

NEVADA POWER COMPANY)
)
 Plaintiff,)
 -vs-) # CV-S-89-555-LDG (LRL)
)
)
 MONSANTO COMPANY, et al.,)
)
 Defendants.)

July 15 & 16, 1993

C&J *Concannon
& Jaeger*
General
Court
Reporters
705 Olive Street, Suite 604
St. Louis, Missouri 63101
(314) 421-1000

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY,)
)
Plaintiff,)
-vs-) # CV-S-89-555-LDG (LRL)
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MONSANTO COMPANY, et al.,)
)
Defendants.)

* * *

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IN THE UNITED STATES DISTRICT COURT
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-vs-) § CV-S-89-555-LDG (LRL)
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MONSANTO COMPANY, et al.,)
)
Defendants.)

CONTINUATION OF THE DISCOVERY DEPOSITION OF WITNESS,
to be used in an action pending in the District Court of
the United States, for the District of Nevada, wherein
NEVADA POWER COMPANY is the Plaintiff, and MONSANTO COM-
PANY, et al., are the Defendants, pursuant to Notice, under
the provisions of Rule 26 of the Rules of Civil Procedure,
taken on July 15 & 16, 1993, at Fischer's Restaurant, 2201
W. Main, Belleville, Illinois, before Mark D. Concannon, a
Notary Public within and for the State of Missouri.

A P P E A R A N C E S

The Plaintiff was represented by Attorney Ralph A.
Bradley of the law firm of Jones, Jones, Close & Brown,
Chartered, 700 Bank of America Plaza, 300 South Fourth
Street, Ste. 700, Las Vegas, Nevada 89101.

The Defendant, Monsanto, was represented by Attorney
Scott R. Bauer of the law firm of Kirkland & Ellis, 1999
Broadway, Ste. 4000, Denver, Colorado 70202.

The Defendant, Westinghouse, was represented by
Robert P. Morgan, In-House Counsel, Westinghouse Electric
Corporation, Westinghouse Building, Gateway Center,
Pittsburgh, Pennsylvania 15222.

1 PAUL BENIGNUS,
2 of lawful age, having been previously sworn to tell the
3 truth, the whole truth, and nothing but the truth, deposes
4 and says on behalf of the Plaintiff, as follows:

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. BRADLEY:

7 Q. Mr. Benignus, this is a continuation of the
8 deposition that we began with you some time ago, and you
9 understand that you are still under oath?

10 A. Yes.

11 Q. And the same rules will apply, and those rules
12 are that, if I ask a question that you don't understand, I
13 will expect you to tell me. All right?

14 A. Yes.

15 Q. If at any time you want to take a break, you
16 just let us know and we'll accommodate it. All right?

17 A. All right.

18 Q. Did you read the transcript of the first por-
19 tion of your deposition before coming here today?

20 A. Yes.

21 Q. And did you review any documents to prepare
22 for today's deposition?

23 A. No.

24 Q. Did you speak with any attorneys between the
25 end of your -- the first portion of your deposition and

1 today's date?

2 A. Yes.

3 Q. How many times did you meet with attorneys?

4 A. Once.

5 Q. And when was that?

6 A. Yesterday.

7 Q. Was that Mr. Featherstone you met with?

8 A. No.

9 Q. Who was that?

10 A. It was John and Scott.

11 Q. John Tatlock?

12 A. Yes.

13 Q. And Scott Bauer?

14 A. Yes.

15 Q. Have you been told that you were listed as a
16 potential witness in this lawsuit?

17 A. I found that out this morning.

18 Q. And did you review a document that indicated
19 those areas that you might testify on if this case goes to
20 trial?

21 A. Yes.

22 Q. I am going to cover those with you now, and I
23 am going to try my best not to repeat questions that I have
24 already asked, and if you think that I am asking something
25 that I previously asked and you answered, let me know. All

1 right?

2 A. Right.

3 Q. During the first time we met to have your
4 deposition taken, you spoke about the specifications for
5 the various dielectric fluids, at least in part. Do you
6 recall that?

7 A. Yes.

8 Q. Other than what you have already testified
9 regarding those specifications, is there other information
10 you have regarding the specifications for the various
11 dielectric fluids manufactured by Monsanto which contain
12 PCB's, including Inerteen and Pyranol?

13 MR. BAUER: Object to the form. Overbroad.
14 Without a response to a specific question, I don't know how
15 you could answer that, but you can if you are able.

16 A. I thought we covered everything. Certainly,
17 everything that there is is published in the booklets that
18 we covered, so there is nothing beyond that.

19 Q. (by Mr. Bradley) As I understand it, when
20 Monsanto received an order for dielectric fluids containing
21 PCB's, the specifications accompanied the requests for the
22 product; is that correct?

23 A. I'll answer this as brief as I can by saying
24 yes, but not always would there be -- it would be not
25 always accompanied by a copy of the specification, no. But

1 the reason I say yes is because indirectly the specifica-
2 tions are all documented and known and published with ASTM,
3 and available and so forth - nothing withheld or anything.

4 Q. And who was it that developed the specifica-
5 tions for the Monsanto dielectric fluids that contained
6 PCB's? Were those its customers?

7 A. It was General Electric who invented PCB's
8 originally, or discovered them as a dielectric, back in
9 1930. Mr. Frank Clark, and he patented the invention and
10 discovery and documented the specifications that General
11 Electric felt necessary and required to meet their needs in
12 the dielectric area for capacitor and transformers.

13 Monsanto then adhered to these specifications,
14 and all of these were officially documented by Mr. Clark in
15 those days, and Monsanto, Dr. Jenkins, and the electrical
16 utility people, and other makers of capacitor and trans-
17 formers who participated in the function of American
18 society for testing and materials.

19 Q. Some of the Inerteen and Pyranol products, in
20 addition to containing PCB's, contained other chemicals; is
21 that true?

22 A. That is correct.

23 Q. Did Monsanto manufacture any Inerteen that
24 contained PCB's and any additional chemicals?

25 A. We blended that, yes.

1 Q. And did you make blends for General Electric,
2 as well?

3 A. Yes.

4 Q. And why was it that you made the blends?

5 A. Because we were asked to.

6 Q. And the request would come in from one of your
7 customers?

8 A. Yes.

9 Q. And would the items to be blended be identi-
10 fied by your customers?

11 A. Yes. By the official specification, which
12 would have been the specification originating at General
13 Electric and according the specifications say at
14 Westinghouse or the other people.

15 Q. Did Monsanto, as far as you know, ever make
16 recommendations to its customers about what mixtures were
17 to have in any blends of Pyranol or Inerteen?

18 A. Fundamentally, no. We followed what we were
19 told to make.

20 Q. Was one of the items that was occasionally
21 used in the blends, trichlorobenzene?

22 A. Yes.

23 Q. Where did Monsanto obtain the trichlorobenzene
24 that it used in blends for either Pyranol or Inerteen?

25 A. Hooker, Niagara Falls, New York.

1 Q. And what is Hook, Niagra Falls, New York?

2 A. Chemical manufacturer.

3 Q. So Monsanto did not manufacture its own tri-
4 chlorobenzene?

5 A. By and large the answer is no. However, there
6 was a period, I don't know when, that Monsanto also had
7 trichlorobenzene. I can't document that. Usually it was
8 purchased from Hooker, with approval from GE, who purchased
9 the same material from Hooker, and at times, I'm sure you
10 know, GE did their own blending, too.

11 Q. When you said -- and don't let me misquote
12 you; you let me know if I'm not quoting you correctly. But
13 when you indicated there was a period of time when Monsanto
14 had its own trichlorobenzene, did you mean that there was a
15 period of time when Monsanto manufactured its own
16 trichlorobenzene?

17 A. I think so.

18 Q. And how was it determined whether Monsanto or
19 GE would make a blend?

20 A. That was determined purely on convenience,
21 from business economic considerations.

22 Q. And was the decision General Electric's on
23 whether they or Monsanto would make blends of General
24 Electric products containing PCB's?

25 A. Yes.

1 Q. And the same would be true for Westinghouse?

2 A. Yes.

3 Q. And the same would be true for any of
4 Monsanto's customers who purchased PCB products from
5 Monsanto?

6 A. Well, the answer is yes, but I don't know who
7 made these blends. I don't know that anybody did. They
8 bought them either from GE or from us. When GE licensees
9 and their patents and licenses were effective, everybody
10 bought through GE, who would instruct Monsanto to ship what
11 was wanted to their licensees.

12 Q. Did you indicate that General Electric had a
13 patent regarding the specs for the production of PCB
14 dielectric fluid?

15 A. Not for the production, but for the use.

16 Q. And did Monsanto ever purchase that patent?

17 A. No.

18 Q. Okay.

19 A. We didn't need to. We didn't use it.

20 Q. Did Monsanto ever sell PCB dielectric fluid to
21 any customer other than Westinghouse or General Electric?

22 A. Yes.

23 Q. Did you sell them to Allis-Chalmers?

24 A. Yes.

25 Q. Was that pursuant to a GE license arrangement?

1 A. Yes.

2 MR. BAUER: Object. Indefinite as to time.

3 A. Originally -- Repeat the question please.

4 Q. (by Mr. Bradley) Did the sale of Monsanto PCB
5 dielectric fluid to Allis-Chalmers result because they were
6 a licensee of GE?

7 A. Originally, yes.

8 Q. And when did that change?

9 A. When their patents expired.

10 Q. Do you recall roughly when that was?

11 A. Roughly, that was -- I would set a rough time
12 frame, 1950.

13 Q. right. Are you familiar with the term "busi-
14 ness group" in relation to Monsanto production of PCB's?

15 A. I would say yes.

16 Q. Were you ever a member of Monsanto's business
17 group regarding the production of PCB's?

18 A. I would say yes.

19 Q. And what period of time were you a member of
20 Monsanto's PCB business group?

21 A. I am trying to figure out what answer you want
22 here. Are you asking when did I become associated with
23 PCB's?

24 Q. Let me make it clearer, then. We have learned
25 through other testimony that there was something that was

1 referred to as the business group relating to PCB's, and
2 what I am interested in knowing is whether you were ever a
3 member of what you believed was a business group relating
4 to PCB's at Monsanto.

5 A. Well, I am going to answer your question as
6 clearly as I can. I became associated with PCB's in 1947;
7 and that was the inorganic chemicals division; and then
8 that, the PCB's -- Incidentally, my involvement with PCB's
9 was not electrical at that point in time, it was non-
10 electrical, specifically, nonelectrical. All electrical
11 transactions were handled between Dr. Jenkins, the research
12 director, inorganic division, and GE, Mr. Frank Clark.
13 They handled the electrical.

14 The business group -- I am trying to answer
15 your question. You say a business group. The business
16 group there amounted essentially to a man sitting in an
17 office in St. Louis who would get phone calls from GE
18 instructing Monsanto to whom and to how much of the
19 dielectric material to ship.

20 Q. All right.

21 A. I am trying to keep it in context with the
22 electrical. And I was not involved with the electrical at
23 this point in time.

24 Q. When were you involved with the electrical?

25 A. This runs up to 1951; and there, at that time,

1 the business of PCB's -- Aroclors was our trade name -- was
2 moved from the inorganic division to the organic chemicals
3 division, and I was asked to go along with it, which I did.

4 Q. So you have been involved in the manufacture
5 of PCB's at Monsanto, for the electrical industry, since
6 1951 or '52 until your retirement in 1974?

7 A. In essence, yes, but realize I was not a
8 manufacturing man. Let's get this in context. I have
9 always been a technical man. When you talk to me about a
10 business group, I get the feeling, the connotation, you're
11 wondering whether I was a salesman or a marketing man, a
12 businessman. I'd like to clarify: I was a technical
13 person associated with the business group that you're
14 alluding to.

15 Q. What do you mean when you say you have always
16 been a technical man?

17 A. I have always -- I started in as a chemist in
18 analytical areas, and then in research areas, and develop-
19 ment areas, with the technology, not the sales or the
20 marketing or the business, as you may think of it. If you
21 were talking to me about nonelectrical -- the electrical,
22 to me, was always highly specialized and technical.

23 Q. Okay. Are you able to estimate the number of
24 customers Monsanto had during the period of time it manu-
25 factured PCB's up until your retirement, the number of

1 customers Monsanto had that purchased those PCB's?

2 A. Again, you're directing this question to the
3 electrical industry, right?

4 Q. Yes.

5 A. I will divide my answer into two parts: One
6 would be the capacitor manufacturers, and the other would
7 be the transformer manufacturers. Now, in the capacitor
8 category, as also in the transformer category, there were
9 not more than a handful, five fingers, in either group, who
10 were relatively large. I say, "relatively," and then there
11 were smaller people.

12 And to answer your question as fully as I can,
13 in the capacitor area I guess we could account for perhaps
14 fifteen companies, some of whom were very small and
15 specialized; and in the transformer area, overall, total,
16 that is just about as good a number as I can give you in
17 that area.

18 Q. Okay. So fifteen for transformer, as well,
19 about?

20 A. Yes. Of which, as I said, there were only a
21 few large manufacturers.

22 Q. Okay.

23 A. And by "large," keep in mind that askarel is a
24 specialty dielectric as compared to transformer mineral
25 oil. In its business and manufacture, Aroclor, as with

1 PCB's, was a very small specialty item.

2 Q. Up until your time of retirement was Monsanto
3 the sole supplier of PCB's to the manufacturers in the
4 United States selling capacitors and transformers?

5 MR. BAUER: Objection. Lacks foundation.

6 A. Yes.

7 Q. (by Mr. Bradley) Okay. How is it that you
8 know that Monsanto is the sole supplier? Is that just
9 something that you felt that you knew while you were a
10 Monsanto employee?

11 A. You might say that; but realistically, as you
12 know, it was manufactured in France, in Germany. Anybody
13 could have bought it. They paid twenty-five percent more
14 for the same thing they got here. It doesn't make sense,
15 does it? There was no reason to. I have no knowledge, no
16 -- I never knew of any, and I don't believe there was any.
17 It wouldn't have made sense.

18 Q. If Monsanto --

19 A. The reasons that we started talking about, the
20 specifications documented with ASTM, the technical aspects
21 of this as established in this country, was very, very
22 important. They weren't going to take a chance with stuff
23 coming in unless there was something very critical, and
24 there never was. We supplied what anybody needed or
25 wanted.

1 Q. While you were at Monsanto did you talk with
2 other Monsanto employees about Monsanto -- Let me rephrase
3 the question after the door is closed.

4 While you were a Monsanto employee, did you
5 have any discussions with any Monsanto employees that would
6 lead you to believe that Monsanto either was or was not the
7 sole supplier of PCB's to the United States manufacturers
8 of capacitors and transformers?

9 A. No.

10 Q. Did you -- And all of my questions, Mr.
11 Benignus, have to do with the period of time that you were
12 an employee of Monsanto; and if I ever want you to address
13 a period of time other than when you were an employee, I
14 will let you know.

15 During the time that you were at Monsanto, did
16 you see any documents that would have indicated that these
17 American manufacturers of capacitors and transformers were
18 receiving PCB's from any source other than Monsanto?

19 A. I retired in 1974. I am trying to put this
20 into context. You must be talking about, certainly, after
21 1970, when Monsanto -- I shouldn't be asking questions, you
22 know.

23 MR. BAUER: Just answer the question, Paul.
24 Do you need it read back?

25 Q. (by Mr. Bradley) I think I asked you whether

1 you reviewed any documents that would indicate that any
2 American manufacture of capacitors or transformers pur-
3 chased PCB's from any source other than Monsanto.

4 A. I am going to say no, to the best of my know-
5 ledge, because I would not have been involved.

6 Q. And General Electric certainly knew the
7 specifications for dielectric fluid during the period of
8 time that it was purchasing PCB's from Monsanto. Isn't
9 that fair to say?

10 A. Certainly.

11 Q. And it's fair to say that all of Monsanto's
12 customers of dielectric fluids containing PCB's were fairly
13 knowledgeable of the specifications for that dielectric
14 fluid when they made the purchases. That is fair to say,
15 too, isn't it?

16 A. I can't say for sure on that --

17 Q. Okay.

18 A. -- that everybody was familiar with every-
19 thing.

20 Q. Would you have expected that to be true for
21 Westinghouse, though?

22 A. I would certainly say so, yes.

23 Q. All right.

24 A. I would hope, for everybody, but I can't
25 answer you categorically.

1 Q. Okay.

2 A. There was never anything withheld from any-
3 body. Never.

4 Q. I want to talk, now, for a moment, about the
5 blends that included trichlorobenzene?

6 A. Okay.

7 Q. Did Monsanto blend Aroclors with trichloro-
8 benzene pursuant to specifications provided to Monsanto by
9 Westinghouse?

10 A. We would have, certainly.

11 Q. All right. And is the same true for General
12 Electric?

13 A. Certainly.

14 Q. Do you recall when Monsanto first began the
15 blending of Aroclors with trichlorobenzene for General
16 Electric?

17 A. You're taking me back to the beginning, which
18 is 1930, I'd say. It was before my time. I really don't
19 know at that point in time whether GE was doing their own
20 blending and Monsanto was just making the PCB. I don't
21 know. And if that were the case, when Monsanto first
22 started blending, that was before my time. Frank Clark,
23 the inventor, he is the one who decided the blend he
24 wanted. I know what this product was, and we made it going
25 way back. The first one was called Pyranol. Pyranol is a

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CONCANNON & JAEGER

1 GE trade name. Pyranol 1467 is the first transformer blend
2 that I know of, the blend of Aroclor 1260 and trichloro-
3 benzene, and that goes back many years before my time.

4 Q. And how about for Westinghouse? Do you know
5 when the first --

6 A. They bought the same thing. They were
7 licensees at that time.

8 Q. So it would have been before 1947?

9 A. Oh, yes.

10 Q. And do you know whether Monsanto conducted any
11 studies on the toxicity of the blends that it was asked to
12 prepare for any of its customers of dielectric fluids?

13 A. I think you ought to ask that question of the
14 medical people.

15 Q. But you are not aware of any?

16 A. Well, sure, I'm aware of studies that were
17 made of the toxicity, and publications of that. Of course,
18 I'm aware.

19 Q. And are you aware of any studies on the
20 toxicity of the blends, as opposed to PCB's?

21 A. No, I am not. You understand it's a blend of
22 chlorobenzenes mixed with PCB's. The one I am familiar
23 with is on PCB's.

24 Q. Do you know whether -- I apologize. I can't
25 remember specifically the question that I asked before, so

1 you tell me if I have asked it again, or your attorney
2 will. Do you know whether Monsanto conducted any of its
3 own studies on the toxicity of the blends it manufactured,
4 or dielectric fluids.

5 Is that what I asked before?

6 MR. BAUER: That seems to be the same ques-
7 tion, but go ahead and answer it.

8 A. I'll answer that the best I can. As I say, I
9 wasn't in the medical department. Check with them, but
10 it's my impression that these studies were made and paid
11 for by Monsanto, by outside people.

12 Q. And do you know whether General Electric per-
13 formed any studies of the toxicity of the blends that it
14 either made itself or requested Monsanto to make for it?

15 A. I can't answer that.

16 Q. And I take it you couldn't answer the same
17 question about Westinghouse if I asked it.

18 A. I would say yes. I am aware they both had
19 medical departments and industrial hygiene; I can go that
20 far. I can't speak beyond that.

21 Q. Can you tell me your knowledge of when GE
22 first had a medical department?

23 A. No.

24 Q. Can you tell me whether they had a medical
25 department before 1960, say?

1 A. Well, I would certainly think they had a
2 medical department before 1960.

3 Q. Would you expect that they had one, a medical
4 department, before 1950?

5 MR. BAUER: Object to the form.

6 Q. (by Mr. Bradley) Do you have knowledge of
7 whether GE had a medical department before 1950?

8 A. I would assume so. It's a big corporation.

9 MR. BAUER: Paul, give him your knowledge and
10 your recollection, but don't assume.

11 Q. (by Mr. Bradley) You are not supposed to
12 speculate or guess. You're supposed to give me your best
13 estimates, if you are able to do that, but you are not
14 supposed to speculate.

15 So is it your best estimation, or is it pure
16 speculation?

17 A. It's not pure speculation. I'm not speculat-
18 ing on anything here. I'm not speculating on anything.

19 Q. Is it your best estimate that Westinghouse had
20 a medical department before 1950?

21 A. Without any speculation on my part, I would
22 have to say I would assume so; it's a big corporation.

23 Q. All right. Do you recall any of the
24 chemicals, other than trichlorobenzene, that Monsanto used
25 in any of the blends it prepared for any of its dielectric

1 fluid customers?

2 A. Yes.

3 Q. Name for me the chemicals that you can recall.

4 A. We already spoke of trichlorobenzene. There
5 were times when a different chlorobenzene was used. There
6 was a mixture, also from Hooker, composed of trichloro-
7 benzene and tetrachlorobenzene.

8 Q. Are there any other chemicals that you can
9 recall making in the blends besides the trichlorobenzene
10 and the mixture?

11 A. The fundamental blend was always a blend of
12 PCB's and chlorobenzenes. That was the fundamental
13 formula.

14 Q. Was there ever a time when you manufactured
15 blends that did not follow the fundamental formula?

16 A. No.

17 Q. Okay.

18 A. We made what we were told to make.

19 Q. Did anyone that you know of at Monsanto ever
20 learn of any adverse health effects to humans from exposure
21 to any of the chlorobenzenes?

22 A. To my knowledge, no. That is as far as I can
23 answer that one. To my knowledge, no.

24 Q. In your prior deposition I asked you questions
25 regarding your informal or formal or anywhere-in-between

1 review of documents in the medical department regarding
2 PCB's. Do you recall that?

3 A. I recall that.

4 Q. Do you recall -- Well, then -- and now I am
5 not talking about your prior deposition, but I'm interested
6 in knowing if there was ever a time during your employment
7 at Monsanto when you felt confident that you knew the
8 contents of the medical department's files regarding the
9 health and environmental effects of the blends for
10 dielectric fluids that Monsanto was selling to its
11 customers?

12 A. I can't say that I know everything in the
13 medical; I wasn't in the medical department.

14 Q. So, is it fair, then, to say that while you
15 were a Monsanto employee you were never confident that you
16 knew all of the information about the health or environ-
17 mental effects of the blends Monsanto was manufacturing --

18 MR. BAUER: Object to the form of the ques-
19 tion.

20 Q. (by Mr. Bradley) -- of dielectric fluids?

21 MR. BAUER: Oh. Sorry. Object to the form of
22 the question now.

23 A. Well, I didn't know everything, no.

24 Q. (by Mr. Bradley) Okay.

25 A. How could I?

1 Q. On the other hand, you have indicated before
2 that you felt that you knew -- Let me ask it this way:
3 Actually, I think I will leave the topic.

4 Were you ever involved in the development of
5 any labels that may have been attached to the products
6 manufactured by Monsanto that contained PCB dielectric
7 fluids?

8 A. Not directly, no.

9 Q. Were you involved indirectly?

10 A. I was knowledgeable.

11 Q. All right. Who within Monsanto was responsi-
12 ble for developing the labels that were attached to the
13 containers that had PCB dielectric fluid manufactured by
14 Monsanto?

15 A. That would be, in the terms you use, the
16 business group.

17 Q. Okay.

18 A. The manager.

19 Q. Are you able to put a name to that person?

20 A. Yeah. Now, understand, the organic division
21 is what I'm addressing here now. They always have had a
22 labeling department.

