum from
14 Mason to Bergen dated September 14, 1970. Are you
15 familiar with that?

16 A. Yes, I am.

17 Q. When did you first see that document?

18 A. On or about September 14, 1970, which is
19 the date of this memorandum.

20 Q. And what was does that document refer to?

21 A. This refers to a review that Mr. John
22 Mason had with the Monsanto's CMC.

23 Q. Now by CMC, is that the corporate
24 management committee?

1 A. Yes.

2 Q. Did you attend this meeting?

3 A. No.

4 Q. Directing your attention to the third
5 full sentence, the last full sentence in the first
6 paragraph, do you recall seeing that at the time
7 of the exhibit, September 14, 1970?

8 A. Yes.

9 Q. What did you understand that sentence to
10 require you to do?

11 A. This required those of us involved with
12 talking to users of PCB's to keep copies of any
13 notices, minutes of meetings, trip reports, that
14 would reflect that we had emphasized the need to
15 prevent escape to the environment.

16 Q. All right.

17 So that you were required to keep a
18 record of how you had warned customers to prevent
19 releases to the environment. Is that correct?

20 A. Yes.

21 MR. KARAGANIS: Let's take a break for lunch.

22 (Whereupon a recess was taken
23 to 12:45 p.m. of the same day.)

24

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

THE CITY OF BLOOMINGTON, INDIANA;)
THE UTILITIES SERVICE BOARD OF)
BLOOMINGTON, INDIANA; and MONROE)
COUNTY, INDIANA,)

Plaintiffs,)

vs.)

Civ No.
IP 83-9-C

WESTINGHOUSE ELECTRIC CORPORATION,))
a Pennsylvania corporation; and)
MONSANTO COMPANY, a Delaware)
corporation,)

-----Defendants.-----)

The continued deposition of W. B. PAPAGEORGE,
called for examination by the Plaintiffs, pursuant
to notice and pursuant to the provisions of the
Federal Rules of Civil Procedure of the United
States District Courts, pertaining to the taking
of depositions for the purpose of discovery, taken
before Arnold N. Goldstine, a Notary Public and
Certified Shorthand Reporter within and for the
County of Cook and State of Illinois, at 1313
Merchants Bank Building, Indianapolis, Indiana, on
November 25, 1986, at the hour of 12:45 o'clock
p.m.

1
2 APPEARANCES:
3
4

5 Mr. Joseph V. Karaganis and
6 Ms. Kathleen M. Donahue
7 Bell, Boyd & Lloyd
8 Three First National Plaza
9 70 West Madison Street
10 Suite 3200
11 Chicago, Illinois 60602

12
13 appeared on behalf of the
14 Plaintiffs;
15

16
17
18 Mr. Michael R. Fruehwald
19 Barnes & Thornburg
20 1313 Merchants Bank Building
21 Indianapolis, Indiana 46204

22
23 appeared on behalf of Defendant
24 Monsanto Company.

1 WILLIAM B. PAPAGEORGE,
2 having been previously duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. KARAGANIS:

6 Q. Bloomington Deposition Exhibit 375,
7 memorandum to Papageorge to a list including
8 Benignus dated August 31, 1970. Have you seen
9 that document?

10 A. Yes, I have.

11 MR. FRUEHWALD: Did we skip one here?

12 MR. KARAGANIS: I am sorry. We will come
13 back. That is all right.

14 Go ahead with 375.

15 A. I have seen this document. In fact, I am
16 the author.

13

17 Q. Was there ever a final draft prepared and
18 sent out?

19 A. No.

20 Q. Can you tell us why not?

21 A. We decided it would be best if the ANSI
22 committee or the NEMA at that time and later a
23 ANSI committee addressed this.

24 Q. All right.

1 But you did send that document to
2 Westinghouse, we talked about that before?

3 A. Yes.

4 Q. And the purpose of the recommendations
5 that you had drafted was to close the loop, as you
6 call it?

7 A. Yes.

8 Q. Directing your attention to what has been
9 marked as Bloomington Deposition Exhibit 374,
10 which is a memo from Papageorge to Graham dated
11 July 27, 1970. Have you seen that document
12 before?

13 A. Yes, I have.

14 Q. And you are the author of that document?

15 A. I am the author, yes.

16 Q. And that document reflects the series of
17 plant visits that you had undertaken in the summer
18 of 1970, isn't that correct?

19 A. That is correct.

20 Q. Indeed, you recommend -- I am sorry.

21 The purpose of the communication, the
22 purpose of the plant visits, was to enable the
23 customers to whom you were going to continue
24 selling PCB's to close the loop; isn't that right? --

1 A. That's right.

2 Q. And you say that:

3 "Some of the
4 customers' plants have a long
5 way to go to achieve the
6 standards we believe will be
7 acceptable."

8 Which customers' plant?

9 A. I don't recall all of them at the moment.
10 Bloomington was one of them.

11 Q. So the Bloomington plant was one which
12 would fall within the category, quote, "some of
13 the customers' plants have a long way to go to
14 achieve the standards we believe will be
15 acceptable"?

16 A. Yes.

17 Q. Why was that?

18 A. Because of the obvious spills and use of,
19 for example, the saw dust to capture the spills.

20 Q. To attempt to capture the spills?

21 A. To attempt to capture. The highly
22 visible oil stains.

23 Q. By oil stains, you mean the highly
24 visible stains of PCB's, of Inerteen?

1 A. I have to assume that some of those were
2 PCB's.

3 Q. In the F 30 area on the floor, you mean?

4 A. I don't recognize that number you just
5 mentioned.

6 Q. But in the capacitor impregnation area?

7 A. Yes.

8 Q. You state here -- I am sorry. Were there
9 any others reasons which you would categorize
10 Bloomington as having a long way to go?

11 A. I can't think of any.

12 Q. How about the washer system?

13 A. The washer system in itself was not
14 perceived to be a problem. It is the effluent
15 from that system that had to be managed better.

16 Q. All right.

17 By managed better, what do you mean?

18 A. Make sure it is not freely discharged
19 into a sewer system. The PCB's levels in it are
20 controlled, brought down as far as they can.

21 Q. All right.

22 By brought down as far as they can, your
23 August 31, 1970 memorandum, which you subsequently
24 sent to Westinghouse Bloomington, suggested that

1 they had to be treated before release into the
2 environment; isn't that right?

3 A. Yes.

4 Q. And that detergent emulsions must be
5 broken, free PCB must be removed after phase
6 separation, and dissolved PCB can be reduced by
7 its absorption on activated-carbon; isn't that
8 right?

9 A. That's right.

10 Q. And Bloomington wasn't doing any of that,
11 is that right?

12 A. To the best of my knowledge, they were
13 not.

14 Q. And you would consider those to be, your
15 recommendations, the kind of standards which
16 should be applied; isn't that right?

17 A. They were certainly recommendations, I
18 don't know that I would --

19 Q. It was your --

20 A. -- label them as a standard.

21 Q. It was your opinion as to what acceptable
22 practice should be; isn't that right?

23 A. Correct.

24 Q. Now, you state in Bloomington Deposition --

1 Exhibit 374 and I quote:

2 "It would behoove us
3 to call on these customers
4 frequently to assure that
5 substantial progress is being
6 made and that interest is
7 maintained."

8 That was your quotation, was it not?

9 A. Yes.

10 Q. What program did you have to follow up
11 inspections on the plants, in particular the
12 Bloomington Westinghouse plant?

13 A. Well, the reliance was totally on Mr.
14 Graham and Mr. Benignus to do the follow up.

15 Q. And to report back to you?

16 A. Not only to me, but to all the people
17 listed on that memorandum.

18 Q. Which were Olson and Benignus and Bergen;
19 is that right?

20 A. Correct.

21 Q. Directing your attention to what has been
22 marked as Bloomington Deposition Exhibit 376, a
23 memorandum from an R M McCutchan to A. E. Leisy,
24 dated February 23, 1972.

1 Have you seen that document before?

2 A. I saw this document this morning for the
3 first time.

4 Q. Now, that relates to again the tankcar
5 situation, does it not?

6 A. Yes.

7 Q. It refers to the fact that the car was
8 used prior to the 1/14/72 deadline. What was the
9 1/14/72 deadline?

10 A. I don't know which deadline they had in
11 mind here.

12 Q. Directing your attention to Bloomington
13 Deposition Exhibit 377 for identification --
14 strike that.

15 I will make a request at this time, and I
16 tell you why I think the date tracks unless there
17 is something different. The 1/14/72 deadline is
18 either the same day or the day before the deadline
19 imposed under indemnification. And if it is, I
20 would like any documents that reflect what the
21 deadline was and how it related to the tankcar
22 shipments, if there is something that relates to
23 they are not going to do anything after a certain
24 deadline. That deadline seems to be the

1 indemnification deadline.

2 MR. FRUEHWALD: That would be my perception as
3 well. I believe we have produced documents where
4 there was concern about whether they should make
5 shipments to Westinghouse Bloomington in the
6 absence of signature of the hold harmless
7 agreement by, I thought, January 15 of '72. But
8 it may have been the weekend or whatever. As a
9 result, that's the way I would read it.

10 And we have produced the documents
11 regarding whether they should release additional
12 shipments to Westinghouse pending the signature of
13 the indemnity agreement. I think that is what it
14 refers to. And that is my reading.

15 I don't know what you are asking for in
16 the way of additional documents, Joe. I think we
17 have produced the Westinghouse, the documents
18 expressing the concern about shipping at that
19 period of time to Westinghouse.

20 MR. KARAGANIS: I am thinking particularly of
21 any more documents, apparently this document, 376,
22 Exhibit 376, reflects again the significance of
23 that deadline.

24 It was obvious an statement that unless

1 we got the indemnity, unless Monsanto got the
2 indemnity agreements, nothing was going to get
3 shipped. And it also seems to relate to the kind
4 of cars that were going to be used. And whether
5 there were instructions not to use any faulty cars
6 after that deadline or whatever. It does appear
7 to be the indemnification deadline. We are simply
8 asking for documents reflecting the
9 indemnification or relating to the
10 indemnification.

11 MR. FRUEHWALD: Those I think have been
12 produced and are being produced independent of
13 this document.

14 MR. KARAGANIS: The documents relating to the
15 sequence are being produced now, many of them.

16 Q. Directing your attention to Bloomington
17 Deposition Exhibit 377 for identification, which
18 is a multi-page document with the legend in
19 handwriting, "H.S.B. 11/19/71," it has a logo on
20 the first page, number 1, "Terminate immediately
21 all spot sales of PCB fluids for heat transfer
22 applications."

23 Are you familiar with that document?

24 A. I saw this document for the first time

1 this morning.

2 Q. This document relates to a series of late
3 1971 actions, does it not?

4 A. It appears to, yes.

5 Q. Based on your recollection, the first
6 step was to terminate sales for heat transfer
7 applications; is that right?

8 A. Yes.

9 Q. Now, when is your recollection as to when
10 the heat transfer termination took place?

11 A. As best I recall, it was sometime in
12 1972.

13 Q. All right.

14 A. But I can't recall a specific date.

15 Q. Now, do you recall why all actions
16 regarding the termination had to be documented and
17 recorded and approved by the law department?

18 A. I do not know.

19 Q. Again, with respect to the heat transfer
20 applications, would it be correct that Monsanto
21 was going to take actions to deal with the
22 handling and incineration of spent PCB fluids in
23 the heat transfer industry?

24 A. Yes.

1 Q. Now, point 2 related to the sale of PCB
2 fluids for transformer capacitor use. It says
3 will be dependent upon the receipt from customers
4 of documents acceptable to Monsanto holding
5 Monsanto harmless from legal liability associated
6 with the use of PCB's in transformers and
7 capacitors.

8 Now, do you recall the circumstances
9 leading to that condition?

10 A. No.

11 Q. Were you part of the discussions that
12 lead to the development of the program reflected
13 in Bloomington Deposition Exhibit 377?

14 A. No.

15 Q. Who was?

16 A. Mr. Bergen, of course, and his marketing
17 team, marketing managers.

18 Q. Meaning Benignus, or was Benignus out of
19 the loop at that point?

20 A. Let me think. No, Benignus was still in
21 working for Monsanto. He was still involved.
22 Yes.

23 Q. Again, the second part of number 2 is to
24 continue with the program of reuse or destruction

1 of PCB's, is that not correct?

2 A. Yes.

3 Q. All right.

4 Let me see if I got your testimony
5 correct. You have no personal recollection, even
6 though you were responsible or partly responsible
7 for the whole control of PCB environmental
8 contamination by PCB under Monsanto, you have no
9 recollection of this program in late '71, '72 as
10 to the reasons why it was implemented?

11 A. That is correct.

12 Q. Was it ever communicated to you that this
13 program was going in place?

14 A. After it had been, the decision had been
15 made, yes.

16 Q. And the decision was made by whom?

17 A. That I don't know. Mr. Bergen informed
18 me that the decision was made. I don't know who
19 made it.

20 Q. Do you know whose idea it was to require
21 the indemnity?

22 A. I do not know.

23 Q. Now, step 3 was the termination of sales
24 of terphenyls, which had been used in plasticizers --

1 and hydraulic fluids; is that right?

2 A. Yes.

3 MR. KARAGANIS: Mike, this Exhibit 377 is
4 obviously part of some kind of program document or
5 series of program documents that had to come up
6 and be approved and put together in draft form.
7 Obviously, Bergen got a copy of it. But it had to
8 come from somewhere, and I haven't seen any other
9 versions or drafts or circulations regarding this
10 program.

11 MR. FRUEHWALD: I have not either.

12 You asked me to produce documents and
13 those are the ones I found. We are continuing to
14 search. That appears to me to be at least
15 possibly Mr. Bergen's presentation to the board of
16 directors or to higher-ups as to what his program
17 was. I don't really know, I can't verify that.
18 But that is, at least, one working hypothesis.

19 The timing fits with the later documents
20 and that very well may be a presentation Mr.
21 Bergen made. I just don't know what it is. But
22 it indicates his initials and is a time period
23 that we are concerned about here. So I produced
24 it.

1 But I can't vouch for any more details
2 for it at this time. It does fit into sequence
3 with later documents.

4 MR. KARAGANIS: It doesn't indicate that it
5 was presented to anybody anywhere. And assuming
6 if it was, it should have some memoranda, if you
7 look at the items 1, and particularly 2, have got
8 to have memoranda supporting item number 2.

