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SUPERIOR COURT OF NEW JERSEY

2

LAW DIVISION: UNION COUNTY

3

DOCKET NO. UNN-8573-89

4

5 IN RE ENVIRONMENTAL :

6 INSURANCE DECLARATORY:

SEP 28 1992

7 JUDGEMENT ACTIONS :

SEP 28 1992

8

JANON & BUDD

9

10

DEPOSITION UPON

11

ORAL EXAMINATION

12

OF

13

C. WAYNE BICKERSTAFF

14

15

16

THURSDAY, APRIL 23, 1992

17

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19

20

21

KABOT, BATTAGLIA & HAMMER/DE SIMONE

22

THE COURT REPORTERS

23

59 MAIN STREET

24

WEST ORANGE, N. J. 07052

25

(201) 669-3141



1 WESTINGHOUSE ELECTRIC :
2 CORPORATION, et al, :
3 Plaintiffs, : DOCKET NO.
4 vs. : L-069352-87
5 LIBERTY MUTUAL :
6 INSURANCE CO., et al, :
7 Defendants. :
8 - - - - -
9 WESTINGHOUSE ELECTRIC :
10 CORPORATION, et al, :
11 Plaintiffs, : DOCKET NO.
12 vs. : L-069351-87
13 AETNA CASUALTY & :
14 SURETY CO., et al, :
15 Defendants. :
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1 TRANSCRIPT of the deposition
2 of C. Wayne Bickerstaff, a witness,
3 called for Oral Examination by the
4 parties in the above-entitled action,
5 said deposition being taken pursuant to
6 Rules governing Civil Practice in the
7 Courts of New Jersey, by and before ANN
8 P. CONLON, a Notary Public and Certified
9 Shorthand Reporter of the State of New
10 Jersey, at the office of Connell, Foley
11 & Geiser, Esqs., 85 Livingston Avenue,
12 Roseland, New Jersey, on Thursday, April
13 23, 1992, commencing at 10:20 in the
14 forenoon in the forenoon.

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1 A P P E A R A N C E S:

2

3 KIRKPATRICK & LOCKHART, ESQS.,

4 1500 Oliver Building

5 Pittsburgh, PA 15222-5379

6 BY: NEAL R. BRENDDEL, ESQ.,

7 Attorneys for Plaintiff,

8 Westinghouse Corporation.

9

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11 One Battery Park Plaza

12 New York, NY 10004

13 BY: MITCHELL S. COHEN, ESQ.,

14 Attorneys for Defendants,

15 Royal Exchange Assurance Co. of America,

16 Lexington Insurance Company,

17 Birmingham Fire Insurance Company,

18 National Union Fire Insurance Company.

19

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22 Hackensack, NJ 07601

23 BY: PATRICIA M. BARROW, ESQ.,

24 Attorneys for Defendant,

25 Aetna Casualty & Surety Company.

1 A P P E A R A N C E S: (continued)

2

3 CUYLER, BURK & MATTHEWS, ESQS.,

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5 Morristown, NJ 07962

6 BY: MARIA C. HERMIDA, ESQ.,

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10 General Reinsurance Corporation,

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12 Zurich Insurance Company,

13 Zurich American Ins. Co. of Illinois,

14 Northstar Reinsurance Company.

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17 One Commerce Square

18 2005 Market Street

19 Philadelphia, PA 19103

20 BY: ROBYN E. LETO, ESQ.,

21 Attorneys for Defendant,

22 Liberty Mutual Insurance Company.

23

24

25

1 A P P E A R A N C E S: (continued)

2

3 MENDES & MOUNT, ESQ.,

4 Three Park Avenue

5 New York, NY 10016

6 BY: R. JAMES BRADFORD, ESQ.,

7 Attorneys for Defendant,

8

9 CONNELL, FOLEY & GEISER, ESQS.,

10 85 Livingston Avenue

11 Roseland, NJ 07068

12 BY: GREGORY P. LEAHY, ESQ.,

13 Attorneys for Defendant,

14 First State Insurance Company,

15 Allstate Insurance Company,

16 Columbia Casualty Company,

17 Employers Insurance Company of Wausau,

18 The Home Insurance Company,

19 Birmingham Fire Insurance Company,

20 Lexington Insurance Company,

21 National Union Fire Insurance Company,

22 Ranger Insurance Company,

23 Royal Exhcange Assurance Company.

24

25

1 A L S O P R E S E N T:

2

3 JAMES BURKHARDT, ESQ.,

4 Inhouse Counsel, Westinghouse.

5

6

7

8 I N D E X

9 WITNESS DIRECT

10 C. WAYNE BICKERSTAFF

11 By Mr. Cohen 10

12

13

14

15

16 E X H I B I T S

17 IDENT. DESCRIPTION PAGE

18 1 Headquarters Contacts for 117

19 Environmental Incident

20 Reporting Document (1 pg)

21 2 Procedure for Asbestos 120

22 Removal Document (5 pgs)

23 3 Memo dated 8/20/87 from 124

24 Bickerstaff to R & D (3 pgs)

25

1		E X H I B I T S (continued)	
2			
3	4	Memo dated 4/16/74 from	127
4		Kurz to Shoaff (2 pgs)	
5	5	Memo dated 7/10/51 from	134
6		Speicher to Kansas City	
7		Works (3 pgs)	
8	6	Memo dated 7/16/56 from	141
9		Speicher to Vicksburg	
10		Works (2 pgs)	
11	7	Memo dated 4/7/59 from	146
12		Speicher to Pittsburg	
13		(2 pgs)	
14	8	Memo dated 2/20/68 from	161
15		Shoaff (1 pg)	
16	9	Memo dated 1/14/69 from	162
17		Williams to Superintendents	
18		(2 pgs)	
19	10	Memo dated 7/30/70 from	166
20		Shoaff to Bloomington	
21		(1 pg)	
22	11	Memo dated 8/20/70 from	169
23		Shoaff to Bloomington	
24		(2 pgs)	
25			

1		E X H I - B I T S (continued)	
2			
3	12	Memo dated 3/11/71 from	172
4		Hanzl (2 pgs)	
5	13	Letter dated 4/19/71	173
6		(1 pg)	
7	14	Memo dated 12/28/71 from	180
8		Research to Pittsburgh	
9		(4 pgs)	
10	15	Memo dated 6/21/72 from	187
11		Research to Waste	
12		Disposal (5 pgs)	
13	16	Industrial Hygiene & Safety	190
14		Course Listing	
15	17	Memo dated 1/30/75 from	195
16		Rogers to Bloomfield	
17		(1 pg)	
18	18	Memo dated 10/25/74 from	199
19		Williams to Capils (1 pg)	
20	19	Memo dated 12/27/73 from	200
21		Jones to Bloomfield	
22		(1 pg)	
23	20	Memo dated 10/22/75 from	203
24		Jones to Sharon Works	
25		(2 pgs)	

1 E X H I B I T S (continued)

2

3 21 Memo dated 9/21/76 from 203

4 Control Equipment Group

5 (3 pgs)

6 22 Letter dated 9/22/76 209

7 (2 pgs)

8 23 Memo dated 11/24/76 from 214

9 Williams (1 pg)

10 24 Memmo dated 10/19/76 from 218

11 Memo to Bickerstaff

12 (1 pg)

13 25 Memo dated 5/3/77 to 221

14 Bloomfield Works (1 pg)

15

16

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1 C. W A Y N - E B I C K E R S T A F F ,
2 having been duly sworn according
3 to law by the Officer, testified
4 as follows:

5

6 DIRECT EXAMINATION BY MR. COHEN:

7 Q. Good morning, Mr.

8 Bickerstaff. My name is Mitchell Cohen,
9 I'm an attorney who represents some of
10 the defendants in this lawsuit. I'm
11 going to be asking you a series of
12 questions and I will ask you to answer
13 them completely and fully under oath.
14 Do you understand that you are under
15 oath?