23 Q. And that would have been true from 1951 or
24 '52, at least when you joined the organic division, up to
25 the time of your retirement?

1 A. Yes.

2 Q. Do you recall the names of any of the indi-
3 viduals who directed the labeling department of the organic
4 division?

5 A. The name that I recall, his last name was
6 Sido, I think.

7 Q. Would you spell that, as best you can?

8 A. S-i-d-o, I think.

9 Q. Okay. Were you ever asked to comment on any
10 of the labels that Monsanto affixed to the containers of
11 the PCB dielectric fluid that it manufactured?

12 A. Yes.

13 Q. And who asked you to review those?

14 A. I was asked by this man. That's why I
15 referred you to him.

16 Q. Do you recall when it was that he asked you to
17 review the label or labels?

18 A. The specific time, no, but I do recall having
19 been asked.

20 Q. Do you recall if you were asked on more than
21 one occasion to review any labels?

22 A. I would say that was it.

23 Q. And do you recall whether the time that you
24 were asked to review the label or labels was before or
25 after 1960?

1 A. I don't know that.

2 Q. Do you recall which label you were asked to
3 review?

4 A. The label on the drum containing PCB.

5 Q. Do you recall whether you were asked to review
6 more than one label?

7 A. They're all supposed to be the same.

8 Q. Okay. And did Mr. Sido indicate to you what
9 you were supposed to do in your review of the label?

10 A. I was supposed to give my knowledge and my
11 thought as to what should be on that label, yes.

12 Q. Do you know whether Mr. Sido asked anyone
13 within Monsanto's medical department to comment on the
14 adequacy of the label?

15 A. I can't answer that.

16 Q. Do you know whether you were the designee from
17 the medical department who reviewed the label at Mr. Sido's
18 request?

19 MR. BAUER: Object to the form of the ques-
20 tion. He's not in the medical department.

21 MR. BRADLEY: I know that. I said the
22 designee of the medical department.

23 Why don't you read the question back.

24 (Thereupon, the reporter read back the question.)

25 Q. (by Mr. Bradley) I'll restate the question.

1 Do you know whether you were a designee of, not from, the
2 medical department in making the review of that label?

3 A. I'd say no, because they didn't.

4 Q. Okay. Do you know whether any of Monsanto's
5 customers blended PCB's with -- in dielectric fluid with
6 anything other than chlorobenzenes?

7 A. No, they didn't.

8 MR. BAUER: Just so this is clear, we're
9 talking about dielectric fluids?

10 MR. BRADLEY: Yes.

11 MR. BAUER: Do you understand what he said?

12 A. It would be crazy if they did. It wouldn't be
13 an askarel. It wouldn't be official. Nobody would be that
14 stupid. Somebody would be crazy if they did. It would be
15 an odd ball. Excuse me.

16 Q. (by Mr. Bradley) I am going to show you my
17 copy of a document, Monsanto Company's preliminary designa-
18 tion of possible trial witnesses, parens, fact, parens
19 closed, pursuant to order entered April 9th, 1993, Exhibit
20 A, which has your name, and ask you to review item number
21 five on that.

22 A. Yes, I read it.

23 Q. May I have it back?

24 A. Oh, sure.

25 Q. Were there scavenger -- I'm now looking at

1 number five, and five reads that you may give testimony
2 regarding the nature, purpose and origin of the chlorinated
3 benzene or scavenger slash additives mixed with PCB fluids
4 for use as transformer or capacitor fluids. I read that
5 correctly, didn't I?

6 A. Yes.

7 Q. Were there scavengers or additives mixed with
8 PCB fluids for use as transformer or capacitor fluids other
9 than chlorinated benzene?

10 A. There were scavengers that were added in small
11 amounts.

12 Q. What is a scavenger?

13 A. These are chlorobenzene and the -- Excuse me.
14 I will restate that sentence. Chlorinated benzenes and
15 chlorinated biphenyls. They can, under certain circum-
16 stances, have emitted from them install amounts, very small
17 amounts, of hydrogen chloride ions, which are objectionable
18 from a dielectric point of view. Therefore, the word
19 "scavenger" sometimes defines maybe better by calling it a
20 getter. These getters latch onto these slight amount of
21 molecules of undesirable ionic contaminant material, which
22 is the hydrogen chloride; and that is the purpose, to latch
23 onto that. Now, these scavengers are in there in the
24 amount of a few tenths of a percent, a very small amount.

25 Do you understand the chemistry of this?

1 Should I go into this a little bit more?

2 Q. Yes, please, because you're explaining it not
3 just to me but to a prospective jury.

4 A. All right. Well, the chlorinated benzenes, to
5 begin with, they're a major component in large amounts,
6 maybe fifty or sixty percent of the formula. So are the
7 chlorinated biphenyls. That is the gut of the product, the
8 dielectric. The chlorobenzenes are in there to thin the
9 chlorobiphenyls for better low-temperature flow.

10 Now, the scavengers are added in very small
11 amount, a few tenths of one percent to get, grab onto,
12 scavenge, latch onto, whatever you want, of chloride ions,
13 hydrogen chloride, that are and can be emitted from this
14 base dielectric mixture consisting of major portion
15 chlorinated benzene, and chlorinated biphenyl.

16 GE used, originally, tin tetraphenyl, t-i-n
17 t-e-t-r-a-p-h-e-n-y-l, as a scavenger, and that was part of
18 their patent. Now, they said, in case of -- I am going to
19 use the term "mild arcing." What is mild arcing? Any
20 arcing is pretty potent. Incipient arcing, that word was
21 used. This presence of this tin tetraphenyl was said to
22 protect the core and the coil of the transformer from
23 excessive damage that may have occurred had this scavenger
24 which ties up this hydrogen chloride not been there. That
25 is the story.

1 Now, in the case of a severe arc, forget it.
2 But that is the purpose for the mild arcing. In the normal
3 operation of an askarel transformer it's normal that there
4 is some degree of mild arcing that goes on. That is
5 normal.

6 Q. What is arcing?

7 A. Arcing is the interruption of an electric
8 current. It's the interruption of power.

9 Q. And what happens in a transformer if there is
10 arcing?

11 MR. BAUER: Objection. Overbroad, and lacks
12 foundation, but you can answer.

13 A. Well, normal mild arcing, as can occur in any
14 askarel transformer, and this is normal, as I said, some
15 molecules of hydrogen chloride are liberated, and this is
16 in there to latch onto that so that it isn't corrosive.
17 That is in the normal operation, and the scavengers are in
18 there for normal operation conditions.

19 Q. (by Mr. Bradley) And if there were severe
20 arcing in an askarel-filled transformer, would that present
21 a problem?

22 A. Yes.

23 Q. What kind of problem would that present?

24 A. When you have a severe arc of a dielectric
25 fluid, no matter what the fluid is, you're having a real

1 problem on your hands.

2 Q. And what kind of problem? The transformer
3 would blow up, stop working, or what?

4 A. It certainly would stop working. The power is
5 interrupted, yes, and it's called a primary explosion.

6 These units are sealed, some hermetically
7 sealed, welded shut, in which case a gas is generated,
8 which is hydrogen chloride, way beyond what any scavenger
9 could pick up, and they induce pressure and you've got a
10 bomb. Now there can be a primary explosion. It is very,
11 very rare -- I want to emphasize that -- to have a primary
12 explosion in the mineral oil transformer, but you sure can
13 have one.

14 Q. What does the scavenger do with the hydrogen
15 chloride atoms once it locates and attaches itself to it?

16 A. It neutralizes it, in essence. That's why
17 it's there.

18 (Thereupon, a short recess was taken.)

19 Q. (by Mr. Bradley) You were never a part of
20 Monsanto's medical department; is that correct?

21 A. That is correct.

22 Q. Were you ever a designee of Monsanto's medical
23 department for any purpose?

24 A. No.

25 Q. Were you ever in charge of relaying medical or

1 toxicological information regarding PCB's to any unit with-
2 in Monsanto?

3 A. Not in any formal assignment or any formal
4 way. However, I would have relayed anything I knew.

5 Q. But if somebody really wanted to know what
6 medical or toxicological information existed on PCB's, they
7 would have had to contact Monsanto's medical department?

8 MR. BAUER: Object to the form.

9 A. Yes. Or industrial hygiene, which is a part
10 of medical.

11 Q. (by Mr. Bradley) Who was the head of
12 Monsanto's industrial hygiene department between '52 and
13 '74?

14 A. Elmer Wheeler was the head. Now I don't know
15 if that ran all the way to '72 or not. But that's my
16 answer. I don't know when Elmer retired.

17 Q. All right. You indicated that GE used tin
18 tetraphenyl as a scavenger. Did they use any other -- any-
19 thing other than tin tetraphenyl as a scavenger?

20 A. Yes. Now, I'm going to have to talk a little
21 bit here.

22 MR. BAUER: You have already answered his
23 question. He will have another one for you now, I'm sure.

24 Q. (by Mr. Bradley) Tell me what other items
25 they used as scavengers. Now it's your turn to talk a

1 little bit.

2 A. I anticipated it.

3 Okay. So you will understand, tin tetra-
4 phenyls have limited solubility, which is not a nice
5 feature to have. It's nicer when it stays in solution.
6 Often it was out of solution, and when the formulation
7 might have been run through a filter press to take out
8 moisture, you took the scavenger out along with it.

9 Now, yes, they eventually changed to epoxide
10 scavengers. They gave up tin tetraphenyl, to answer your
11 question, and adopted epoxides.

12 Q. Did the epoxides have particular names?

13 A. Yes.

14 Q. What were their names?

15 A. I don't recall the specific names. They were
16 di-epoxides. They had two epoxide groups, and they had
17 long chemical names. If I could think of it I would give
18 them to you.

19 Q. I take it they had better solubility.

20 A. Yes. Exactly.

21 Q. Did Monsanto blend in either of those scaven-
22 gers for products it manufactured and sold to General
23 Electric?

24 MR. BAUER: Object to the form. Indefinite as
25 to time. But you can answer.

1 A. Yes.

2 Q. (by Mr. Bradley) Over what period of time did
3 they do that?

4 A. I can't answer that specifically. After they
5 stopped using tin tetraphenyl, and that was after sometime
6 in the fifties.

7 Q. All right.

8 A. Maybe late fifties. I don't know exactly.

9 Q. Where did Monsanto obtain the di-epoxide
10 scavengers?

11 A. I don't recall.

12 Q. Do you know whether they were purchased or
13 whether Monsanto manufactured them?

14 A. They were purchased.

15 Q. Were there any other scavengers other than the
16 di-epoxide scavengers or the tin tetraphenyl that were
17 added to the GE formulations?

18 A. No, not to my knowledge.

19 Q. Now, let's turn to Westinghouse.

20 A. Okay.

21 Q. Did Westinghouse use a scavenger as part of
22 the blends for its PCB dielectric fluid?

23 A. Yes.

24 Q. What scavenger did Westinghouse use?

25 A. They used the same thing that was specified in

1 the GE formula. As long as the GE patents were in effect
2 and they had a license under GE, they used the same thing.

3 Q. You indicated that that patent ended in the
4 fifties?

5 A. Yes.

6 Q. What did Westinghouse use as scavengers when
7 the patent expired?

8 A. In fact, before the patent expired, just to be
9 specific in detail, Westinghouse adopted the use of an
10 expoxide, specifically, that name, phenoxy propene oxide.
11 that's one name. Do you want another name for it?

12 Q. Well, let's hear the other name.

13 A. Glycidyl, g-l-y-c-i-d-y-l, phenyl,
14 p-h-e-n-y-l, either, e-t-h-e-r. Those are the two names.

15 Q. Did Westinghouse --

16 A. Conveniently it was called PPO. That is what
17 it was known by, PPO.

18 Q. Did Westinghouse use any scavengers other than
19 PPO as part of its PCB dielectric fluid blend?

20 A. No. That's what they continued to use.

21 Q. All right. Did Monsanto blend in any scaven-
22 gers for any other of its customers purchasing PCB
23 dielectric fluids, other than what it had as scavengers for
24 GE and Westinghouse?

25 A. No.

1 Q. Did the scavenger have the same purpose when
2 used in transformers as it did when it was used in
3 capacitors?

4 MR. BAUER: Object to the form.

5 A. Essentially, it's synonymous. They were both
6 there to capture small amounts of the objectionable hydro-
7 gen chloride ionic material.

8 Q. (by Mr. Bradley) I am now looking at item six
9 on that exhibit, where it says that you will provide testi-
10 mony on the method and nature of shipment of Aroclor con-
11 taining dielectric fluids to customers, and, in particular,
12 to Westinghouse and GE?

13 A. Yes.

14 Q. What method was there in the shipment of
15 Aroclor dielectric fluids to customers, and in particular
16 GE and Westinghouse?

17 A. Well, the prime thing here for packaging for
18 shipment of dielectric insulating fluid, which, particular-
19 ly in the case of use for capacitors, requires an extremely
20 high degree of refinement. Now the thing or concern is to
21 avoid having this highly refined dielectric fluid contami-
22 nated from anything in our environment. PCB's are polar
23 and therefore very sensitive to trace the contaminations of
24 ionic impurities and in infinitesimal amounts that you
25 can't isolate, you can't identify them. You see only their

1 effect, for instance, in terms of the dilatorious effect on
2 dissipation factor. So in handling these, the purpose is
3 to avoid contaminating the fluid, to get it in the purest
4 possible form to the customer. Therefore, the tank cars
5 were used only for shipping PCB's, nothing else. The drums
6 were special drums, tested to be sure that there is minimum
7 contamination. I can't say absolutely no contamination,
8 that the sealing compound, the liner in the drum, the
9 lining material, is not dilatorious or has any adverse
10 affect on the quality of the fluid. So that is very much
11 the nature of the shipment and handling of the material, to
12 avoid getting it contaminated.

13 Q. Were the drums also used -- Well, let me back
14 off for a moment.

15 You indicated that the tank cars were only
16 used for PCB transport?

17 A. Yes.

18 Q. But I take it the same was not true for the
19 drums?

20 A. Oh, yes. These were only new drums, not
21 reused.

22 Q. And the tank cars were transported by what?

23 A. Rail.

24 Q. And the drums were transported by what?

25 A. Usually by truck, but they could be a car

1 load, a freight car load of drums.

2 Q. When did Monsanto begin putting labels on
3 drums containing PCB dielectric fluid? If it did.

4 A. Excuse me?

5 Q. Well, I haven't established that you put
6 labels on the drums. I assumed that they put labels on the
7 drums.

8 A. Correct.

9 Q. They did put labels on the drums.

10 A. Yes.

11 Q. When did Monsanto begin putting labels on the
12 drums that they used to transport the PCB dielectric
13 fluids?

14 A. Early 1940's.

15 Q. I don't suppose you remember what the early
16 labels indicated?

17 A. Sure, I do.

18 Q. What do you recall them saying?

19 A. I recall that the label said, "Avoid breathing
20 the fumes and the vapors, avoid prolonged contact with the
21 skin.

22 Q. Was there ever a time when the label changed
23 on the drums?

24 A. Not in regards to this.

25 Q. And did the tank cars have the same label on

1 them?

2 A. I think the lease boards had the same label.

3 Q. What is a lease board? Is that the same as a
4 tank car?

5 A. When you ship a tank car, there is a board,
6 and that is where the name comes from. You are talking
7 about an area I wasn't in. The lease board is the papers,
8 the bill of lading that is nailed onto this and tells what
9 the product is in the tank car and so forth. It's a con-
10 tainer, the tank car, and in my opinion, yeah, it should
11 have had the same thing. We're talking about something
12 that is very, very important here, from a medical point of
13 view, from a health point of view. I am going to repeat
14 it. My creed always has been, and it's very easy to
15 understand, "Avoid breathing the fumes or the vapors, avoid
16 prolonged contact with the skin," period.

17 Q. The -- Did Monsanto ship PCB's, PCB dielectric
18 fluid, to its customers in any container other than drums
19 and tank cars?

20 A. Yes.

21 Q. And what were those?

22 A. Well, the small package. I think at one time
23 they had a ten-gallon package. I know they had a five-
24 gallon drum. They called it pail, p-a-i-l.

25 Q. Any other containers that Monsanto used to

1 ship the PCB dielectric fluids to its customers?

2 A. No. Not to my knowledge.

3 Q. Is there any method or nature of shipment of
4 Aroclor containing dielectric fluids to Monsanto's custo-
5 mers that you have not described?

6 A. No.

7 Q. All right. I am now looking at item seven on
8 Exhibit A. It says, "Monsanto's evolving knowledge, infor-
9 mation, and/or belief regarding the environmental presence
10 of PCB's and Monsanto's response to it." Did I read that
11 correctly?

12 A. Yes.

13 Q. Okay. When did -- Let me back off for a
14 moment.

15 I am taking your personal deposition here, so
16 I am only interested in what you personally know. When do
17 you have personal knowledge that anyone at Monsanto gained
18 knowledge regarding the environmental presence of PCB's?

19 A. I would put this at 1961, I guess.

20 Q. Okay. And what knowledge was there in 1961
21 regarding the environmental presence of PCB's?

22 A. Word had come to us in the states from abroad,
23 from Sweden, that, I believe PCB's were found in fish or
24 birds, from the sea.

25 Q. Is that the Jensen and Whitmeier report?

1 A. Yes.

2 Q. And it's my memory that their report was
3 issued around 1966 or 1967, and what my understanding is
4 doesn't really important, but are you confident of the 1961
5 date?

6 A. Well, I'm really not.

7 Q. Let me ask it this way: How did Monsanto
8 become aware of the situation in Sweden?

9 A. This was relayed to Monsanto at St. Louis from
10 our representatives who were based in London.

11 Q. And how did your representatives in London
12 learn about the situation in Sweden?

13 A. I don't know the details.

14 Q. Do you know whether it was a result of a re-
15 port or a press conference, or a conference, or some other
16 manner in which the information may have been transmitted?

17 A. I don't know.

18 Q. And when Monsanto received word of the situa-
19 tion in Sweden, was that the first time Monsanto had know-
20 ledge, information, and/or belief regarding the environ-
21 mental presence of PCB's?

22 A. I would say, yes.

23 Q. What did Monsanto do in response to learning
24 of the environmental presence in Sweden?

25 MR. BAUER: Objection. Overbroad. Involves

1 many, many things over many years, but you can answer it to
2 the extent you are able.

3 Q. (by Mr. Bradley) Again, I'm only interested
4 up to the time you retired. You can't speak of anything
5 beyond your retirement.

6 MR. BAUER: That is still seven years. It's a
7 very broad question.

8 A. What did I know was done --

9 Q. (by Mr. Bradley) By Monsanto in response to
10 its knowledge, information, or belief regarding the
11 environmental presence of PCB's?

12 A. Obviously, this was to the attention of our
13 medical people and industrial hygiene people, and it's my
14 impression, since you're asking me my impressions, that
15 this was certainly discussed with counterparts at General
16 Electric and at Westinghouse, and with others who knew
17 about this and certainly would be interested in it.

18 Q. All right. Other than the situation in
19 Sweden, did Monsanto gain any other knowledge, information
20 or belief regarding the environmental presence of PCB's?

21 A. To my knowledge -- it's better if you ask
22 these questions of the medical people, but you're asking
23 about my knowledge -- yes. I heard a report that PCB had
24 been found in, I think, a peregrine falcon, off the coast
25 of Baja, California, I believe.

1 Q. All right. What other knowledge, information,
2 and/or belief did Monsanto obtain regarding the environ-
3 mental presence of PCB's? I am interested now in your
4 telling me everything that you are aware of that Monsanto
5 knew or gained information on or believed regarding the
6 environmental presence of PCB's from the time that you
7 learned of the situation in Sweden up until the time you
8 retired.

9 A. I don't know that it's critical or whether
10 it's exactly before or exactly after 1974 when I retired,
11 so I may be mixed up a bit on this, but I certainly heard
12 that PCB's had gotten into mink.

13 Q. All right. Anything else?

14 A. I remember that. I had heard that PCB's had
15 somehow got into chickens. I heard that.

16 Q. Anything else?

17 A. That's all I recall.

18 Q. Did you ever hear that PCB's were what was
19 claimed to be ubiquitous in the environment?

20 A. Excuse me. Define "ubiquitous."

21 Q. Pervasive.

22 A. Persistent?

23 Q. Pervasive.

24 A. Meaning what?

25 Q. That it was all over the environment.

1 A. No.

2 Q. And did you hear that they were persistent?

3 A. Certainly.

4 Q. What did you hear about that?

5 A. PCB's are very refractive, stable materials.
6 They biodegrade very slowly. They're inert.

7 Q. Their stability in part is what makes them
8 useful in dielectric fluid.

9 A. Right.

10 Q. Did you speak with anyone from the medical
11 department regarding what you have relayed to us about the
12 environmental presence of PCB's and Monsanto gaining
13 knowledge of that?

14 A. No, not I.

15 Q. And what was Monsanto's response to what it
16 learned of the situation in Sweden, the peregrine falcon
17 off the course of Baja, California, and the PCB's getting
18 into mink and chickens?

19 A. Monsanto certainly pursued these things to the
20 best of their ability, and certainly didn't discard any of
21 this, or pass it by. Obviously, they -- I don't know what
22 they did, but they certainly pursued it.

23 Q. If I asked you what they did to pursue it, you
24 wouldn't know the answer?

25 A. No.

1 Q. In fact, after learning of the situation in
2 Sweden. Monsanto increased its production of PCB's; isn't
3 that true?

4 A. Because of them learning this in Sweden?

5 Q. No, not because of it, but after they learned
6 of the situation in Sweden, Monsanto increased its produc-
7 tion of PCB's; isn't that true.

8 MR. BAUER: Object to that. Indefinite as to
9 time, and to the form. But you can answer it.

10 A. What period in time are you talking about?

11 Q. (by Mr. Bradley) Well, 1968.

12 A. Well --

13 Q. Let me ask it this way, Mr. Benignus: Do you
14 know whether Monsanto's PCB production in 1967 was greater
15 than its production in 1966?

16 A. I would say it was very similar.

17 Q. Do you know whether Monsanto's production of
18 PCB's increased at all in the late 1960's.

19 A. Essentially, it would have been very similar.

20 Q. Do you know whether Monsanto's production of
21 PCB's increased in the early seventies?

22 A. In the early seventies it was shut down.

23 Q. Do you know whether Monsanto's production --

24 A. The nonelectrical was shut down in the
25 seventies. That's when we shut down nonelectrical produc-

1 tion.

2 Q. In 1970?

3 A. Yes. So there was a very drastic, dramatic
4 termination of production in 1970.

5 Q. And Monsanto knew that PCB's were very stable
6 when they began their manufacture. Isn't that fair to say?

7 MR. BAUER: Object to the form. Lacks
8 foundation. He is talking about the 1930's. But go ahead
9 and answer, if you're able, Mr. Benignus.

10 A. That is why GE picked it - one of the reasons.

11 Q. (by Mr. Bradley) You have spoken with enough
12 people at Monsanto and read enough documents to know that
13 Monsanto manufactured PCB's in part because PCB's were so
14 stable. Is that not fair to say?

15 A. We manufactured them at the request of General
16 Electric for the electrical industry, and one of the
17 reasons they were interested in them is because it is a
18 stable dielectric.

19 Q. As far as you know, did anyone at Monsanto or
20 GE or Westinghouse do any studies on the stability of PCB's
21 to determine what would happen to PCB's if they escaped
22 into the environment?