9 MR. FRUEHWALD: What do you mean by that?

10 MR. KARAGANIS: Item number 2 is don't sell it
11 unless you got a hold harmless from legal
12 liability. If there is a three-step program being
13 presented to senior management, this is a block,
14 somebody has got to say here is why we are doing
15 this, here is what we suggest.

16 It doesn't come out of a block outline
17 just fresh without without any kind of back up
18 documentation. There is typically some
19 communication back and forth between various
20 principals within the company about this kind of a
21 document.

22 MR. FRUEHWALD: Maybe. I said we are
23 searching, Joe. I tried to produce to you the
24 documents as soon as I found them. And that is

1 what I have got.

2 I can't tell you what that is, whether it
3 is an end result or a first draft. I don't know.
4 Mr. Bergen was the person who could have done this
5 on his own.

6 MR. KARAGANIS: We are requesting all
7 documents related to 377, in any way.

8 MR. FRUEHWALD: You got a couple more of them
9 coming down the road here today that were produced
10 today.

11 BY MR. KARAGANIS:

12 Q. Is Paton still with the company?

13 A. Yes.

14 Q. Directing your attention to Bloomington
15 Deposition Exhibit 378 for identification, which
16 is a memorandum signed by C. Paton, P-a-t-o-n, and
17 W. S. Clark and addressed to a list, including
18 the directors of marketing and field sales
19 directors, dated December 17, 1971.

20 Have you seen that document before?

21 A. I saw this document this morning for the
22 first time.

23 Q. You had not seen it before?

24 A. No.

16

1 Q. Directing your attention to Bloomington
2 Deposition Exhibit 379, which is dated 12/15/71,
3 addressed to the directors of marketing, field
4 sales managers and district sales managers.

5 MR. FRUEHWALD: One is a draft of the other.

6 MR. KARAGANIS: Can you tell us on 379 what
7 the handwriting up at the top is, which seems to
8 have been lost in xeroxing?

9 MR. FRUEHWALD: I cannot. I think it says
10 policy. But I'll check and see if we have a
11 better copy.

12 MR. KARAGANIS: Can we get a stipulation that
13 379 is an earlier draft of 378?

14 MR. FRUEHWALD: I can't stipulate to that.
15 That is what it appears to be.

16 BY MR. KARAGANIS:

17 Q. Mr. Papageorge, would you look at 378 and
18 379 and tell me whether 379 is an earlier draft of
19 378?

20 A. It appears to me that Exhibit 379 is an
21 earlier version of Exhibit 378.

22 Q. Okay.

23 Directing your attention to Bloomington
24 Deposition Exhibit number 380, which is a

1 memorandum from Corey to C. P. Cunningham, have
2 you ever seen that document before?

3 A. Yes. I saw it on or about the date of
4 that memorandum, and also earlier today.

5 Q. So you were aware of the so-called
6 implementation program which would only sell to
7 dielectric customers if they signed a hold
8 harmless agreement?

9 A. Yes, after the fact.

10 Q. Who made you aware of that?

11 A. Mr. Bergen told me and then I got a copy
12 of it. That is my initials up in the upper
13 righthand corner there.

14 Q. Which one are your initials?

15 A. WBP. It is kind of faint.

16 Q. Mr. Papageorge, while we are on the
17 subject, how did you maintain your files at
18 Monsanto? When you were at Monsanto St. Louis
19 from 1970 to 1976, dealing with PCB problems, how
20 were your files maintained?

21 A. They were just -- I would just organize a
22 folder and give it a name or a title that meant
23 something to me and I would have the secretary
24 drop the documents in the appropriate folder.

1 Q. I see.

2 Was an index maintained, did you keep an
3 index of your files?

4 A. No.

5 Q. Did you keep a list of the names of your
6 files?

7 A. No.

8 Q. To your knowledge has an index been
9 prepared of your files?

10 A. I do not know.

11 Q. If you were required to find anything on
12 any particular subject, documents that were either
13 sent to you or submitted to you since between 1970
14 and 1976, how would you find it?

15 A. I would go to the law department today.

16 Q. They have custody of all of your
17 documents?

18 A. That I don't know. I turned my files
19 over to my successor. I don't know what happened
20 after that.

21 Q. Have you had occasion since terminating
22 your activities with regard to PCB's to go back
23 and look through your files?

24 A. No.

1 Q. You never have?

2 A. No.

3 Q. To your knowledge, do your files still
4 exist?

5 A. I do not know.

6 Q. When you have had a chance to review
7 these documents, these are documents obviously
8 that came to you, isn't that right, you have just
9 indicated WBP is on the initials on 380?

10 A. Yes.

11 Q. So that indicates that it was in your
12 file, doesn't it?

13 A. Not necessarily. It could have been any
14 of those individuals that handled it.

15 Q. To your knowledge, Mr. Papageorge, are
16 indices maintained of the documents relating to
17 PCB's? Does the company still maintain any kind
18 of index list?

19 A. I have never seen an index list. I do
20 not know.

21 Q. How are the files maintained in the
22 dielectric group, functional fluids -- first of
23 all, functional fluids, then down below functional
24 fluids, the dielectric fluids, right?

1 A. As a subgroup.

2 Q. You were in the functional fluids group,
3 weren't you?

4 A. Yes.

5 Q. Okay.

6 In terms of those offices, how were the
7 files maintained? Is there a central file room or
8 did each person have their own files?

9 A. Each person had his own set of files.

10 Q. All right.

11 Was there any kind of central file room
12 as well or central file location?

13 A. No.

14 Q. No master files were kept at all?

15 A. No.

16 Q. On any client or any subject?

17 A. Not to my knowledge.

18 Q. On any customer?

19 A. Not to my knowledge.

20 Q. Just so I have this for the record.

21 Mr. Corey at the time in 1971, what was
22 his title?

23 A. These may not be the exact words, but it
24 is something like director of administration for

1 Monsanto Industrial Chemicals Company, an
2 operating unit of Monsanto Company.

3 Q. So he was above the functional fluids
4 group?

5 A. I believe that's correct.

6 Q. Was his title director of functional
7 fluids?

8 A. No. That would be Mr. Bergen's title.

9 Q. Okay.

10 Earlier in your testimony you had
11 indicated that in the 1971 reorganization Preston
12 Cunningham became president of Monsanto Industrial
13 Chemicals, right?

14 A. He was managing director and vice
15 president.

16 Q. Of Monsanto Industrial Chemicals?

17 A. That is correct.

18 Q. All right.

19 And S. J. Fitzgerald was the general
20 manager of functional fluids, do you recall saying
21 that?

22 A. I don't remember those titles. Mr.
23 Fitzgerald reported to Mr. Cunningham.

24 Q. So in any event, Bloomington Deposition

1 Exhibit 380 is from a senior executive of the
2 functional fluids group to the vice president and
3 director of Monsanto Industrial Chemicals?

4 A. That's right.

5 Q. Who is Mr. Green, Mr. E. Greene?

6 A. An attorney, Monsanto attorney.

7 Q. Who is Mr. Stapleton?

8 A. Monsanto attorney.

9 Q. Mr. Wingard?

10 A. I believe he was involved with insurance
11 programs.

12 Let me correct something. Mr. Greene is
13 involved with insurance programs. He was not an
14 attorney.

15 Q. Were you ever told what precipitated the
16 December 1971 program, in other words, what was
17 its cause?

18 A. I do not recall.

19 Q. You have no idea?

20 A. No.

21 Q. Directing your attention to Bloomington
22 Deposition Exhibit No. 381, memorandum from
23 Gossage to H. R. Ford and a list dated January 4,
24 1972. Have you seen that document before?

1 A. I saw this document this morning for the
2 first time.

3 Q. Directing your attention to Bloomington
4 Deposition Exhibit No. 382, memorandum from H. S.
5 Bergen to W. B. Papageorge, dated April 2, 1970.
6 Are you familiar with that document?

7 A. Yes. I was the recipient of the
8 original.

9 Q. What is he referring to there?

10 A. He is referring to a memorandum by Mr.
11 Olson.

12 Q. What was the subject of that memorandum?

13 A. As I recall, trying to review the status
14 of our activities in the marketing arena regarding
15 this closing of the loop that we talked about
16 earlier.

17 Q. To my knowledge -- have we received this
18 document?

19 MR. FRUEHWALD: It is a deposition exhibit.

20 MR. KARAGANIS: 4/1/70?

21 MR. FRUEHWALD: Yes.

22 MR. FRUEHWALD: 106.

23 MR. KARAGANIS: Yes.

24 Q. Now, Olson was in charge of sales, was he

1 not?

2 A. Yes.

3 Q. Bergen was Olson's boss or Bergen was in
4 charge of manufacturing?

5 A. No, Bergen's was Mr. Olson's supervisor,
6 boss.

7 Q. Now, directing your attention to 106,
8 Olson again was the head of sales?

9 A. Yes.

10 Q. All right.

11 How did Mr. Olson determine that sending
12 material to a landfill is not going to be
13 available for forever?

14 A. Oh, I don't know how he did that.

15 Q. Is that based on conversations with you?

16 A. This was a topic of discussion amongst
17 many us. I don't recall a specific one-on-one
18 discussion with Mr. Olson. But it was a consensus
19 that landfills would not be available in the
20 distant future for disposal of any kind of waste.

21 Q. Of any kind of PCB waste?

22 A. Any kind of chemical waste.

23 Q. Any kind of industrial chemical?

24 A. That's right.

1 Q. That was because, as we have described
2 before, the problems with landfills?

3 A. Yes.

4 Q. Directing your attention to Bloomington
5 Deposition Exhibit 383 for identification, which
6 appear to be a series of board of directors
7 minutes for several meetings. Have you seen that
8 document before?

9 A. I saw this document for the first time
10 this morning.

11 MR. KARAGANIS: Mike, am I missing something
12 or should there be more board minutes on this? I
13 see a May 22, '69. Then the next thing I see is
14 December 8, '71.

15 MR. FRUEHWALD: That is what I am informed are
16 all the entries in the boards records minutes.

17 MR. KARAGANIS: Can you tell me what the
18 next -- let's see if we can move things along.
19 There is an unauthored memorandum, which has been
20 marked as Bloomington Deposition Exhibit 384,
21 entitled report to the January meeting of the
22 board of directors on the status of the PCB
23 implementation program.

24 Do you know what January that is and who

1 wrote it? Do you know?

2 MR. FRUEHWALD: It is referred to in the
3 minutes of January 27, '72.

4 MR. KARAGANIS: Is it? There is a reference
5 to Mr. Cunningham's report.

6 Is what has been marked as Exhibit 384
7 the report that is referenced in January of 1972
8 in Exhibit 383?

9 MR. FRUEHWALD: I believe it is. It has the
10 same title and it has a 1/25/72 date written on
11 it.

12 MR. KARAGANIS: I don't have a 1/25/72 date
13 written on mine. I have a 1/25/7-blank.

14 MR. FRUEHWALD: The xeroxing blocked it off.

15 MR. KARAGANIS: We have a stipulation that the
16 original has 1/25/72 on it?

17 MR. FRUEHWALD: Yes.

18 MR. KARAGANIS: All right.

19 Q. There is a reference in what has been
20 marked as Bloomington Deposition Exhibit 384.

21 We have a stipulation that Bloomington
22 Deposition Exhibit 384 is the report referenced in
23 the January '72 minutes of the board of directors?

24 MR. FRUEHWALD: I believe that it is, yes.

1 MR. KARAGANIS: Do you so stipulate?

2 MR. FRUEHWALD: Yes, I will stipulate to that.

3 MR. KARAGANIS: All right.

4 There is a reference in Bloomington
5 Deposition Exhibit 384 to a world-wide PCB action
6 plan reviewed with the board.

7 We don't have any copies of the
8 world-wide PCB action plan.

9 MR. FRUEHWALD: I am not sure you don't,
10 because we have gone through some documents that
11 were called world-wide implementation plan. I am
12 not sure that they match up. But it may be the
13 same thing.

14 MR. KARAGANIS: I am asking specifically for
15 the world-wide action plan submitted or reviewed
16 with the board in December of 1971.

17 MR. FRUEHWALD: Fine. We are searching for
18 those types of documents. What we have got so far
19 I gave you today. Presumably there are other
20 things.

21 MR. KARAGANIS: So that as of the date of
22 today's deposition, the only board materials are
23 Bloomington Deposition Exhibits 383 and 384.

24 MR. FRUEHWALD: That is my understanding, that

1 is what I am so informed by Monsanto.

2 BY MR. KARAGANIS:

3 Q. Why would Mason, directing your attention.
4 to Exhibit 383 the December 8, '71 minutes -- why
5 would John Mason be giving a report on PCB's to
6 the board?

7 A. You may recall he is the one that gave
8 that presentation to the CMC in early May of 1970.

9 And as I understood it, John Mason then
10 became the individual to keep management informed
11 of progress against that approved program.

12 Q. There is no record that the board of
13 directors approved the May '70 program. That was
14 the CMC?

15 A. That's correct.

16 Q. I asked you before whether or not there
17 was an interchangeable use of the terms corporate
18 management committee, corporate administrative
19 committee and corporate development committee.
20 You didn't recall corporate development committee?

21 A. That's correct.

22 Q. I am going to show you what has been
23 marked as Bloomington Deposition Exhibit 385, have
24 you seen that document?

1 A. I saw this document this morning.

2 Q. So it would be correct, would it not,
3 that another term used for the corporate
4 management committee was the corporate development
5 committee?

6 A. I don't know.

7 It seems to me as best I recall the
8 membership on this committee appears to be
9 different than the membership I am aware of for
10 this CMC.

11 Q. Let's carefully look at --

12 MR. FRUEHWALD: Obviously, Mr. Papageorge,
13 this is prior to his period of involvement here,
14 in terms of I think maybe your timing was asking
15 him questions about higher level management when
16 he was not involved.

17 MR. KARAGANIS: Let's see if we can speed
18 things along. He has also a 30 (b) 6 witness. I
19 want to just see.

20 Q. If you look at Bloomington Deposition
21 Exhibit 388 for identification, which are the
22 minutes of the corporate management committee of
23 April 13, 1970, if you compare them with 385; does
24 that appear to be the same membership or roughly

1 the same membership?