16 A. Yes.

17 Q. And you will attempt to answer
18 the questions to the best of your
19 ability?

20 A. I will, yes.

21 Q. Before we begin the substance
22 of your deposition, I just have a short
23 statement, which is this is a deposition
24 that is being held pursuant to the
25 direction of special master Robert

1 McDonough with regard to a discovery
2 dispute pending before the court between
3 the plaintiff Westinghouse and certain
4 property insurers. The deposition will
5 be pursuant to the notice concerning
6 that dispute, which had originally
7 called for the deposition to be held on
8 April 1 of a person designated by
9 Westinghouse from the corporate
10 headquarters.

11 In holding this deposition, we
12 do not waive and are reserving all
13 rights to take a full and complete
14 substantive deposition on any of the
15 topics today and also a full and
16 complete substantive deposition of Mr.
17 Bickerstaff.

18 MR. BRENDEL: This is Neal
19 Brendel speaking on behalf of
20 Westinghouse Electric Corporation, the
21 plaintiff in this case. Our position is
22 that this witness is being made
23 available responsive to the notice of
24 deposition, apparently undated, but
25 requesting the designation of an

1 individual at headquarters level for the
2 specific time frame beginning 1975 and
3 continuing through 1982.

4 We will expect that counsel
5 will confine himself to the specific
6 period and the specific topics
7 identified in his notice, particularly
8 in light of his reservation to return to
9 conduct a more extensive deposition at a
10 later date. This witness is not being
11 offered, as we discussed, to address
12 issues raised in your paragraph six.
13 For that a separate individual has been
14 scheduled.

15 Likewise, Mr. Bickerstaff will
16 address those subject matters to the
17 best of his knowledge for the time
18 period in question. There may be
19 subject matters which will need to be
20 addressed by another individual more
21 familiar with waste disposal issues. We
22 can see how that goes as the deposition
23 proceeds and the scope of the
24 questioning and just proceed in that
25 fashion.

1 MR. COHEN: To follow up on
2 what you said, Neal, in checking my
3 notes from Tuesday's deposition I saw
4 that the witness did not have complete
5 knowledge on a number of the issues in
6 our notice, and I'll write a note about
7 that.

8 MR. BRENDAL: This witness?

9 MR. COHEN: No, sir, Mr.
10 Rourke.

11 MR. BRENDAL: You're raising
12 something from the prior deposition?

13 MR. COHEN: No. You had
14 mentioned Mr. Bickerstaff may not be a
15 witness as to all the items with regard
16 to the deposition he is appearing for
17 today pursuant to this notice. It
18 appeared to me on Tuesday that Mr.
19 Rourke was not fully knowledgeable with
20 regard to a number of issues covered by
21 the notice for which he was produced.
22 Simply as an example, not to be an
23 exhaustive list, he did not have any
24 knowledge concerning interdivision
25 communications, nor did he have any

1 knowledge regarding communications from
2 the Bloomfield plant to Westinghouse
3 headquarters, both of which are very
4 large general topics covered by the
5 notice. I think that's an issue which
6 you may not disagree with me on now, we
7 can disagree another time.

8 MR. BRENDAL: It's not my
9 practice to discuss the results of
10 previous depositions in prefatory
11 remarks to another deposition. We will
12 probably have some misunderstandings.
13 It was my recollection that the reason
14 that the witness had no testimony to
15 offer was that it was his recollection
16 that there were no such communications,
17 to use your example.

18 Be that as it may, I'll
19 welcome your correspondence and respond
20 once I receive it, and then we can
21 discuss that, and we can also discuss
22 our correspondence with respect to the
23 deficiencies in the property insurers'
24 designees with respect to document
25 collection/production issues, which were

1 raised in our correspondence to Andy
2 Jacobson and which we're still awaiting
3 a response from.

4 MR. BRENDEL: I know that
5 there are a number of documents in the
6 process of being produced. You'll be
7 given a rolling production. We expect
8 to complete it as quickly as possible.
9 I did not mean to engage in a
10 tit-for-tat conversation, I just wanted
11 to give you as prompt notice as possible
12 that I thought there was a need for
13 another witness.

14 MR. BRENDEL: I appreciate the
15 courtesy, and I certainly do not infer
16 from your statements that you're
17 suggesting that I'm engaging in a tit
18 for tat. I look forward to receiving
19 the claims file in this case,
20 considering we are now approaching the
21 fifth anniversary of its filing.

22 MR. COHEN: I'm ready to
23 begin, sir.

24 MR. BRENDEL: It's your
25 deposition.

1 MR. COHEN: Thanks.

2 Q. Mr. Bickerstaff, would you
3 please state your full name for the
4 record?

5 A. Clarence Wayne Bickerstaff.

6 Q. Mr. Bickerstaff, would you
7 please state for the record your full
8 residential address and your full
9 employment address?

10 A. The residential address is
11 1241 Sumac Street, Westmoreland City,
12 Pennsylvania, 15692. The business
13 address is Westinghouse Electric
14 Corporation, 11 Stanwix Street,
15 Pittsburgh, PA, 15222.

16 Q. Mr. Bickerstaff, could you
17 provide me with a summary of your
18 educational background since high
19 school?

20 A. I have a bachelor of science
21 degree in chemistry from Duquesne
22 University, and I have a master of
23 science degree in hygiene from the
24 University of Pittsburgh.

25 Q. When did you earn your BS,

1 sir?

2 A. The BS degree was awarded in
3 1970 and the master's degree in 1978.

4 Q. Have you ever attended any
5 other universities or colleges other
6 than the two you have just mentioned?

7 A. I've taken several courses,
8 special courses in radiation, hearing,
9 noise measurements, specialized in
10 industrial hygiene, at Northwestern
11 University, North Carolina State, but
12 not for degree purposes, for special
13 courses.

14 Q. These special courses you have
15 taken, have you taken them within the
16 scope of your employment with
17 Westinghouse?

18 A. Yes.

19 Q. When did you first begin
20 working for Westinghouse?

21 A. 1957.

22 Q. Was that your first full-time
23 employment position, sir?

24 A. Yes.

25 Q. Could you trace for me, if you

1 would, sir, your employment history?

2 A. When I started in 1957, I
3 started as a laboratory technician in
4 the field of occupational health, and I
5 worked for about two years. Then I left
6 Westinghouse and went to Waynesburg
7 College, which is in the Pittsburgh
8 area, ran out of money and came back to
9 work for Westinghouse.