23 MR. BAUER: Object to the form of the ques-
24 tion. It assumes a fact not in evidence, which is that the
25 technology was available in the thirties to do that. But

1 you can answer, if you are able, Mr. Benignus.

2 A. What period are you talking about?

3 Q. (by Mr. Bradley) Ever.

4 A. About PCB doing what?

5 Q. Whether Monsanto, General Electric or
6 Westinghouse performed any studies on PCB's and their
7 stability to determine what would happen if PCB's escaped
8 into the environment.

9 A. Monsanto, after there was environmental
10 objection -- and the only reason for any objection was the
11 persistence as expressed by environmentalists, so there was
12 no reason other than that to object, but they objected that
13 it was persistent -- there were studies at that late point
14 in time by Monsanto on soil studies, trying to determine
15 the migration of PCB's in different types of soil. That
16 was done.

17 Q. Were there any studies done on that topic
18 prior to the situation in Sweden becoming known, whenever
19 that was in the 1960's?

20 MR. BAUER: Objection. Lacks foundation.

21 A. No. Not to my knowledge.

22 Q. (by Mr. Bradley) And when you used the term
23 "persistence" in regard to PCB's, is that the same as
24 referring to PCB's as stable?

25 A. Yes, uh-huh.

1 (Thereupon, a luncheon recess was taken.)

2 Q. (by Mr. Bradley) You indicated this morning
3 that, in regards to item seven on attachment A, that you
4 are not the person to ask what particular things Monsanto
5 pursued in response to its acquisition of knowledge, infor-
6 mation, and/or belief regarding the environmental presence
7 of PCB's; is that correct?

8 A. That is correct.

9 MR. BAUER: Object.

10 Q. (by Mr. Bradley) Whatever your testimony was,
11 I was attempting to summarize it, and if I have misstated
12 it, then we'll rely on what your answer was previously.

13 Who would be the appropriate person within
14 Monsanto, if there is such a person, who could tell us what
15 Monsanto pursued regarding its evolving acquisition of
16 knowledge, information, and/or belief regarding the envi-
17 ronmental presence of PCB's between the time period when
18 Monsanto first learned of the situation in Sweden and the
19 time of your retirement?

20 MR. BAUER: Objection. Lacks foundation,
21 specifically if there is any one person who could testify
22 regarding all of that. But you may answer, if you know.

23 A. This question should be directed to the
24 industrial hygiene people and to the medical people.

25 Q. (by Mr. Bradley) Okay. I am now going to

1 look at item eight -- Well, have you now told me all that
2 you are aware of regarding Monsanto's evolving knowledge,
3 information, and/or belief regarding the environmental
4 presence of PCB's?

5 A. Yes.

6 Q. I am now going to move on to item eight, then.
7 Did Monsanto provide information to its PCB customers
8 regarding the physical properties of the PCB dielectric
9 fluids they were purchasing?

10 A. Yes.

11 Q. What other information, if any, did Monsanto
12 provide to its customers for PCB's?

13 MR. BAUER: Objection. Overbroad.

14 MR. MORGAN: I'll join in the objection.

15 Q. (by Mr. Bradley) Go ahead and answer.

16 A. Well, answering this in terms of the litera-
17 ture in technical bulletins that I formulated, one can
18 begin with, I think in 1954, the proper handling of PCB in
19 the dielectrical industry, and that was a compilation on my
20 part of the official test specifications, and the method-
21 ology, as documented by the American Society of Testing and
22 Materials, for the test procedures for determining the
23 physical constants. That was provided as a convenient
24 reference to anyone interested of the official documenta-
25 tions and publications by ASTM, as formulated there by our

1 Committee D-27, where, certainly, General Electric,
2 Westinghouse, Allis-Chalmers, and other significant users
3 of PCB dielectrics attended and participated in drawing up
4 and documenting these things on behalf of the electrical
5 industry.

6 Q. What is the Committee D-27?

7 A. ASTM of course is one of the largest technical
8 organizations in the country. Committee D-27 is a subcom-
9 mittee of the dielectrics. And specifically, I am refer-
10 ring to the work done there on synthetic dielectrics, which
11 are the PCB's, as versus mineral oil, although this commit-
12 tee also handled mineral oil dielectrics.

13 Q. So D-27 was a subcommittee of the dielectrics
14 of ASTM?

15 A. Yes.

16 Q. Did Monsanto provide information to its cus-
17 tomers regarding the toxicity of the blends it was manu-
18 facturing for dielectric use which included PCB's?

19 A. Again, I refer to literature that I formulated
20 from information from information from primarily ASTM. The
21 information given on toxicity was this: Avoid breathing
22 the fumes and the vapors, and avoid prolonged contact with
23 the skin. Now, it would go a little beyond that and say
24 that if it saturated the clothes by a spill, launder the
25 clothes with soap and water; and if the fluid got into the

1 eye, expect it to sting, normally; and don't worry, there
2 would probably be no injury to the eye, but soothe the eye
3 with vegetable oil and see an ophthalmologist. He may have
4 something a little more sophisticated than the vegetable
5 oil you may have. But there was never known to be any
6 damage to the eye from people getting it in their eye. So
7 anything I wrote to give guidance was, as I just said,
8 avoid breathing the fumes and vapors which were generated
9 at elevated temperatures. You don't encounter this at
10 ambient room temperatures, but at elevated temperatures the
11 fumes are generated, and they are irritating and should not
12 be breathed.

13 Q. What was the title of the document you pre-
14 pared in 1950?

15 A. In 1954, I think it was.

16 Q. All right.

17 A. "The Proper Handling of Askarel Dielectrics in
18 the Electrical Industry," I think is the title.

19 Q. And did that volume have a section where you
20 reported that people should avoid breathing the fumes and
21 vapors and should avoid prolonged contact with the skin?

22 A. Exactly.

23 Q. Did it have the other information you have
24 talked about regarding using soap and water for soiled
25 clothing?

1 A. I think so.

2 Q. And did anybody review that document before,
3 or after you wrote it and before it was disseminated to
4 Monsanto customers?

5 A. I would say yes.

6 Q. And who would that have been?

7 A. That would have been the medical, or
8 industrial hygiene people, who were together.

9 Q. And did the document that you wrote in 1954
10 indicate that fumes from PCB's are toxic primarily because
11 they can attack the liver and kidney?

12 A. It may well have.

13 Q. Are you aware of any other document prepared
14 by Monsanto that it distributed to its customers or to any-
15 one within the electrical utility industry that indicated
16 anything about the ability of PCB's to be toxic primarily
17 because they can attack the liver and kidney?

18 A. I think it was probably in this -- I would
19 have to look it up, but it may well be in there, that it
20 would be proper to be there.

21 Q. And other than the booklet that you prepared,
22 are you aware of my other booklet or letter or label or
23 document in any form that Monsanto distributed to its
24 customers or to members of the electrical utility industry
25 indicating that PCB's are toxic and can cause damage to the

1 liver and kidney?

2 A. Monsanto had the various reports from the
3 medical literature, in fact, an entire bibliography, refer-
4 ring to people like, Drinker, Treon, was it, and other
5 people who had studied these things, and from the stand-
6 point of the medical people.

7 Now, I was not putting together a brochure on
8 the medical aspects of this thing. I was putting together
9 a brochure on the technology of the specifications, the
10 methodology for the standard procedures for testing physi-
11 cal and electrical constants, and to advise people about
12 the difference in character of askarel dielectrics -- I'm
13 talking about transformers -- as versus the characteristics
14 of transformer mineral oil. That was the purpose of my
15 writing. My writing wasn't geared as a medical presenta-
16 tion, but Monsanto had these things available, and, I know,
17 distributed such information when the occasion arose when
18 someone inquired about it. I am aware of that, and I am
19 aware that others in the electrical industries who had
20 medical departments would have had the same. Keough, was
21 that one? I forget all of these, because it wasn't in my
22 area.

23 Q. But I take it, then, you don't recall seeing
24 any particular documents that Monsanto distributed that
25 talked about injury to the liver and kidney from exposure

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1 to PCB's?

2 A. I recall that. This probably was included,
3 and may well have been in this thing that I put together.
4 I don't remember offhand now; I don't have the booklet.

5 Q. I don't understand your answer. Other than
6 whether or not it exists in your booklet, you don't remem-
7 ber any particular document that Monsanto provided to its
8 customers that had that information in it. Is that what
9 you're telling us?

10 MR. BAUER: Objection. The characterization.
11 He referenced Drinker's work and Treon's work, already.

12 MR. BRADLEY: Well, He didn't indicate that
13 that was provided to customers.

14 Let me make quite clear, then, the information
15 that I'm seeking. I want to know, other than what is in
16 your 1954 report, whether you recall any document authored
17 by Monsanto that informed its customers or members of the
18 electrical utility industry that there could be liver or
19 kidney damage from exposure to PCB's.

20 A. I think that statement was made in such
21 literature. I think.

22 Q. (by Mr. Bradley) In the medical literature
23 that was --

24 A. No. In the kind of literature we're talking
25 about here. I wouldn't be a bit surprised if I had

1 included that statement. It would have been orderly to do
2 so.

3 Q. Other than what you may have said in your '54
4 document, do you recall any other Monsanto document that
5 contained that information?

6 A. Direct to the electrical industry?

7 Q. Or to Monsanto's customers.

8 A. There were subsequent publications directed to
9 the electrical industry that may have included this
10 comment.

11 Q. And whether it did or not, you just can't
12 recall now?

13 A. I can't recall at the moment.

14 Q. Do you remember what the general nature of
15 those documents might have been?

16 A. Yes. There is a document subsequent to the
17 one we're talking about that was compiled, and it's title
18 is "Transformer Askarel Maintenance Guide." I think that
19 was the title, and that had a -- although that wasn't
20 medical literature, by any means, but that, too, had a very
21 brief section of comments about the medical aspects of this
22 that may have included what you're asking about. May well
23 have. I'd have to look in the booklet.

24 Q. You indicated Monsanto had an entire bibli-
25 ography which included Drinker and Treon.

1 A. Yes.

2 Q. Was the bibliography developed and maintained
3 by the medical department or the industrial hygiene
4 department, one or the other?

5 A. I would think so. And it was available then.
6 I have seen the bibliography and copies of it referring to
7 these various articles from the medical literature, and
8 when an occasion arose or if someone specifically asked for
9 that kind of a thing, I know that it was available and
10 distributed.

11 Q. When is the last time you saw the bibliogra-
12 phy? Was it before you retired?

13 A. Yes. This was long before I retired.

14 Q. Would you say it was in -- Well, what year was
15 it that you last recall seeing the bibliography?

16 A. That I last saw it?

17 Q. Yes.

18 A. I don't know when I last saw it. It was there
19 as long as I was there.

20 Q. All right. So it was there at least between
21 the time that you joined the organics division and the time
22 of your retirement.

23 A. Oh, yes. It was there.

24 Q. So between 1952 and 1974?

25 A. It was certainly there.

1 Q. And was it updated to include new information?

2 A. I think so. At times it probably was - the
3 bibliography. There were subsequent things that would come
4 up, and I imagine, if there was anything of significance,
5 they'd bring it up.

6 Q. Did you discuss the bibliography with Elmer
7 Wheeler or Emmett Kelly or anyone within the medical
8 department or the industrial hygiene department?

9 A. Not that I know of.

10 Q. Well, informally, did anyone ever indicate to
11 you that the bibliography that you have referred to was
12 updated to include new significant studies relating to
13 PCB's?

14 A. Nobody specifically said that to me.

15 Q. Okay. Was the bibliography on some typewrit-
16 ten pieces of paper?

17 A. Yeah. Like this.

18 Q. Do you recall roughly how many pages it was?

19 A. It was quite a number of articles from the
20 literature, yes. But it may all have been on one page. It
21 would have been a full page.

22 Q. Do you recall whether, between the period of
23 '52 and '74, the bibliography got longer?

24 A. No, I can't recall that. Most of this work
25 was done significantly before, say, 1970, and that sort of

1 thing.

2 Q. How was the bibliography referred to between
3 1952 and 1974? Did it have a title?

4 A. Yes, it would have had a title. Perhaps it
5 was just "Bibliography."

6 Q. And was it within the medical department or
7 industrial hygiene files relating to Aroclors?

8 A. I would expect so.

9 MR. BAUER: Mr. Benignus, I would caution you,
10 give your recollection, not necessarily what you would
11 expect. If you have a recollection, give it to him. If
12 you don't have a recollection, tell him you don't have a
13 recollection.

14 Q. (by Mr. Bradley) I really only do want you to
15 tell me what you do remember. Do you remember where the
16 bibliography was located, whether it was in the PCB section
17 or files of the medical department or the industrial
18 hygiene department?

19 A. I can't answer that. I wasn't in that depart-
20 ment, so I don't know.

21 Q. Where was it when you saw it?

22 A. It was in our area.

23 Q. Your area being the organics division?

24 A. Yes. And even prior to that.

25 Q. And when you viewed the bibliography, did it

1 indicate that it was generated by the medical department or
2 the industrial hygiene department?

3 A. I think so.

4 Q. Do you recall whether it had a name on it?

5 A. I don't recall a name.

6 Q. Describe for me the ways in which Monsanto
7 would provide information to its customers purchasing PCB
8 dielectric fluids regarding the toxicity of the mixture or
9 blend, and let me help you a little bit. I'm interested in
10 knowing -- We talked about labels.

11 A. Uh-huh.

12 Q. And we talked about your '54 volume?

13 A. Uh-huh.

14 Q. What other ways, if there were any, did
15 Monsanto provide information to its customers or to the
16 electrical utility industry regarding the toxicity re-
17 garding of the Aroclor blends that Monsanto was producing?

18 A. That would arise if some of these customers,
19 or anybody, contacted us and requested information.

20 Q. You also had instruction booklets, because I
21 -- Well, let me ask it this way: Did Monsanto prepare
22 instruction booklets regarding the Aroclor blends that it
23 produced?

24 A. Use instructions.

25 Q. So yes is the answer?

1 A. Yes.

2 Q. Okay. And other than the instruction book-
3 lets, did Monsanto provide any other written material to
4 its customer or to members of the electrical utility re-
5 garding the toxicity of the Aroclor blends that Monsanto
6 was making?

7 A. Not to my knowledge.

8 Q. What communications took place between
9 Monsanto and any of its PCB dielectric fluids users that
10 would have resulted in Monsanto giving them information
11 regarding the toxicity of the Aroclor blends they were
12 purchasing?

13 MR. BAUER: Objection. Overbroad, lacks
14 Foundation that Mr. Benignus would know all the ways that
15 such communications would be conveyed.

16 Q. (by Mr. Bradley) Well, I am referring, again,
17 to item eight on Exhibit A, which indicates you have know-
18 ledge of communications, and, of course, I'm only inter-
19 ested in what you know. Tell me what you know about com-
20 munications between Monsanto and its customers for PCB's
21 regarding the toxicity of the Aroclor blends that the cus-
22 tomers were purchasing.

23 A. There were certainly some inquiries. There
24 were very few in number that came in. They were very rare.
25 And if such an inquiry came in it would have been answered,

1 and it would have been referred to our medical department
2 and asked them to answer this thing. And there has been
3 that. Very rare, very few. I'm trying to think.

4 Q. Are you talking now about a written or an oral
5 inquiry?

6 A. Yes.

7 Q. By a specific customer?

8 A. Yes.

9 Q. Okay. Other than those specific inquiries,
10 did Monsanto provide any workshops or hold meetings for its
11 customers where it communicated what Monsanto knew about
12 the toxicity of the Aroclor blends it was selling?

13 A. I am not familiar with any of that.

14 Q. Did Monsanto hold any kind of workshops or
15 meetings with its PCB customers to impart what information
16 Monsanto had acquired or learned or believed about the
17 environmental presence of PCB's and Monsanto's response to
18 it?

19 A. Very much so.

20 Q. When did those occur?

21 A. Well, they occurred after 1970. And I would
22 say, between the period of 1971 and when I was retired in
23 '74, it was very active in that period. That is when the
24 environmental thing got underway, as far as my knowledge of
25 this, it starting with discussions at ASTM, and reports

1 there, and then it came up through these technical organi-
2 zations, IEEE, NEMA, National Electrical Manufacturers
3 Association, finally, ANSI, American National -- ANSI, they
4 were the apex.

5 It all starts down here with ASTM, and then
6 you had the transformer committees, that's IEEE, people
7 specifically in the transformer industry, organizations
8 like Doble Engineering, who served the transformer users,
9 EPRI, no doubt, and over here were the capacitor people,
10 with the same kind of thing in the capacitor area. That
11 came under NEMA, which serves the transformer, which was
12 IEEE. Some of these people served on both committees. And
13 then, after NEMA, then this was brought up into ANSI,
14 American National Standards Institute, and that was the top
15 of the triangle, and right above that was the law of the
16 land, Congress. So that was the flow of these things.

17 And when the environmentalists had convinced
18 Congressmen, and so forth, and this stuff was active, we
19 worked as fast as we could to get the consensus from all of
20 these people, government people, academia, transformer
21 makers, capacitor makers, the Bureau of Standards, the
22 insurance underwriters, the government agencies, and so
23 forth, to get the consensus as to what needs to be pub-
24 lished to disseminate for anyone interested or concerned
25 about the thinking and the best suggestions of this

1 environmental situation in regards PCB dielectrics.

2 Q. (by Mr. Bradley) And was the consensus
3 attempted through a committee known as the C107 Committee
4 of ANSI?

5 A Yes. That was the final.

6 Q. And Bill Papageorge was the head of that
7 committee, wasn't he?

8 A. Yes. He was the head, and my role there -- it
9 was just right before my retirement. I retired in '74, and
10 these things got into print, I think, in '74, and some of
11 the organizations earlier printed. I think NEMA, IEEE got
12 into print in 1973, I believe.

13 Well, my role there was as chairman of the
14 steering committee. I wasn't going to do any of the work.
15 I was leaving. I was retired. I was on the shelf. But I
16 knew the people. And Papageorge, as I remember, was
17 chairman, and then in the working groups, the people who
18 did the work, you had people like Pozefsky in the capacitor
19 section; he was the GE man. You had Raab, from GE, and
20 Sloat, from Westinghouse, in the transformer area. Both of
21 those men, by the way, have passed away.

22 Q. Other than what you have described with the
23 ANSI C107 Committee and the flow chart that you described,
24 and the workshops or meetings that you indicated, were
25 there any other methods whereby Monsanto communicated with

1 its PCB customers regarding the PCB problems and Monsanto's
2 response to it?

3 A. Yes.

4 Q. What were those?

5 A. The maintenance guide for transformer askarel.
6 Now, that was compiled by myself before all of this
7 environmental situation broke. We could establish the
8 date.

9 Now, after the environmental thing broke and
10 it was formulated and formalized by this committee work,
11 with the consensus of everybody, that was incorporated into
12 this transformer askarel maintenance guide, and that was
13 distributed to any or all of our customers, or anybody else
14 who wanted it.

15 Q. Do you recall who wrote the section in the
16 maintenance guide that you referred to regarding the
17 environmental presence of PCB's and Monsanto's response to
18 it?

19 A. I did not compose that. This was formulated
20 from the information that had developed at ANSI C107.

21 Q. All right. Other than what you have now
22 described, were there any other forms of communications
23 between Monsanto and its PCB customers regarding the
24 environmental presence of PCB's and Monsanto's response to
25 it?

1 A. Yes.

2 Q. What other forms of communication?

3 A. Letters.

4 Q. What other forms of communication?

5 A. Telephone.

6 Q. What other forms of communication?

7 A. You talk with people.

8 Q. Have we talked about all of the forms of com-
9 munication between Monsanto and its PCB customers regarding
10 the environmental presence of PCB's and Monsanto's response
11 to it?

12 A. To the best of my ability.

13 Q. And the letters and phone calls, would those
14 have been primarily individual inquiries from customers?

15 MR. BAUER: Object to the form of the ques-
16 tion.

17 A. They were letters, required, necessary, to in-
18 form Monsanto's customers of the status, where are we with
19 all of this, because this is a radical change. That was
20 communicated by writing, where we were, and what needs to
21 be done, or will be done. Communicated in writing, and it
22 was said, also, verbally.

23 Q. (by Mr. Bradley) And was there a standard
24 letter or letters that were written by Monsanto to its PCB
25 customers informing them of the environmental presence of

1 PCB and Monsanto's response to it?

2 A. Yes.

3 Q. How many letter or letters were there on that
4 topic that were sent to your customers, as best you can
5 recall?

6 MR. BAUER: Object to the form. How many
7 different standard form letters as opposed to different
8 individual letters that went out to the different
9 customers?

10 MR. BRADLEY: Yes.

11 A. I don't know. You don't need many.

12 Q. (by Mr. Bradley) Okay. Well --

13 A. One form letter that spells it out is enough.

14 Q. Yeah. And I have reviewed one form letter,
15 and I want to know whether or not there is more than one
16 form letter, because if there is, then I will request from
17 your counsel that I get a look at it.

18 MR. BAUER: I can stipulate for the record
19 that we have produced many more than one in this case. We
20 have produced more than one. Not a raft, but more than
21 one.

22 Q. (by Mr. Bradley) In addition to the form
23 letters, would there have been letters regarding individual
24 inquiries from specific customers?

25 A. If there were any, yes, they'd have to be

1 answered individually.

2 Q. And on the phone communications, would those
3 have been standard phone communications given to all PCB
4 customers, or would those have been primarily in response
5 to individual inquiries?

6 A. In response to individual inquiries.

7 Q. Okay. I am now moving on to item nine of
8 Exhibit A. Between 19 -- Let me ask this question: Are
9 you able to describe for me Monsanto's knowledge, informa-
10 tion, and/or belief regarding the knowledge, understanding
11 and sophistication of Monsanto's transformer and capacitor
12 customers, such as GE and Westinghouse, with regard to PCB
13 fluids for any period other than 1952 to 1974?

14 A. Yes.

15 Q. Okay. Over -- Why don't you tell me what
16 Monsanto's knowledge, information, and/or belief was from
17 the earliest point in time you are able to identify regard-
18 ing the knowledge, understanding and sophistication of
19 Monsanto's transformer and capacitor customers such as GE
20 and Westinghouse with regard to PCB fluids.

21 MR. MORGAN: Object to the form of the ques-
22 tion.

23 Q. (by Mr. Bradley) He objected to the form of
24 my question. He thinks that I didn't ask a correct ques-
25 tion. Go ahead and answer.

1 A. You had my mind set on the environmental
2 thing. That's where my mind is, so I'll answer it in those
3 terms. I would say it was Monsanto's belief regarding the
4 knowledge and understanding, the sophistication of
5 Monsanto's transformer and capacitor customers such as GE
6 and Westinghouse in regard to the environmental situation,
7 it was certainly my feeling and, I would have to say,
8 consensus, feeling that people like GE and Westinghouse had
9 as much information and knowledge in depth as we had. They
10 were just as active as we were. For instance, at ASTM and
11 on these committees and so on and so forth, yes, the
12 industry was quite well informed. That is not to say that
13 there isn't some transformer user somewhere that was not
14 informed, was not active, and so forth, but the prime
15 people were just as informed as we were. We were all
16 together, and the government agencies, as well.

17 Q. Between the time that the situation in Sweden
18 became known and the time of the completion of the work of
19 the ANSI C107 Committee --

20 A. Yes.

21 Q. -- what was Monsanto's knowledge, information,
22 and/or belief regarding Westinghouse's knowledge, under-
23 standing and sophistication regarding the topic of the
24 environmental presence of PCB's.