2 A. Some members are common to both lists.
3 But it is not the same membership.

4 Q. All right.

5 A. I don't know the difference, why the
6 difference.

7 Q. Directing your attention to Bloomington
8 Deposition Exhibit 385 for identification --
9 strike that.

10 Let's go back to the corporate
11 development committee, 385. Yes. Mr. Sommer was
12 who? Was he the chairman of Monsanto?

13 A. What year is that?

14 Q. '68.

15 A. '68. I don't recall specifically. He
16 was either chairman of the board of Monsanto or he
17 was the president and chief executive officer of
18 Monsanto.

19 Q. All right.

20 Mr. Bock was ultimately the chief
21 executive officer, was he not?

22 A. Yes. Following Mr. Sommer.

23 Q. Who is Mr. Christian, if you recall?

24 A. He was a vice president of manufacturing.

1 Q. Who is Mr. Gillis?

2 A. Vice president marketing.

3 Q. Mr. Mueller, R. K. Mueller?

4 A. R. K. He was a vice president. I don't
5 recall what function was assigned to Mr. Mueller.

6 Q. Mr. E. A. O'Neal?

7 A. Mr. O'Neal was also a vice president. I
8 believe at that time he was president of a
9 subsidiary of Monsanto's, the Chemstrand
10 Corporation.

11 Q. Mr. Throdahl you have indicated
12 previously was marketing, I believe?

13 A. At that point in time Mr. Throdahl was
14 vice president of technology, research.

15 Q. How about Mr. Flitercraft?

16 A. Mr. Flitercraft was the secretary to the
17 committee.

18 Q. That was his sole role or did he have --

19 A. I don't know.

19

20 Q. Directing your attention to Bloomington
21 Deposition Exhibit 386, which are the minutes of
22 the meeting of the corporate development committee
23 of April 28, 1969. Tell me who Mr. Gillis was?

24 A. Vice president of marketing.

1 Q. I am sorry. And Mr. Bible?

2 A. Vice president manufacturing.

3 Q. Mr. Ehlers, J. E. Ehlers?

4 A. He was an attorney and secretary to the
5 committee.

6 Q. Directing your attention to Bloomington
7 Deposition Exhibit 387, minutes of the meeting of
8 the corporate development committee of November
9 17, 1969.

10 MR. FRUEHWALD: The whole thing put together
11 is one exhibit.

12 MR. KARAGANIS: Yes.

13 Q. Have you seen this document before?

14 A. I saw all parts of the document earlier
15 today. The first three sheets, which I believe,
16 they are numbered at the bottom 2433, 2434 and
17 2435, I had seen several times prior to this
18 morning.

19 Q. How about the remainder of the materials?

20 A. That is the first time I have seen the
21 remainder of the package.

22 Q. Directing your attention to that portion
23 of the package -- strike that.

24 Would you mark this document, for the

1 record, I am breaking up Bloomington Deposition
2 Exhibit 387 into three component parts, all of
3 which will be designated 387 with subparts.

4 Would you mark this document 387 A. It
5 is a multi-page document that has the file or at
6 the designation, quote, "From file, Aroclor
7 toxicity. CAC presentation, 1969-1970."

8 (The documents above-referred
9 to were marked Bloomington
10 Deposition Exhibit Nos. 387 A
11 and 387 B, respectively for
12 identification.)

13 Let the record show that the document
14 entitled, "PCB presentation to corporate
15 development committee," dated November 17, 1969
16 has been marked as Bloomington Deposition Exhibit
17 387 B for identification.

18 Mr. Papageorge, showing you Bloomington
19 Deposition Exhibit 387 A for identification, do
20 you recognize the handwriting on the first page?

21 A. I would guess that that is Mr. Wheeler's.
22 The best I recall of his penmanship, it is Mr.
23 Wheeler's penmanship.

24 Q. I would request that the attachments or

1 the transparencies used in the Wheeler
2 presentation be produced. There is reference in
3 his presentation to transparencies, which are not
4 attached.

5 Q. What was the Severen River, was the
6 Severen River near a Monsanto plant?

7 A. Yes. That is in the United Kingdom, in
8 Wales.

9 Q. Near a Monsanto facility?

10 A. Yes.

11 Q. Was there a major customer plant near
12 Penascola, Florida?

13 A. No. That is a Monsanto plant site.

14 Q. It is.

15 Again there is reference to slides or
16 transparencies which haven't been produced.

17 There is a reference made in Mr.
18 Wheeler's presentation to a presentation by Mr.
19 French. Is there any reason why that wasn't
20 produced?

21 MR. FRUEHWALD: Mr. French is an attorney.

22 MR. KARAGANIS: So what?

23 MR. FRUEHWALD: You want the reason, I will
24 telling you the reason. I don't have to give you

1 a response like that, do I?

2 MR. KARAGANIS: The reason I say that is that
3 the fact that someone is an attorney doesn't make
4 his own testimony automatically immune from
5 discovery.

6 MR. FRUEHWALD: That may not be automatically
7 immune from discovery, but that has been withheld
8 apparently under assertion of privilege, because
9 it has been deleted from the minutes.

10 MR. KARAGANIS: Did you delete it or did
11 somebody back at Monsanto delete it?

12 MR. FRUEHWALD: Somebody back at Monsanto
13 deleted it. But I understand what it is. It is
14 Mr. French's presentation in the minutes and also
15 his presentation, if there is a written one, is
16 not part of the package delivered to you.

17 MR. KARAGANIS: Again, there is an obligation
18 on any claim of privilege for the document to be
19 identified and the demonstration be made that the
20 document is privileged. None of that has been
21 done.

22 MR. FRUEHWALD: Mr. French is an attorney on
23 the staff at Monsanto, making a present taking to
24 the board. That's the identification of what we

1 have done here, Joe.

2 MR. KARAGANIS: That isn't a basis for
3 claiming a privilege.

4 MR. FRUEHWALD: Well, we have identified it.
5 If you want to fight about the privilege, we are
6 going to fight about that separately. We are
7 identifying what we are withholding on the claim
8 of privilege here.

9 MR. KARAGANIS: Have you personally made a
10 review of the document to establish --

11 MR. FRUEHWALD: I have not. I have not.
12 There are other counsel at Monsanto who are
13 competent counsel who can.

14 MR. KARAGANIS: Wait a minute. Who are on the
15 pleadings in this case?

16 MR. FRUEHWALD: Not necessarily. No.

17 MR. KARAGANIS: Okay.

18 MR. FRUEHWALD: If we are going to fight on
19 privilege, we are going to fight at some other
20 time besides this deposition and waste Mr.
21 Papageorge's time. We are identifying what we
22 have withheld. If you don't like it, we can fight
23 about it at some other time.

24 MR. KARAGANIS: You are not. You are

20

1 identifying what you think was withheld. You
2 haven't even reviewed it.

3 MR. FRUEHWALD: All right. All right. Maybe
4 that is true. Let's go ahead with the questioning
5 of Mr. Papageorge. We don't have to waste his
6 time, like our own.

7 MR. KARAGANIS: I don't consider discussing
8 documents that haven't been produced under --

9 MR. FRUEHWALD: At \$3 a page, and Mr.
10 Papageorge's time, I do consider it to be a waste.

11 BY MR. KARAGANIS:

12 Q. Mr. Papageorge, there is reference in
13 here and I will refer again to a presentation by
14 Mr. Bergen to the corporate development committee.

15 Are you familiar with that presentation?

16 A. No.

17 Q. Mr. Papageorge, in Bloomington Deposition
18 Exhibit 387, at page reference 300-2446, there is
19 a reference to an ad hoc committee of both
20 business groups and medical. Is that the ad hoc
21 committee that you referred to earlier?

22 A. Yes.

23 Q. It states at page 2446 that that group
24 recently issued a report. Has that report been

1 produced?

2 MR. FRUEHWALD: I don't think so.

3 MR. KARAGANIS: We would ask for the report
4 which is referenced at page 300-2446 in the
5 presentation of November 17, 1969 to the corporate
6 development committee.

7 Q. Are you familiar with the report of the
8 ad hoc group that is referenced?

9 A. I'm not familiar with a report by that
10 designation.

11 Q. Are you familiar with any reports in that
12 time period describing the PCB problem?

13 A. Yes. There were documents that described
14 the PCB situation. I don't know which one they
15 had in mind here.

16 MR. KARAGANIS: Again, this is why we
17 requested not only the ad hoc committee
18 correspondence and memos and related documents,
19 but it is obvious that the same committee has
20 published at least one report describing the
21 problem, or members of that committee. We are not
22 limiting the request to official committee
23 publications, any members of that committee that
24 produced documents, we would want those documents.

1 There is also a reference to slides and,
2 Mike, you tell me if I am wrong, are the slides
3 produced, are these transparencies -- I am sorry,
4 these sheets, for example, Monsanto world-wide
5 Aroclor business, the slides?

6 MR. FRUEHWALD: That would be my belief, that
7 they appear to be.

8 MR. KARAGANIS: Can you confirm that for me?

9 Q. Mr. Papageorge, just for purposes of
10 clarification. Would it be fair to say that the
11 presentation by Springgate and Bergen preceded the
12 presentation by Wheeler in terms of the
13 presentation to the corporate management
14 committee?

15 I direct your attention specifically to
16 the page of the Springgate-Bergen presentation
17 which having outlined what is going to be done,
18 itemizes at II and III?

19 A. Yes. That is my understanding.

20 Q. So for purposes of the record,
21 Bloomington Deposition Exhibit 387 B preceded
22 Bloomington Deposition Exhibit 387 A?

23 A. Correct.

24 MR. FRUEHWALD: Let me point out you have

1 talked about Exhibit 387 B preceding. It appears
2 on page 2449 that Mr. Wheeler's presentation was
3 inserted somewhere in the document that you have
4 marked as 387 B and, therefore, there was some of
5 it before and some of it after. According to the
6 terms of the document itself, the document itself
7 indicates that Mr. Wheeler's presentation was in
8 the middle. I don't think Mr. Papageorge was
9 there to be able to tell you, anyway. But the
10 document appears to say so.

11 MR. KARAGANIS: It is not clear whether he
12 talked after or before, or in the middle.

13 MR. FRUEHWALD: Not that it makes a whole lot
14 of difference, but that is the way I read it.

15 BY MR. KARAGANIS:

16 Q. Directing your attention to what is
17 handwritten page 23, 300-2467, where it says
18 program would cost some money. Do you see that?

19 What does the term S-A-R-E mean, if you
20 know?

21 A. That is sales administration research
22 expense.

23 Q. And what --

24 A. Sales administration research expense.

1 Q. Is that 400 to 500,000?

2 A. Yes.

3 Q. Okay.

4 Estimated capital 700,000?

5 A. Yes.

6 Q. Total cost 1.1 million?

7 A. Yes.

8 Q. What does it mean by expose us to
9 possible lawsuit?

10 A. I guess it is just what the words say.

11 The program as described previously,
12 which I haven't had a chance to read in detail,
13 was perceived to be a situation that could create
14 some adverse publicity and possible lawsuit. I
15 don't know what else to to say.

16 Q. It mentions in here that other members of
17 the Aroclor family besides 1254 and 1260 are
18 biodegradable to varying degrees.

19 Let's talk about 1242. Do you have any
20 information as to when one would expect 1242 to
21 degrade, over what period of time?

22 A. In total?

23 Q. Yes.

24 A. There is no information available that I

1 am aware of.

2 Q. Is there a rate of decay or a rate of
3 degradation or decomposition?

4 A. I have never seen any studies that
5 established that rate.

6 There are some studies that refer to the
7 specific parts of 1242, how fast they disappear
8 under certain conditions.

9 Q. By parts, what are you testifying to?

10 A. The single-chlorine type and the
11 double-chlorine and the three-chlorine types have
12 been studied and they do under certain conditions
13 of temperature and bacteria and nutrients, they
14 have been established to disappear in a matter of
15 days and months.

16 Q. Days and months?

17 A. Yes.

18 Q. So that if we put 1242 into the ground at
19 Lemon Lane, and did this in the early sixties, the
20 Lemon Lane landfill in Bloomington, it should
21 basically be gone by now?

22 A. No. I didn't say that. Because I don't
23 know what bacteria are present and whether they
24 thrive on this kind of material or whether there

1 are enough nutrients there to help them survive so
2 they can also destroy the PCB's. And 1242 does
3 contain some versions of PCB's that are very
4 refractory. They do not lend themselves to
5 destruction, the six-chlorine, five-chlorine and
6 some of the four.

7 So what you would see, depending on the
8 conditions, are the residue from the material that
9 started out as 1242, but no longer resembles the
10 original mixture.

11 Q. But would still have some of the heavier
12 chlorine?

13 A. Yes, and the analyst might call it 1254
14 or 1260, when he sees it twenty years later.

15 Q. Would it be fair to say, then, that
16 biodegradation in lieu of proper disposal would
17 not be an alternative for the disposal of 1242?

18 A. Not with naturally-occurring
19 biodegradation, that is correct.

20 Q. So it wouldn't be acceptable practice to
21 put it in any landfill and say don't worry about
22 it, it will simply biodegrade?

23 A. That is correct.

24 Q. So that from the standpoint of the

1 pollution problem referred to in the summary on
2 page 24, when he says the most serious offenders
3 are the five- and six-chlorine containing
4 products, 1242 was also a serious offender, was it
5 not, from the standpoint of needing to clean it
6 up?

7 A. Because it contained the five- and
8 six-chlorines, yes.

9 Q. Okay.

10 Directing your attention to what has been
11 marked as Bloomington Deposition Exhibit 388 for
12 identification. Have you seen this document
13 before?

14 It purports to be the minutes of a
15 corporate management committee April 13, 1970.

16 A. Yes. I saw a copy of this for the first
17 time back in 1970.

18 Let me think, in the early part of 1970 I
19 saw that for the first time and I saw it again
20 this morning.

21 Q. Directing your attention to what has been
22 marked as Bloomington Deposition Exhibit 389, have
23 you seen that before?