10 Q. When --

11 A. That was 19 -- I left in '59,
12 September, and then I returned in
13 September of 1960. And when I returned
14 in 1960, I came back as a technician in
15 the Radiation Safety Department at the
16 Westinghouse Waltz Mill site.

17 Q. What state was that in?

18 A. Pennsylvania. All of my
19 employment with Westinghouse has been in
20 Pennsylvania, primarily in the
21 Pittsburgh area.

22 Q. Thank you, sir.

23 A. I worked there about ten
24 years. In the meantime, I achieved my
25 bachelor of science degree at Duquesne

1 University. Then I moved to a position
2 as a professional in the Occupational
3 Safety Department at the Westinghouse
4 nuclear center, and I stayed at that
5 position for about three years. So that
6 was 1970 to 1973. In 1973, I went to
7 the Westinghouse Cheswick facility in
8 the Pittsburgh area as a supervisor of
9 industrial hygiene, and I stayed there
10 until September of 1976 when I was
11 promoted to this position I have today.

12 Q. And what position is it that
13 you have had since September of 1976,
14 sir?

15 A. I'm manager of industrial
16 hygiene and materials transportation.

17 Q. As manager of industrial
18 materials and hygiene --

19 A. Well, manager of industrial
20 hygiene.

21 Q. Pardon me.

22 A. And materials transportation.

23 Q. Thank you, sir. As manager of
24 industrial hygiene and materials
25 transportation, where is it that you

1 work? Where is your office?

2 A. I'm currently at the
3 headquarters building for Westinghouse
4 in Pittsburgh.

5 Q. And have you been at the
6 headquarters building since September of
7 1976?

8 A. No. The original location for
9 our department was at the Westinghouse
10 science and technology center.

11 Q. And where was that located?

12 A. That's also located in the
13 Pittsburgh area, community of
14 Churchill.

15 Q. And did you move from the
16 science and technology center in the
17 community of Churchill to the
18 headquarters?

19 A. Yes.

20 Q. When was that, sir?

21 A. I went to the science and
22 technology center in September, 1976,
23 and our department moved to the
24 headquarters building in July of 1988.
25 But the whole time we were still a

1 headquarters function, we just happened
2 to be not at headquarters.

3 Q. Just so the record is clear,
4 the Industrial Hygiene and Materials
5 Transportation Department is part of the
6 headquarters?

7 A. Right.

8 Q. Okay. Aside from the degrees
9 you have earned and the special courses
10 you have taken in your employment, have
11 you any licenses?

12 A. No.

13 Q. Have you been awarded any
14 certificates for completing any
15 educational courses?

16 A. Some of the courses I've
17 talked about there were certificates of
18 completion for. One was on radiation
19 safety, one on hearing conservation.
20 Most of these courses, you end up with a
21 certificate of completion.

22 Q. You've mentioned two, one was
23 radiation. Do you remember what school
24 that was?

25 A. Let's see, that was at

1 Bethesda, Maryland. That was sponsored
2 by the U.S. Department of Health and
3 HEW. I forget what the HEW stands for.
4 Health Education and Welfare.

5 Q. And approximately when was
6 that that you received your certificate?

7 A. I believe that was in 1970.

8 Q. Was this before you had your
9 present job?

10 A. Yes.

11 Q. Now, perhaps I misheard you,
12 but I believe you had mentioned to me
13 that from 1970 to '73, you were at the
14 Westinghouse Cheswick facility as a
15 supervisor, and then in September of
16 1976, you became a manager of the
17 Industrial Hygiene Department.

18 A. Corporate, yes.

19 Q. Corporate?

20 MR. BRENDL: Would you read
21 that back?

22 (The question is read by the reporter.)

23 A. I was at the Westinghouse
24 nuclear center from 1970 to '73 as a
25 professional, as an engineer. Then in

1 1973 to 1976, I went to Westinghouse
2 Cheswick as a supervisor in industrial
3 hygiene.

4 Q. I see. So there was no gap.

5 A. No. When I came back to work
6 for Westinghouse after that one-year
7 leave, this summer will be 34 years with
8 Westinghouse.

9 Q. The second certificate that
10 you had mentioned, do you recall by whom
11 that was provided and the subject
12 matter?

13 A. Let's see. One was at
14 Northwestern University. That was a
15 two-week course on industrial hygiene,
16 and that was in the summer of 1970.
17 There was a one-week course on
18 ventilation at North Carolina State, and
19 that was -- let me think about it. That
20 was about 1977, '78, something like
21 that.

22 Q. Are there any others that you
23 can recall?

24 A. Not offhand, but I belong to
25 professional organizations and we have

1 our professional meetings and annual
2 professional conferences and things like
3 that.

4 Q. With regard not to the
5 professional organizations but the
6 academic training, so to speak, that
7 you've mentioned where you received
8 these certificates, be it from a
9 university or a government agency, upon
10 your completion of one of those courses,
11 did you prepare any memoranda or in
12 anyway communicate what you had learned
13 to anyone at Westinghouse?

14 A. No, I probably just showed my
15 certificate to my immediate supervisor
16 when I returned.

17 Q. What are the professional
18 organizations that you are a member of?

19 A. I'm a member of the American
20 Industrial Hygiene Association, the
21 initials are AIHA, I'm a member of both
22 the national and our local chapter in
23 Pittsburgh. The other one is the Health
24 Physics Society, again, national and
25 local. I've been a past president of

1 both local chapters.

2 Q. You've been past president of
3 the both the AIHA and the Health Physics
4 Society?

5 A. Local chapters.

6 Q. Local chapters only.

7 A. Yes.

8 Q. Do these organizations in
9 anyway focus upon the use of substances
10 or materials in the work environment?

11 A. Yes, both do.

12 Q. Have you participated in any
13 manner in seminars or training courses
14 with regard to that subject?

15 A. Yes. Like I said, both these
16 organizations have annual conferences,
17 and I have attended in most cases
18 annually one of them.

19 Q. And for how long has that been
20 your practice?

21 A. The Health Physics Society, I
22 think I joined that in 1971, and the
23 American Industrial Hygiene Association,
24 I believe I joined that in, oh, about
25 1976.

1 Q. And I take it your memberships
2 have been continuous?

3 A. Yes.

4 Q. Aside from the annual
5 conferences, have you attended other
6 seminars or other programs with regard
7 to the same subject matter?

8 A. Yes. Westinghouse is a member
9 of an occupational health company down
10 in Washington, DC called **Organization**
11 **Resources Council**. I think there's
12 somewhere around 85 member companies,
13 Westinghouse, Exxon, General Electric,
14 whatever. And they have quarterly
15 meetings talking about standards, what's
16 coming, how to prepare for it, and I
17 attend every other one of those. So at
18 least every six months I'm at one of
19 these conferences.

20 Q. And that's been your practice
21 since approximately when?

22 A. About 1977.

23 Q. Now, when you use the phrase
24 "discussed what's coming," are you
25 talking about changes in regulations?

1 A. Yes, regulations. Usually
2 it's occupational health.

3 Q. Were there any guidelines
4 which you followed with regard to
5 communicating or did you learn at any of
6 these seminars or meetings?