25 MR. MORGAN: Object to the form of the ques-

1 tion. Calls for hearsay, overspeculation, overbroad and
2 vague.

3 Q. (by Mr. Bradley) Go ahead and answer.

4 A. I would answer that by saying it would be
5 better to direct this question to the industrial hygiene
6 and medical people; but as far as I am concerned, I was
7 aware from my contact with people as you have here,
8 Westinghouse and GE and some of those people working on our
9 committees, they knew as much as I did.

10 Q. And what was Monsanto's information, knowledge
11 and belief about Westinghouse's knowledge, information, or
12 belief of environmental problems associated with PCB's
13 prior to the situation in Sweden becoming public?

14 MR. BAUER: Object to the form of the ques-
15 tion.

16 A. Relative to the environment situation, I don't
17 know.

18 Q. (by Mr. Bradley) And what was Monsanto's
19 knowledge, information, or belief regarding Westinghouse's
20 knowledge of the toxicity of the Aroclor blends it was
21 using over any period of time that you were employed at
22 Monsanto? And for the purpose of your answer, I would like
23 you to identify the time period you're referring to.

24 MR. BAUER: Object to the form of the ques-
25 tion.

1 MR. MORGAN: Object to the form of the ques-
2 tion.

3 Q. (by Mr. Bradley) Okay. Let me rephrase it,
4 then. During the period between 1935 and 1950, what was
5 Monsanto's knowledge, information, and/or belief about
6 Westinghouse's knowledge of the toxicity of the Aroclor
7 blends it was asking Monsanto to manufacture for it?

8 MR. BAUER: Objection. Lacks foundation.

9 MR. MORGAN: Join the objection.

10 A. I wasn't there. I wasn't involved with it
11 during that period of time.

12 Q. (by Mr. Bradley) Between '35 and '50?

13 A. Yes.

14 Q. All right. So you're unable to answer that
15 question for that period of time?

16 A. Yes.

17 Q. Between 1952 and 1974, when you retired, what
18 was Monsanto's knowledge, information and belief regarding
19 Westinghouse's knowledge of the toxicity of the Aroclor
20 blends it was contracting with Monsanto to manufacture?

21 MR. BAUER: Objection. Lacks foundation that
22 this witness would know everything that Monsanto knows.
23 But you can answer to the extent you are able.

24 MR. MORGAN: Also object to the form of the
25 question.

1 A. I was not in the industrial hygiene or medical
2 area. I did know that Westinghouse, GE, probably some of
3 the other customers, had medical departments, to some
4 extent, and personally I was of the impression that these
5 people knew, certainly, about what you have already talked
6 about, the toxicity of PCB's, and had the bibliography we
7 referred to.

8 Q. How do you know they had the bibliography you
9 referred to?

10 A. I'm sorry. It's conjecture. I can't say
11 that. I'm sorry.

12 Q. Okay. So, when you --

13 A. I wasn't in that area.

14 Q. When you began in 1952 --

15 A. Uh-huh.

16 Q. -- working with PCB's --

17 A. Uh-huh.

18 Q. -- were you under the impression that
19 Westinghouse had its own medical department?

20 MR. BAUER: Object to the form of the ques-
21 tion.

22 Q. (by Mr. Bradley) When you -- In 1952 what was
23 your opinion, if any, regarding whether Westinghouse had a
24 medical department?

25 MR. MORGAN: Object to the question. Asking

1 him for an opinion. Why don't you ask him if he knows or
2 doesn't know.

3 Q. (by Mr. Bradley) Go ahead and answer the
4 question.

5 A. I knew - If you're asking about Westinghouse
6 and GE, I knew they had a medical department.

7 Q. So you knew Westinghouse had a medical depart-
8 ment in 1952?

9 A. I can't swear to it. All right?

10 Q. Is it fair to say that you knew Westinghouse
11 had a medical department round 1952?

12 A. I was never at their Westinghouse medical
13 department. I didn't deal with the Westinghouse medical
14 department. You'd better ask the question of our medical
15 people rather than myself, because I don't want to put in
16 any conjecture on it.

17 Q. Well, let me ask it this way: In 1952 did you
18 believe that Westinghouse had a medical department?

19 A. Yes.

20 Q. Did you believe in '52 that GE had a medical
21 department?

22 A. Yes.

23 Q. Did you believe between 1952 and 1974 that
24 both GE and Westinghouse continued to have medical depart-
25 ments?

1 A. Well, without assuming anything, yeah.

2 Q. And did you have a belief between 1952 and
3 1974 whether the Westinghouse medical department knew the
4 medical literature that was published on the toxicity of
5 PCB and Aroclor blends?

6 MR. BAUER: Give me the question again.

7 MR. BRADLEY: The toxicity of PCB and Aroclor
8 blends.

9 (Thereupon, the reporter read back the question.)

10 MR. BAUER: Object to the form of the ques-
11 tion, specifically the use of the term, "belief," which may
12 invite testimony other than testimony from personal know-
13 ledge.

14 THE WITNESS: I don't know. I lost the whole
15 thing, now.

16 MR. BRADLEY: Okay. Why don't we take a break.

17 (Thereupon, a short recess was taken.)

18 MR. BRADLEY: Would you read back the last
19 question.

20 (Thereupon, the reporter propounded the previous
21 question.)

22 MR. BAUER: Same objection as stated before.

23 A. I was never at the Westinghouse medical
24 department, and I don't recall ever talking to anyone at
25 the Westinghouse medical department, and I am really not

1 qualified to answer the question.

2 Q. (by Mr. Bradley) Okay. Then let's move on
3 from number nine to number ten of Exhibit A.

4 Have you already described essentially the
5 relationship that Monsanto had with its PCB dielectric
6 fluid customers?

7 A. Yes.

8 Q. Between 1952 and 1974, what was Monsanto's
9 knowledge, information, and/or belief regarding the
10 hazards, if any, to users of PCB's or of transformers or
11 capacitors containing PCB fluids?

12 MR. BAUER: Object to the form of the ques-
13 tion. Lacks foundation.

14 A. We were -- I was not, and I can't recall
15 knowing of an instance where any of these customers called
16 us about a problem with hazard, toxicity or handling of
17 these fluids in that period of time.

18 Q. Between '52 and '74 were there any hazards to
19 users of PCB's?

20 MR. BAUER: Object to the form of the ques-
21 tion. Lacks foundation.

22 Q. (by Mr. Bradley) Well, let me ask it this
23 way: You were not in the medical department. You have
24 indicated that, correct?

25 A. Right.

1 Q. You were not in the industrial hygiene
2 department.

3 A. Correct.

4 Q. Are you qualified to describe for me the
5 hazards, if any, to users of PCB's between 1952 and 1974?

6 A. I didn't encounter any.

7 Q. My question is, are you qualified to talk
8 about the hazards, if any, to users of PCB's between 1952
9 and 1974, considering you were never a part of the medical
10 department?

11 A. I would be qualified to the extent of saying,
12 "Very definitely avoid breathing the fumes and the vapors
13 in any situation, and avoid prolonged contact with the
14 skin."

15 Q. Okay. And is it true that, between 1952 and
16 1974, you, at least, had the belief that there were no
17 hazards to users of PCB's if they avoided breathing the
18 vapors and they avoided prolonged contact with the skin?

19 A. Yes, sir. Yes.

20 Q. Relative to what you have been describing as
21 the need to avoid prolonged contact with the skin, how much
22 contact is prolonged contact?

23 MR. BAUER: Object to the form. Lacks founda-
24 tion.

25 Q. (by Mr. Bradley) Well, let me ask it in a way

1 that maybe will be a better form. What did you mean when
2 you have told us that users of PCB's should avoid prolonged
3 contact with the skin?

4 A. All right. What I have in mind is this: If
5 I'm working with the material and it spills on my skin, I
6 would wash it off with soap and water. That doesn't mean
7 that I would be upset about this and rush to do it. In a
8 normal way I would wash it off with soap and water. I
9 would do this particularly if I were going to lunch short-
10 ly, and I would do this if I were going to go home shortly.
11 I would wash my hands.

12 Let me say this: If it spills on my clothes
13 by accident and saturates my clothes, I would want to take
14 those clothes off and have them laundered. It was standard
15 practice for people working in plants handling this to
16 change their clothes, maybe not every -- What I mean is
17 this: They have work clothes that were not their street
18 clothes. They would have a locker, for example; and in our
19 plant we provided a shower for the people making it. Now,
20 I never heard of any problem or trouble arising in this
21 area from contact with the skin.

22 MR. BAUER: If you recall, what do you mean by
23 prolonged. That was the question. Have you answered that
24 question?

25 THE WITNESS: I am trying to answer it. Maybe

1 not the way it should be.

2 Let me say, if -- right now, if we had a
3 bucket or a pail of this and I put my arms in it and washed
4 it, then I wouldn't be upset by this whatsoever. I might
5 say, "Well, wait a minute. I'm going to go to the washroom
6 and wash my hands." I wouldn't want to sit here unneces-
7 sarily the rest of the day with my hands wet with PCB;
8 neither would it be on tomorrow. It would be washed off
9 before then. I wouldn't expect anything to happen to my
10 skin; it never has. So that is -- Prolonged would be if I
11 left it on and went home with it on my hands, and so forth.

12 Q. (by Mr. Bradley) Let's say, for example, that
13 day you work from 8:00 to 5:00 and you took a lunch from
14 12:00 to 1:00 and you spilled some on your hands about 8:15
15 in the morning. Would you wait until lunchtime to wash
16 your hands?

17 A. No, not purposely. But if that was what
18 happened, I wouldn't be upset with it, at all, but I would
19 wash it off when it was convenient, before that.

20 Q. Okay. And did Monsanto -- Let me start all
21 over again. Surely you knew that individual power compan-
22 ies purchasing transformers and capacitors that had PCB's
23 in them would come in contact on occasion with the PCB's;
24 isn't that true.

25 MR. BAUER: Object to the form of the ques-

1 tion.

2 A. I would expect this to happen, yes.

3 Q. (by Mr. Bradley) Okay. And did Monsanto in-
4 form the electric power companies that were going to pur-
5 chase the transformers and capacitors that contained the
6 PCB's that Monsanto employees change their clothes daily
7 when those workers are exposed to PCB's?

8 A. Not to my knowledge.

9 Q. Did Monsanto inform electric utility companies
10 purchasing transformers and capacitors with PCB's that
11 Monsanto provided a shower for its employees who worked
12 with PCB's?

13 A. They may have, but not to my knowledge.

14 Q. It's true, is it not, that Monsanto at one
15 time between 1952 and 1974 actually paid its employees for
16 twenty minutes of shower time if they were working in areas
17 where they were exposed to PCB's?

18 MR. BAUER: Object to the form. Lacks founda-
19 tion.

20 A. I don't know that. I was not in the plant.
21 This should come from whoever was in the plant. I do not
22 specifically know.

23 Q. (by Mr. Bradley) Did Monsanto inform electric
24 utility companies who were purchasing transformers and
25 capacitors containing PCB's that it was standard practice

1 in plants handling PCB's to have the workers change from
2 their street clothes to their work clothes while they were
3 working with PCB's?

4 A. I never got into that. Now, what the medical
5 or hygiene people did, I don't know.

6 Q. Between 1952 and 1974, if a worker was exposed
7 to PCB's in the early part of his or her shift and didn't
8 wash until they took their shower, would that have been
9 prolonged contact with the skin, as you have used that
10 phrase during your deposition?

11 MR. BAUER: Object to the form of the ques-
12 tion. Calls for speculation and is an incomplete hypo-
13 thetical.

14 A. I am a bit confused as to just what the
15 question really is asking.

16 Q. (by Mr. Bradley) Well, I am interested in
17 your use of the term "prolonged contact with the skin," and
18 my question is: If a worker was exposed to PCB's at 8:15
19 in the morning and worked an 8:00 to 5:00 shift, and they
20 didn't cleanse themselves until they took a shower around
21 5:00 p.m., would that constitute prolonged skin contact as
22 you have used that phrase during your deposition?

23 MR. BAUER: Same objection to the question.
24 He has already explained what he meant by "prolonged,"
25 directly, and using speculative hypotheticals doesn't add

1 to the answer.

2 A. I have to know what is meant by "exposure,"
3 you see. I am confused. I am hung up on that. I know
4 where people worked eight-hour days, day in and day out,
5 worked with open vats bigger than this table, with
6 dielectric in them, PCB dielectric in them, at ambient
7 temperature, somewhat like this, and the whole thing was
8 open. The vat had been an impregnating vat, holding
9 capacitors, and had not been sealed, these holes were
10 sealed by soldering shut underneath the fluid. Why? To
11 keep the air from the room contacting the fluid. Now,
12 these people were exposed to the open fluid the whole day,
13 and it didn't bother them. Now, if somebody was exposed to
14 PCB's at an elevated temperature and the stuff is hot and
15 they got their whole arm into it, that's a different
16 exposure.

17 Q. (by Mr. Bradley) How about if they have their
18 arm into it and it's not hot, and that is the exposure, and
19 it's the people working with the vats that you have just
20 described?

21 A. Uh-huh.

22 Q. If they don't clean their arm until the end of
23 an eight-hour shift, would that constitute prolonged con-
24 tact with the skin as you have been using it during your
25 deposition?

1 MR. BAUER: Same objections.

2 A. Well, they didn't put their bare hands into
3 this. It was -- I haven't see them solder this shut, but
4 you've got the soldering iron and the solder, you don't
5 have to put your hands under the fluid to do this. The
6 fluid is only about this deep over the top. I am just
7 talking about one thing here.

8 Q. (by Mr. Bradley) Well, then, let me ask it
9 this way: If the worker had the equivalent of sticking
10 their arm into a mixture of PCB's up to their elbows and
11 did not keep it there for more than ten or fifteen seconds,
12 and then withdrew it, and that happened at the beginning of
13 an eight-hour shift, and they didn't clean their arm until
14 the end of their eight-hour shift, would that constitute
15 prolonged contact with the skin as you have used that
16 phrase in your deposition?

17 MR. BAUER: Object to the form of the ques-
18 tion.

19 MR. MORGAN: I join in the objection.

20 A. That would not meet with my approval.

21 Q. (by Mr. Bradley) That would be prolonged
22 contact with the skin?

23 A. Sure.

24 Q. And if that same worker washed their arm be-
25 fore lunchtime, and the exposure happened shortly after the

1 shift began, so let's say 8:01 a.m., and they washed it at
2 noon, would that constitute prolonged contact with the skin
3 as you have used the phrase during your deposition?

4 MR. BAUER: Object to the form of the ques-
5 tion, and also asked and answered, this time.

6 A. In my personal opinion, I wouldn't approve of
7 that.

8 Q. (by Mr. Bradley) Okay.

9 A. There is no need for it that I know of.

10 Q. Do you have any information at all regarding
11 any communication between Monsanto and electric utility
12 companies using transformers and capacitors containing
13 PCB's?

14 A. Did we ever have any direct communication?

15 Q. Yes.

16 A. I would say yes.

17 Q. Okay. And with whom did -- Do you recall any
18 direct communication with Nevada Power Company?

19 A. No.

20 Q. Do you recall any direct communication with
21 any particular electric utility company?

22 A. Not in particular, no.

23 Q. And do you know whether those communications
24 came from large electric utility companies?

25 A. I would meet people from the electrical utili-

1 ty companies. Those who served on our committee worked
2 with ASTM, and so forth.

3 Q Okay. Other than committee work did you meet
4 with any members of the electrical utility industry?

5 A. At one time I did.

6 Q. And under what circumstances did you meet with
7 them?

8 A. This was when the Edison Electric Institute, I
9 knew, had made a survey of the electrical utilities to find
10 out what utilities were using askarel PCB transformers and
11 what utilities did not use PCB transformers.

12 First of all, the PCB transformer is a
13 specialty item, more costly than mineral oil, and it is a
14 judgment matter on the part of somebody there as to whether
15 they feel it necessary to spend the extra money to put in
16 an askarel transformer instead of the cheaper mineral oil
17 and to make a judgment about what is their particular view
18 or possible hazard to humans from the standpoint of fire.
19 And the direct competitor to the askarel transformer, I
20 would say, is the open dry type. Now, there is considera-
21 tion here. You can't very well put an open dry type where
22 you're going to have water flooding.

23 Q. But my question, though, was, what circum-
24 stances did you have the communication with the electric
25 utility company?

1 A. I am leading to that.

2 Q. Okay.

3 A. And so, there are these choices and
4 differences, and, obviously, it's of interest to Monsanto.
5 Well, if they prefer the askarel, why? If they don't elect
6 to use it, also why?

7 That was the occasion of my calling them. No
8 other reason. So we called on a number of these utilities
9 and inquired about this.

10 Q. Do you recall how many utilities you contacted
11 about that?

12 A. Oh, I think there was a pageful of them, half
13 a pageful of them.

14 Q. And of the half to full page, roughly half of
15 those used askarel and half of them used dry transformers,
16 or what was the --

17 A. Something like that, yes. There was about a
18 half-and-half mix, and we were curious. Well, what goes on
19 here? So we spoke to the utility people.

20 Q. Other than that, have you had any communica-
21 tions with customers of transformer and capacitor manu-
22 facturers for equipment that contained PCB's?

23 A. Of the customers?

24 Q. Yes.

25 A. Of the manufacturers?

1 Q. Yes.

2 A. No.

3 Q. Okay. Between 1952 and 1974, did you com-
4 municate with any trade or industry association regarding
5 the toxicity of PCB's?

6 A. I would have to say that this was discussed at
7 our technical meetings, certainly. It came up from time to
8 time one way or another.

9 Q. It came up in the technical meetings of what?

10 A. In discussions and conversations with people
11 at ASTM, for example, that they were aware of the toxi-
12 cology that we referred to, yes.

13 Q. Other than ASTM, what other trade or industry
14 associations did you have contact with regarding the
15 toxicity of PCB's

16 ?A. By far it was my contacts at ASTM, addition-
17 ally the work, the standards and so forth that were set in
18 this country, this information was disseminated around the
19 world, in Europe and France, where they made PCB's, in
20 England, where we made PCB's, in Germany, where they made
21 PCB's, and in Russia, and also Italy. That was very much
22 my work, was traveling worldwide, international, going
23 around and talking to the manufacturers, and so on and so
24 forth.

25 While I think of this, this brings up this

1 point about when I said 1961, we want to correct that; it
2 should have been probably 1966.

3 Q. You are talking about the date that you became
4 aware of the situation in Sweden?

5 A. Yeah. And this brings to mine, in 1966, for a
6 good part of it, I was out of this country, you see. I
7 wasn't sitting in St. Louis to receive this. I wasn't on
8 the receiving end of this communication. In fact, I was in
9 Australia. And in '66 or '67 I was also in Japan. I
10 traveled a great deal in Europe. I traveled in Sweden,
11 where this thing originated. I wondered, well, who uses
12 PCB there? I knew they used it to make capacitors in
13 Sweden. Is this where it came from? I don't know.

14 Q. What trade or industry associations within the
15 United States did you have communications with, if any,
16 other than ASTM, regarding the toxicity of PCB's?

17 A. That's it. I'd say ASTM. Now, realize that
18 ASTM, people like Doble Engineering -- you're familiar
19 with, I imagine?

20 Q. Yes.

21 A. They serve the transformer makers with guid-
22 ance, so at ASTM, the Doble representatives were always
23 there, and I would have had contact with them, and we would
24 have discussed anything of interest regarding toxicity, or
25 whatever.

1 Q. Between 1952 and 1974, did any trade or
2 industry association disseminate any information regarding
3 toxicity of PCB's?

4 A. Yes.

5 Q. Which association and which year?

6 A. I just mentioned Doble. They had their guy.
7 And, you see, you run this up to 1974, you're running up
8 through the environmental thing, in fact.

9 Q. The question was about the toxicity and not
10 the environmental presence. Is that how you took my
11 question? That's how I intended it.

12 MR. BAUER: But that assumes that publications
13 triggered by the environmental issue did not also talk
14 about toxicity, which is not an assumption that you ought
15 to make.

16 Q. (by Mr. Bradley) Go ahead and answer the
17 question, if you remember it.

18 A. What organizations between '52 and '74 dis-
19 seminated information that was available to the electrical
20 industry, the utilities and the users, about toxicity? Was
21 that the question?

22 Q. Yes.

23 A. All right. Again, I'll start with Doble; we
24 just finished talking about them. They published a book-
25 let, revised their booklet, in fact, to include the

1 environmental thing. You're running into '74. Now IEEE,
2 the Institute of Electronic and Electronic Engineers, had
3 their guide from many years back, and that was reissued in
4 this time frame that you are talking about, and it certainly
5 mentions about toxicity, and then there was -- Who else
6 had a guide? Well, I'm sure the transformer makers would
7 have had guides. I'm sure they had literature. I didn't
8 write that. I can tell you this.

9 Q. The question was about trade or industry
10 associations.

11 A. Well, yeah. We'll go back to IEEE. NEMA,
12 National Electrical Manufacturers Association, yes, that is
13 one that issued a guide, and certainly discussed this.
14 Then eventually ANSI comes in there. That is in 1974, so
15 that was the top of the triangle, as we spoke. Wait a
16 minute. No, that is not a trade association. I was going
17 to say S.D. Warren and people who clean up transformers and
18 that sort of thing. They had literature and guides. But
19 that is not a trade organization. I listed the ones.
20 Should I go over them again?

21 Q. No. I have them. And did those same trade
22 associations publish information on the environmental
23 presence of PCB's?

24 A. Yes. On the revised final revision of their
25 literature, guides, directions that were out so many years,

1 they redid them to include that, yes. Yes, indeed. That
2 occasioned it.

3 Q. And were there any other trade or industry
4 associations that you're aware of that published informa-
5 tion on the environmental presence of PCB's, other than
6 what you have already described?

7 A. No, not to my knowledge. I can't think of
8 any.

9 Q. Between 1952 and 1974, was PCB present in
10 mineral oil electrical equipment?

11 MR. BAUER: Object to the form. Lacks
12 foundation.

13 Q. (by Mr. Bradley) I am now looking at item
14 sixteen, which is an area that indicates you're going to
15 testify about Monsanto's knowledge, information and/or
16 belief, if any, regarding the presence of PCB's in mineral
17 oil electrical equipment. So between '52 and '72, did you
18 become aware whether PCB's were present in mineral oil
19 electrical equipment?

20 A. Yes.

21 Q. What did you learn?

22 A. That very small amounts of PCB's did indeed
23 get in the mineral oil. It was a very incidental contami-
24 nant, in very small amounts.

25 Q. Did you ever learn whether Monsanto intention-

1 ally added PCB's to mineral oil?

2 A. No.

3 Q. Did you ever learn whether General Electric
4 intentionally added PCB's to mineral oil?

5 A. No.

6 Q. Did you ever learn whether Westinghouse
7 intentionally added PCB's to mineral oil?

8 A. No, sir.

9 Q. To your knowledge, what was the greatest per-
10 centage of PCB's detected in mineral oil electrical equip-
11 ment between the period of 1952 and 1974?