24 A. Yes. I am familiar with this exhibit.

1 Q. Who prepared it?

2 A. I did.

3 Q. And who delivered it, if you recall?

4 A. I did.

5 Q. You personally delivered it?

6 A. Yes.

7 Q. Okay.

8 You delivered that on April 20, 1970?

9 A. Yes

10 Q. Would you mark this, what is the number
11 on that 389? Would you mark this as 389 A.

12 (The document above-referred to was
13 marked Bloomington Deposition
14 Exhibit No. 389 A for
15 identification.)

16 Directing your attention to what has been
17 marked as 389 A for identification, can you tell
18 us what that document is?

19 A. This document is the outline and draft of
20 the proposed presentation which ended up in the
21 previous exhibit, 389.

22 Q. Did you also prepare Bloomington Exhibit
23 389 A?

24 A. Yes.

1 Q. Directing your -- I am sorry. Would you
2 mark this as 389 B.

3 (The document above-referred to was
4 marked Bloomington Deposition
5 Exhibit No. 389 B for
6 identification.)

7 I show you what has been marked as
8 Bloomington Deposition Exhibit 389 B, which is a
9 memorandum from Papageorge to Bergen and others,
10 enclosing management plan polychlorinated biphenyl
11 environmental problem, dated April 7, 1970. And
12 ask you is this the same document that has been
13 previously identified as an exhibit that we talked
14 about at your last deposition, I believe it is
15 174.

16 A. It is.

17 Q. Let me see if I can get the sequence
18 straight. You came on in January of 1970.

19 A. Correct.

20 Q. To the job.

21 And the corporate management committee
22 had -- a program had been recommended to them in
23 November of 1969.

24 Specifically what was your role in

1 developing the presentation in the spring of 1970?

2 A. By meeting with the ad hoc committee and
3 talking to the individual members on a one-on-one
4 basis, I prepared myself to be able to put
5 together the April 7 document, which is the last
6 exhibit.

7 Q. Okay.

8 April 7 document is 389 B?

9 A. 389 B was the first attempt. The
10 committee then met and we developed from that
11 meeting the previous document which was an
12 outline --

13 Q. 389 A?

14 A. -- with a draft of the proposed
15 narrative.

16 Q. And this is a committee product, this is
17 the ad hoc committee?

18 A. Right. I was the person that put it all
19 together in writing.

20 Q. All right.

21 A. Then the previous exhibit was the final
22 product.

23 Q. 389, Exhibit 389?

24 A. 389 itself was the version that I read

1 from as I made my presentation before the CAC.

2 Q. Directing your attention back to Exhibit
3 387 B, the presentation by Bergen and Springgate
4 to the November 17, '69 corporate development
5 committee. One of the recommendations is the
6 appointment of a project manager responsible for
7 the overall management of the Aroclor pollution
8 problem. Were you indeed that project manager?

9 A. Yes.

10 Q. So after the November 17, '69 corporate
11 development committee meeting you were hired to be
12 the project manager and control the PCB problem?

13 A. Yes.

14 Q. Directing your attention to the last page
15 of Bloomington Deposition Exhibit 389 A, which was
16 as you indicated the ad hoc committee's interim
17 draft prior to the presentation to the corporate
18 development committee?

19 A. Correct.

20 Q. It says at the last page, quote:

21 "In summary I
22 recommend we proceed with the
23 plan as presented and I
24 particularly refer to the

1 "change in our strategy
2 regarding the discontinuing
3 the manufacture of Aroclors
4 1254 and 1260."

5 What was the change in strategy referred
6 to there?

7 A. I would have to go back to the
8 presentation that Mr. Bergen and Springgate made
9 to refresh my memory on that.

10 Q. Sure.

11 A. As I recall the original recommendation
12 was to discontinue those types of PCB's.

13 As best I recall, that reference relates
14 back to a comment made to the corporate committee
15 in November 1970. I am sorry, 1969.

16 Q. To do what?

17 A. There was a recommendation on page
18 300-2464 of Exhibit 387 B, item 6 on that page,
19 introduce to market replacement products for
20 Aroclor 1254 and 1260.

21 Q. Okay.

22 The recommendation was to do what, not to
23 replace them?

24 A. The recommendation in 1970 of April was

1 not to replace them, but to retain them for
2 specific purposes.

3 Q. For the dielectric industry for the
4 transformer end?

5 A. Yes.

6 Q. There is a reference in 389 to slides.
7 And I will ask you whether what appear to be
8 transparencies on the back of Exhibit 389 are the
9 transparencies referred to?

10 A. They are.

11 Q. You say you wrote Bloomington Exhibit
12 389 A, but that it represents the collective
13 consensus of the ad hoc committee; is that
14 correct?

15 A. Yes.

16 Q. Is that also true of 389, the actual
17 presentation?

18 A. Yes.

19 Q. Directing your attention to what has been
20 marked -- I am sorry, let's mark this as 389 C.

21 (The document above-referred to was
22 marked Bloomington Deposition
23 Exhibit No. 389 C for
24 identification.)

1 Directing your attention to what has been
2 marked as Bloomington Deposition Exhibit 389 C,
3 which are the minutes of the meeting of the
4 corporate management committee April 20, 1970.

5 Have you seen those before?

6 MR. FRUEHWALD: Other than his last
7 deposition?

8 MR. KARAGANIS: I am sorry.

9 MR. FRUEHWALD: It is already an exhibit in
10 the previous deposition.

11 MR. KARAGANIS: It is. What is the number?

12 MR. FRUEHWALD: Probably 175, I would guess.

13 MR. KARAGANIS: It is, I am sorry. That is
14 all right.

15 Q. 389 C directing your attention to the
16 page marked 300-2471, particularly the quote that
17 says, Messrs. Eck, Putzell and Gillis are to
18 recommend actions to demonstrate the affirmative
19 program being taken."

20 What did that mean, what was intended?

21 A. I understood that those three individuals
22 were to make it a point to arrange for a review of
23 the status of the program, periodically.

24 Q. Mr. Eck was whom?

1 A. He is the president and chairman of the
2 board at that time.

3 Q. And Mr. Putzell was the general counsel?

4 A. General counsel for the corporation.

5 Q. And Gillis?

6 A. Was the vice president of marketing.

7 MR. FRUEHWALD: I think your next two exhibits
8 were already discussed at the last session as
9 well.

10 MR. KARAGANIS: Yes, let's just mark them for
11 clarity. I don't have the minutes of the last
12 session. Do you have the exhibit ID?

13 MR. FRUEHWALD: Yes. I would guess they are
14 176 or something like that.

15 MR. KARAGANIS: 176 is the Mason memo.

16 MR. FRUEHWALD: All right. Then 177.
17 Probably a better copy, though.

18 MR. KARAGANIS: All right.

19 Let's make this document 390 A.

20 (The document above-referred to was
21 marked Bloomington Deposition
22 Exhibit No. 390 A for
23 identification.)

24 Directing your attention to what has been --

1 marked as 390, those are the minutes of the
2 corporate management committee of May 11, 1970,
3 which are also Bloomington Exhibit 177; is that
4 right?

5 A. Yes. I have seen this document. I have
6 seen this document previously.

7 Q. And we talked last time with respect to
8 Bloomington Exhibit 390 A, of the Mason
9 memorandum, the approved plan that are the two
10 sheets marked, "present plan," right, as you
11 recall?

12 A. Yes.

13 Q. Bloomington Exhibit 391 is the minutes of
14 the corporate management committee of June 2,
15 1970. I ask you if you are familiar with that
16 document?

17 A. I saw this document this morning for the
18 first time.

19 Q. What is the investment referred to there?

20 A. This was to cover the cost of a new
21 incinerator as well as the construction of a unit
22 to make the new version of a PCB mixture that was
23 later sold as Aroclor 1016. That also covered the
24 cost of installing the different catch basins and

1 curbing.

2 Q. Inside Monsanto?

3 A. In the Monsanto plant, yes.

4 Q. Showing you Bloomington Deposition
5 Exhibit 392 which are the minutes for June 29,
6 1970, have you seen those before?

7 A. I saw this document for the first time
8 this morning.

9 Q. Now, you were in charge of the program,
10 were you not, as the manager of the taskforce, you
11 had been appointed after the November 17, 1969
12 meeting to head up the program, were you not?

13 A. Yes, to coordinate the program.

14 Q. And the program included phasing out or
15 trying to control; isn't that right?

16 A. Yes.

17 Q. I have asked you this question before but
18 I am trying to put it in the context of the
19 approvals of the various program plans.

20 Now here we are in May of 1970. Who
21 instituted to your knowledge the contractual
22 restriction policy, and was this contractual
23 restriction policy communicated to higher
24 management such as the corporate management

1 committee?

2 MR. FRUEHWALD: Let me have a definition of
3 what you are calling a contractual restriction.

4 MR. KARAGANIS: The contract of June 1970.

5 MR. FRUEHWALD: This is the third time that
6 series of questions has been asked.

7 MR. KARAGANIS: It is also the first time that
8 we have been given a full description of what went
9 to corporate management in terms of an action
10 plan.

11 A. I am still confused. Which contract are
12 you talking about?

13 BY MR. KARAGANIS:

14 Q. Are you familiar with the contract
15 language that we have discussed, the contract
16 language before, that said that Monsanto
17 reserved --

18 A. This is the sales contract?

19 Q. Yes.

20 A. I am sorry. Okay; all right.

21 Q. Now, was that contract ever discussed as
22 an element of the action plan that was approved by
23 corporate management?

24 A. No.

1 Q. That contract, in order for it to be
2 standard contractual language, would have to be
3 approved by a senior executive or at a minimum the
4 group, would it not?

5 MR. FRUEHWALD: Wait a minute. Let me object.

6 Are you staying standard contractual
7 language, if it appears in one contract what is
8 it?

9 BY MR. KARAGANIS:

10 Q. The Westinghouse contract, that would
11 have had to have been approved by a senior member
12 of the executive group, would it not?

13 A. I do not know Monsanto's approval
14 procedure for approving sales contracts.

15 Q. That kind of contract term?

16 A. I know nothing about sales contracts.

17 Q. All right, fine.

18 MR. FRUEHWALD: That is the third time you
19 have been told that.

20 BY MR. KARAGANIS:

21 Q. Directing your attention to what has been
22 marked as Bloomington Deposition Exhibit 395. I
23 am sorry. Did we discuss 392? June 29, 1970.

24 MR. FRUEHWALD: Yes.

1 MR. KARAGANIS: Okay.

2 Q. Next is 393. Directing your attention to
3 the minutes of the corporate management committee
4 of July 27, 1970. Had you seen that document
5 before?

6 A. I saw this document for the first time
7 this morning.

8 Q. Directing your attention to what has been
9 marked as Bloomington Deposition Exhibit 394,
10 which are the minutes of the corporate management
11 committee meeting of September 14, 1970. Are you
12 familiar with that?

13 A. I saw this document for the first time
14 this morning.

15 Q. Did you have any hand in preparing the
16 reports?

17 I have noticed, for example, on
18 Bloomington Deposition Exhibit 394, the persons
19 presenting it are Minckler and Mason. Refresh my
20 recollection again. Minckler's relationship to
21 Bergen was what?

22 A. Mr. Minckler was Mr. Bergen's senior, but
23 Mr. Bergen reported to Mr. Mason. Mr. Mason
24 reported to Mr. Minckler.

1 Q. Mr. Minckler's title was?

2 A. General manager of the organic chemicals
3 division.

4 Q. Did you have any hand in preparing the
5 information for Minckler or Mason?

6 A. No.

7 Q. With respect to the program, did they
8 ever come back to you and ask you how is the
9 program going?

10 A. They would do that as a routine.

11 Q. Did they ever come back and ask you how
12 are our customers dealing with the control of
13 PCB's?

14 A. Yes.

15 Q. What did you tell them about Bloomington?

16 A. Well, at that point in time I told them
17 that, of course, that I had visited their plant,
18 and saw a need for a lot of work. And the best of
19 my understanding from reports from Mr. Graham, Mr.
20 Bryant, and Mr. Benignus, that they were
21 addressing their situation.

22 Q. By addressing their situation, they were
23 doing what?

24 A. They were looking at different ways of

1 degreasing, they were looking at ways to cut down
2 their leakage.

3 Q. By degreasing, you mean in lieu of
4 washing?

5 A. Correct.

6 Q. So they were looking in 1970 at ways of
7 getting rid of washing mechanism and trying to
8 clean the material or clean the cans by some other
9 method?

10 A. That was my understanding.

11 Q. Directing your attention to what has been
12 marked as Bloomington Deposition Exhibit 395,
13 minutes of a meeting of November 16, 1970, there
14 is reference here to an expenditure of \$590,000
15 for control, reclamation, and disposal of Aroclor
16 waste.

17 Do you recall what that was for?

18 A. Yes.

19 That is primarily the incinerator, as
20 well as the pits and curbing and other devices
21 used to keep the material from escaping.

22 Q. Directing your attention to the report of
23 March 8, 1971, minutes of the meeting of the
24 corporate management committee March 8, 1971,

1 Bloomington Deposition Exhibit 396 for
2 identification. Are you familiar with that
3 document?

4 A. I saw this for the first time this
5 morning.

6 Q. Did you have a hand in preparing the
7 status report with respect to the program?

8 A. No.

9 Q. On March 8, 1971, the statement is made
10 with respect to capacitors, quote:

11 "Good progress
12 achieved with customers but
13 problem continue as to
14 ultimate disposal of spent
15 capacitors."

16 Did you have a hand in preparing that
17 report?

18 A. No.

19 Q. What do you understand "good progress" to
20 mean with respect to customers?

21 A. That there were improvements noted at the
22 plants regarding the PCB's that are being
23 discharged into their waste effluents.

24 Q. What specific improvements existed at

1 Bloomington?

2 A. At that time we had, for example, looked
3 at some samples. You may recall we looked at some
4 reports previously, where the levels where as I
5 remember in the parts per billion range.

6 Q. Parts per billion out of Bloomington?

7 A. Yes. I think I recall a report that did
8 that.

9 Q. Your goal was 10 parts per billion, was
10 it not?

11 A. That was the target. Yes.

12 Q. And it was technologically feasible to do
13 so with carbon filters; isn't that right?

14 A. Yes.

15 Q. So it wasn't a question of being a
16 target; if you put carbon filters in you could get
17 it, right?

18 A. You could get clean water, but then you
19 had the problem of disposing of the contaminated
20 carbon.

21 Q. Which might require incineration; isn't
22 that right?

23 A. Chasing your tail.

24 Q. You might have to go and incinerate it;

1 is that right?