7 A. Well, when I return from a
8 meeting, I would bring back the handouts
9 and then circulate them in my
10 department, and if there is anything of
11 particular interest, I would maybe then
12 circulate that on to my supervisor or
13 even higher.

14 Q. Now, your department, that
15 would be --

16 A. Industrial Hygiene and
17 Materials Transportation.

18 Q. And who would your supervisor
19 be?

20 A. My immediate supervisor is Dr.
21 Jack Fisch.

22 Q. And your department is part
23 of?

24 A. We report through the
25 Environmental Affairs Department at

1 Westinghouse headquarters.

2 Q. Now, when was the
3 Environmental Affairs Department
4 created?

5 A. That was created in 1981.

6 Q. Prior to 1981, to whom did
7 your Industrial Hygiene Department
8 report?

9 A. We reported to the human
10 resources headquarters.

11 Q. And that is part of corporate?

12 A. Corporate, right.

13 Q. Aside from circulating the
14 handouts within your department or to
15 your supervisor, did you circulate the
16 handouts to any person outside of your
17 department or to any other department?

18 A. I could have. If I saw
19 something that was pertinent to a
20 particular Westinghouse location or
21 something like that, I might make a
22 carbon and send it to them.

23 Q. Were there any rules, whether
24 formal written rules or informal rules,
25 which you followed in reaching your

1 determination whether to send a handout
2 to another department?

3 A. No, there wasn't. Pure
4 discretion.

5 Q. Now, your department, when it
6 reported to human resources prior to
7 1981, what division was that within?

8 A. That was headquarters,
9 corporate headquarters.

10 Q. And I take it environmental
11 affairs is also part of the headquarters
12 division?

13 A. Yes, correct.

14 Q. Did you ever communicate
15 outside of the headquarters corporate
16 division with regard to the handouts or
17 the subject matters you learned at any
18 of these seminars or programs?

19 MR. BRENDAL: We're talking
20 about the period from 1975 through
21 1/1/82?

22 MR. COHEN: I'm asking a more
23 general question.

24 MR. BRENDAL: I know you're
25 asking, but it obviously exceeds the

1 time frame which you specified in your
2 notice of deposition.

3 MR. COHEN: Well, it seems to
4 me that a little latitude is
5 appropriate. I'm obviously sticking to
6 the subject matter of the notice. I'm
7 asking about communications regarding
8 the substances which are at issue with
9 regard to this individual's training.
10 It's a relevant topic. You have stated
11 your objection at the very beginning,
12 you noted your objection on Tuesday a
13 number of times.

14 I will be asking these kinds
15 of general questions for the purposes of
16 aiding this question and answer
17 session. I will be showing the witness
18 documents that are not necessarily dated
19 between 1975 and 1982. If you would
20 like to have a standing objection to
21 that, that perhaps would make this a
22 more efficient process. On the other
23 hand, if you wish to stop the questions
24 and answers every time this occurs, I
25 certainly can't stop you. I don't think

1 it's necessary, however, I think you
2 preserve your objection.

3 MR. BRENDAL: We've responded
4 to a very specific notice of
5 deposition. We provided a witness to
6 address those specific topics. This is
7 the notice that we were given. If it
8 was your intention, as I understand, to
9 disregard that time frame and proceed to
10 interrogate upon any time frame that you
11 now are interested in, notwithstanding
12 your specific reservations at the
13 beginning to bring this witness back, I
14 think it's improper and I think it's a
15 deposition by surprise on a specific
16 notice that you asked us to prepare
17 somebody and have a knowledgeable
18 representative on a specific time
19 frame. And to suggest that, well, I've
20 changed my mind, I'd like to go a little
21 further today and why not, we're all
22 here, I think that is highly improper.
23 And I'm not going to sit here and talk
24 about a running objection when you're
25 exceeding the scope.

1 I'm interested, if you have a
2 specific reason on a discrete topic as
3 to why you think it might be appropriate
4 to be out of scope, I'll listen, as we
5 did at the last deposition. But if your
6 purpose here is to just cover a subject
7 matter which was not designated, then
8 I'm not going to allow the witness to
9 respond.

10 MR. COHEN: I'm going to be
11 very brief, because I don't wish to
12 delay the record. I will focus upon the
13 matters set forth in the notice. I
14 think for the purpose of framing the
15 discussion, some latitude is necessary.
16 It is not my intention to conduct the
17 deposition by surprise. I really think
18 that's an unfair charge.

19 To the extent that any
20 documents are going to be shown to the
21 witness that have a date that falls
22 outside of the time frame, I must take
23 exception to the complaint that you are
24 unaware of it. We did designate all the
25 documents we were going to use. I am

1 sure that you immediately read the
2 documents designated and I am equally
3 sure that you are able to comprehend the
4 dates on the documents.

5 I think if you wish not to
6 reserve an objection but to deal with it
7 on an ad hoc basis, that is entirely
8 your prerogative. The question I guess
9 before us at the moment is, can the
10 witness answer the pending question?

11 MR. BRENDDEL: Would you read
12 the question back please?

13 (The question is read by the reporter.)

14 MR. BRENDDEL: He may respond
15 for the period you have designated, the
16 period 1975 through 1981.

17 MR. COHEN: 1982.

18 MR. BRENDDEL: Well, 1/1/82.

19 MR. COHEN: I designated
20 through 1982.

21 MR. BRENDDEL: But your
22 designation also is in violation of the
23 case management order, which places at
24 issue the last policy in issue, which is
25 January 1, 1982.

1 MR. COHEN: Well, this
2 deposition is not for any purpose other
3 than resolving the discovery dispute, so
4 I don't believe --

5 MR. BRENDEL: I disagree that
6 it's not for any purpose other than
7 resolving the discovery dispute. That's
8 your position.

9 MR. COHEN: No, my position is
10 because the special master directed us
11 to take this deposition on these subject
12 matters.

13 MR. BRENDEL: I was party to
14 that phone conversation where that
15 occurred and I've read the
16 correspondence from the special master.
17 Whether you want to take a deposition or
18 not is up to you. You are not required
19 to. You are seeking additional
20 discovery and it was determined that the
21 burden is upon you to lay a foundation.
22 Be that as it may, this notice certainly
23 is much broader than what the special
24 master directed.

25 MR. COHEN: I certainly don't

1 agree with anything you have said. But
2 if you are limiting his answer to my
3 question, I think the record will
4 reflect that. My goal here is for you
5 and I to speak to each other as little
6 as possible and the witness to speak as
7 much as possible.

8 MR. BRENDDEL: Well, I'm not
9 going to comment on what your goals are
10 obviously. I'm just asking the witness
11 to confine himself to your designated
12 period.

13 MR. COHEN: Will you now allow
14 him to speak?

15 MR. BRENDDEL: As I indicated,
16 he certainly is free to speak.

17 Q. Would you please answer the
18 question as directed by your counsel,
19 sir?

20 A. During the time period that
21 you have discussed, 1975 through I guess
22 '81, '82, whatever, I may have come
23 back with information either gleaned or
24 pass-outs and may have, knowing that
25 that may influence a particular

1 Westinghouse location or all
2 Westinghouse locations, may have either
3 summarized it or even sent the whole
4 document out. During that time period I
5 could have very easily done that.