12 A. I don't know, other than it was a very inci-
13 dental, small amount that we're talking about.

14 Q. Less than one percent, less than five percent?

15 A. Oh, yes. Parts per million, you're into.
16 That needs very special analytical tools to find it.

17 MR. BRADLEY: Okay. I think this would be a
18 good time to break for the day.

19 MR. BAUER: Okay.

20 (Thereupon, the deposition was adjourned until ten
21 o'clock the following morning, July 16th, 1993, at which
22 time the following proceedings were had:)

23

24

25

1 CONTINUATION OF DIRECT EXAMINATION

2 QUESTIONS BY MR. BRADLEY:

3 Q. Are you ready, Paul?

4 A. Yes.

5 Q. Mr. Benignus, we're here on the second day of
6 your deposition, July 16th --7 MR. BAUER: And it's the third day, the second
8 consecutive day.

9 MR. BRADLEY: Fine.

10 Have you had a chance to talk with any of your
11 attorneys between the end of yesterday's deposition and
12 this morning regarding your deposition testimony?

13 A. My answer is no.

14 Q. (by Mr. Bradley) Do you have in front of you
15 Exhibit A, which we referred to yesterday, which has the
16 listing of Monsanto's expectations regarding your testimony
17 in this litigation?

18 A. Yes.

19 Q. I am going to be referring, now, to item
20 seventeen.

21 A. All right.

22 Q. Did Monsanto enter into special undertaking
23 agreements with GE, Westinghouse, and other PCB dielectric
24 fluid users regarding the sale and use of PCB's?

25 A. Yes.

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1 Q. When were those special undertaking agreements
2 begun?

3 A. I can give you approximate timing on this, and
4 in 1970 the top management at Monsanto said we can no
5 longer spend the time, top management, in discussing
6 nothing but what we're hearing, objections to PCB, and this
7 has to stop, and the directive came down, we will stop, and
8 they did stop for all nonelectrical, on the premise that
9 there are replacement substitutes available. So that ter-
10 minated nonelectrical.

11 When the electrical industry heard of this,
12 word came, "Do not let Monsanto take the precipitous action
13 Monsanto took with the nonelectrical users, that there are
14 no fire fire-resistant replacement dielectrics." There
15 weren't then, there are none now, and there probably never
16 will be. So, on that basis and that insistence, the
17 electrical industry insistence that there would be great
18 harm done to the country, and government people got pulled
19 in on this for their consideration, that we would have to
20 continue to supply PCB's for the electrical industry.

21 To answer your specific question, Monsanto now
22 agreed to go along with that on this basis: We will supply
23 only to manufacturers of capacitors and transformers, and
24 the premise was this is a closed apparatus, not open, as
25 the nonelectrical, plasticizers and so forth -- This was a

1 closed hermetically sealed apparatus -- and that it would
2 be monitored, and that the sale would be only to the manu-
3 facturers of the apparatus, and that it would be done on
4 the basis of a hold-harmless agreement, and they all had to
5 sign this or they were not able to obtain it.

6 Now, supply to any others than people who did
7 not manufacture the apparatus would have to come from the
8 manufacturer of the apparatus, not from Monsanto.

9 Q. You mentioned a hold-harmless agreement. What
10 was the hold-harmless agreement?

11 MR. BAUER: Object to the form to the extent
12 it calls for a legal conclusion, but you're welcome to give
13 him your understanding.

14 A. I would have to say, whatever that means,
15 "hold harmless."

16 Q. (by Mr. Bradley) All right. If somebody sued
17 Monsanto --

18 A. Yes.

19 Q. -- relating to their manufacture of PCB
20 fluids, somebody else would pay if it was determined that
21 Monsanto had any responsible. Is that your understanding?

22 MR. BAUER: Object to the form. Calls for a
23 legal conclusion. It's not specific as to a document that
24 is not before us, but subject to that you can answer.

25 A. I'd gone along with that, yes.

1 Q. (by Mr. Bradley) What was Monsanto's purpose,
2 as you understood it, in requiring the hold-harmless agree-
3 ments?

4 A. Appreciate that at this point in time this was
5 a tremendous change of attitude towards PCB, which had
6 never caused any problems in the environment, other than by
7 now it was known it was found in a peregrine falcon in
8 Baja, California, as we discussed, and now the discussion
9 and consideration was in parts per million and parts per
10 billion. This boggled my mind and boggled everybody else's
11 mind. Can't speak for everybody else, but this is the
12 tenor of the thing, "What is going to happen here."

13 Q. What was Monsanto's purpose, then, in
14 requiring the hold-harmless agreements before it sold PCB
15 dielectric fluid to any manufacturers of capacitors and
16 transformers?

17 A. To hold Monsanto harmless if something
18 happens.

19 Q. And what was the effect, if any, of Monsanto
20 entering into those hold-harmless agreements with its
21 dielectric fluid customers?

22 MR. BAUER: Objection. Vague.

23 A. One effect, obvious, it restricted the ability
24 to obtain PCB's. It restricted it. Only a very limited
25 number of people were able to obtain it, and, therefore,

1 this facilitated the ability to monitor and account for
2 details about what was going on. Now, that is one aspect.

3 Another aspect to this is, Monsanto wanted to
4 get out of the business altogether. Because of the
5 requests from the industry, electrical industry, or on
6 behalf of the electrical industry, we continued, and, as I
7 said, there was no known acceptable proven replacement,
8 certainly no fire-resistant replacement that anyone knew
9 of. And this, now, allowed the head people in the
10 electrical industry, it gave them time to ferret out, seek,
11 probe for a replacement. It gave Monsanto time in our
12 research to do things we had never done before, which is
13 make capacitors, experimentally, not transformers, to see
14 if we could find an acceptable replacement. We spent a lot
15 of money on this, we came up with nothing.

16 Now, the bottom line here is, when was this
17 now terminated? Well, I had retired, but I know it ter-
18 minated in 1977, and the clearly understood posture at
19 Monsanto was, as soon as a suitable replacement is found,
20 Monsanto shuts down promptly. This was done. It was done
21 the minute GE announced they were going to market with
22 dioctylthalate as a replacement for PCB in capacitors.
23 That shut the business down.

24 Q. (by Mr. Bradley) When did GE make that
25 announcement?

1 A. Well, I think I was 1977.

2 Q. All right. Are there any documents that state
3 that Monsanto wanted to get out of the PCB's altogether,
4 including the manufacture of dielectric fluids containing
5 PCB's?

6 A. I don't know.

7 Q. And Monsanto was never a manufacturer of any
8 equipment that was used in dry transformers. That's true,
9 isn't it?

10 A. Well, yes. I understand what you're asking,
11 and the answer is yes. We didn't supply components to dry-
12 type transformers. Maybe some resin or plastic that
13 Monsanto would make somewhere. I don't know. I can't be
14 categorical about this. To answer your question, the
15 answer is no.

16 Q. And Monsanto didn't itself manufacture dry
17 transformers.

18 A. Oh, no.

19 Q. Looking at item seventeen on Exhibit A, have
20 you now discussed with us all of the effects of the special
21 undertaking agreements with GE, Westinghouse, and other PCB
22 dielectric users that is referenced in item seventeen?

23 A. Could I hear that back?

24 (Thereupon, the reporter read back the question.)

25 MR. BAUER: Object to the form of the ques-

1 tion. Without having a specific question posed to him, and
2 with the potential of having his recollection refreshed
3 with documents, he may have other things to say; and,
4 therefore, the form of the question is objectionable. But
5 he's certainly welcome to give you anything else that he
6 can think of that he would have in response to such a broad
7 question.

8 MR. BRADLEY: Well, I am interested in the
9 specific things that you know and the specific things that
10 you might testify in relation to paragraph seventeen of
11 Exhibit A.

12 MR. BAUER: That's my point. Without knowing
13 what the question is that is posed to him, without seeing
14 what documents we may use to refresh his recollection, he
15 can't tell you today what he'll testify about, necessarily,
16 but he's welcome to give you his recollection and under-
17 standing of everything that's within that context.

18 Q. (by Mr. Bradley) Mr. Benignus, I can't expect
19 you to testify here today about things you don't know. So,
20 as you sit here today, tell me as best you know, have you
21 covered what you have meant by effects, what was meant by
22 effects of the special undertaking agreements referenced in
23 item seventeen of Exhibit A?

24 MR. BAUER: Well, I am going to object to that
25 question on the grounds that it's calling for speculation,

1 so it's not his word, effect, since he didn't write the
2 document.

3 But you can answer, Mr. Benignus.

4 A. I am doing my best to answer it. I am giving
5 you the overall posture and framework of what went on. It
6 was upsetting to people, to our customers, I can say that.
7 That was an effect. It shook them up. They were afraid
8 they would be forced out of business.

9 Q. (by Mr. Bradley) Any other effects that you
10 can think of?

11 A. Well, I'm still thinking about that one. And
12 as I already said, it's only the top people, you know, whom
13 I am referring to. As I told you already, we tried to find
14 a replacement. It didn't fly. It was up to GE. They did
15 find a replacement and had the economic facilities to go to
16 market. Now, that creates quite an economic situation in
17 the industry for people who don't have their clout. That
18 is an effect.

19 Westinghouse, in transformers, also probably
20 in capacitors, power capacitors, may have started to use
21 something other than PCB at this period. I am not sure. I
22 know later on they did, in certain capacitors. It was
23 highly disruptive, and GE had developed, earlier, Pyranol
24 Two, using an epoxide with PCB, and now they came out with
25 epoxide added to the dioctylthalate, and patented it. And

1 if you wanted to use it, well, you had to pay. Now, that
2 is very disruptive from what it had been.

3 I'm just trying to give you effects. I don't
4 know that they really --

5 Q. Is it fair to say that Monsanto was worried
6 about potential lawsuits regarding its manufacture of PCB's
7 and that was one of the reasons they required their
8 dielectric fluid customers to enter into the hold-harmless
9 agreements?

10 A. I can't say that. I wasn't in --

11 Q. The hold-harmless agreements had a somewhat
12 disrupting affect on the dielectric fluid industry?

13 A. It would be disruptive to me if something I
14 had been using for years and years and years with no
15 trouble whatsoever, and all of a sudden I was told I can't
16 get it unless I signed a hold-harmless agreement. I mean,
17 what the hell.

18 Q. Do you know what Monsanto required its cus-
19 tomers who entered into these hold-harmless agreements to
20 inform their customers about the existence of these
21 hold-harmless agreements?

22 A. I would certainly think so. There was no
23 restriction on this. In fact, as I already said, you said
24 their customers, meaning customers of the people who made
25 transformers, I guess you're talking about? --

1 Q. Yes.

2 A. -- who might need makeup fluid and that sort
3 of thing.

4 In the past those people, whoever they may
5 have been, were at liberty to come to Monsanto and ask for
6 a pail, or whatever they wanted, a drum. No problem. Now,
7 all of a sudden, they can't do this. They're going to have
8 to go to the transformer maker. So --

9 Q. Do you know whether Monsanto required its
10 customers who entered into these hold-harmless agreements
11 to inform their customers of the existence of the hold-
12 harmless agreement?

13 A. I can't answer this categorically. I would
14 assume -- Well, I can't assume.

15 Q. Do you know whether General Electric informed
16 its customers of the existence of a hold-harmless agreement
17 between GE and Monsanto?

18 A. Again, I can't assume.

19 Q. All right. Have you seen any document that GE
20 had informed their customers of the existence of the hold-
21 harmless agreement they entered into with Monsanto?

22 A. I can't recall that.

23 Q. All right. Didn't anybody ever tell you that
24 General Electric had informed their customers that they had
25 entered into a hold-harmless agreement with Monsanto

1 regarding the purchase of PCB dielectric fluid manufactured
2 by Monsanto?

3 A. They had no reason to tell me this. I can't
4 really say, and I retired in '74, and we're talking about
5 almost this period in time, and I wasn't really into the
6 details of the business part of it.

7 Q. And do you know whether Monsanto required
8 Westinghouse to inform its customers that Westinghouse had
9 entered into a hold-harmless agreement with Monsanto
10 regarding Westinghouse's purchase of PCB dielectric fluid
11 from Monsanto?

12 A. I don't feel qualified to answer that.

13 Q. You just don't.

14 A. I just don't.

15 Q. Have you ever seen any documents that would
16 indicate that Westinghouse had informed its customers that
17 it had entered into that type of hold-harmless agreement
18 with Monsanto?

19 A. Not that I recall.

20 Q. Did anyone from Westinghouse or within
21 Monsanto ever indicate to you that Westinghouse was telling
22 its customers that it had entered into the hold-harmless
23 agreement with Monsanto?

24 A. They didn't come to me to tell me that.

25 Q. Okay. Would you now look at number eighteen

1 on Exhibit A? And I am interested in whether, in your
2 opinion, you have already covered that topic in the depo-
3 sition testimony that you have already given.

4 MR. BAUER: By that you mean entirely? I
5 think he gave some testimony that bears on that topic, but
6 is your question whether he has anything else to say on
7 that topic? Specific questions may elicit more specific
8 answers than a general question.

9 But to the best of your ability, you may
10 answer that.

11 A. Okay. I was not active myself in this. I
12 will tell you my -- more than my impression, I think, what
13 I knew, because you don't want any conjecture. The ques-
14 tion asked Monsanto's knowledge, information and/or belief
15 regarding the ability of its PCB customers to assess and
16 use information from Monsanto or other sources regarding
17 PCB and to determine for themselves what information to
18 present to their customers, when and how. My answer is
19 yes. GE, Westinghouse, Allis-Chalmers, others, had the
20 ability to take the information, whatever Monsanto sub-
21 mitted, and use it to pass on to their customers.

22 I'd say this particularly addresses transform-
23 ers rather than capacitors, just in passing. We certainly
24 had impression and understanding. By we, not I, Monsanto,
25 that is what it's asking, Monsanto. You can get other

1 people's input, that people in the industry had ability to,
2 it says, assess and use information, and Monsanto certainly
3 supplied information to the transformer makers, and that
4 these transformer makers would determine for themselves
5 what information to present to their customers, when and
6 how. Well, they certainly did present information. I am
7 well aware of that. Now, when and how? That was at this
8 point in time in general, and the how, I guess written,
9 verbal. That is my best answer.

10 Q. (by Mr. Bradley) All right. In fact, in 1971
11 Monsanto requested that GE and Westinghouse inform its
12 customers of the problems associated with PCB's; isn't that
13 true?

14 A. I would say yes.

15 Q. I take it that you are not aware of any con-
16 tact with or inquiry from Nevada Power before the filing of
17 this lawsuit regarding PCB dielectric fluids.

18 A. That is correct.

19 Q. Okay. And I take it, also, you are not aware
20 of any inquiry to Nevada Power by Westinghouse, GE, or
21 Monsanto?

22 A. That is correct.

23 Q. I am going to show you Plaintiff's Exhibit
24 1118 and ask that you review that document for me.

25 A. What is the date of this thing?

1 Q. I will represent to you that Bill Papageorge
2 said the date was October 15, 1969.

3 A. Oh. Okay.

4 Q. Have you seen this document before today's
5 date?

6 A. I don't think so.

7 Q. All right. Looking at the first page of it,
8 it says that on 15 October the ad hoc committee, consisting
9 of Messrs. M. Ferrar, P. Hodges, E. John, W. Richard. E.
10 Wheeler issued a report summarizing the polychlorinated
11 biphenyl (PCB) pollution problems from the known available
12 information to date. That is what it says; is that cor-
13 rect?

14 A. Yes.

15 Q. Did you ever review a report prepared by those
16 individuals that summarize the polychlorinated biphenyl
17 pollution problem from the known available information?

18 A. Not that I remember.

19 Q. Did you ever review any conclusions, informa-
20 tion or recommendations that developed as a result of the
21 report prepared by those gentlemen?

22 A. Not that I remember.

23 Q. Would you turn, please, to page five? Under
24 Roman Numeral V-A, would you read that, please?

25 A. "Legal liability" --

1 Q. You can just read it to yourself.

2 A. Oh. Excuse me. All right.

3 Q. Under that section it says, "All customers
4 using these products have not been officially notified
5 about known effects, nor do our labels carry this informa-
6 tion." I read this correctly; is that correct?

7 A. Yes.

8 Q. Did anyone within Monsanto inform you that as
9 of, or on or about October 15, 1969, that Monsanto had
10 determined that all customers using PCB dielectric fluids
11 manufactured by Monsanto had not been officially notified
12 about their known effects, nor do Monsanto labels carry
13 that information?

14 A. Had not been officially notified. They got
15 notified shortly after, when Monsanto said, "You're not
16 getting any," as far as the nonelectric was concerned.
17 That was pretty plain. They got the notice right there,
18 promptly. That is why I asked what was the date.

19 Now, whether this was contained on the label,
20 how are you going to get this on the labels? This is pre-
21 posterous. I appreciate what somebody here was trying to
22 convey. There is no way you can put all of this about this
23 bird or that fish.

24 This, incidentally, is one -- I think you are
25 getting into the area -- As I see this document, I go

1 through the whole thing, this is the turmoil it threw the
2 company into. These people are doing the best to respond
3 to that, and Monsanto's answer was, "Get out," and they
4 did.

5 Q. Are you done now?

6 A. Yes.

7 Q. I don't want to interrupt you.

8 Okay. I take it, though, that nobody within
9 Monsanto informed you in late '69 that Monsanto believed
10 that its labels did not carry known information about the
11 effects of its PCB dielectric fluids?

12 MR. BAUER: Objection. Asked and answered.

13 THE WITNESS: What?

14 MR. BAUER: I said, "Asked and answered."

15 A. Nobody informed me, no.

16 Q. (by Mr. Bradley) Okay. Would you now turn to
17 page --

18 A. Well, may I again say that, if I understand
19 what is written here, how are you going to put this on a
20 label?

21 Q. You were not responsible for creating a label;
22 somebody else was.

23 A. Yes.

24 Q. Would you now turn to page six, under Roman
25 Numeral VII, towards the bottom of the page.

1 A. Yes.

2 Q. "Involvement with other producers" is next to
3 Roman Numeral VII; is that correct?

4 A. Other producers of what?

5 Q. Would you read the first full sentence under
6 that section, and read it out loud, if you would for the
7 court reporter.

8 A. "Although Monsanto is most probably responsi-
9 ble for the U.S. contamination and jointly responsible with
10 MCL for the United Kingdom problem, we cannot accept
11 responsibility for the world." Oh, I begin to understand
12 it now.

13 Q. My question first is, what was MCL in 1969?
14 If you know.

15 A. Monsanto Chemical, Limited, which refers to
16 our operation in Ruabon, South Wales. They manufactured
17 PCB's.

18 Q. Do you agree with the statement that in 1969
19 Monsanto was most probably responsible for the U.S.
20 contamination regarding PCB's?

21 MR. BAUER: Object to the form of the ques-
22 tion. Lacks foundation.

23 A. I don't know why we're responsible for it. I
24 can't answer that. That is a legal question. Monsanto was
25 the sole producer of PCB in the United States. I think

1 that is what they're alluding to here.

2 Q. (by Mr. Bradley) And there are graphs at the
3 back of this exhibit, correct?

4 A. I believe so.

5 Q. Have you seen those graphs before today?

6 A. I don't think so.

7 Q. All right. Did you ever review any of the
8 data, raw data, generated by Industrial Bio-Test Laboratory
9 regarding their testing in the 1970's of Monsanto's Aroclor
10 products?

11 A. No.

12 Q. Did ever visit the Industrial Bio-Test
13 Laboratories?

14 A. No.

15 Q. Did you know Dr. Paul Wright?

16 A. No.

17 Q. I am now going to show you Plaintiff's Exhibit
18 1616 and ask whether you have ever seen that document
19 before.

20 A. Well, I would have to answer your question,
21 yes, I have seen this. I received a copy.

22 Q. And is that a true and accurate copy of the
23 document that you received?

24 A. I would say yes. I don't know that all of it
25 is here. Is it? Page two, I have. But, yeah, the answer

1 is yes.

2 Q. And was it Monsanto's practice to maintain
3 copies of those types of records as part of its regularly-
4 conducted business?

5 A. Certainly did.

6 MR. BAUER: Well, this is a General Electric
7 document.

8 MR. BRADLEY: I understand what it is. I am
9 asking him questions about it.

10 MR. BAUER: Does Mr. Benignus know if he
11 received a copy of the General Electric trip report?

12 MR. BRADLEY: Well, Counsel, he's already said
13 that he did.

14 MR. BAUER: Well, he assumed that he did
15 because he looked and saw his name, Mr. Bradley.

16 MR. BRADLEY: Well, you are now putting words
17 in his mouth. He never said he assumed that he did. He
18 said that he did.

19 A. Let's say I did.

20 Q. (by Mr. Bradley) All right.

21 A. There is no reason why I couldn't have seen
22 it.

23 Q. The document summarizes a report that was held
24 between representatives of Monsanto and representatives of
25 General Electric; is that correct?

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1 A. It says at St. Louis, Missouri. I was at St.
2 Louis, Missouri.

3 Q. And do you know whether it was the regular
4 practice of attendees at meetings held within St. Louis to
5 prepare summaries of the information that was presented at
6 those meetings?

7 MR. BAUER: Object to the form. Vague as to
8 who's preparing the memorandum, which company they were
9 representing.

10 Q. (by Mr. Bradley) Go ahead and answer.

11 A. Somebody had written up or responded to or
12 recorded this kind of a meeting, certainly.

13 Q. All right. And may I see that for a moment,
14 please?

15 A. Uh-huh.

16 Q. This document is a trip report of a trip to
17 St. Louis, January 21 and 22, 1970, and it indicates the
18 purpose of the trip was to meet with Monsanto Chemical
19 personnel for a discussion of environmental safety aspects
20 associated with these polychlorinated biphenyls and indi-
21 cates that you were one of a number of people present at
22 the meeting; is that correct?

23 A. I would say so.

24 Q. I don't suppose you would happen to remember
25 that particular meeting?

1 A. Let's see. I think, vaguely. There were many
2 meetings that came about, and I know those people came to
3 St. Louis.

4 Q. Do you recall at that meeting someone from
5 Monsanto Company informing all of the participants of the
6 information contained at number three under "Discussions
7 and Conclusions," which reads, "Monsanto Co. is the sole
8 North American supplier of polychlorinated biphenyl"?

9 MR. BAUER: Object to the form of the ques-
10 tion.

11 A. It's a true statement.

12 MR. BAUER: Mr. Benignus, that was not his
13 question.

14 Would you read back the question.

15 MR. BRADLEY: Well, do you have an objection?

16 MR. BAUER: Yes. I would like Mr. Benignus to
17 listen to the question, and answer.

18 A. Oh, I'm reading the three.

19 Q. (by Mr. Bradley) Is number three accurate;
20 let me ask that.

21 A. Monsanto Company --

22 MR. BAUER: That's fine, Ralph.

23 A. -- is -- was the sole North American manu-
24 facturer of polychlorinated biphenyl.

25 Q. (by Mr. Bradley) That is not what number

1 three says, though, is it?

2 A. No. It says "supplier," but that's what's
3 been implied here.

4 Q. Well, my question is --

5 A. Now, wait a minute. We were not the sole
6 supplier, if you want to get nit-picking technical.

7 Q. I want to get nit-picking technical. Who else
8 was a supplier in North America?

9 A. And the time was 1970?

10 Q. Yes.

11 A. This is before the electrical terminated. I
12 assume the nonelectrical terminated. Now, Monsanto was the
13 sole manufacturer, strictly speaking. Nit-picking,
14 Monsanto was not the sole supplier, as we already went
15 through this. Monsanto supplied to the transformer -- and
16 this is transformer, I would assume. In any event, it is
17 transformer area. Monsanto supplied, as we discussed, on a
18 restricted hold-harmless agreement to transformer makers
19 who qualified and signed the agreement. Now, they in turn,
20 under that agreement, as I recall, could themselves supply,
21 if needed, as a makeup, a top-off, if it's required. They
22 could supply that. That is what I am getting at. Maybe
23 that is beyond what this is saying.