2 A. There were no solid incinerators
3 available.

4 Q. So, if you had carbon, you could either
5 store it for incineration or you could put it in a
6 chemically licensed landfill; isn't that right?

7 A. Yes.

8 Q. So you could get down to 10 parts per
9 billion, is that right?

10 A. In water, yes.

11 Q. Directing your attention to what has been
12 marked as Bloomington Deposition Exhibit 397,
13 minutes of a meeting of March 29, 1971 of the
14 corporate management committee.

15 Can you tell us what the appropriation
16 request for distillation at the Krummrich plant
17 was?

18 A. That was the piece of equipment that was
19 required to produce Aroclor 1016, which replaced
20 Aroclor 1242.

21 Q. Directing your attention to what has been
22 marked as Bloomington Deposition Exhibit 398 for
23 identification, the minutes of the corporate
24 management committee meeting of September 7, 1971.

1 Do you recall seeing that document
2 before?

3 A. I saw this document this morning for the
4 first time.

5 Q. And Mr. Eck was who, again?

6 A. President and chairman of the board.

7 Q. I am confused because it says the
8 president asked Mr. Eck to continue to oversee
9 this working closely with the law department.

10 A. My apologies. I was confusing Mr. Eck
11 and Mr. Bock.

12 Q. Okay.

13 A. Mr. Bock is the chairman and president,
14 Mr. Eck was the vice president manufacturing.

15 Q. Okay.

16 Do you know what the further developments
17 relating to PCB's in poultry feed and products
18 were in September 1971?

19 A. '71. At that time the FDA was
20 establishing acceptable limits in food. Monsanto
21 introduced some more words of restricted use on
22 its label, references to not to use near food or
23 foodstuff, shortly after that the decision was
24 made to withdraw from the heat transfer

1 application. That is all I can think of at the
2 moment.

3 Q. Now, my next document is in the sequence
4 you gave them to me, Mike, we go from September of
5 '71 -- I am sorry -- yes, from September of '71 to
6 February '74.

7 There are no other corporate management
8 committee meeting minutes?

9 MR. FRUEHWALD: That is what I am told.

10 MR. KARAGANIS: I am going to double check
11 here. But some of the documents you provided this
12 morning indicate that --

13 MR. FRUEHWALD: Let's take a quick break while
14 you are doing that.

15 (Whereupon a short recess was had.)

16 MR. KARAGANIS: Just for the record, and I
17 know you have indicated off the record that you
18 have made inquiry on this. The minutes and
19 communications to whatever the corporate
20 leadership was during the period from September
21 '71, September 7, '71 to February 4, '74 regarding
22 PCB's, there seems to be a gap.

23 You have indicated off the record to me
24 that that gap might be explained by the fact that

1 in some instances there were communications to the
2 corporate board of directors during that period of
3 time. But again I would ask for further inquiry
4 with regard to communications with corporate
5 management regarding PCB's during that period of
6 time.

7 MR. FRUEHWALD: As I said, I have made inquiry
8 about any other types of minutes, to the board of
9 directors or any of these committees relating to
10 PCB's. Obviously, this type of set of documents
11 has been requested in numerous cases. As a
12 result, I have ever reason to believe that they
13 have searched several times to make a complete
14 set. That is what they told me we have here.

15 So it is my interpretation that during
16 the interval between '71 CMC minutes and the
17 February '74 CAC minutes, that the only entries
18 are the board of directors minutes in between
19 those two then. That appears to fill in some
20 gaps.

21 BY MR. KARAGANIS:

22 Q. Directing your attention to Bloomington
23 Deposition Exhibit 398 A, which are the minutes of
24 the corporate administrative committee for

1 February 4, 1974.

2 Do you recall what the lawsuits were that
3 are referred to there?

4 A. I believe they are referring to silo
5 contamination cases in Michigan.

6 Q. Directing your attention to the -- strike
7 that.

8 Up through 1974, the ad hoc task force
9 that you were talking about that you were involved
10 with on PCB's, that continued in existence, did it
11 not?

12 A. It never really disbanded. But it
13 continued, yes.

14 Q. Directing your attention to Bloomington
15 Exhibit 399. Are you familiar with that?

16 A. I had first saw this document this
17 morning.

18 Q. 399 makes reference -- 399 is the June
19 14, 1976 minutes of the corporate administrative
20 committee.

21 399 makes reference to a presentation or
22 a request by Mr. Fitzgerald to the CAC entitled
23 dielectrics business direction, dated May 21,
24 1976.

1 Are you familiar with that?

2 A. I'm not. No.

3 MR. KARAGANIS: Mike, has that been produced?

4 MR. FRUEHWALD: Well, this was produced to me
5 associated with the next document there. The
6 dielectric presentation dated June 7, '76.

7 So there is an attachment to it called
8 dielectric business direction, which I think is
9 what is referred to there. The documents are both
10 the oral presentations and the underlying
11 documents that were discussed in the June 14th
12 meeting.

13 MR. KARAGANIS: Can you verify that?

6
14 MR. FRUEHWALD: They were produced to me and
15 assembled as they were for you, clipped together,
16 so that is my inference and they do appear to be
17 together and I will verify it.

18 (The document above-referred to was
19 marked Bloomington Deposition
20 Exhibit No. 399 B for
21 identification.)

22 BY MR. KARAGANIS:

23 Q. Directing your attention to what has been
24 marked as Bloomington Deposition Exhibit 399 A.

1 Can you tell me who the initials RGP
2 stand for?

3 A. I would assume that is Robert G. Potter.

4 Q. Who is he, what was his role?

5 A. At that time he was -- I believe he was a
6 director of administration of Monsanto Industrial
7 Chemicals Company.

8 Q. And who was Mr. Fitzgerald?

9 A. At that time Mr. Fitzgerald was the
10 managing director and vice president of the
11 Industrial Chemicals Company.

12 Q. And Mr. Harbison?

13 A. I don't recall Mr. Harbison's title in
14 '76.

15 Q. What has he historically been with the
16 company?

17 A. He is a top level executive.

18 Q. In what area?

19 A. Corporate administration.

20 Q. So did he work in the office of the
21 president?

22 A. Yes.

23 Q. Can I see that document, please?

24 A. Sure.

1 Q. 399, I am sorry, yes, Bloomington Exhibit
2 399 refers to a December 1975 decision by Monsanto
3 to terminate production as soon as customers could
4 qualify.

5 Was that a corporate decision?

6 A. Yes.

7 Q. Do you know why that is not reflected
8 either in the board of directors minutes or the
9 corporate administrative or management committee
10 meeting minutes?

11 A. No, I do not.

12 Q. Was it made at the top levels of the
13 corporation?

14 A. Yes.

15 Q. Again, I would think that would be a --

16 MR. FRUEHWALD: What are you referring to?

17 MR. KARAGANIS: In Bloomington Exhibit 399
18 which is the minutes of the June 14, 1976
19 corporate administrative committee meeting
20 minutes, there is reference to the following
21 sentence:

22 "Monsanto made the decision
23 in December 1975 to terminate
24 production."

1 They have to be some documents
2 referencing that.

3 MR. FRUEHWALD: Assuming this was a committee
4 decision as opposed to an executive decision.

5 MR. KARAGANIS: There ought to be some
6 documentation.

7 MR. FRUEHWALD: These committee and director
8 minutes, they are not all executive documents, so
9 we will look for that. I am not saying we won't
10 look for it. But that is why I presume they
11 haven't been produced is because this is a stack
12 of committee minutes and presentations to
13 committees. If this was an executive decision,
14 done without a committee approval or whatever, by
15 the chief executive officers, it wouldn't
16 necessarily be in this. It would be reported to
17 the committee like it was here in June '76.

18 I don't know. I am saying I just don't
19 know. I don't accept the assumption that there
20 has to be committee meeting minutes on it.

21 MR. KARAGANIS: There has to be some kind of
22 documentation on it, and I don't believe we have
23 received it, from the standpoint of the executives
24 involved in the decision.

1 Q. Do you know who prepared Bloomington
2 Deposition Exhibit 399 A?

3 A. No.

4 MR. KARAGANIS: Is there an author on it,
5 Mike, do you know?

6 MR. FRUEHWALD: I do not know. Portions of
7 it, the second section appears to have Mr.
8 Potter's initials at the top. It starts at page
9 2583. It was his part of the presentation. Just
10 from looking at the document, I am inferring that.
11 The first part may have been one of the other
12 gentleman, Mr. Harbison, Mr. Fitzgerald. I do not
13 know the author. This appears to be Mr. Potter's
14 copy of it, whoever the author was.

15 BY MR. KARAGANIS:

16 Q. Who is Mr. Hanley?

17 A. He was the chairman of the board and
18 president of Monsanto following Mr. Bock.

19 Q. Who was Dr. Nolan?

20 Q. He is vice president of public affairs.

21 Q. Why is he a doctor, is he a PhD in
22 something?

23 A. PhD in liberal arts or something.

24 Q. Directing your attention to what has been

1 marked as Bloomington Deposition Exhibit 399 B for
2 identification, the July 5, 1977 minutes of the
3 meeting of the corporate administrative committee.

4 Have you seen that document before?

5 A. I saw it this morning for the first time.

6 (Discussion had off the record.)

7 MR. KARAGANIS: Let's go on the record.

8 I am referring to the April '69 chart of
9 organization. The reason I emphasis this is that
10 there is shown here a corporate development
11 committee and an executive committee.

12 Now, I don't know -- one of the reasons I
13 wanted to go through these things -- whether you
14 have asked them to search for the executive
15 committee minutes or have you asked them to search
16 for anything that says CEC on it?

17 MR. FRUEHWALD: No. I have asked for all the
18 minutes of board of directors and committees of
19 the board of directors.

20 MR. KARAGANIS: Is that a committee of the
21 board of directors?

22 MR. FRUEHWALD: I think there has been a
23 comprehensive search. If that is what you are
24 asking about, we can confirm that. But I don't

1 know that Bill needs to be questioned about those
2 additional items.

3 I am not objecting your discovering this.
4 I am just objecting to the manner of questioning
5 Bill about them, if it is a question that you are
6 searching for, I can state that the corporate
7 executive committee has been searched; I believe
8 it has been, but I can confirm that for you.

9 If there is anything else that you want
10 to verify or get more detail on from, that best
11 comes from the corporate records. He is a 30 (b)
12 6 witness, but he doesn't become omniscient
13 because of that designation.

14 BY MR. KARAGANIS:

15 Q. Mr. Papageorge, asking you to direct your
16 attention back to 1968, I am just simply trying to
17 get your recollection of the various players
18 within the organic chemicals group.

19 And I am directing your attention
20 specifically to an organization chart dated
21 February of '68. Your eyes may be better than
22 mine.

23 Can you tell me who is at the top there,
24 is that Smith?

1 A. Yes. T. K. Smith.

2 Q. Okay.

3 And working for Smith was Minckler?

4 A. Yes.

5 Q. And then in '68 if we wanted to find out
6 who was below Minckler, we would go right to
7 director of functional fluids; is that right?

8 A. Yes.

9 Q. Okay.

10 Then under functional fluids it would be
11 Benignus and everybody?

12 A. Yes.

13 Q. Okay.

14 There is organic chemicals division, in
15 1969 Minckler was general manager?

16 A. Yes.

17 Q. And I am showing you the '69 organization
18 chart. You had Minckler, assistaht general
19 manager was Smith. Where were functional fluids?

20 A. John Mason was the second assistant and
21 under him was functional fluids, Mr. Bergen.

22 Q. Okay.

23 A. That is his team there.

24 Q. Now, is that the same Mason who was

1 writing to Ryan?

2 A. Yes.

3 Q. So Mason was not just up in headquarters,
4 he was an operating executive within organic
5 chemicals?

6 A. Yes.

7 Q. For some reason we didn't get '70 in this
8 batch.

9 Do you have a '70?

10 MR. FRUEHWALD: You have got what I got, Joe.
11 These things were sort of made irregularly. You
12 have noticed there are various dates. Maybe there
13 was none for '70. We have asked for all the
14 organizational charts and that is what we were
15 given. The dates are sort of irregular.
16 Sometimes they are two in a year.

17 A. It depends on when changes take place.

18 BY MR. KARAGANIS:

19 Q. Would it be fair to say that if there
20 isn't one for 1970, the organization chart last
21 published in '69 would be governing?

22 A. Yes.

23 Q. So that, here is '70. That is the one we
24 just looked at, where you are the manager of

1 environmental control.

2 Let's take a look at the time period I am
3 interested in is the fall of 1972. I am showing
4 you the chart for June of 1972, the organization
5 chart.

6 This division is the industrial chemicals
7 company?

8 A. Correct.

9 Q. Cunningham was the chief. Cunningham
10 had, let's see if we have this straight, let's go
11 back a minute first to the July '71 organization
12 chart and then to the September '71 organization
13 chart.

14 Do these two charts show the
15 reorganization that took place, the comparison of
16 these charts?

17 A. Yes.

18 Q. September '71 Cunningham is managing
19 director?

20 A. We went from the division concept to the
21 company concept.

22 Q. Let's just see if we can trace the
23 charts.

24 As of July of '71, it was Minckler as

1 head of the division, Mason was in charge of, the
2 assistant general manager of the division. Bergen
3 under specialty products.

4 Why don't why aren't you shown any more
5 as manager of environmental control?

6 A. I suspect my level wasn't high enough to
7 be included in this showing. It just didn't go to
8 my level.

9 Q. But consistent with what we saw in '70,
10 you would you be in the line box under Bergen;
11 isn't that right?

12 A. Correct.

13 Q. Now, then, in September of '71 we went
14 with Cunningham as director of the company?

15 A. Yes.

16 Q. And where was PCB's under that chart?

17 A. Mason is now a director.

18 Q. Okay.

19 Bergen is still director of specialty
20 products and you would be underneath Bergen along
21 with the same people?

22 A. Yes.

23 Q. Let me ask you, I am now in the 1971
24 organization chart, and I am under the director of

1 specialty products, H. S. Bergen, and I am trying
2 to look for where you would be.