6 Q. And in doing that, were there
7 any policies or practices or procedures
8 which you would follow in reaching your
9 decision?

10 A. No. That was, again,
11 discretion. As a manager, they expect
12 me to be able to understand what should
13 be going out.

14 Q. Would you create any records
15 for headquarters which would memorialize
16 to whom you would send information?

17 A. I guess I'm not following
18 you.

19 Q. For example, if you attended a
20 seminar where the treatment of a
21 substance was discussed which you
22 thought might have particular importance
23 for an entire division, let's say, and
24 you decided to send it to the operations
25 manager for that division, would you

1 create a record indicating that you had
2 done so?

3 A. No, I would send it out, keep
4 a copy of what information we had sent
5 out. I wouldn't create a second
6 document saying that a letter on such
7 and such a date, no, we didn't have
8 that.

9 Q. So if I understand your
10 testimony, you would take what you had
11 received at the seminar, have it copied
12 and send it on to the operations
13 manager.

14 A. In most cases my contact
15 person at the plant, at the Westinghouse
16 facility would be the industrial hygiene
17 and safety officer. Each Westinghouse
18 facility had a designated industrial
19 hygiene safety officer responsible for
20 that plant, division, whatever.

21 Q. And you would do what I said
22 with regard to the industrial hygiene
23 and safety officer?

24 A. Right.

25 Q. So that a search of the

1 corporate records would not indicate to
2 whom you had sent such documents?

3 A. Except that we kept a copy of
4 what we sent out.

5 Q. Right. But the copy would be
6 what you had received.

7 A. With a cover letter saying
8 "attached is" or something to that
9 effect.

10 Q. Would you have such a cover
11 letter?

12 A. Yes, as far as I know, we have
13 that.

14 Q. Did you ever have a telephone
15 conversation with an industrial hygiene
16 supervisor where you would say I'm going
17 to be sending you something?

18 A. Oh, yes. We had lots of
19 calling back and forth for information,
20 questions, whatever.

21 Q. Did you visit the various
22 plants?

23 A. Yes, I did.

24 Q. And in the course of your
25 visits, did you bring these handouts

1 with you?

2 A. In most cases not. In most
3 cases they were sent. But on certain
4 occasions I may have brought something
5 with me.

6 Q. On the occasions where you may
7 have brought something with you, would
8 you then have a cover letter?

9 A. No.

10 Q. Did you ever simply discuss
11 the subject matter of the seminar or the
12 pamphlets with an industrial supervisor
13 at a local plant without providing it?

14 A. Could have, could have, yes.

15 Q. When you made your decisions
16 whether to forward a pamphlet or handout
17 to a particular plant, was that decision
18 based in anyway with regard to what
19 division the plant was in?

20 A. It could have.

21 Q. Again, an ad hoc
22 determination?

23 A. Yes.

24 Q. The industrial hygiene
25 supervisors at the various plants, were

1 they members of your division, that
2 being Corporate Headquarters Division or
3 were they members of the division to
4 which the plant belonged?

5 A. They were members of the
6 division of the plant. There was no
7 dotted line or straight line
8 communication back to me.

9 Q. So that if you were to
10 communicate with the industrial hygiene
11 supervisor in the time frame of 1975 to
12 1982 at the Bloomfield, New Jersey
13 plant, he was a member of the lamp plant
14 division?

15 A. Yes.

16 Q. And then he would not have any
17 direct lines of communication back to
18 you.

19 A. That's correct.

20 Q. How would the industrial
21 hygiene supervisor -- and by the way, do
22 you remember the name of that gentleman
23 for that time frame at Bloomfield?

24 A. I believe there was at least
25 one, I'm trying to think, he retired.

1 There might have been two, yes.

2 Q. Would you tell me please?

3 A. Dick Williams was the original
4 manager of industrial hygiene and
5 safety, and he retired I think late
6 '70s. And then Mr. George Goodrow was
7 his successor.

8 Q. And to whom did Mr. Williams
9 report with regard to matters of
10 industrial hygiene and safety?

11 A. I believe he reported directly
12 to the Human Resources Department.

13 Q. And the Human Resources
14 Department --

15 A. I think reported to him
16 eventually. I'm not sure if there was
17 anybody in between, but then he
18 eventually did report to the manager at
19 Bloomfield..

20 Q. So the Human Resources
21 Department was for the lamp plant
22 division?

23 A. Well, Bloomfield was two
24 things. It was a plant and they had
25 their own operations, but it was also

1 headquarters for the Lamp Division. And
2 I don't know if Mr. Williams' or Mr.
3 Goodrow's immediate supervisor had
4 responsibilities out at the other
5 plants. I know they did have
6 responsibility for Bloomfield, but I
7 don't know if he had human resources
8 responsibilities at the other plants.

9 Q. With regard to what you do
10 know, which is the responsibilities for
11 the Bloomfield plant as a plant, not as
12 a division headquarters?

13 A. Right.

14 Q. Did I understand you to
15 testify that Mr. Williams would report
16 to the plant manager?

17 A. Eventually. There were
18 several people in between, at least one
19 and maybe two, three people in between.

20 Q. And do you know what titles
21 would be in between?

22 A. Well, I think originally a
23 supervisor in the human resources
24 reported to the manager.

25 Q. Of human resources?

1 A. Of human resources. Then from
2 there, I don't know if there was another
3 layer of management to the plant
4 manager. But there was at least two,
5 maybe three people in between. I don't
6 know.

7 Q. And all of this is within
8 human resources?

9 A. Yes.

10 Q. And human resources was part
11 of which division?

12 A. The human resources was part
13 of the Lamp Division.

14 MR. BRENDEL: One
15 clarification. When you summarized that
16 all of this was within human resources,
17 I believe the witness testified that the
18 plant manager was not within human
19 resources.

20 Q. Is Mr. Brendel correct?

21 A. I'm not following.

22 MR. BRENDEL: When you said
23 "plant manager," I think there was some
24 testimony that there are different
25 managers at Bloomfield. Were you

1 referring to Mr. Rourke, for instance,
2 during that period?

3 THE WITNESS: Yes. See, I
4 think there were several changes in the
5 way they were structured there. So when
6 Mr. Rourke was there, maybe it was a
7 different organization, different
8 structure, but I'm trying to give you my
9 perception of what I thought was there,
10 and most times I dealt only with Dick
11 Williams. So I don't know in some cases
12 if he had a new boss or a new -- I
13 didn't know all the time.

14 Q. Once the information reached
15 the plant manager, how if at all would
16 it be communicated to the division?

17 A. I guess I'm not following. I
18 didn't communicate with the plant
19 manager.

20 Q. I understand. We're following
21 a line now that began with Mr. Williams
22 and moving upwards, and if I understood
23 your testimony, it would go to the head
24 of the Industrial Hygiene and Safety
25 Department at Bloomfield, and that

1 person's title would have been what?