24 Q. If they supplied it under the hold-harmless
25 agreement, if any of the companies supplied PCB's, it would

1 have been PCB's that had been manufactured by Monsanto; is
2 that correct?

3 A. Of course.

4 MR. BAUER: Object to the form of the ques-
5 tion. Calls for speculation.

6 MR. BRADLEY: Did you get his answer?

7 MR. BAUER: Paul, don't forget to let me
8 object before you answer. Okay? Or at least give me a
9 chance to object before you answer.

10 THE WITNESS: Okay.

11 Q. (by Mr. Bradley) I will take that exhibit
12 back. I am now going to show you Plaintiff's Exhibit 1145
13 and ask that you review that document.

14 A. Okay.

15 Q. And it would be helpful to me if I could come
16 around and stand next to you for my questions. Is that all
17 right?

18 A. Sure.

19 Q. Have you seen this document before today's
20 date?

21 A. Yes.

22 Q. And these are the minutes of meetings of
23 capacitor and transformer working groups of the ANSI
24 Committee C107 on use of askarel and askarel-soaked
25 materials?

1 MR. BAUER: Object to the form of the ques-
2 tion. You're reading the front of the document, but it's
3 obvious from the fact that the second page is labeled
4 number seven that it is not the document.

5 Q. (by Mr. Bradley) 1145 begins with page six,
6 does it not? See the number six down there, Mr. Benignus?

7 A. Yes.

8 Q. And then it goes on to number seven, eight,
9 and nine. I don't know what part this was or what entire
10 complete document this was a part of, but does this appear
11 to you to be the minutes of a meeting in Chicago, Illinois,
12 February 8 and 9, 1972, of the capacitor and transformer
13 working groups?

14 A. That is correct.

15 Q. All right. And is this a true and accurate
16 copy of the minutes that you received regarding that
17 meeting?

18 A. Well, it sure is -- I am sure it's correct.

19 Q. Well, was it Monsanto's --

20 Do you have an objection?

21 MR. BAUER: Did you look at the dates on the
22 bottom of each page, Mr. Benignus? The last page is dated
23 December, 1971.

24 MR. BRADLEY: Off the record for a minute.

25 (Thereupon, a short discussion was had.)

1 MR. BRADLEY: Back on the record.

2 MR. BAUER: For the record, I have been
3 instructed not to object in ways that are not proper under
4 the Federal Rules of evidence. I would like to point out
5 for the record, Mr. Benignus is eighty-three years old, and
6 I would appreciate it if we all moved in a manner that
7 allowed Mr. Benignus not to make assumptions and to read
8 the document and study the document before he answers the
9 questions posed.

10 MR. BRADLEY: I move to strike the colloquy of
11 counsel and note for the record that during the last
12 portion of his comments he was looking at Mr. Benignus in
13 an effort to educate him and attempt to influence, in my
14 opinion, his testimony.

15 MR. BAUER: That's fine. Let's take a break.
16 Mr. Benignus, let's take a break.

17 (Thereupon, a short recess was taken.)

18 Q. (by Mr. Bradley) Mr. Benignus, this particu-
19 lar document begins at the bottom with page six, and it
20 goes to what appears at the bottom of the last page, which
21 says nine on it; is that correct?

22 A. Yes.

23 Q. And at the bottom of page nine it says
24 December 15, 1971. That is correct, is it not?

25 A. Yes.

1 Q. And on all of the other pages it says February
2 8 to 9, 1972, doesn't it?

3 A. I see that now, yes.

4 Q. Do you some the letters NEV 024431 is what is
5 on the first page; is that correct?

6 A. Yes.

7 Q. I'll represent to you that that is the Bates
8 numbering system of Monsanto and that they provided those
9 materials to us and that it had that Bates number on it.

10 A. Yes.

11 Q. Do you see the next Bates number?

12 A. Yes.

13 Q. Is it consecutive?

14 A. Yes.

15 Q. Is the next Bates number consecutive?

16 A. Yes.

17 Q. Is page nine a consecutive Bates number?

18 A. Yes.

19 Q. All right. So, for whatever reason, the last
20 page of this document has a different date. Now, on page
21 eight there is a listing of information beginning with A
22 and going through H; is that correct?

23 A. Yes.

24 Q. On page nine it begins with I; do you see
25 that?

1 A. Yes.

2 Q. All right. Is there anything about this
3 document, other than the different date on the last page,
4 that would indicate to you that it's not a true and
5 accurate copy of the minutes of that meeting that you
6 testified earlier that you received?

7 MR. BAUER: Object to the form of the ques-
8 tion. It's not a complete document, and object to the use
9 of an incomplete document.

10 But you can answer the question, Mr. Benignus.

11 A. I'm sorry there is this commotion over the
12 document.

13 Q. (by Mr. Bradley) Other than the different
14 date, does it appear to be a true and accurate copy of the
15 minutes that you received?

16 MR. BAUER: Same objection.

17 A. I would say yeah, it appears. It would be
18 nice if the thing could be presented without all of the
19 controversy.

20 Q. (by Mr. Bradley) In fairness, we should say,
21 other than the portion on the first page, which has some
22 yellow markings on this particular copy, that wasn't on
23 your copy, was it?

24 A. I don't know.

25 Q. All right. Now, mostly what I want to get at

1 with this document, do you see under the section entitled
2 "Members present" it has capacitor working groups and names
3 and affiliations?

4 A. Yes.

5 Q. Were the people listed under capacitor working
6 group, the members of the ANSI C107 working group?

7 A. Exactly.

8 MR. BAUER: Object to the form. Indefinite as
9 to time.

10 Q. (by Mr. Bradley) In February of 1972 were the
11 people listed under "Capacitor Working Group" in fact the
12 members of the capacitor working group of the ANSI
13 Committee C107?

14 A. Yes.

15 Q. Were the affiliations of the those people in
16 February of '92 the same as are listed on the first page of
17 this exhibit?

18 A. Yes.

19 Q. All right. So N.R. Clark was a member of the
20 capacitor working group in February of '72, and that person
21 was with Universal Manufacturing Company?

22 A. Yes.

23 Q. Was Universal Manufacturing Company a company
24 who in 1972 purchased PCB dielectric fluid from Monsanto?

25 A. Yes.

1 Q. And A.S. D-o-t-y is another member, and that
2 person is affiliated with Mallory & Company?

3 A. Yes.

4 Q. Was Mallory & Company a manufacturer of trans-
5 former capacitors in 1972?

6 A. Capacitors, yes.

7 Q. Right. And did they purchase PCB dielectric
8 fluid from Monsanto in '72?

9 A. I think Monsanto was supplying PCB's to the
10 industry at that point in time.

11 Q. Okay. And E.G. Hammer in '72 was with McGraw-
12 Edison Power Systems; is that correct?

13 A. Yes.

14 Q. J.F. Kuzela was with Sangamo Electric Company?

15 A. Yes.

16 Q. Was Sangamo also a manufacture of capacitors
17 in 1972?

18 A. Yes.

19 Q. And R.D. McClain of Westinghouse was a member
20 of the capacitor working group?

21 A. Yes.

22 Q. And E.M. Moore was with the Electrical
23 Utilities Company?

24 A. Yes.

25 Q. What was the Electrical Utilities Company in

1 February of 1972?

2 A. They made capacitors.

3 Q. And A. Pozefsky was the chairman in February
4 of '72, and he was from GE?

5 A. Yes.

6 Q. And R.L. Rollins was a member of the commit-
7 tee, and he was with the Jard Company?

8 A. Yes.

9 Q. And was the Jard Company a company that manu-
10 factured capacitors in February of 1972?

11 A. Yes.

12 Q. And it also lists the members of the trans-
13 former working group of the ANSI Committee C107 in February
14 of 1972; is that correct?

15 A. Yes.

16 Q. And on that date W.S. Grogan was a member, and
17 that person was with Allis-Chalmers?

18 A. I don't know Grogan.

19 Q. The document at least indicates that person
20 was with Allis-Chalmers.

21 A. Yes.

22 Q. And Allis-Chalmers was a manufacturer of
23 transformers in February of 1972?

24 A. Yes. I can say yes.

25 Q. And H.A. Onishi from Commonwealth Edison was a

1 member?

2 A. Yes.

3 Q. And E.L. Raab, R-a-a-b, was chairman of the
4 transformer working group, and he was from GE?

5 A. Yes.

6 Q. And W.C. Reinhardt was a member, and he was
7 from Central Moloney Transformer Division?

8 A. Yes.

9 Q. And they were manufacturers, as well, Central
10 Moloney Transformer Division?

11 A. We're getting so detailed and so on and so
12 forth here, I am going to say this: Moloney went out of
13 the transformer-making business at some point in time that
14 I cannot pinpoint. You're asking, are they manufacturing
15 transformers. Maybe yes, maybe no. I am telling you they
16 went out of the business, and I don't know.

17 Q. All right. At some point they were a manu-
18 facturer?

19 A. Yes. At some point, approximating this period
20 of time, they were.

21 Q. Okay. And A.L. Pickley.

22 A. Rickley.

23 Q. I'm sorry. Rickley, from Doble Engineering?

24 A. Right.

25 Q. And was Doble Engineering manufacturing trans-

1 formers?

2 A. No.

3 Q. Do you know what service they were providing
4 in February of '72?

5 A. Yes. Through the years, Doble Engineering
6 provided very fine, very useful data, information, par-
7 ticularly in the transformer area, as to how to maintain
8 askarel transformers, the character of transformer askarel,
9 and they analyzed transformers for the condition of the
10 fluid on behalf of utilities and other people. They
11 provided a very fine service.

12 Q. All right. And it indicates that W.E.
13 Shoulders appeared as a representative for an F.P. --

14 A. Langefeld.

15 Q. All right. And that person was from Union
16 Electric Company?

17 A. Yes. St. Louis.

18 Q. And was Union Electric Company a manufacturer
19 of transformers in '72?

20 A. No, a utility in St. Louis.

21 Q. All right. And T.K. Sloat was a member of the
22 transformer working group, and he was from Westinghouse?

23 A. Right.

24 Q. All right. I am now going to show you
25 Plaintiff's Exhibit 1185 and ask you to review that for me,

1 please.

2 A. That's my name.

3 Q. All right. Would you now review that docu-
4 ment.

5 On the record, while your reviewing that, I am
6 not going to ask you specific questions about the contents,
7 but just what you're familiar with it and whether it's a
8 true and accurate copy.

9 A. Thank you.

10 Q. You're welcome.

11 A. Okay.

12 Q. Have you seen that document before?

13 A. Yes.

14 Q. Is that a document that you authored?

15 A. Not unilaterally, by a long shot.

16 Q. Did you prepare the document?

17 A. My name is on it. I would assume that I pre-
18 pared it, yes.

19 Q. And you prepared that on or about January 26th
20 of 1970?

21 A. That's what it says.

22 Q. And at the top of the first page it says "The
23 PCB-Pollution Problem, January 21 and 22, 1970, St. Louis
24 Meeting With General Electric Co.;" is that correct?

25 A. Yes.

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1 Q. Do you recall attending a meeting with General
2 Electric Company in January of 1970 regarding the PCB-
3 pollution problem?

4 MR. BAUER: Objection. Asked and answered.

5 A. Specifically, at the moment, I don't recall,
6 but --

7 Q. (by Mr. Bradley) All right. And was it
8 Monsanto's practice to generate minutes of the meetings
9 that it held with General Electric in January of 1970
10 regarding meetings it held with them?

11 A. Yes.

12 Q. And did Monsanto maintain copies of those
13 minutes as part of its regularly-conducted business?

14 A. Yes.

15 Q. And is this a true and accurate copy of the
16 minutes that you prepared regarding that meeting?

17 A. Yes, and as I told you, I didn't prepare all
18 of this myself.

19 Q. All right. Then I should say it's a true and
20 accurate copy of the document you put together.

21 A. Right.

22 Q. All right. I am now going to show you Plain-
23 tiff's Exhibit 1641. And let's hand it to your attorney
24 first.

25 A. All right.

1 Q. And when he's done reviewing it, you can re-
2 view it, please.

3 A. Okay.

4 Q. This is an October 29, 1971 letter to A.M.
5 Salazar who is secretary of ANSI Committee C107?

6 A. Yes.

7 Q. At the bottom it says, "Best regards, P.G.
8 Benignus." Do you recall whether you authored that docu-
9 ment?

10 A. Yes, I did.

11 Q. And is this a true and accurate copy of the
12 document you authored on or about October 29, 1971?

13 A. Yes.

14 Q. And did you author that document on or about
15 the time of your making a recommendation regarding the
16 appointments to head subcommittees of C107?

17 A. Yes.

18 Q. And was it Monsanto's regular practice to keep
19 copies of letters of that sort as part of its regularly-
20 conducted business?

21 A. Yes.

22 Q. And did Monsanto maintain that as part of its
23 regularly-conducted business?

24 A. Yes.

25 Q. I am now going to show you Plaintiff's Exhibit

1 1158, and I will first hand it to your attorney.

2 Have you had a chance to review that document?

3 A. No.

4 Q. All right. Take your time, and let me know
5 when you have completed your review.

6 I'd like to make a suggestion. The way we've
7 handled dealing with documents and witnesses authenticating
8 them and addressing hearsay issues in the past with Mr.
9 Featherstone was to have me provide a set of documents, and
10 the witness then would go off with the attorney and review
11 the entire set, and when the review was completed then we'd
12 all reassemble. That seemed to be an efficient way of
13 handling it, and I would like to suggest that with this
14 witness and these sets of documents.

15 MR. BAUER: That's fine with me.

16 MR. BRADLEY: All right. Off the record.

17 (Thereupon, a short recess was taken.)

18 Q. (by Mr. Bradley) I am now showing you
19 Plaintiff's Exhibit 1158. Have you had a chance to review
20 that document?

21 A. Yes, I think so.

22 Q. Is this a document written by A.N. Salazar
23 regarding minutes of a February 23rd 1971 committee on use
24 and disposal of askarel?

25 A. That is what I interpret at this time.

1 Q. Have you seen this document before?

2 A. I don't remember specifically, but that is
3 what it is.

4 Q. Do you happen to know whether this is a true
5 and accurate copy of the minutes prepared by Mr. Salazar?

6 A. I certainly would think so.

7 Q. Was it the practice of the members of the
8 committee on the use and disposal of askarel to prepare
9 minutes of the meetings that they held in February of 1971?

10 A. Yes.

11 Q. And did Monsanto maintain copies of those
12 minutes as part of its regularly-conducted business?

13 A. Yes.

14 Q. And it indicates which members were present
15 and their affiliations; is that correct?

16 A. Correct.

17 Q. And it indicates what others were present,
18 along with their affiliations; is that correct?

19 A. Right.

20 Q. I am now going to show you Plaintiff's Exhibit
21 1159. You reviewed this document before with your attor-
22 ney; is that correct?

23 A. Yes.

24 Q. Is this a February 10, 1971 letter from A.M.
25 Salazar to participants in the proposed ANSI committee on

1 askarel in electrical equipment?

2 A. That is what it says.

3 Q. Have you seen the document before?

4 A. I would think so.

5 Q. Is this a true and accurate copy of the
6 document that you saw before?

7 A. Seems to me it is.

8 Q. All right. And back in February of '71, do
9 you know whether it was the regular practice of the pro-
10 posed participants in the ANSI committee on askarel to
11 write confirming letters regarding their telephone conver-
12 sations?

13 A. Yes.

14 Q. And did Monsanto maintain a copy of this
15 letter as part of its regularly-conducted business?

16 A. Yes.

17 Q. I am now showing you Plaintiff's Exhibit 1163.
18 You reviewed this document with your attorney?

19 A. Yes.

20 Q. Is this a document you have seen before?

21 A. Yes.

22 Q. It's dated November 18th, 1970, and its titled
23 "PCB Pollution, Proposed ANSI Committee Suggested
24 Composition;" is that correct?

25 A. That is the title, yes.

1 Q. Do you know who prepared this document?

2 A. This is not my handwriting on here, if this is
3 significant, but otherwise it's a list of people, and if I
4 am not mistaken, it's a list that I -- I think it's a list
5 that I prepared, although some of these people I am not
6 acquainted with.

7 Q. All right. And except for the handwriting on
8 the first page of that exhibit, is this a true and accurate
9 copy of the list that you saw back around November 18, 1970
10 regarding the proposed ANSI committee suggested composi-
11 tion?

12 A. I would think so, yes. I think so.

13 Q. And do you know whether this list was
14 generated at or about the time that there were suggestions
15 being made on the composition of the ANSI committee?

16 A. Yes.

17 Q. And was the document generated as part of
18 Monsanto's regularly-conducted business?

19 A. Yes.

20 Q. And was it maintained within Monsanto's
21 regularly conducted business?

22 A. Yes.

23 Q. I am now going to show you Plaintiff's Exhibit
24 1160. You reviewed that document before with your attor-
25 ney?

1 A. Yes.

2 Q. It's entitle, "Chronological Steps With
3 Respect to Initiation of an American National Standards
4 Committee on Askarel Used in Electrical Equipment;" is that
5 correct?

6 A. Yes.

7 Q. Okay. Have you seen this document before?

8 A. It is not exactly clear to me.

9 Q. You don't know whether you have seen it
10 before?

11 A. No, I don't. I am not sure that I have seen
12 this one before.

13 Q. Okay. I am now going to show you Plaintiff's
14 Exhibit 1175. That also is a document you have reviewed
15 with your attorney; is that correct?

16 A. Yes.

17 Q. And that is entitled "Steering Committee of
18 ANSI C107," and indicates that you are the chairman from
19 Monsanto?

20 A. Yes.

21 Q. And it indicates the names of different indi-
22 viduals and their affiliations; is that correct?

23 A. Correct.

24 Q. And the designation next to the individuals'
25 names might either be TR, TR & C, or just plain C; is that

1 correct?

2 A. Yes.

3 Q. Would the TR indicate that those individuals
4 are members of the transformer subcommittee of the ANSI
5 C107?

6 A. Their interest is in transformers. Where it
7 says TR & C, that means transformer and capacitor.

8 Q. Okay. Is this a document that you saw before
9 today?

10 A. Yes, I would think so.

11 Q. Is this a true and accurate copy of the
12 document you saw before today's date that was the same as
13 Plaintiff's Exhibit 1175?

14 A. Appears to be.

15 Q. And is this a document that was prepared on or
16 about the date, or -- Excuse me. Do you know the date that
17 it was prepared?

18 A. No, I don't. I'm looking for it.

19 Q. Can you tell me whether it was prepared on or
20 about the time that you had obtained the names of the
21 different individuals listed on the exhibit?

22 A. Yes.

23 Q. And was it -- Was this document prepared as
24 part of Monsanto's regularly-conducted business?

25 A. I don't think Monsanto prepared this.

1 Q. All right. Who do you think prepared it?

2 A. I don't know.

3 Q. Is this a document that Monsanto maintained
4 within the course of its regularly-conducted business?

5 A. Yes.

6 Q. I am now going to show you Plaintiff's Exhibit
7 1149, and I think, because I have a telephone call, I am
8 going to come back to it. Gave me two minutes?

9 A. Sure.

10 (Thereupon, a short recess was taken.)

11 Q. (by Mr. Bradley) Is this a document that you
12 have seen before?

13 A. I am trying to answer your question. This was
14 May of 1972, and I want to point out something to you: I
15 retired in '74. At this point in time I was sort of on the
16 sidelines, and I don't know if I am even mentioned on this
17 thing. The committee had been formed, as it shows. There
18 was no need to show who the steering chairman was, and --
19 well, here, "Others Present," it says I was present. So I
20 was present at whatever generated this. Now, you're asking
21 if I ever saw this. I don't recall specifically. Evident-
22 ly Salazar wrote this. I was --

23 Q. Okay. Let me ask a question, then. In May of
24 1972 --

25 A. Uh-huh.

1 Q. -- were the same members of the capacitor
2 working group as of February 8 or 9, 1972, sometime members
3 of the capacitor working group on May 25, 1972?

4 A. Yes.

5 Q. And in addition, there was an H.A. Onishi of
6 Commonwealth Edison who was a member in May of '72; is that
7 correct?

8 A. It so states.

9 Q. All right. And apparently in May of '72,
10 Onishi went from the transformer working group to the
11 capacitor working group; is that correct?

12 A. That is what it says.

13 Q. All right. And were the members of the trans-
14 former working group in May of '72 the same as the members
15 of the transformer working group in February of '72?

16 A. It seems to be.

17 Q. It doesn't have T.R. Sloat of Westinghouse
18 listed -- Is that correct? -- as a member in '72?

19 MR. BAUER: Object to the form. The designa-
20 tion is "Members Present."

21 Q. (by Mr. Bradley) Well, do you know if in May
22 of '72 Sloat was still a member of the transformer working
23 group?

24 A. Oh, sure. Yes.

25 Q. And that is all I have relative to this set of

1 documents.

2 Why don't we take our lunch; and what I am
3 going to do is to have another set of documents here so
4 that when you're finished with your lunch period you can
5 come back and review some more, and I will have them
6 sitting right here where Mr. Benignus sits.

7 MR. BAUER: Fine.

8 (Thereupon, a luncheon recess was taken.)

9 Q. (by Mr. Bradley) Mr. Benignus, have you had
10 an opportunity to review Plaintiff's Exhibit 1393?

11 A. Yes.

12 Q. And is this a document that you authored?

13 A. Yes.

14 Q. And this particular copy has some yellow high-
15 lighting and orange highlighting; is that correct?

16 A. Yes.

17 Q. The one you prepared didn't have the high-
18 lighting and didn't have the -- on the second page it
19 didn't have the handwriting that says "Ex # 1349" at the
20 bottom; is that correct?

21 A. Yes.

22 Q. And this is a December 3rd, 1971 memo that you
23 wrote to W.R. Richard regarding a meeting with Westinghouse
24 at St. Louis, Thursday, December 16, 1971; is that correct?

25 A. Yes.

1 Q. And did you prepare that document at or about
2 the time that you learned of the information that is con-
3 tained in the document?

4 A. Yes.

5 Q. And is that a document that -- the type of
6 document that Monsanto generates as part of its regular
7 business activity?

8 A. Yes.

9 Q. And was this document kept within Monsanto as
10 part of its regularly-conducted business?

11 A. Yes.

12 Q. Have you had a chance to review Plaintiff's
13 Exhibit 867?

14 A. Yes.

15 Q. Is this a document that you authored?

16 A. Yes.

17 Q. Is this a true and accurate copy of the docu-
18 ment that you authored on August 4, 1971?

19 A. Yes.

20 Q. Is this a document that you prepared shortly
21 after receipt of HR 10085, which is referenced in the
22 document?

23 A. Yes.

24 Q. Is this document the type of document that
25 Monsanto generated as part of its regular business

1 activity?

2 A. Monsanto didn't generate it. I was merely
3 passing this attachment, I was passing that on to Bergen.
4 It was a transmittal.