3 A. I don't know.

4 Q. I am now September 20, '71.

5 A. That is when I was assigned to Corey.

6 Q. You were the director of administrative
7 services.

8 What was the difference between manager
9 quality and environmental control and manager
10 environmental protection?

11 A. As you can recall, my assignment was
12 specific to PCB's at the beginning and as time
13 went on I began to assume responsibility for other
14 products, whereas this individual from the very
15 beginning had a group of products, more than a
16 single group.

17 Q. Yours was just PCB's?

18 A. Initially. I was evolving with time to
19 match this kind of assignment. Eventually these
20 three became identical, as time went on.

21 Q. That was '71?

22 MR. FRUEHWALD: '72.

23 BY MR. KARAGANIS:

24 Q. '72?

1 A. '72 I am still under Mr. Corey.

2 Q. '72 you are under Corey and the next one I
3 have is '74.

4 And where are you in 1974?

5 A. I think it is still Corey if I can find
6 him.

7 This shows me reporting to Mr. Bratsch.
8 I was never aware of that. I just never reported
9 to Mr. Bratsch.

10 MR. FRUEHWALD: That is where he is on the
11 chart.

12 A. Nobody ever told me I reported to Mr.
13 Bratsch.

14 BY MR. KARAGANIS:

15 Q. What is the date on that chart?

16 A. This is '74.

17 Q. Who did you report to in '74?

18 A. It would have to be either Mr. Corey or
19 Mr. Potter. But I don't recall when Mr. Corey
20 retired.

21 The more I think about it, the more I
22 believe I reported into Mr. Robert Potter, who was
23 then director of administration.

24 Q. In '74?

1 A. In '74.

2 Q. Prior to that you had reported to Corey,
3 who was also director of administration?

4 A. Correct.

5 MR. KARAGANIS: Let's take a break for about
6 five minutes and see where we are.

7 MR. FRUEHWALD: All right.

8 (Whereupon a short recess was had.)

9 BY MR. KARAGANIS:

10 Q. Mr. Papageorge, could you tell me the
11 difference, if any, or what the differences were
12 between the program that was articulated in the
13 spring of 1970 -- we have been through those with
14 the corporate management committee -- and the
15 program that was instituted in the fall of 1971,
16 December of 1971, December, January?

17 We have just been through those items
18 today. We went back through the program that you
19 had drafted and then you indicated that you were
20 not familiar with the terms that had gone to the
21 board of directors in December of 1971, relating
22 to sales only with indemnification.

23 A. I wasn't aware of the activities that
24 preceded the decision.

1 Q. What was different, if anything, about
2 the program in 1970 and the program in '71?

3 A. Well, in 1970, the program addressed the
4 entire PCB business as it existed then.

5 Q. All right.

6 A. And the selective withdrawal from some of
7 those businesses.

8 Q. Okay.

9 A. The late '71 program addressed the
10 remaining businesses which at that time were only
11 two, the dielectric applications and the heat
12 transfer applications.

13 Q. Okay.

14 As well as the terphenyl?

15 A. Then it also addressed a new set of
16 chemicals, called polychlorinated terphenyls.
17 That is the three points of that late '71 program.

18 Q. So the biphenyls had been faced out of
19 plasticizers and hydraulic fluids previously?

20 A. Yes.

21 Q. There was a phase out of the terphenyls
22 out of the same market?

23 A. Correct.

24 Q. Anything else different about then?

1 A. Well, one difference is that although we
2 retained the dielectric business, it was to
3 continue only if the customer agreed to a special
4 understanding, special arrangement, this indemnity
5 consideration. That was a difference.

6 Q. You said you were not aware of the
7 indemnity requirements prior to them being
8 imposed; is that right?

9 A. That's right.

10 Q. Okay.

11 But you did you become aware of them
12 after they had been imposed?

13 A. Yes.

14 Q. Were you ever told or did anyone ever
15 explain to you the reasons for the indemnity?

16 A. No.

17 Q. Did you ever inquire?

18 A. Not to my -- I just took it as a given.
19 I did not inquire.

20 Q. But you knew as we described before that
21 Westinghouse had felt that Monsanto had
22 transferred the liability over to Westinghouse by
23 that indemnity requirement, is that right?

24 A. Yes.

1 Q. I want to go back to your
2 recommendations, the recommendations of August, I
3 believe, of 1970.

4 MR. FRUEHWALD: 375. That is the rough draft.

5 MR. KARAGANIS: Yes.

6 Q. Mr. Papageorge, directing your attention
7 to 375 and your rough draft on methods for waste
8 control and disposal.

9 The idea of preventing the mixing of
10 PCB's with water, thereby reducing the
11 opportunities for PCB's to enter a water system,
12 that containment recommendation could have been
13 employed at any time from the forties, fifties,
14 whatever; it wasn't something that was unique in
15 terms of technology to the seventies, was it,
16 keeping the PCB's out of water?

17 A. That is true.

18 Q. Prevention of leaks and spills was not
19 technology that was unique to the seventies or
20 eighties, it was a technology that could have been
21 employed in the thirties, forties or fifties;
22 isn't that right?

23 A. That is true.

24 MR. FRUEHWALD: Didn't we go through the

1 entire recommendation in the last session and have
2 the same answers to those questions already, that
3 all of them were existing technology?

4 MR. KARAGANIS: I am trying to discuss
5 something that is on August 31, 1970. If he has
6 given the same answers with respect to it, so be
7 it.

8 MR. FRUEHWALD: The same document.

9 BY MR. KARAGANIS:

10 Q. Just to summarize, then. Virtually all
11 of the -- well, all of the recommendations that
12 were contained in your rough draft circulated
13 August 31, 1970, Bloomington Deposition Exhibit
14 375, could have been employed in the thirties,
15 forties and fifties and didn't require 1970's
16 technology; isn't that right?

17 A. That is correct.

18 Q. Would it be fair to say that the
19 recommendations that you made with respect to
20 liquids, i.e., the avoidance of mixing with water
21 and getting into sewers, getting into creeks,
22 rivers or lakes, avoidance of leaks and spills,
23 curbing, paving, catch basins, those are things
24 that would be applicable to control of any

1 industrial chemical; isn't that right?

2 A. That is correct.

3 Q. And would have been applicable to any
4 industrial chemical in the thirties, forties and
5 fifties, in terms of good practice, isn't that
6 correct?

7 A. That is correct.

8 Q. And with respect to organic chemicals,
9 the idea of incineration was not unique
10 technology; isn't that right?

11 A. The technology as a basic technology was
12 known. The high temperature incineration was not
13 demonstrated. So burning some of these organics
14 as fuel oils was common practice.

15 Q. Yes.

16 But the idea of burning it at high
17 temperature was feasible technology, not thirties,
18 forties, and fifties, was it not?

19 A. The high temperatures wasn't demonstrated
20 yet.

21 Q. You had the need to demonstrate the
22 temperatures, but the ability to achieve those
23 temperatures in rotary kilns had been around for
24 sometime?

1 A. Rotary kilns, yes. But, I don't know, I
2 was not aware that the knowledge to sustain the
3 burning of liquids through nozzels in stationary
4 kilns or incinerators was demonstrated.

5 Q. By demonstrated, you mean build one and
6 do it?

7 A. Yes. And determine if it can be done.

8 Q. But there was no insurmountable technical
9 hurdle to that, it was simply doing it; isn't that
10 right?

11 A. No. The people that designed Monsanto's
12 first unit had a lot of engineering to do before
13 they achieved it.

14 Q. Understand. But they were able to do it;
15 it wasn't some insurmountable technical burden,
16 was it?

17 A. In hindsight. No.

18 Q. The same thing would be true with respect
19 to any industrial chemical with respect to
20 industrial chemical waste, your recommendations
21 with regard to solids would have been the same,
22 would they not, in terms of keeping it away from
23 water, keeping it away from the landfill that was
24 involved in a water system or could contaminate a

1 water supply?

2 A. Yes.

3 Q. After your go around in the summer of
4 1970, your plant go around to the GE and
5 Westinghouse facility, did you ever again go out
6 and visit a facility, a customer facility?

7 A. Not dielectric facilities.

8 Q. By that, you never went back and
9 investigated either Westinghouse or General
10 Electric?

11 A. That is correct.

12 Q. Would it be fair to say that the two
13 largest examples of localized PCB contamination
14 are the General Electric facilities on the Hudson
15 and the Bloomington facilities of Westinghouse?

16 A. I don't know that I have the information
17 to lead to that conclusion.

18 Q. Do you know of any larger?

19 A. I don't know how to measure it.

20 Q. Let's measure it in terms of cubic yards
21 of contaminated material.

22 MR. FRUEHWALD: You are assuming Mr.
23 Papageorge knows anything about the Bloomington
24 situation in terms of that. There is no

1 foundation for his knowledge of the cubic yards or
2 the sites involved in Bloomington.

3 BY MR. KARAGANIS:

4 Q. No one has ever told you as to what has
5 been involved in the clean up?

6 A. I have no idea.

7 Q. I would ask you to assume that 650,000
8 cubic yards of contaminated material are going to
9 be dug out of various landfills and incinerated.

10 As a matter of fact, that is basically
11 the technology that you advocated, isn't it,
12 incineration?

13 A. Yes.

14 Q. I would ask you to assume that 650,000
15 cubic yards is going to be dug up.

16 Do you know of any PCB contamination
17 sites or locales where a larger amount of
18 contamination has had to be exhumed?

19 A. I do not know the other sites that I am
20 aware of. So I have no way of knowing that.

21 Q. Are you aware of other locales of PCB
22 contamination?

23 A. Yes.

24 Q. And how many are you aware of?

1 A. There is one up in Waukegan harbor.

2 Q. All right.

3 A. I have no idea how many cubic yards, to
4 use that as a yardstick, are involved there.

5 I have no idea of the Hudson River in
6 terms of magnitude of the clean up effort required
7 there. I just don't have enough information to
8 compare.

9 Q. What specifically after 1970 were your
10 activities after the summer of 1970 regarding
11 evaluating the degree of containment in the
12 dielectric industry, containment of PCB releases,
13 what did you do?

14 A. I saw my role as one of keeping abreast
15 of what Benignus, Graham, Bryant and their
16 successors were observing and reporting back.

17 Q. Did you ever instruct Benignus, Graham,
18 Bryant or their successors to conduct inspections
19 and to give specific progress report to you?

20 A. Yes.

21 Q. You did.

22 Do you have any documents reflecting such
23 instructions?

24 MR. FRUEHWALD: There is one shown today I

1 believe to Mr. Graham.

2 A. That is an example.

3 BY MR. KARAGANIS:

4 Q. Okay.

5 That is the one that you are referring to
6 in your exhibits.

7 MR. FRUEHWALD: 374.

8 BY MR. KARAGANIS:

9 Q. Yes. This is the one in which you say it
10 would behoove us to call on these customers to
11 assure that substantial progress is being made.
12 That is dated July 27, 1970.

13 I asked you what did you do after that.
14 Did you make sure there were regular inspections?

15 A. Yes.

16 Q. Did you have checklists as to what needed
17 to be done?

18 A. No.

19 Q. You indicated in Exhibit 374 that some of
20 the customers' plants have a long way to go to
21 achieve the standards we believe will be
22 acceptable.

23 Was there either a checklist of what
24 needed to be done or a set of deadlines?

1 A. No.

2 Q. Did you ever ask Benignus or Graham to
3 give you specific reports as to what specifically
4 had been done?

5 A. I don't know what you mean by specific
6 reports.

7 Q. Specific remedial actions that had been
8 taken.

9 A. I would keep abreast by just a simple
10 question: How are things going? What are you
11 finding out? Are you running into any
12 difficulties anywhere? What is the problem?

13 Q. In the meantime, you had plants that were
14 either discharging into -- sending wastes to
15 uncontrolled landfills, or discharging into
16 sewers, as you indicated in your memorandum, were
17 not up to the standards that you would expect to
18 be met.

19 How did you find out whether those plants
20 were coming up to the standards and when?

21 A. Only by reports that came in from the
22 field.

23 Q. There was no specific program for those
24 reports or deadlines or milestones or anything

1 else; is that right?

2 A. No.

3 Q. With regard to the Bloomington plant, did
4 you ever find out whether they went to the kind
5 of -- what did you call it -- solvent degreaser
6 that you had talked about?

7 A. Yes. I found out they did not choose to
8 go that route.

9 Q. Did they go any route?

10 A. They went to the manifold filling of
11 units, to reduce or minimize or try to eliminate.

12 Q. How long did they operate the manifold
13 filling units?

14 A. I don't recall. I don't recall. They
15 went back then to the old way of flooding the
16 units.

17 Q. Do you recall how long it took them to go
18 to the manifold filling of units?

19 A. About a year.

20 Q. From 1970?

21 A. It took a while. I don't recall the
22 exact timing.

23 Q. Did you ever sit down with Westinghouse
24 or with your people and say, look, they are taking

1 too long, they ought to get their thing squared
2 away?

3 A. Yes.

4 Q. You did. With whom?

5 A. Benignus and Bryant.

6 Q. You instructed them or discussed with
7 them the fact that the Bloomington plant was
8 taking too long to gets its act cleaned up?

9 A. That's right.

10 Q. When was that?

11 A. 1971 or '72.

12 Q. How did you communicate that, by
13 memorandum or orally?

14 A. Oral.

15 Q. Do you know whether they communicated
16 your questions, your concerns, to Westinghouse?

17 A. I was led to believe they did.

18 Q. What did they say to you?

19 A. Who is they?

20 Q. Benignus and Graham.

21 A. I don't recall the exact words. But the
22 impression I recall is that they did go to the
23 plants, spoke sternly about the need for more
24 action.

1 Q. What specifically did they speak sternly
2 about?

3 A. I don't recall. That is ten years,
4 fifteen years ago. The impression I have is that
5 they walked away from their discussion with the
6 clear understanding that the plant got the
7 message.

8 Q. That was communicated to you orally?

9 A. Yes.

10 Q. Did you document it at all?

11 A. No.

12 Q. So that would it be correct to say that
13 you felt no further corrective action was
14 necessary because Benignus and Graham told you
15 that the plant got the message?