2 A. Dick Williams. His title was
3 manager of industrial hygiene and
4 safety.

5 Q. And he would report through a
6 number of levels ultimately reaching the
7 plant manager.

8 A. Yes.

9 Q. And the plant manager would
10 report to the operations manager for the
11 division?

12 A. I don't know.

13 Q. Okay. Do you know how a plant
14 manager would communicate with regard to
15 the use or the handling or the disposal
16 or storage of any substance at the plant
17 to the division?

18 A. That could vary from plant to
19 plant. I really don't know.

20 Q. Okay. Do you know if the
21 plant manager, having been involved in
22 some discussion concerning the use,
23 handling or disposal of any substance,
24 would communicate with headquarters
25 directly, if at all?

1 A. I think if there was a letter
2 or questionnaire sent out to the plants
3 from headquarters on such an issue, most
4 plants would correspond directly back to
5 headquarters.

6 Q. Now, in the answer you have
7 just provided, you're envisioning a
8 scenario where headquarters has begun
9 the communication.

10 A. Yes.

11 Q. Do you have any understanding
12 of what the process would be where the
13 communication would be instituted on the
14 plant level?

15 A. I think in some cases the
16 plant might have a particular report
17 they would want somebody at headquarters
18 to review or something. They might send
19 it in and say would you take a look at
20 this, or a report could have been
21 requested. I could see that happening.
22 But again, trying to limit it to my
23 knowledge, mine is occupational health,
24 not waste disposal and treatment of
25 chemicals. My concern is always going

1 to be employee exposure to hazardous
2 materials.

3 Q. And I take it at times,
4 employee exposure is necessarily
5 intertwined with the question of the
6 storage or use or disposal of a
7 substance, but if it's not, you wouldn't
8 be involved.

9 A. Correct.

10 Q. And even under the
11 circumstances where it was involved with
12 an employee exposure, do you know the
13 process by which the plant would
14 communicate with headquarters or whether
15 there was such a direct line of
16 communication?

17 A. There was no need, that I know
18 of, of any formal or informal saying you
19 will correspond. The only thing I know,
20 injury and illness records on an annual
21 basis, now semi-annual basis,
22 Westinghouse requires every facility to
23 send in their OSHA what they call injury
24 logs saying we had these numbers of
25 injuries and accidents, whatever, and we

1 put a corporate report together.

2 Q. Let me see if I understood.

3 With regard to OSHA, corporate
4 headquarters would prepare a report
5 based upon the information provided by
6 each individual plant?

7 A. Yes.

8 Q. And how often would each
9 individual plant provide that
10 information?

11 A. In that time period, I think
12 it was annually.

13 Q. This is in the 1975 to 1982
14 time period?

15 A. Right.

16 Q. Are you aware of any time
17 period where the headquarters corporate
18 reports were created on more than an
19 annual basis?

20 A. It may have been semi-annual,
21 but I think -- either annual or
22 semi-annual. Today it's semi-annual.

23 Q. Okay.

24 A. But there's no requirement to
25 do this under OSHA. This is just

1 Westinghouse, where are we, what are our
2 injuries and illnesses, how can we
3 reduce them, whatever. So this is our
4 own individual, internal report.

5 Q. Do you know when this practice
6 began?

7 A. It was there when I started in
8 1976.

9 Q. And you have no knowledge
10 about when it began before that?

11 A. No, I don't.

12 Q. How often do the plants report
13 to headquarters so that the report could
14 be compiled on an annual or semi-annual
15 basis?

16 A. Again, then I think annually.
17 Today I think it's semi-annual.

18 Q. What other reports or
19 summaries of developments were forwarded
20 from plants to corporate headquarters?

21 A. Again, back during that time
22 period, it could be a response back to
23 OSHA or a letter to OSHA sent to them,
24 please investigate this. It could be an
25 OSHA inspection where they had to ask

1 follow-up. We would maybe assist them
2 on that.

3 Q. My question might not have
4 been clearly phrased. I understood your
5 answer to be responsive with regard to
6 particular events that would require a
7 communication, but what I'm asking about
8 is, was there any standard practice
9 regarding the compilation of information
10 by a plant to be forwarded to
11 headquarters?

12 A. The only one I really know of
13 is the annual or semi-annual injury
14 illness records which had to go in.
15 Others were as needed or as they needed
16 our input. There was no formal other
17 information that had to go back to
18 headquarters that I'm aware of.

19 Q. All right. For example, are
20 you aware of monthly operating reports?

21 A. Monthly operating reports.
22 There was no requirement that I'm aware
23 of, again, I'm speaking my area, that
24 there was a requirement that it had to
25 go back to headquarters.

1 Q. Are you aware of any practice
2 whereby monthly operating reports would
3 be forwarded to headquarters?

4 A. There were I think several
5 divisions that on their option copied us
6 on minutes of their safety meetings and
7 things like that, yes.

8 Q. When you mention minutes of
9 safety meetings and things like that,
10 you're talking about discrete subjects
11 for a particular plant or even a
12 division?

13 A. Yes.

14 Q. Are you aware of any general
15 overview report that would consist of
16 production, supplies, labor issues,
17 health issues that might have been
18 prepared on a monthly basis by a plant?

19 A. Not where they sent it back to
20 headquarters, no. Again, to my
21 department.

22 Q. Understood. I'm only asking
23 you things, sir, which you are aware of
24 to your own personal knowledge.
25 Certainly if you are aware of something

1 that occurred out of your department, I
2 expect you to tell me if you know it. I
3 can't expect you to tell me things you
4 do not know.

5 A. Okay.

6 Q. Do you know of any periodic
7 report prepared on a regular basis from
8 plants to division headquarters?

9 A. Unless we were copied, no.

10 Q. Do you know of any practices,
11 policies or guidelines from the
12 divisions reporting to headquarters?

13 A. I can only think of one
14 division that had any kind of a
15 routine. In the beginning they were
16 copied on safety minutes and things like
17 that. But again, that was their choice.

18 Q. And what division was that?

19 A. That was our defense.

20 Q. The Defense Division?

21 A. Yes.

22 Q. When was the Defense Division
23 created?

24 A. Oh, I have no idea.

25 Q. Did it exist for the time

1 frame of 1975 through 1982?

2 A. Yes.

3 Q. And during that time frame,
4 was it the practice of the Defense
5 Division to forward periodic general
6 reports to headquarters?

7 A. Again, their option, yes.

8 Q. But it's your understanding,
9 even though it was at their option, it
10 was the practice?

11 A. Yes.

12 Q. And how often was that done?

13 A. It could be quarterly,
14 monthly, depending on when they had
15 their safety meetings at their
16 facilities.

17 Q. Are you aware if these reports
18 that were forwarded or copied to
19 headquarters were limited to the safety
20 minutes?

21 A. As far as I remember, yes.

22 Q. And did they go to your
23 department?

24 A. Yes.

25 Q. And that's the only reason

1 you're aware of it?

2 A. Yes.

3 Q. So if another division
4 forwarded some sort of periodic report
5 on a regular basis to a division other
6 than yours, you would not have any
7 knowledge?