5 Q. And it was normal within Monsanto for you to
6 transmit that sort of information?

7 A. Oh, yes.

8 Q. And did Monsanto maintain that document as
9 part of it's regularly-conducted business?

10 A. I don't know whether they did or they didn't,
11 but I transmitted it to Bergen.

12 Q. Would you expect this letter to be maintained
13 at Monsanto?

14 A. Yes.

15 Q. Have you had a chance to review Plaintiff's
16 Exhibit 336?

17 A. Yes.

18 Q. Is this a copy of a letter to you dated March
19 22, 1972?

20 A. Yes.

21 Q. And the author is T. K-a-t-a-y-a-m-a.

22 A. Yes.

23 Q. And have you seen this document before today's
24 date?

25 A. Yes.

1 Q. Is this a true and accurate copy of the letter
2 sent by Mr. Katayama to you on March 22nd, 1972?

3 A. Yes.

4 Q. Did Mr. Katayama write that letter in response
5 to questions you presented in a letter to him March 20th,
6 1972?

7 A. Yes.

8 Q. And was it Monsanto's regular practice to
9 maintain copies of letters of this sort as part of its
10 regularly-conducted business?

11 A. Yes.

12 Q. And did Monsanto maintain this document as
13 part of its regularly-conducted business?

14 A. Yes.

15 Q. Have you had chance to review Plaintiff's
16 Exhibit 1618?

17 A. Yes.

18 Q. What is that?

19 A. Well, that is the proper handling of Aroclor
20 and their mixtures in the electrical industry.

21 Q. And is that a document you authored on or
22 about May 1, 1956?

23 A. Yes.

24 Q. And that a true and accurate copy of the
25 document you wrote on that date?

1 A. Yes.

2 Q. And was it a part of Monsanto's regular busi-
3 ness to generate documents of that sort?

4 A. Yes.

5 Q. And was that document maintained as part of
6 Monsanto's regularly-conducted business?

7 A. Yes.

8 Q. Have you had a chance to review Plaintiff's
9 Exhibit 1190?

10 A. Yes.

11 Q. Is that a document you have seen before
12 today's date?

13 A. I don't recall this one.

14 Q. Okay.

15 A. I don't recall this.

16 MR. BRADLEY: Off the record for a moment.

17 (Thereupon, a short colloquy was had.)

18 MR. BRADLEY: Back on the record. The
19 attorneys have agreed that the exhibits that Mr. Benignus
20 is referring to, all of the exhibits that come up during
21 Mr. Benignus' deposition, will not go with the court
22 reporter.

23 MR. BAUER: At least all of the ones that have
24 been marked Plaintiff's exhibits. We have not gotten any
25 documents yet that that is not true of.

1 MR. BRADLEY: And you won't.

2 MR. BAUER: Okay.

3 Q. (by Mr. Bradley) You now have before you
4 Plaintiff's Exhibit 292. Is that a document that you have
5 seen before?

6 A. I don't recall it.

7 Q. You now have before you Plaintiff's Exhibit
8 1377. Is that a document you have seen before?

9 First, have you had a chance to talk with your
10 lawyer about this exhibit?

11 A. This?

12 Q. Yes.

13 A. Yes.

14 Q. Okay.

15 A. Now, December, 1971, at St. Louis, meeting,
16 Monsanto, on Inerteen. It was a meeting with Westinghouse,
17 so Westinghouse people and Monsanto people at the meeting.

18 NR. BRADLEY: All right. I'm sorry. Would
19 you read back the question and the answer, please?

20 (Thereupon, the reporter read back a portion of the
21 testimony.)

22 Q. (by Mr. Bradley) Have you seen this document
23 before?

24 A. I really don't recall it, but I certainly know
25 the meeting.

1 Q. I want you to now look at the last page of the
2 exhibit. It indicates production and sales of PCB's by
3 Monsanto Industrial Chemicals Company for the years 1960 to
4 1971; is that correct?

5 A. That's what it says.

6 Q. And do you recall those figures being dis-
7 cussed at the meeting that was held December 16, 1971 at
8 St. Louis with Monsanto people and Westinghouse people?

9 A. I think they were. Doesn't it say here
10 something about how much Monsanto makes?

11 Q. My question was whether you recall those
12 figures being discussed at the meeting.

13 A. Specifically, no.

14 Q. Do you recall whether in 1966 Monsanto was
15 producing roughly thirty-two thousand nine hundred twenty-
16 five --

17 A. Million. No. This is in short tons.

18 Q. Short tons of PCB's?

19 A. No. I never reported it in short tons. That
20 is why I know this isn't mine. But I have no reason for
21 challenging it.

22 Q. And it shows an increase between -- There was
23 an increase between '66 and '67 in total U. S. production
24 in total PCB's by Monsanto; is that true?

25 MR. BAUER: Object to the form of the ques-

1 tion. You pointed your finger at the document. Now, are
2 you asking him whether that's what the document shows, or
3 what his recollection is?

4 Q. (by Mr. Bradley) My question didn't have
5 anything to do with the document. My question is: Did
6 Monsanto's production of PCB's increase between 1966 and
7 1967.

8 A. I have no recollection of whether it did or it
9 didn't.

10 Q. Can you tell who authored this document?

11 A. No, I can't, not from what's here. As I said,
12 this is a report in short tons; it's not my figure. I
13 don't know who authored this.

14 Q. And you have no memory of having seen the
15 document before?

16 MR. DAUER: Objection. Asked and answered.

17 A. No, I don't remember this.

18 Q. (by Mr. Bradley) Okay. Plaintiff's Exhibit
19 418 is now in front of you. Is this a document you have
20 seen before?

21 A. You mean reviewed?

22 Q. No, I don't mean you reviewed it with your
23 attorney. I mean before today's date.

24 A. Before today's date, I'd say no. I looked at
25 this. There is no reason why I needed to. And I never saw

1 this before.

2 Q. All right.

3 MR. BAUER: Off the record a second.

4 (Thereupon, a short colloquy was had.)

5 Q. (by Mr. Bradley) Are there any portions of
6 Plaintiffs Exhibit 418 that you have seen before today's
7 date?

8 A. I have not seen this, but I sure agree with
9 it.

10 Q. By "this," you're referring to the February
11 18th, 1970 letter by Donald Olson?

12 A. Yes.

13 Q. Are there any portions of the exhibit that you
14 have seen before today's date?

15 A. No.

16 Q. All right. Let's move on to another exhibit,
17 then.

18 A. Did I get a copy of that? Well, I wasn't
19 called on to do anything, and it wasn't in my area.

20 Q. I am now showing you Plaintiff's Exhibit 1335.
21 Is that a document you've seen before today's date?

22 A. I must have received a copy of it, so I would
23 say yes.

24 Q. Is this a true and accurate copy of the letter
25 W.B. Papageorge wrote on July 6, 1970 to Mr. Wilburn that

1 had you receiving a blind carbon copy?

2 A. I would say so, that it is.

3 Q. And is this a document that appears to have
4 been written in response to the reading of a process
5 specification entitled "Disposition of Scrap Inerteen and
6 Inerteen Contaminated Materials"?

7 A. Yes.

8 Q. And was it Monsanto's practice to generate
9 documents of this sort as part of its regularly-conducted
10 business?

11 A. Yes.

12 Q. And was this document maintained at Monsanto
13 as part of its regularly-conducted business?

14 A. Seems to be, yes.

15 Q. You now have in front of you Plaintiff's
16 Exhibit 1202. Is that a document you have seen before
17 today's date?

18 A. I wrote it.

19 Q. Is this a true and accurate copy of the docu-
20 ment you wrote on June 9th, 1970 to Mr. Edward Raab at
21 General Electric?

22 A. Yes.

23 Q. Did you write this letter on or about the time
24 that Mr. Raab posed some questions to you in a June letter?

25 A. Yes.

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1 Q. And did you generate this document as part of
2 Monsanto's regularly-conducted business?

3 A. Yes.

4 Q. Was the document maintained as part of
5 Monsanto's regularly-conducted business?

6 A. Yes.

7 Q. You now have before you Plaintiff's Exhibit
8 424. Is that a document you have seen before today?

9 A. I don't recall this one, no.

10 Q. All right. You now have in front of you
11 Plaintiff's Exhibit 1637. Is that a document you have seen
12 before today's date?

13 A. I don't think so. Richard wrote it out, copy
14 to Monsanto. I don't recall it. It was nothing I did any-
15 thing with. Yeah. Dr. Richard wrote this thing, but
16 copies went, and it shows I got a copy. I don't recall it,
17 and I didn't do anything about it.

18 Q. So you wouldn't know whether this is a true
19 and accurate copy?

20 A. Oh, I would think it is. I don't know why it
21 wouldn't be.

22 Q. Is this a document that was prepared regarding
23 a meeting that was held March 6th, 1969 with Industrial
24 Bio-Test Laboratories?

25 A. That's what it says.

1 Q. And was it Monsanto's practice to generate
2 notes of meetings such as this as part of its regularly-
3 conducted business?

4 A. Yes. A meeting that was held, it would be
5 true, yes.

6 Q. And was this document maintained at Monsanto
7 as part of its regularly-conducted business?

8 A. Seems as though it would.

9 MR. BRADLEY: Off the record for a moment.

10 (Thereupon, a short colloquy was had.)

11 Q. (by Mr. Bradley) Mr. Benignus, you have in
12 front of you Plaintiff's Exhibit 1642. Is that a docu-
13 ment you have seen before today's date?

14 A. I don't recall it.

15 Q. Who is M.E. Scoville?

16 A. He was at General Electric at Hudson Falls,
17 New York. I knew him well.

18 Q. And now I am showing you Plaintiff's Exhibit
19 1617. Is this the cover sheet and index and chapter nine
20 of a document you prepared entitled, "The Proper Handling
21 of Aroclors and Their Mixtures in the Electrical Industry"?

22 A. Yes.

23 Q. And dated 12-1-54?

24 A. Yes.

25 Q. Is this a true and accurate copy of the cover

1 page, index page and chapter nine of the document that you
2 prepared in 1954?

3 A. Yes.

4 Q. Did you prepare this document as part of the
5 regularly-conducted business activities at Monsanto?

6 A. Yes.

7 Q. Was this document maintained as part of the
8 regularly-conducted business at Monsanto?

9 A. Yes.

10 Q. I am now showing you Plaintiff's Exhibit 1254.
11 Is this a document you have seen before?

12 I'm sorry. Let me go back to Plaintiff's
13 Exhibit 1617. Was this document prepared on or about the
14 time that you collected the information that is presented
15 in chapter nine? Did you understand my question?

16 A. I believe I did.

17 Q. At some point you collected information to
18 prepare this particular report, correct?

19 A. Yes. This was the first printing, yes. We
20 collected information.

21 Q. And then after you collected the information,
22 you prepared this document?

23 A. Yes.

24 Q. The document was prepared shortly after you
25 gathered the information?

1 A. Yes.

2 Q. All right. Plaintiff's Exhibit 1254, is that
3 a document you have seen before today?

4 A. I think so.

5 Q. This is a November 4th, 1971 letter from Bill
6 Papageorge to Mr. Raab?

7 A. Yes.

8 Q. And it shows you receiving a copy?

9 A. Yes.

10 Q. Is this a true and accurate copy of the letter
11 that Mr. Papageorge wrote to Mr. Raab?

12 A. Yes.

13 Q. And do you recall Mr. Raab asking you some
14 questions in September or October of 1971?

15 A. I don't recall that, but no doubt that
16 transpired, because this is the response to that.

17 Q. Okay. And this apparently is a response to
18 questions posed to you by Mr. Raab?

19 A. Yes.

20 Q. And was this document generated as part of
21 Monsanto's regularly-conducted business?

22 A. Yes.

23 Q. Was it maintained within Monsanto as part of
24 its regularly-conducted business?

25 A. Yes.

1 Q. I am now showing you Plaintiff's Exhibit 1206.
2 Have you seen that document before today's date?

3 A. No. No. I have seen data in here. It's
4 familiar, but I haven't seen this. There is no reason why
5 I should, I guess.

6 Q. All right. I am now showing you Plaintiff's
7 Exhibit 1432. Is that a document you have seen before
8 today?

9 A. I'd say no.

10 Q. All right.

11 A. I'd say no.

12 Q. Did you see that your name was referenced here
13 in the document?

14 A. I just now noticed this, yes.

15 MR. DAUER: Is that a pending question?

16 MR. BRADLEY: That was a question and that was
17 an answer.

18 MR. BAUER: So there is no pending question?

19 MR. BRADLEY: There is no pending question.

20 MR. BAUER: Okay.

21 A. Oh. Notice this is action, Benignus slash
22 Bryant. Well, I was informed, probably. I don't know that
23 I was informed. Bryant, in a sense, was with me, and this
24 is really Bryant, not me. It just so happens I'm -- I had
25 nothing to do with this document.

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1 Q. And you have never seen it before today's
2 date?

3 A. No.

4 Q. I am now showing you Plaintiff's Exhibit 1575.
5 Is this a document you saw before today?

6 A. It shows that I received a copy of it. I
7 would say I did receive a copy of it.

8 Q. And this is a May 13th, 1969 document regard-
9 ing Aroclor analysis in pesticide residues?

10 A. Oh, yes. Yes.

11 Q. And apparently it was in response to a visit
12 of Professor Widmark, of University of Stockholm, in May of
13 '69; is that correct?

14 A. Yes.

15 Q. Is this a true and accurate copy of the docu-
16 ment you saw on or about May 13th, 1969?

17 A. I would say yes.

18 Q. And was this document generated as part of the
19 regular business activity at Monsanto?

20 A. Yes.

21 Q. And was it maintained in Monsanto's files as
22 part of its regularly-conducted business?

23 A. Yes.

24 Q. I am now showing you Plaintiff's Exhibit 1621.
25 Have you seen that document before today?

1 A. I wrote it.

2 Q. And you wrote this on or about December 5th,
3 1969?

4 A. Yes.

5 Q. Did you write it in response to learning at a
6 meeting roughly within a week before you wrote it that a
7 request had not received support?

8 A. Yes.

9 Q. Is this a true and accurate copy of the letter
10 you wrote December 5th, 1969?

11 A. Yes.

12 Q. Did you generate this letter as part of
13 Monsanto's regularly-conducted business?

14 A. Yes.

15 Q. And did Monsanto maintain a copy of this as
16 part of its regularly-conducted business?

17 A. Yes.

18 Q. Now in front of you is Plaintiff's Exhibit 81.
19 Is this a document you have seen before today's date?

20 A. I recall this. I don't know that I got -- I
21 know what this refers to. I don't know that I got a copy
22 of this.

23 Q. The first two pages are a retyped version, for
24 clarity, of what appears on the third page. Do you recall
25 whether you received the third page of that particular

1 exhibit?

2 A. I can't recall. I recall what was going on.

3 Q. Right. Well, if you don't recall receiving
4 the exhibit, then I won't ask you questions about it.

5 A. Okay.

6 Q. You now have in front of you Plaintiff's
7 Exhibit 1403. Is that a document you saw before today?

8 A. I would say yes; I received a copy of this.
9 It was by Wheeler. That is his signature.

10 Q. And does this appear to be a letter in re-
11 sponse to a July 19, 1956 request for toxicity information
12 addressed to Mr. Wheeler?

13 A. Yes.

14 Q. And is this a true and accurate copy of the
15 letter from Mr. Wheeler to Mr. Speicher?

16 A. Yes.

17 Q. Is this a document that was generated as part
18 of Monsanto's regular business activity?

19 A. Yes.

20 Q. Was the document maintained within Monsanto's
21 files as part of its regularly-conducted business?

22 A. Yes.

23 Q. Now I'm going to show you Plaintiff's Exhibit
24 1475. Is this a document you have seen before today?

25 A. No. I don't recall this.

1 Q. I am now going to show if you Plaintiff's
2 Exhibit 431. Is that a document you have seen before
3 today?

4 A. I don't recall this.

5 Q. Is this Monsanto --

6 A. Wait a minute. I was copied in here, so I
7 received it, but I don't recall it.

8 Q. Is this Monsanto's letterhead in the top
9 left-hand corner?

10 A. Yes.

11 Q. Do you see the name of Dr. Richard down at the
12 bottom?

13 A. Oh, yes. Here it is, and Bill R. here, and
14 here's Bill Richard.

15 Q. And who was Bill Richard?

16 A. He was the director of research in our area,
17 in the fluids and electrical industry area.

18 Q. Do you see the other people here as receiving
19 copies?

20 A. Yes.

21 Q. Were they all Monsanto employees in December
22 of 1968?

23 A. Yes.

24 Q. I am now going to show you Plaintiff's Exhibit
25 1656. Is this a document you have seen before today?

1 A. Yes. Yes. It was to me.

2 Q. Is this a document that you refer to as a call
3 report?

4 A. Yes.

5 Q. And was it essentially the memorialization of
6 a telephone call of 7-22-1970, between Bill Papageorge and
7 Don McClain, Kin Tison, and Lou Scheof?

8 A. I'd have to say yes, that is what it says.
9 This is Randall Graham's sales report.

10 Q. All right. And is this a true and accurate
11 copy of the call report that you received on or about July
12 22, 1970?

13 A. Yes.

14 Q. Was this the type of document that Monsanto
15 generated as part of its regularly-conducted business?

16 A. Yes.

17 Q. Was this copy maintained within Monsanto's
18 files as part of its regularly-conducted business?

19 A. Yes.

20 Q. I am now showing you Plaintiff's Exhibit 1653.
21 Is this a document you have seen before today?

22 A. Well, this is primarily nonelectrical.

23 Q. So is it a document you have seen before
24 today?

25 A. I don't think so.

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1 Q. All right. I am now showing you Plaintiff's
2 Exhibit 1456. Is this a document you have seen before
3 today?

4 A. I can hardly see it.

5 Q. I think it says, "Organic Chemical Division"
6 -- I can't read the rest of it on the front page, but I see
7 down here I think it says, "Monsanto."

8 A. Yes. No, I have not seen this before. This
9 is a plant --

10 Q. A plant manual? Operations manual?

11 A. Wait a minute. Yes. Where else would there
12 be chlorine gas but in the plant. "Hold your breath. Go
13 across the wind." That has something to do with the plant.
14 I don't have anything to do with this.

15 Q. All right. I am going to show you Plaintiff's
16 Exhibit 1552 and ask if you have seen that document before
17 today.

18 A. Oh, this is the agenda, and somebody called on
19 us.

20 Q. This is an agenda of a PCB effluent standards
21 meeting held February 28th, 1974?

22 A. Well, I retired in '74.

23 Q. You retired in --

24 A. October.

25 Q. October of '74.

1 A. Yes. This was a meeting. I don't know if I
2 was there or not.

3 Q. Do you recall seeing this document before?

4 A. I can't specifically recall that. I was on my
5 way out the door.

6 Q. Okay. I am now showing you Plaintiff's
7 Exhibit 1515, and my question is whether you have seen the
8 document before today.

9 A. Yes.

10 Q. This is a letter from J.G. Bryant to Lou
11 Shoaff at Westinghouse, dated April 24th, 1970?

12 A. Yes.

13 Q. Is this a true and accurate copy of the letter
14 sent that date from Mr. Bryant to Mr. Shoaff?

15 A. Yes.

16 Q. Was this letter a memorialization of the con-
17 tents of a telephone call held between the two?

18 A. I would say yes.

19 Q. And was this document generated as part of
20 Monsanto's regularly-conducted business?

21 A. Yes.

22 Q. Was it maintained in the files of Monsanto as
23 part of Monsanto's regularly-conducted business?

24 A. Yes.

25 MR. BRADLEY: Let's take a break, and I will

1 give you the last pile of documents to review. Off the
2 record.

3 (Thereupon, a short recess was taken.)

4 Q. (by Mr. Bradley) Back on the record. Mr.
5 Benignus, you now have in front of you Plaintiff's Exhibit
6 1404 which appears to be the same as Plaintiff's Exhibit
7 1377 except that the print on 1377 is smaller and there are
8 some different other numbers on it.

9 MR. BAUER: As Mr. Benignus pointed out when
10 we were off the record the last page of 1404 is unattached.

11 Q. (by Mr. Bradley) Is 1404 a document you have
12 seen before today's date?

13 A. I'm not sure. I'm familiar with what's in
14 here; that's for sure. But this is Westinghouse, isn't it?
15 Well, it is Westinghouse. It's a Westinghouse document.
16 It says, "Meeting with Monsanto on Inerteon." It's a
17 Westinghouse document. Yes.

18 Q. All right. You now have in front of you
19 Plaintiff's Exhibit 1593. Is that a document you have seen
20 before today?

21 A. Yes.

22 Q. And this is a letter from Bill Papageorge to
23 W.R. Richard, dated September 13 of 1971?

24 A. Yes.

25 Q. Is this a true and accurate copy of that

1 letter?

2 A. Yes.

3 Q. Was this letter generated as part of the
4 regular business activity of Monsanto?

5 A. Yes.

6 Q. Was this record maintained as part of
7 Monsanto's regularly-conducted business?

8 A. Yes.

9 Q. Is the letter in response to a recent
10 telephone call from Dr. Lyon Mandelcorn of Westinghouse?

11 A. Yes.

12 Q. I am going to show you Plaintiff's Exhibit
13 1629. Is this a document have seen before today?

14 A. Yes. Sure. Has to be, yes.

15 Q. This is a letter you wrote?

16 A. Yes.

17 Q. Has your signature on it?

18 A. Yes.

19 Q. Dated February 18, 1971.

20 A. Yes.

21 Q. Is this a true and accurate copy of the letter
22 you wrote on that day?

23 A. Yes.

24 Q. To whom did you write this letter?

25 A. That is an open -- to whoever we put their

1 name in there.

2 Q. So this was a form letter?

3 A. Yes. This was a form letter, and it was my
4 assignment to introduce 1016 to the capacitor industry as a
5 replacement for 1242.

6 Q. And was this written on or about the time that
7 you received that assignment?

8 A. Yes.

9 MR. BRADLEY: Off the record for a moment.

10 (Thereupon, a short discussion was had.)

11 Q. (by Mr. Bradley) Did you write this document
12 as part of your regular business responsibilities at
13 Monsanto?

14 A. Yes.

15 Q. Okay. And was a copy of this maintained in
16 Monsanto's files as part of its regularly-conducted busi-
17 ness?

18 A. Yes.

19 Q. I am now showing you Plaintiff's Exhibit 872.
20 Is this a document you have seen before today?

21 A. Yes.

22 Q. This is a letter from Bill Papageorge to you
23 dated January 19th, 1973?

24 A. Yes.

25 Q. Is this a true and accurate copy of that

1 record?

2 A. Yes.

3 Q. Was this letter written to you shortly after
4 the completion of the final draft of the guidelines for the
5 proper use, handling and disposal of Askarels?