16 A. It had nothing to do with no further
17 corrective action. It told me that all right, for
18 the time being give these people a chance to
19 perform. Then you would go back and check again.

20 Q. Okay.

21 You started out in 1970 undertaking a
22 control program which they did not get on the
23 program right away, did they, would that be a fair
24 statement?

1 A. I don't know what you mean by right away.
2 It can't be the day after.

3 Q. They didn't get on the program in fast
4 enough time to satisfy you. You had expressed
5 concern that they weren't moving fast enough?

6 A. After about a year, yes.

7 Q. They weren't moving fast enough, were
8 they?

9 A. That is correct.

10 Q. Now, you indicated you sat down with
11 Benignus and Graham, told them that you wanted to
12 get a message to the Bloomington plant to clean up
13 faster. Is that correct?

14 A. Yes.

15 Q. And they told you that they conveyed that
16 message in stern terms; is that right?

17 A. Yes.

18 Q. And when did you get any indication from
19 them that the Bloomington plant indeed cleaned
20 up?

21 A. I don't recall the exact timing, but we
22 did get -- I did see reports of water analysis,
23 wastewater analyses.

24 Q. Yes.

1 A. That as I recall were very encouraging.

2 Q. Very encouraging meaning what?

3 A. They had gone from the percent in part
4 per million range down to the part per billion.

5 Q. To the low part per billion range?

6 A. Yes. As I remember, some of them were
7 quite respectable. I don't remember the exact
8 numbers.

9 Q. You had indicated that effluent control
10 was technically feasible for water to get down to
11 under 10 parts per billion; is that right?

12 A. Yes.

13 Q. Did you see numbers under 10 parts per
14 billion?

15 A. I thought I did, some of them. Not all
16 of them. But the idea was they were trending in
17 the proper direction. And I knew they had
18 stopped, I was told they had stopped using saw
19 dust as their absorbent material.

20 Q. Were you familiar with what they had done
21 with respect to their funnel washers, the funnel
22 washer, the washer used to deal with the filler
23 mechanism?

24 A. I understood that they had an

1 incineration service for that detergent, PCB water
2 mixture, which was a step in the right direction.

3 I understood they had quite an extensive
4 program to stop their leakage, their conveyor pans
5 that were supposed to catch any drippage were
6 improved.

7 Q. When did you get that information?

8 A. Oh, again I don't remember the exact
9 timing, but through the years, '71, '72, '73, the
10 reports that I got were encouraging. The
11 movements were in the right direction.

12 Q. In the right direction, meaning
13 minimizing any release to the environment; is that
14 right?

15 A. Toward minimizing, yes.

16 Q. Toward minimizing or minimizing?

17 A. They were minimizing, moving toward it.

18 Q. How long would it take to put in a carbon
19 filtration system?

20 A. About a year and a-half. A year, year
21 and a-half.

22 Q. A year and a-half to put in a carbon
23 filtration system for a few hundred gallons a
24 minute?

1 MR. FRUEHWALD: Where does that assumption
2 come from?

3 MR. KARAGANIS: Are you familiar with the Aqua
4 Technics report?

5 A. I am sorry.

6 Q. Are you familiar with the Aqua Technics
7 report?

8 A. No.

9 Q. Are you familiar with what was being
10 proposed by Aqua Technics for --

11 A. No, I am not.

12 Q. All of these reports you were getting
13 were all oral reports, is that it?

14 A. Yes.

15 Well, now that stands corrected. Some of
16 them -- they were all oral. Some of them were
17 supported by trip reports, call reports. Some of
18 which we have seen here in this deposition.

19 Q. Okay.

20 And those trip reports did not give you
21 any quantitative information, they would be such
22 as we got today, which are Randy Graham's
23 statement in 1971 that have made tremendous
24 strides in plant clean up; is that right?

1 A. Yes.

2 Q. It says details of this program are in
3 the file. What file was he referring to in
4 Deposition Exhibit 345?

5 A. It would be his file.

6 Q. Graham kept records of what the
7 Westinghouse Bloomington program was?

8 A. Oh, I don't know what he kept. But he
9 did keep files on his customers.

10 Q. So he let me get this straight. You felt
11 that Westinghouse was tending towards minimization
12 over the years, is that right, the Bloomington
13 plant?

14 A. Yes.

15 Q. But not getting there until sometime
16 after 1970?

17 A. That's right.

18 Q. Do you know when they got there?

19 A. No.

20 Q. Do you know when they installed
21 degreasing?

22 A. No.

23 Q. Have you had occasion during the course
24 of preparing for this deposition to refresh your

1 recollection with respect to your activities with
2 respect to the Bloomington plant?

3 A. Yes.

4 Q. Have you had occasion to refresh your
5 recollection with regard to documents?

6 A. Yes.

7 Q. And has that recollection or refreshing
8 of your recollection enabled you to testify and
9 give your recollection of events?

10 A. Yes.

11 Q. And is that true with respect to your
12 recollection of your communications with other
13 employees and your knowledge of events within
14 Monsanto?

15 A. Yes.

16 Q. Regarding the activities with the
17 government, with the EPA and other government
18 agencies, have you had occasion to refresh your
19 recollection in preparing for your testimony
20 regarding your communications, both among Monsanto
21 employees and consultants as well as to government
22 agencies, have you had occasion to refresh your
23 recollection with documents?

24 A. Yes.

1 Q. Has that refreshing your recollection
2 with those documents enabled you to testify in
3 this deposition?

4 A. Yes.

5 Q. That's actually refreshed your memory?

6 A. Yes.

7 Q. Did you ever communicate your concern
8 with regard to the Westinghouse facility to higher
9 officials, the Westinghouse Bloomington facility,
10 higher officials within Monsanto?

11 A. Certainly I expressed it to my immediate
12 supervisor.

13 Q. Who was?

14 A. At that time it was Mr. Bergen.

15 Q. You told Mr. Bergen that you were
16 concerned that Monsanto wasn't moving fast enough
17 with regard to clean up at Bloomington; is that
18 right?

19 A. Not that Monsanto wasn't.

20 Q. I am sorry. That Westinghouse wasn't
21 moving fast enough with regard to clean up at
22 Bloomington; is that right?

23 A. Yes.

24 Q. Did you communicate that to him orally or

1 in writing?

2 A. Orally.

3 Q. What specifically to the best of your
4 recollection did you tell him?

5 A. To the best of my recollection, I told
6 him, I reminded him what I first saw.

7 Q. Which was?

8 A. At Bloomington. Where I saw an awful lot
9 of leakage and lot of wet saw dust and oil sheens.
10 These kinds of symptoms.

11 Q. Symptoms indicating what?

12 A. Lack of control.

13 Q. Lack of control over PCB's?

14 A. Of the liquids they were using, I assumed
15 they were PCB's. I don't know what else they used
16 there.

17 Q. All right.

18 You know that at least they were using
19 PCB's and not controlling PCB's; isn't that right?

20 A. That is my assessment. Yes.

21 Q. All right.

22 A. Then I would come back at some period and
23 I would suggest six months a year later, and say I
24 understand they are moving along, but I would sure

1 like to see them move a little faster. You ought
2 to know that. This was not just a discussion on
3 Westinghouse, this is the overall PCB situation.

4 Q. But did you ever mention to him that
5 Westinghouse was not moving fast enough?

6 A. Yes.

7 Q. And the Westinghouse Bloomington plant
8 was not moving fast enough?

9 A. Yes.

10 Q. And what did he say to you?

11 A. Well, his exact words, but, of course, he
12 expressed disappointment. And he was going to
13 follow it up with the appropriate marketing
14 people.

15 Q. Are you aware of any memoranda or
16 documents whatsoever inside Monsanto reflecting
17 either your communications to Graham and Benignus
18 or, alternatively, your communications to Bergen
19 regarding the compliance by the Bloomington
20 Westinghouse plant?

21 A. I am not aware of any.

22 Q. Are you aware of any documents by Bergen,
23 authored by Bergen or communications by Bergen to
24 others, telling them to put pressure, make sure

1 that Westinghouse Bloomington cleaned up faster?

2 A. I am not aware of any. I have never seen
3 any.

4 Q. What was your role in preparing the
5 inter-departmental PCB taskforce, preparing for
6 the presentation by Monsanto to the
7 inter-departmental PCB taskforce?

8 A. My role really was one of making certain
9 that the presentations were prepared in time.

10 I coordinated the -- with Monsanto's
11 Washington office, the setting of a date when the
12 presentation could take place. I directed the
13 preparation of the material in booklet form. And
14 I participated at the presentation by having some
15 introductory remarks and then some closing
16 remarks.

17 Q. Did you discuss at all with EPA, either
18 in the taskforce presentation or elsewhere, the
19 conditions that existed at Westinghouse
20 Bloomington?

21 A. No.

22 Q. Did you ever disclose to EPA or any other
23 government official the conditions you had
24 observed at Westinghouse Bloomington?

1 A. No.

2 Q. Did you ever disclose to EPA or any other
3 official of the government your dissatisfaction
4 with the rate of progress towards minimization of
5 releases of PCB's by Westinghouse Bloomington?

6 A. No.

7 Q. Did you ever disclose to any official or
8 employee of the City of Bloomington or the State
9 of Indiana with respect to your observations and
10 dissatisfaction with the level of control of
11 Westinghouse Bloomington?

12 A. No.

13 Q. Did you ever report on the ANSI C 107
14 committee meetings to any other Monsanto employees
15 as to what had occurred, other than Benignus; were
16 they ever written up?

17 A. I never wrote any report. I did report
18 to my supervisor the status of the standard
19 setting.

20 Q. You reported orally to your supervisor?

21 A. Yes.

22 Q. Who was that?

23 A. Let's see, in 1972 to '74 it would have
24 been Mr. Corey.

1 Q. With respect to the progress of
2 Westinghouse Bloomington, did you ever communicate
3 to Mr. Corey any concern or status or anything
4 with respect to Westinghouse Bloomington?

5 A. Yes. The same kinds of remarks that I
6 had made to Mr. Bergen.

7 Q. That they weren't moving fast enough?

8 A. Yes.

9 Q. Do you know if he communicated to anyone
10 regarding the lack of progress by Westinghouse
11 Bloomington?

12 A. I do not know.

13 Q. All your communications then were oral;
14 is that right?

15 A. That's correct.

16 Q. There was an earlier reference in terms
17 of the program, the multi-point program Monsanto
18 was pursuing, including the Industrial Bio-Test
19 studies. Those were to determine the health
20 impacts of PCB's not only on animals but on humans
21 as well, isn't that right?

22 A. That is correct.

23 Q. Did you ever get progress reports about
24 the other Westinghouse plants?

1 A. Yes.

2 Q. From the marketing people?

3 A. Yes. The same people.

4 Q. Do you recall being dissatisfied with
5 South Boston or Sharon?

6 A. No.

7 Q. You felt that South Boston and Sharon
8 were cleaning their act up?

9 A. Yes.

10 Q. Did you communicate that to Bergen or
11 Corey?

12 A. Yes.

13 Q. To both of them?

14 A. Yes.

15 Q. In preparing your comments with regard to
16 proposed government regulations, the FDA food
17 content regulation, content in food, or the EPA
18 regulations on effluent characteristics, who would
19 prepare those comments?

20 A. I would.

21 Q. In conjunction with a team? Was there a
22 team that was assembled to respond?

23 A. The ad hoc group members would
24 participate as appropriate.

1 Q. So the ad hoc group members would
2 circulate comments back and forth or drafts and
3 ideas with regard to proposed regulations; is that
4 right?

5 A. Yes. And I would incorporate them in a
6 draft and circulate the draft as many times as
7 necessary.

8 Q. You would get memos back commenting on
9 the draft?

10 A. Yes.

11 Q. We would make a document request for
12 those. Again that is part of the outstanding ad
13 hoc document request.

14 As a corporate representative of
15 Monsanto, are you aware of any written
16 communication by anyone from Monsanto to
17 Westinghouse stating that the Bloomington plant
18 needed faster action?

19 A. No.

20 Q. Once the indemnity agreement was signed,
21 did you continue to get reports on the progress of
22 Bloomington Westinghouse?

23 A. Yes.

24 Q. And you continued to communicate your

1 dissatisfaction both to the marketing people,
2 Gossage and -- I am sorry, Graham and Benignus?

3 MR. FRUEHWALD: The record shows that Mr.
4 Graham has left Monsanto by March of '71.

5 MR. KARAGANIS: I am sorry.

6 MR. FRUEHWALD: So we keep referring to Mr.
7 Graham.

8 MR. KARAGANIS: The successors to Mr. Graham.

9 Q. You continued to communicate your
10 dissatisfaction to them; is that right?

11 A. I continued to communicate my
12 dissatisfaction when they would report to me
13 situations that I found a need to be dissatisfied
14 with.

15 Q. And they indicated that they had been
16 finding such situations; is that correct?

17 A. On occasion.

18 Q. What specifically did they tell you?

19 A. I can't recall the specifics any longer.
20 I just don't recall specifics.

21 Q. Have you had occasion to testify
22 previously regarding the activities of Monsanto in
23 the control of PCB's being released into the
24 environment from the period 1967 to '76?

1 A. Yes.

2 Q. Was that testimony transcribed?

3 A. Yes.

4 Q. Was that in the possession of Monsanto?

5 A. I believe so.

6 Q. Have you had occasion to testify

7 previously with regard to the Industrial Bio-Test

8 program and what the activities of Monsanto were

9 with regard to Industrial Bio-Test?

10 A. Yes.

11 Q. And again, is that testimony recorded?

12 A. I understand it is, yes.

13 Q. Again, it is in the possession of

14 Monsanto?

15 A. I believe it is.

16 Q. Have you had occasion to testify with

17 respect to your relations and communications with

18 various agencies of the state and federal

19 governments regarding PCB control and release into

20 the environment?

21 A. Yes.

22 Q. That is, in other proceedings other than

23 this one?

24 A. Yes.

1 Q. Is that testimony in the possession of
2 Monsanto?

3 A. I understand it is.

4 Q. Have you had occasion to testify in other
5 proceedings with regard to your knowledge of the
6 health effects of PCB's?

7 A. Yes.

8 Q. And, again, is that testimony in the
9 possession of Monsanto?

10 A. I believe it is.

11 Q. Have you had the occasion to testify with
12 regard to the various control techniques for
13 minimization or prevention of PCB releases into
14 the environment in other proceedings?