8 A. Unless I was copied on it,
9 correct.

10 Q. And your division now would be
11 which?

12 A. Headquarters, corporate.

13 Q. You mean the higher
14 Headquarters Division?

15 A. Yes.

16 Q. Environmental affairs was
17 within the Headquarters Division,
18 correct?

19 A. Yes.

20 Q. An is legal within the
21 Headquarters Division?

22 A. Yes.

23 Q. I think Westinghouse refers to
24 legal as the Law Department?

25 A. Yes.

1 Q. What other departments are
2 within the Headquarters Division?

3 A. Finance, human resources.
4 Each one of these now are departments of
5 headquarters.

6 Q. Right. Headquarters is the
7 umbrella to which these all fit within?

8 A. Yes.

9 Q. Okay. So we have finance,
10 human resources.

11 A. Purchasing, traffic.

12 Q. What was the Traffic
13 Department?

14 A. Well, for anything that's
15 shipped, by truck, train, whatever.

16 Q. And I take it traffic
17 therefore necessarily would be involved
18 with questions involving the shipping of
19 hazardous substances or waste?

20 A. Yes.

21 Q. What other departments were
22 there at the Headquarters Division?

23 A. Benefits.

24 Q. Benefits, for example, would
25 be involved with claims for benefits

1 arising out of employee disability
2 because of alleged exposure to
3 substances?

4 A. Yes. Worker's compensation,
5 I'm just trying to think, Tax
6 Department. I think most major
7 corporations are going to have these.

8 Q. And yours, of course,
9 industrial hygiene?

10 A. Yes. Communications is
11 another one.

12 Q. Now, what were the
13 responsibilities of the Communications
14 Department, sir, if you know?

15 A. Communicating information on
16 Westinghouse, anything that's going out
17 in advertising or anything, press
18 releases, whatever.

19 Q. Did they ever have, to your
20 knowledge, anything to do with internal
21 Westinghouse communications?

22 A. I guess I'm not following
23 you. What do you mean?

24 Q. For example, when you attended
25 a seminar and you made a decision that

1 something should be circulated to
2 various plants, was the Communications
3 Department involved in that?

4 A. No.

5 Q. That is an example of what I
6 meant.

7 A. Right. They also probably had
8 things like helping to develop all of
9 our corporate policies and procedures,
10 things like that.

11 Q. Regarding corporate
12 communications?

13 A. Yes.

14 Q. Did these corporate policies
15 that they helped to develop also concern
16 corporate internal communications?

17 A. I don't remember offhand.
18 They may have, I don't know.

19 Q. Have you ever seen an internal
20 Westinghouse document that had been
21 stamped or labeled in some way
22 "confidential"?

23 A. Yes.

24 Q. What was your understanding of
25 the use of that phrase on a document?

1 A. That could be -- there are
2 several areas. Maybe just for internal
3 purposes of Westinghouse. I'm not sure
4 if it's confidential, but there's always
5 sometimes at the Westinghouse research
6 center to protect information because
7 it's a defense contract or whatever,
8 that would be another use of
9 "confidential." I don't know. To me
10 "confidential" certainly meant kind of
11 restrict the use of it.

12 Q. When you say "the use," you
13 mean the dissemination?

14 A. The dissemination, yes.

15 Q. Have you ever seen any other
16 words which indicated a restrictive
17 dissemination?

18 A. I've seen the word
19 "proprietary." And that pretty much is
20 used by the Westinghouse science and
21 technology to restrict information on
22 maybe patents or new information, new
23 technology, whatever.

24 Q. Have you ever seen a document
25 that might have been labeled "strictly

1 limited distribution" or "limited
2 distribution only," something to that
3 effect?

4 A. Yes, I believe I've seen that,
5 yes.

6 Q. Have you ever seen a document
7 which said it was to be distributed only
8 for certain people who needed it for
9 their immediate tasks and then was to be
10 destroyed by burning or shredding?

11 A. I believe I've seen that
12 caption, yes.

13 Q. Have you seen that caption in
14 preparation for today's deposition?

15 A. I have seen several documents
16 that were identified, and I saw it on
17 some of those yesterday with my
18 attorney.

19 Q. Aside from preparing for the
20 deposition, have you seen those
21 documents in the course of your ordinary
22 business?

23 A. I may have. I don't know.

24 Q. Are you aware of any rules,
25 practices or guidelines setting forth

1 when a document is subject to a
2 restricted dissemination?

3 A. I don't know the rules per se,
4 but I'm sure there are some rules.

5 Q. Do you know who drafted those?

6 A. No, I don't.

7 Q. Do you know when they were
8 drafted?

9 A. No, I don't.

10 Q. Do you know where those rules
11 are maintained?

12 A. No, not offhand.

13 Q. I take it you do not know the
14 sum and substance of those rules?

15 A. No.

16 Q. Do you have any knowledge
17 regarding the different levels of
18 restricted dissemination, such as
19 confidential, strictly limited, destroy
20 by burning or shredding?

21 A. No, I don't know those rules.

22 Q. Do you know when was a plant
23 authorized to limit the distribution or
24 dissemination of a document?

25 A. No, I don't know that.

1 Q. Do you know when headquarters
2 would invoke a limited distribution to
3 prevent dissemination to local plants?

4 A. Would you restate that?

5 Q. Let's hear it back.

6 (The question is read by the reporter.)

7 A. No, the kinds of information
8 that I normally would handle in health
9 and safety has not really been ever -- I
10 don't remember putting a "proprietary"
11 on or "restricted." So I don't know.

12 Q. What divisions were there
13 besides a Headquarters Division?

14 A. During that time frame?

15 Q. I am asking a more general
16 question. You should listen to your
17 attorney.

18 MR. COHEN: Are you preventing
19 him from answering that?

20 MR. BRENDEN: Why doesn't he
21 respond with respect to the time frame
22 in the request.

23 MR. COHEN: Then we'll play it
24 by ear.

25 MR. BRENDEN: Because it is I

1 suspect a rather broad question and he
2 may not want to go further.

3 Q. Let us begin with the 1975
4 through 1982 time frame.

5 A. From my recollection.

6 Q. Yes, sir.

7 A. The Lamp Division, there was
8 the Defense, Broadcasting, our Financial
9 and Credit Corp., our Nuclear Division.
10 There were some commercial products at
11 that point I believe.

12 Q. When you say "commercial
13 products," is that similar to consumer
14 products?

15 A. Yes. Just about that time was
16 when Westinghouse was getting out of the
17 consumer product business, but there may
18 still have been some at that time.

19 Q. When you say "at that time,"
20 can you tell me what you mean?

21 A. 1975 through 1981.

22 Q. You can't give a more specific
23 answer?

24 A. No.

25 Q. Okay.

1 A. Let's see, Power Generation
2 was one, and I think the Motor Company.
3 That's about the broad groups.

4 Q. And within each of these
5 divisions, I take it there were various
6 departments?

7 A. Yes.

8 Q. There was an Industrial
9 Hygiene Department within each division?

10 A. Yes.

11 Q. There was a Building and
12 Grounds Department within each division?

13 A. I don't know.

14 Q. Do you know which departments
15 there would be within each division that
16 would in anyway be concerned with the
17 use, handling or disposal of
18 substances? And just so the record is
19 clear, when I say "substances," I mean
20 those that may have been released or
21 present at any plant that contributed to
22 an environmental condition or pollution
23 or radiation or contamination for which
24 there is an insurance claim lawsuit?