6 A. Yes.

7 Q. And was this written as part of the regular
8 business activities at Monsanto?

9 A. Yes.

10 Q. And was the document maintained in Monsanto's
11 files as part of its regularly-conducted business?

12 A. Yes.

13 Q. You now have in front of you Plaintiff's
14 Exhibit 1534. Is this a document you have seen before
15 today?

16 A. I received a copy of this.

17 Q. Is this a true and accurate copy of the letter
18 that you reviewed?

19 A. I believe it to be.

20 Q. And this is a letter from Paul Gann to Hank
21 Mankedick at Westinghouse?

22 A. Yes.

23 Q. And was the letter apparently confirming a
24 telephone conversation of July 12th, 1972?

25 A. Yes.

1 Q. And was the letter generated as part of
2 Monsanto's regularly-conducted business?

3 A. Yes.

4 Q. And was it maintained in Monsanto's files as
5 part of Monsanto's regularly-conducted business?

6 A. Yes.

7 Q. You now have in front of you Plaintiff's
8 Exhibit 1623. Is that a document you have seen before
9 today?

10 Q. This is a letter from Mr. Raab to Mr. Olsen at
11 Monsanto dated July 1, 1970?

12 A. Yes.

13 Q. Is this a true and accurate copy of that
14 letter with the attachment?

15 A. This is a General Electric thing here.

16 Q. The attachment has a General Electric caution
17 for can and drummed Pyranol?

18 A. Right.

19 Q. And is that also a true and accurate copy of
20 something that you reviewed with the letter of July 1,
21 1970, which is Plaintiff's Exhibit 1623?

22 A. Yes. Raab submitted this, and it would have
23 been reviewed and accurate.

24 Q. And did Monsanto make those types of reviews
25 as part of its regularly-conducted business?

1 A. Must have, yes.

2 Q. And did Monsanto maintain a copy of that as
3 part of its regularly-conducted business?

4 A. Yes.

5 Q. You now have in front of you Plaintiff's
6 Exhibit 1670. Have you seen that document before?

7 A. Well, I wrote it.

8 (Thereupon, the reporter read back as follows:

9 "QUESTION: You now have in front of you Plaintiff's
10 Exhibit 1623. Is that a document you have seen before
11 today? ANSWER: Yes. QUESTION: This is a letter from Mr.
12 Raab to Mr. Olsen at Monsanto dated July 1st, 1970?

13 ANSWER: Yes. QUESTION: Is this a true and accurate copy
14 of that letter with the attachment? ANSWER: This is a
15 General Electric thing here. QUESTION: The attachment has
16 a General Electric caution for can and drummed Pyranol?

17 ANSWER: Right. QUESTION: And is that also a true and
18 accurate copy of something that you reviewed with the
19 letter of July 1, 1970, which is Plaintiff's Exhibit 1623?

20 ANSWER: Yes. Raab submitted this, and it would have been
21 reviewed and accurate. QUESTION: And did Monsanto make
22 those types of reviews as part of it's regularly-conducted
23 business? ANSWER: Must have, yes. QUESTION: And did
24 Monsanto maintain a copy of that as part of its regularly-
25 conducted business? ANSWER: Yes."

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1 Q. (by Mr. Bradley) I take it, since you wrote
2 this, that you have seen it before?

3 A. Yes.

4 Q. Is this a true and accurate copy of the letter
5 that you wrote on July 7, 1970 to Mr. Rissinger at
6 Westinghouse?

7 A. Yes.

8 Q. Did you write this shortly after receiving an
9 article from the Washington Star about PCB's?

10 A. Yes.

11 Q. Did you generate that document as part of the
12 regular practice of Monsanto's business activity?

13 A. Yes.

14 Q. And was a copy of that kept in the course of
15 Monsanto's regularly-conducted business?

16 A. Yes.

17 Q. You now have in front you Plaintiff's Exhibit
18 1492. Have you seen that document before today?

19 A. I was copied in. I would say yes.

20 Q. And this is an October 1, 1970 letter from
21 Bill Papageorge to Mr. Viland at Westinghouse?

22 A. Yes.

23 Q. And it's in response to apparently a request
24 from Mr. Viland for some information?

25 A. Yes.

1 Q. And was this letter generated as part of
2 Monsanto's regularly-conducted business activities?

3 A. Yes.

4 Q. And was a copy of this maintained within
5 Monsanto's files as part of its regularly-conducted busi-
6 ness?

7 A. Yes.

8 Q. I am now showing you Plaintiff's Exhibit 1470.
9 Have you seen that document before today?

10 MR. BAUER: I'm going to object to the charac-
11 terization of this as a document. It is a file containing
12 five or six different documents in reverse chronological
13 order, and the front page is a cover note of the file, and
14 I guess I would like them, or request them to be 1470A, B,
15 C, and D, etc., because it's fairly obvious from looking at
16 it that it's a number of different documents.

17 Q. (by Mr. Bradley) I am going to withdraw my
18 question that's pending and ask you this question: I want
19 to know if you're familiar with any of the contents of that
20 exhibit.

21 A. There are a number of different things. This
22 one I have never seen.

23 Q. By "This one," you mean something that has
24 Earl M. Potter's name at the bottom of it?

25 A. Yes.

1 Q. All right. Just tell me if you're familiar
2 with any of the pieces of paper within that exhibit.

3 A. I would say this one. I was copied in on
4 this, so I --

5 Q. You're referring to a June 5th, 1972 -- What
6 would you call this document?

7 A. I would call this a document from Dr. Paton
8 to, well, to all of these people, and the subject is PCB
9 labels, drums and notices.

10 Q. Before I have the court reporter take any
11 action, this is a two-page document that you're referring
12 to as the June 5th, 1972 document from Cumming Paton; is
13 that correct?

14 A. Yes.

15 MR. BRADLEY: I am going to have the court
16 reporter mark each of those pages as Plaintiff's Exhibit
17 1470A.

18 (Thereupon, the reporter marked Plaintiff's Deposi-
19 tion Exhibit 1470A, for identification.)

20 Q. (by Mr. Bradley) Is exhibit 1470A a true and
21 accurate copy of the letter sent from Cumming Paton to
22 these people?

23 A. Yes.

24 Q. And was the memo written shortly after agree-
25 ment was reached regarding PCB labels, drums, and notices?

1 A. Yes. I want to make one thing clear here:
2 This has to do not with the toxicity warning. This has to
3 do with the addition of the environmental instructions.
4 That is what this deals with, not that this gets out of
5 context, that this is the first time we're putting a
6 warning label on the drum.

7 Q. All right. Was this document generated as
8 part of the regular business activity at Monsanto?

9 A. Yes.

10 Q. Was a copy maintained at Monsanto as part of
11 its regularly-conducted business?

12 A. Yes.

13 Q. Are there any other pieces of paper within
14 1470 that you have viewed before today?

15 A. I did not receive this. I am not familiar
16 with this, but it's valid.

17 Q. You are not familiar with the document written
18 by J.N. Haggart dated May 29th, 1972?

19 A. That is correct.

20 Q. Are there any other pieces of paper within
21 1470 that you have seen before today?

22 A. This was written by the legal department, and
23 I have not seen this.

24 Q. All right. Are there any pieces of paper
25 within 1470 that you are familiar with that we have not

1 talked about?

2 A. No. We have been through it.

3 Q. Okay. You now have in front of you Plain-
4 tiff's Exhibit 1177. Is that a document you have seen
5 before today?

6 A. I am copied in, so I would have received this.

7 Q. Okay. And this is a document written by W.B.
8 Papageorge to Dr. Posefsky with an attachment of questions
9 and answers for ANSI regarding PCB's?

10 A. It's Dr. A. Posefsky, P-o-s-e-f-s-k-y.

11 Q. Is this a true and accurate copy of that docu-
12 ment?

13 A. Yes.

14 Q. And was this generated shortly after Bill
15 Papageorge prepared a question-and-answer list for
16 responding to PCB inquiries?

17 A. Yes.

18 Q. Was it generated as part of the regular busi-
19 ness activities of Monsanto?

20 A. Yes.

21 Q. And was a copy maintained in Monsanto's files
22 as part of its regularly-conducted business?

23 A. Yes.

24 Q. You now have in front of you Plaintiff's
25 Exhibit 865. Is that a document that you have seen before

1 today?

2 A. I knew Dr. Dakin very well; he was the head of
3 research at Westinghouse. Yeah. I wrote it.

4 Q. All right. Is this is a true and accurate
5 copy of the letter that you wrote to Mr. Dakin on August
6 7th, 1972?

7 A. Yes.

8 Q. Was this letter written in response to a
9 question that Mr. Dakin had posed to you, in part?

10 A. Yeah. Yes.

11 Q. And was this letter written by you as part of
12 the regular business activities of Monsanto?

13 A. Yes.

14 Q. Was it maintained in Monsanto's files as part
15 of Monsanto's regularly-conducted business?

16 A. Yes.

17 Q. You now have in front of you Plaintiff's
18 Exhibit 1664. Is this a document you have seen before
19 today?

20 A. Well, there's my name. I don't know that
21 that's my initials there. But from Olson, that is my name.
22 I may have received this. I had nothing to do with this.

23 Q. I am interested in knowing whether you recall
24 seeing this before so that you can tell us whether this is
25 a true and accurate copy of what you received previously.

1 A. I would have to say it seems to me it's a copy
2 of what this thing originally was.

3 Q. All right. It's a true and accurate copy?

4 A. I would have to say so.

5 Q. And was this a document written for the people
6 listed on the first page of the exhibit on or about the
7 time that the information was collected in the exhibit?

8 A. Yes.

9 Q. And was this document generated as part of the
10 regular business activities of Monsanto?

11 A. Yes.

12 Q. And was a copy of it maintained in Monsanto's
13 files as part of Monsanto's regularly-conducted business?

14 A. Yes.

15 Q. You now have in front of you Plaintiff's
16 Exhibit 1535, a letter from Paul Gann to Mr. C.R. Jordan of
17 Westinghouse dated June 23rd, 1972. It also has some hand-
18 writing on it. Absent the handwriting, is this a document
19 you have seen before today?

20 A. I don't think so.

21 Q. All right. One --

22 A. Wait a minute. I was copied in on it. I know
23 the subject matter in it.

24 Q. But you don't recall seeing the letter before?

25 A. I think, since I was copied in, that I must

1 have seen it.

2 Q. Are you able to tell us whether this is a true
3 and accurate copy of the letter Paul Gann sent to Mr.
4 Jordan on June 23rd, 1972?

5 A. It appears so.

6 Q. Was this letter written in response and to
7 confirm a telephone conversation of that same date between
8 Mr. Gann and Mrs. Sikes?

9 A. It so states, yes.

10 Q. And was this document prepared as part of the
11 regular business activities of Monsanto?

12 A. Yes.

13 Q. Was it maintained as part of the regularly-
14 conducted business activity of Monsanto?

15 A. Yes.

16 Q. Let me ask you one final question. Some of
17 the exhibits that I have shown you have highlighting in
18 different colors. The copies that you viewed didn't have
19 those color highlightings. That's true, isn't it? And let
20 me -- With your attorneys assistance, I am trying to simply
21 establish that, when you reviewed those letters and they
22 were maintained in the files, it was without the highlight-
23 ing.

24 Q. Oh, yes.

25 MR. BAUER: I'll state for the record that we

1 understood that we were looking at the underlying document
2 without the highlighting.

3 MR. BRADLEY: I understood that, as well.

4 Mr. Benignus, I have no further questions.

5 Thank you.

6 QUESTIONS BY MR. MORGAN:

7 Q. Mr. Benignus, we've been introduced; I'm Bob
8 Morgan of Westinghouse. I don't know if Mr. Bradley asked
9 you this question or not. I'm going to ask you to take a
10 look at Exhibit 1403 again. If he already asked you, I
11 apologize. There is some handwriting on this document
12 1403, and I want to know if you know whose handwriting that
13 is.

14 A. No. I don't know whose handwriting that is.

15 Q. So when you were talking about your recollec-
16 tion of that document, you did not recall seeing that hand-
17 writing before; is that correct?

18 A. I think that would be correct. Evidently this
19 is a copy that has handwriting on it, and there wouldn't
20 have been handwriting on mine.

21 Q. Great. That is a letter directed to Mr.
22 Speicher of Westinghouse?

23 A. Yes.

24 Q. Did you know Mr. Speicher?

25 A. I knew who he was. I never met him, but this

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1 is one way how I was well acquainted that Westinghouse
2 would have counterparts in industrial hygiene, as we had.
3 And similarly with GE, and so forth. And I didn't ever
4 meet Mr. Speicher, but here's a letter to him; and he wrote
5 me, once, you see; and I would then refer, knowing he was
6 in industrial hygiene, I would have referred him to
7 Wheeler. And I guess this is one of the responses.

8 Q. Do you recall ever meeting somebody from the
9 Westinghouse's industrial hygiene department?

10 A. I can't -- Where was it located?

11 Q. Pittsburgh, I suppose.

12 A. I suppose. My contacts were Sharon, South
13 Boston, Bloomington, years ago Pittsburgh, when they had
14 the old capacitor plant. But I was never in -- I wasn't in
15 the research labs, and Doc Dakin was a good friend of mine,
16 and they had very good research personnel.

17 Q. But as far as the Westinghouse's industrial
18 hygiene department, you don't recall meeting anybody from
19 that particular department?

20 A. No.

21 MR. MORGAN: I think that is all of the ques-
22 tions I have. Thank you.

23 MR. BAUER: Mr. Benignus, I have a couple on
24 behalf of Monsanto.

25 CROSS EXAMINATION

1 QUESTIONS BY MR. BAUER:

2 Q. I would like to show you what has been marked
3 earlier as Plaintiff's Exhibit 1616, which is a trip report
4 entitled "St. Louis, Missouri, January 21 & 22, 1970," and
5 you earlier testified about your recollection of having
6 seen this document before. On what was that based when you
7 had said that?

8 A. That was based on a quick look before I knew
9 it was a trip report; and I thought this was a distribution
10 list, but on more careful looking, I see it is a list of
11 personnel that were in attendance. That is not a distribu-
12 tion list.

13 Q. As you sit here now do you recall whether or
14 not you have seen this particular exhibit before today?

15 A. Well, I don't ever recall getting this report,
16 no.

17 MR. BAUER: That is all of the questions I
18 have.

19 MR. BRADLEY: Just a few, Mr. Benignus. Would
20 you hand me that?

21 THE WITNESS: Sure.

22 REDIRECT EXAMINATION

23 QUESTIONS BY MR. BRADLEY:

24 Q. Earlier I asked you some questions about item
25 three on that exhibit. Do you recall the questions and the

1 answers that we both gave?

2 A. Yes.

3 Q. And the questions, or excuse me, the answers
4 to the questions that you gave that I directed towards
5 paragraph three are true, regardless of whether or not you
6 have ever seen this document before; is that true?

7 MR. BAUER: Object to the form of the ques-
8 tion. I'm not sure how he can answer that without seeing
9 all of the questions and answers.

10 But you can answer it if you are able.

11 A. Well, I'll answer it on the basis as to how I
12 interpret this statement.

13 Q. (by Mr. Bradley) Well, my question, though,
14 was whether you recalled all of the questions that I posed
15 to you and the answers you gave regarding item three on
16 that exhibit.

17 A. I don't recall everything I said, no.

18 Q. Well, let me ask it this way, then: Does the
19 fact that you have never seen this exhibit before alter any
20 of the answers that you provided regarding item three on
21 that exhibit?

22 A. Not at all.

23 MR. BRADLEY: Okay. I have nothing further.

24 MR. BAUER: I have nothing further.

25 MR. MORGAN: And I have nothing further.

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THE WITNESS: You're welcome.

PAUL BENIGNUS

Subscribed and sworn to before me this _____ day
of _____, A. D., 1993.

MY COMMISSION EXPIRES _____.

Notary Public, within and
for the State of Missouri

1 STATE OF MISSOURI)
) SS
2 COUNTY OF ST. LOUIS)

3 I, Mark D. Concannon, a Notary Public within and for
4 the State of Missouri, duly commissioned, qualified and
5 authorized to administer oaths and to take and certify to
6 depositions, do hereby certify that pursuant to Notice in
7 the civil cause now pending and undetermined in the
8 District Court of the United States, within and for the
9 District of Nevada, entitled NEVADA POWER COMPANY,
10 Plaintiff, -vs- MONSANTO COMPANY, et al., Defendants, to be
11 used in the trial of said cause in said Court, I was
12 attended at Fischer's Restaurant, 2201 W. Main, in the City
13 of Belleville, State of Illinois, by Ralph A. Bradley,
14 attorney for the Plaintiff; by Scott R. Bauer, attorney for
15 the Defendant Monsanto; by Robert P. Morgan, in-house
16 counsel for Defendant Westinghouse; and by PAUL BENIGNUS,
17 the witness, in said office on July 15 and 16, 1993.

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

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1 BENIGNUS, together with the questions propounded by counsel
2 and the remarks and objections of counsel thereto, and is
3 in all respects a full, true and complete transcript of the
4 questions propounded to and the answers given by said
5 witness; and that said testimony, so transcribed, was
6 subscribed to by the witness on the _____ day of
7 _____, A. D., 1993.

8 I FURTHER CERTIFY that I am not of counsel nor
9 attorney for any of the parties to said suit, nor related,
10 nor interested in any of the parties or their attorneys.

11 I FURTHER CERTIFY that Plaintiff's Deposition
12 Exhibit 1470A, marked for identification and attached to
13 and made a part of this deposition, is the identical
14 exhibit referred to and identified by the witness in the
15 foregoing deposition.

16 WITNESS MY HAND and Notarial Seal, given this _____
17 day of _____, A. D., 1993, at St. Louis, Missouri.

18 MY COMMISSION EXPIRES MARCH 21, 1994.

19
20
21 _____
22 MARK D. CONCANNON,
23 Notary Public, within and
24 for the State of Missouri
25

PAUL BENIGNUS

- DEPOSITION CORRECTION SHEET -

In Re: NEVADA POWER Vs. MONSANTO

Upon reading his deposition transcript and before subscribing thereto, the deponent indicated the following:

Page Line should read:

Reason assigned for change:

Page Line should read:

Reason assigned for change:

Page Line should read:

Reason assigned for change:

Page Line should read:

Reason assigned for change:

Page Line should read:

Reason assigned for change:

Page Line should read:

Reason assigned for change:

Page Line should read:

Reason assigned for change:

Page Line should read:

Reason assigned for change:

Page Line should read:

PAUL BENIGNUS

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CONCANNON & JAEGER

PAUL BENIGNUS

- DEPOSITION CORRECTION SHEET -

In Re: NEVADA POWER Vs. MONSANTO

Upon reading his deposition transcript and before subscribing thereto, the deponent indicated the following:

Page 115 Line 12 should read: capacitors and transformers

Reason assigned for change: mistranscription

Page 115 Line 16 should read: capacitors and trans-

Reason assigned for change: mistranscription

Page 118 Line 9 should read: When GE licensed PCBs

Reason assigned for change: clarification

Page 120 Line 18 should read: to whom and how much

Reason assigned for change: mistranscription

Page 135 Line 3 should read: they didn't designate me.

Reason assigned for change: clarification

Page 136 Line 19 should read: defined maybe better

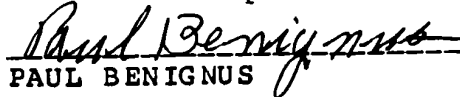
Reason assigned for change: mistranscription

Page 139 Line 12 should read: askarel transformer

Reason assigned for change: mistranscription

Page 143 Line 10 should read: epoxide, specifically

Reason assigned for change: mistranscription

Page 144 Line 23 should read: to trace contamination by
mistranscription
PAUL BENIGNUS

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CONCANNON & JAEGER

PAUL BENIGNUS

- DEPOSITION CORRECTION SHEET -

In Re: NEVADA POWER Vs. MONSANTO

Upon reading his deposition transcript and before subscribing thereto, the deponent indicated the following:

Page 152 Line 5 should read: nonreactive, stable

Reason assigned for change: mistranscription

Page 158 Line 20 should read: delete second "from information"

Reason assigned for change: mistranscription

Page 191 Line 20 should read: are other considerations here

Reason assigned for change: clarification

Page 194 Line 18 should read: at ASTM

Reason assigned for change: mistranscription

Page 200 Line 14 should read: delete first "fire"

Reason assigned for change: clarification

Page Line should read:

Reason assigned for change:

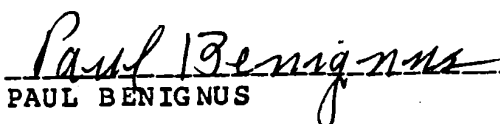
Page Line should read:

Reason assigned for change:

Page Line should read:

Reason assigned for change:

Page Line should read:


PAUL BENIGNUS

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CONCANNON & JAEGER

PAUL BENIGNUS

- DEPOSITION CORRECTION SHEET -

In Re: NEVADA POWER Vs. MONSANTO

Upon reading his deposition transcript and before subscribing thereto, the deponent indicated the following:

Page 123 Line 13 should read: *They would have paid*Reason assigned for change: *mis transcription*Page 135 Line 16 should read: *in small amounts*Reason assigned for change: *mis transcription*Page 139 Line 5 should read: *and it could cause a primary explosion*Reason assigned for change: *mis transcription*Page 143 Line 10 should read: *specifically named*Reason assigned for change: *mis transcription*Page 145 Line 1 should read: *deleterious*Reason assigned for change: *spelling*Page 145 Line 9 should read: *deleterious*Reason assigned for change: *spelling*Page 148 Line 14 should read: *1966*Reason assigned for change: *agreed correction*Page 148 Line 20 should read: *1966*Reason assigned for change: *agreed correction*

Page 152 Line 5 should read:

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PAUL BENIGNUS

PAUL BENIGNUS

- DEPOSITION CORRECTION SHEET -

In Re: NEVADA POWER Vs. MONSANTO

Upon reading his deposition transcript and before subscribing thereto, the deponent indicated the following:

Page 152 Line 5 should read: *very refractive non reactive*Reason assigned for change: *stable materials
more descriptive*Page 185 Line 4 should read: *them - "not it"*Reason assigned for change: *anna are plural*Page 188 Line 9 should read: *capacitors that had not*Reason assigned for change: *mis transcription*Page 194 Line 5 should read: *mind - not mine*Reason assigned for change: *mis transcription*Page 195 Line 6 should read: *guide - not guy*Reason assigned for change: *mis transcription*Page 196 Line 17 should read: *S. A. Myers*Reason assigned for change: *correction*Page 200 Line 13 should read: *delete the There are*Reason assigned for change: *delete the word "that."*Page 201 Line 21 should read: *responsibility*Reason assigned for change: *grammar*

Page Line should read:

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PAUL BENIGNUS

- DEPOSITION CORRECTION SHEET -

In Re: NEVADA POWER Vs. MONSANTO

Upon reading his deposition transcript and before subscribing thereto, the deponent indicated the following:

Page 203 Line 22 should read: diethylphthalate

Reason assigned for change: spelling

Page 206 Line 25 should read: diethylphthalate

Reason assigned for change: spelling

Page 210 Line 24 should read: But we,

Reason assigned for change: typing error

Page 216 Line 12 should read: Did you ever

Reason assigned for change: mistranscription

Page 224 Line 4 should read: Do you see

Reason assigned for change: mistranscription

Page 226 Line 16 should read: '92

Reason assigned for change: '92 seems typographical error

Page 247 Line 17 should read: were at

Reason assigned for change: mistranscription

Page 256 Line 3 should read: I haven't been

Reason assigned for change: mistranscription

Page 262 Line 15 should read: going to show
typographical error

Paul Benignus
PAUL BENIGNUS

1 MR. BRADLEY: Thank you, Mr. Benignus.

2 THE WITNESS: You're welcome.

3

4

5

Paul Benignus
PAUL BENIGNUS

6

Subscribed and sworn to before me this 7th day

7

of September, A. D., 1993.

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MY COMMISSION EXPIRES _____

JOSEPHINE S. NIBLOCK
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. JAN. 15, 1995

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Josephine S. Niblock
Notary Public, within and
for the State of Missouri

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