15 A. Yes.

16 Q. Is that testimony in the possession of
17 Monsanto?

18 A. I believe so.

19 Q. You may have been asked this question
20 before, Mr. Papageorge. But directing your
21 attention to Bloomington Deposition Exhibit 162,
22 did you prepare the answers that are contained in
23 the attachment to Exhibit 162?

24 A. As I recall, I prepared an initial draft

1 and I had Mr. Wheeler from the medical department
2 comment on it. And we made some revisions and
3 ended up with this final draft.

4 Q. Mr. Papageorge, what was your
5 understanding of the events that led to the
6 Monsanto decision to cease producing PCB's, what
7 events led to that decision?

8 A. My understanding is that the electrical
9 equipment industry had begun to find some
10 alternative materials for use in capacitors and
11 transformers. And they had demonstrated that
12 these materials could be used with some trade-off
13 in some of the fire resistant properties.

14 Once knowing that, Mr. Fitzgerald decided
15 to inform the industry and EPA that as soon as
16 industry -- that Monsanto replacements were
17 available, that Monsanto would stop production.
18 That is my understanding of what led to that
19 position.

20 Q. To your knowledge, were there any events
21 regarding EPA actions in 1975 that contributed to
22 the decision?

23 A. I don't recall any action by EPA in 1975.
24 Russell Trane, the administrator, did call a

1 meeting at which he tried to get from the
2 electrical industry representatives some
3 understanding of how close they were to finding
4 alternatives.

5 I am not aware of any other action other
6 than an attempt to get a water effluent standard
7 established by EPA. I just don't recall any
8 specific action.

9 Q. Mr. Papageorge, is it Monsanto's
10 corporate position that PCB's do not contribute to
11 cancer?

12 A. Yes.

13 Q. And what is that based on?

14 A. Primarily on the health records of our
15 employees, the lack of evidence of any human
16 cancers being attributed to exposure. And the
17 fact that most of the animal studies, except for
18 one, indicate no cancer-causing effects.

19 Q. And which one is the one?

20 A. Dr. Kimbrough's study.

21 Q. You know of no others that are indicative
22 or probative of a cancer risk, cancer hazard?

23 A. That is correct.

24 Q. You are basing that on your knowledge or

1 what has that been communicated to you by
2 specialists in the field?

3 A. Specialists in the field.

4 Q. Which specialists?

5 A. Well, there is the medical directors of
6 Monsanto, Dr. Kelly, the one who was present when
7 most of the studies were underway and completed,
8 and his successor, Dr. Roush.

9 Q. Okay.

10 Anybody else?

11 A. There are the toxicologists that work for
12 Monsanto, who advised the medical director.

13 Q. Who would that be?

14 A. Dr. Levinskas is the principal one.
15 Prior to that, it would be Mr. Elmer Wheeler.

16 Q. Is Levinskas still with Monsanto?

17 A. Yes.

18 Q. Anybody else?

19 A. That is all I know at the moment.

20 Q. Any outside experts or any other experts
21 within Monsanto who communicated to you on the
22 cancer risk?

23 A. Not within Monsanto. Outside, no one has
24 communicated directly to me. They did it to

15

1 Monsanto's experts.

2 Q. Who has done that?

3 A. There is the individual I couldn't recall
4 earlier in the day from the institute in Omaha,
5 Nebraska.

6 Q. Who is that?

7 A. A doctor and I think it starts --

8 Q. Eppley?

9 A. It starts with a P. It is the Eppley
10 Institute. Doctor starts with a P.

11 MR. FRUEHWALD: P-o-u-r?

12 A. Pour. That is it. Dr. Pour.

13 BY MR. KARAGANIS:

14 Q. Okay.

15 A. There is also a Dr. Richard Dahl in
16 Oxford, England, Oxford University in England, who
17 has advised Monsanto that in his opinion that
18 there is no evidence. That is all that comes to
19 mind at the moment.

20 Q. Are you aware of any experts who have
21 testified for Monsanto in other trial proceedings
22 that PCB's do not represent a risk of cancer?

23 A. Yes. There is a Dr. Harbison. The last
24 I knew he was with University of Arkansas. I do

1 not know where he is today.

2 Q. You are familiar with the fact that he
3 has testified in one or more other trials?

4 A. Yes.

5 Q. On that issue?

6 A. Yes.

7 Q. Is Monsanto in possession of his
8 testimony?

9 A. I don't know.

10 Q. Anybody else on the cancer risk?

11 A. I can't think of anyone else.

12 Q. With regard to reproductive impacts, are
13 you familiar with anyone who has testified or
14 given expertise to Monsanto with regard to
15 reproductive impacts?

16 A. I believe Dr. Harbison has and that is
17 the only expert I know of that has done so.

18 Q. With regard to the Industrial Bio-Test
19 studies and there efficacy or validity regarding
20 findings as to health effects of PCB's, are you
21 aware of any experts or others who have testified
22 regarding the Bio-Test study?

23 A. No, I am not. Of those studies
24 specifically, no.

1 Q. To your knowledge, has anyone within
2 Monsanto conducted a review of those studies to
3 determine their accuracy?

4 A. Dr. Levinskas has.

5 Q. To your knowledge regarding the phase out
6 of PCB's, did publicity in the year 1975, adverse
7 publicity, regarding among other things the GE PCB
8 situation and EPA responses to that, have a
9 contributing effect upon the decision to cease PCB
10 production?

11 A. It did not have a direct effect. It
12 could have had an indirect effect, because it
13 would have motivated the customers to find the
14 alternatives sooner.

15 Q. So that the knowledge of the
16 contamination, the GE contamination, created the
17 impetus to find an alternative; is that right?

18 A. That is my considered opinion.

19 Q. And had that knowledge been developed
20 earlier, it might have led to an finding of an
21 alternative even earlier; is that right?

22 A. It is possible.

23 Q. In your opinion it could have happened;
24 is that right?

1 A. It could have. Yes.

2 Q. If the conditions in Bloomington had been
3 discovered earlier, and had been publicized
4 earlier with respect to PCB contamination, could
5 that have lead to an impetus to find a substitute
6 at an earlier time?

7 MR. FRUEHWALD: Let me interpose an objection.
8 There is no foundation which has been laid that
9 Mr. Papageorge has any knowledge of the conditions
10 in Bloomington, publically or otherwise, therefore
11 it is a question he can't answer.

12 BY MR. KARAGANIS:

13 Q. Mr. Papageorge, nobody has ever told you
14 what exists in Bloomington with regard to PCB
15 contamination?

16 A. All I am aware of that the sewerage
17 system was effected and some landfills are
18 involved. That's the extent of my specific
19 knowledge.

20 Q. When you say some landfills were
21 involved, do you know that Westinghouse was
22 burying capacitors in landfills all around the
23 Bloomington area?

24 MR. FRUEHWALD: I think the evidence is

1 contrary to that, Joe. That is a
2 misrepresentation of fact.

3 MR. KARAGANIS: That they weren't burying
4 capacitors?

5 MR. FRUEHWALD: Westinghouse wasn't doing any
6 of that stuff.

7 What is purpose of this line of argument?
8 It is just purely argument.

9 MR. KARAGANIS: You may object.

10 MR. FRUEHWALD: Ask a question.

11 MR. KARAGANIS: I asked the question and you
12 got him off the point. You made the point that
13 Westinghouse wasn't doing it.

14 MR. FRUEHWALD: That's right.

15 MR. KARAGANIS: Westinghouse or its agents.

16 MR. FRUEHWALD: Object to that. There is no
17 evidence of that.

18 MR. KARAGANIS: What, that they weren't
19 burying in landfills?

20 MR. FRUEHWALD: That any agents of
21 Westinghouse buried anything in a landfill. Now,
22 you know --

23 BY MR. KARAGANIS:

24 Q. Here, Mr. Papageorge, accept for the

1 purpose of my question that someone, identity
2 unknown, buried capacitors manufactured by
3 Westinghouse in landfills around the Bloomington
4 area; buried literally thousands upon thousands of
5 capacitors.

6 And accept my hypothesis that those
7 capacitors eventually corroded and leaked or were
8 opened by vandals.

9 With regard to that, had the knowledge of
10 PCB contamination, the extent of PCB contamination
11 been known earlier, is it your opinion that it
12 would or would not have stimulated the finding of
13 an alternative?

14 A. I can't speak for the management of
15 Westinghouse and what action they might have
16 taken.

17 There are many steps they could have
18 taken. One is get out of the business all
19 together. Another is find alternatives. Another
20 is tighten up. Do better what they are doing.

21 Q. All of those were options; isn't that
22 right?

23 A. Yes.

24 MR. KARAGANIS: Give me about three minutes.

1 (Whereupon a short recess was had.)

2 MR. KARAGANIS: Let's go on the record.

3 I have previously made repeated requests
4 for the documents that Mr. Papageorge used to
5 refresh his recollection in preparing for his
6 deposition. And I will again renew that request.

7 MR. FRUEHWALD: All right. I don't believe
8 you are entitled to them.

9 I believe you have had Mr. Papageorge
10 refresh his recollection with documents as you
11 have gone along. And those are the documents that
12 refreshed his recollection and you have had them
13 all.

14 BY MR. KARAGANIS:

15 Q. Mr. Papageorge, to your knowledge, with
16 regard to the subject areas that we have covered,
17 have you examined documents in refreshing your
18 recollection that I have not shown you?

19 A. I don't recall any that I have not seen
20 offered as exhibits here.

21 Q. Oother than the exhibits that have been
22 actually discussed?

23 A. That's right.

24 Q. You don't recall seeing any other such

1 documents?

2 A. That's right.

3 Q. And that is your best recollection at
4 this time?

5 A. That's right.

6 Q. You have seen everything, everything that
7 you have been shown in refreshing your
8 recollection are documents that have been
9 introduced in your deposition testimony?

10 A. Yes. As best I recall. Yes.

11 Q. Okay.

12 If you should change that recollection,
13 please advise us?

14 A. Sure.

15 MR. KARAGANIS: Okay.

16 Subject to our outstanding document
17 disputes, which are still unresolved, several of
18 them, we will recess the deposition.

19 MR. FRUEHWALD: Okay.

20 I want to make it clear, you have asked
21 all the questions that you want to ask based upon
22 the documents that you have already received. We
23 are not going to be having any problem with that.

24 MR. KARAGANIS: I say that only for an example

1 I saw documents today that gave relevance to
2 documents that I had already asked about. And I
3 went back and asked some questions.

4 As a matter of fact, I got some questions
5 from you about documents that I had already asked
6 about, because documents that I had received gave
7 them greater significance. There may be documents
8 that you produce in the future which may enhance
9 the significance of documents I have asked about.

10 MR. FRUEHWALD: All right.

11 MR. KARAGANIS: Subject to that qualification,
12 I am recessing the deposition.

13 MR. FRUEHWALD: All right. Okay.

14 MR. KARAGANIS: Just for the record, it is not
15 to say that the information requests that we have
16 made have been adequately satisfied or there may
17 not be other 30 (b) 6 witnesses who are more
18 responsive.

19 MR. FRUEHWALD: I am just saying in the
20 absence of any production of any further
21 documents, you have asked all the questions that
22 you have got on the basis of the documents that
23 have been presented so far?

24 MR. KARAGANIS: No. I will tell you, the

1 - witness said he didn't know anything about what
2 went on in the whole period of the fall of 1971.

3 MR. FRUEHWALD: That's right, okay. As far as
4 Mr. Papageorge, he doesn't know it; he is not
5 going to know it in the future. You have asked
6 all the questions of this witness.

7 MR. KARAGANIS: Of what he says he knows.

8 MR. FRUEHWALD: All right. That is good
9 enough.

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DEPOSITION ADJOURNED

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

THE CITY OF BLOOMINGTON, INDIANA;)
THE UTILITIES SERVICE BOARD OF)
BLOOMINGTON, INDIANA; and MONROE)
COUNTY, INDIANA,)

Plaintiffs,)

vs.)

Civ No.
IP 83-9-C

WESTINGHOUSE ELECTRIC CORPORATION,))
a Pennsylvania corporation; and)
MONSANTO COMPANY, a Delaware)
corporation,)

Defendants.)

I hereby certify that I have read the
foregoing transcript of my deposition given at the
time and place aforesaid, consisting of Pages 1
through___inclusive, and I do again subscribe and
make oath that the same is a true, correct and
complete transcript of my deposition so given as
aforesaid, as it now appears.

WILLIAM B. PAPAGEORGE

SUBSCRIBED AND SWORN TO
before me this____day
of_____, 198____.

NOTARY PUBLIC

1 UNITED STATES OF AMERICA)
NORTHERN DISTRICT OF ILLINOIS)
2 EASTERN DIVISION) SS:
STATE OF ILLINOIS)
3 COUNTY OF C O O K)
4

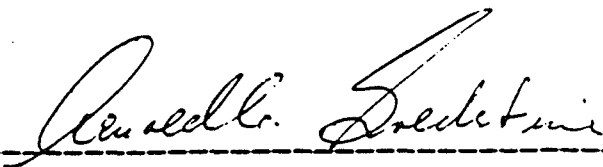
5 I, Arnold N. Goldstine, a notary public
6 and Certified Shorthand Reporter in and for the
7 County of Cook and State of Illinois, do hereby
8 certify that the aforesaid deponent was by me
9 first duly sworn to testify the whole truth, and
10 that the foregoing deposition was recorded
11 stenographically by me and was reduced to
12 typewriting by computer-aided transcription under
13 my personal direction and supervision; and, that
14 the said deposition constitutes a true and
15 accurate record of the testimony given by said
16 deponent.

17
18 I further certify that the reading and
19 signing of said deposition was not waived by the
20 deponent.

21
22
23
24

1 I further certify that I am not a
2 relative or employee or attorney or counsel of any
3 of the parties, or a relative or employee of such
4 attorney or counsel, or financially interested
5 directly or indirectly in this action.
6

7 IN WITNESS WHEREOF, I have hereunto set
8 my hand and affixed my seal of office at Chicago,
9 Illinois, this 4th day of September A.D.
10 1986.
11
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21 
22 _____

23 Notary Public/Certified Shorthand Reporter
24