25 A. I don't know which locations

1 had what department pursuing that or
2 following that, given that was not my
3 responsibility. So I really, I don't
4 know. If all of them had it, some of
5 them had it, I don't know.

6 Q. Were there any formal rules or
7 guidelines concerning what departments
8 would handle the questions involving the
9 use, handling and disposal of
10 substances?

11 A. I think just like we had an
12 industrial hygiene and safety officer, I
13 think somebody was designated at the
14 plant.

15 Q. Do you know when that first
16 happened?

17 A. No, but that was the plant's
18 choice. Like for instance, our
19 representative a lot of times came out
20 of human resources, but it could also be
21 the nurse. It was the plant's choice
22 who they were going to designate.

23 Q. And now are you speaking
24 specifically with regard to issues of
25 industrial hygiene?

1 A. Industrial hygiene and safety,
2 correct.

3 Q. So with regard to disposal of
4 substances, what is your knowledge?

5 A. Again, the plant or the
6 facility, it was their choice who was
7 going to be the environmental control
8 officer.

9 Q. Would the environmental
10 control officer deal with questions of
11 offsite disposal of a hazardous
12 substance?

13 A. I don't know for sure. I
14 would guess so.

15 Q. I appreciate your efforts, but
16 what I'm concerned about is what you do
17 know.

18 A. Okay.

19 Q. With regard to the storage of
20 substances, do you know how that was
21 assigned at the plant?

22 A. That would vary from plant to
23 plant.

24 Q. And I take it, therefore,
25 within each division there might not

1 have been a uniformity of assigned
2 responsibilities at the various plants?

3 A. That could be, yes.

4 Q. Do you know what department at
5 headquarters was responsible for
6 facilitating communications between the
7 divisions?

8 A. What kind of communications?

9 Q. Specifically with regard to
10 the use, handling or disposal of
11 substances. First of all, are you aware
12 of any communications between the
13 divisions?

14 A. Between divisions?

15 Q. Yes.

16 A. Between divisions, there was
17 virtually -- I don't think there was
18 usually much correspondence between
19 divisions on this issue.

20 Q. Okay. Was there
21 correspondence from the divisions to the
22 headquarters on this issue?

23 A. Again, on the issues of you're
24 talking waste disposal and things like
25 that?

1 Q. Yes. Not necessarily only
2 disposal. For example, if there was an
3 indication of an ambient atmosphere,
4 mercury exceeded a regulation, how would
5 that be communicated within the
6 Westinghouse structure?

7 A. It would be the plant that had
8 the exposure measurement, it would
9 probable just be directed back toward
10 headquarters.

11 Q. Would that be division
12 headquarters or corporate headquarters?

13 A. Corporate headquarters.
14 Possibly in some cases it could go back
15 to division. Again, it depends. A lot
16 of the responsibility was decentralized
17 and put back on the plant to do this.

18 Q. Am I correct that the decision
19 whether to disseminate the information
20 beyond the plant level was also a
21 decentralized decision?

22 A. Yes.

23 Q. Was there, to your knowledge,
24 a department that was responsible for
25 disseminating information to the various

1 divisions?

2 A. For environmental issues, when
3 I've been at this job, there was one
4 individual who had that responsibility.

5 Q. Who was that person, sir?

6 A. Mr. Bud Kerns, B. A. Kerns.

7 Q. And Mr. Kerns had what title?

8 A. Boy, I'm not sure what his
9 title was. Manager, environmental
10 compliance. I'm not sure what it was.

11 Q. Do you know, was he part of
12 the Headquarters Division?

13 A. Yes.

14 Q. And do you know which
15 department Mr. Kerns was in?

16 A. He at that time reported to
17 the Construction Technology Department.

18 Q. I take it that's another
19 department within the Headquarters
20 Division?

21 A. Yes.

22 Q. Do you know what the scope of
23 responsibilities for the Construction
24 Development Department was?

25 A. Anything with the plant going

1 in. They would assist the plant in
2 construction, any remodeling of plants
3 or things like that. They would go to
4 headquarters works engineering.

5 Q. And on the local level, what
6 was works engineering?

7 A. Works engineering.

8 Q. What were the
9 responsibilities, so to speak?

10 A. The operation of the plant as
11 far as facilities, electricity, power,
12 whatever. New buildings going up,
13 renovations, things like that.

14 Q. At the Headquarters Division,
15 I take it from your testimony that the
16 Construction and Development Department
17 had responsibilities with regard to the
18 use, handling or disposal of substances?

19 A. That's my understanding, yes.

20 Q. And they also had
21 responsibilities with regard to
22 communications involving that subject
23 matter?

24 A. Yes.

25 Q. Can you tell me what the

1 responsibilities of that department, the
2 Construction Development Department
3 within the Headquarters Division was
4 with regard to the use, handling and
5 disposal of substances?

6 A. Just to keep the plants
7 appraised of regulations, and I believe
8 they maybe put in some training courses
9 and things like that on how to implement
10 different programs for proper disposal,
11 whatever. That's my understanding.

12 Q. Okay. I take it you
13 personally have never been an employee
14 of that department.

15 A. That's correct.

16 Q. Are you aware of any
17 responsibilities that the Construction
18 Development Department undertook other
19 than to advise of changes in the
20 regulatory atmosphere and the putting on
21 of seminars?

22 A. No. I was not on the
23 distribution for anything that they sent
24 out.

25 Q. Do you recall ever attending a

1 seminar put on by the Construction
2 Development Department?

3 A. No.

4 Q. Do you recall having
5 discussions that the Industrial Hygiene
6 Department should be on the distribution
7 of the Construction Development
8 Department concerning the use, handling
9 and disposal of substances?

10 A. Occasionally Kerns would give
11 us a call and he may have information on
12 a particular material safety data sheet
13 and ask for our input on maybe the
14 proper kind of glove to wear or
15 something like this. We would assist
16 him there, yes.

17 Q. What was a material data
18 safety sheet?

19 A. For every chemical that you
20 buy today, there's a material safety
21 data sheet that has to be made available
22 to the customer. For instance, if you
23 went over to the Sherman Williams and
24 you bought paint, right behind the desk,
25 the sign says material safety data

1 sheets are available on request. It is
2 basically a one-, two-, three-page
3 document that talks about the health
4 hazards, what kinds of protective
5 clothing to wear, how to avoid
6 overexposures, what the ingredients are
7 inside. It's a piece of information or
8 document on this particular subject or
9 substance rather.

10 Q. Was there a document that was
11 for the internal use of Westinghouse
12 employees regarding the handling, use or
13 disposal of substances in a safe manner?

14 A. As far as the handling and
15 use, Westinghouse developed, our
16 department, industrial hygiene developed
17 safe practice data sheets. We started
18 probably back sometime in the 1940s.
19 And again, the intent was how to work
20 with this material safely and use of
21 protective clothing, things to avoid so
22 you don't have incompatible chemicals
23 coming together, things like that. And
24 this was only for internal use in
25 protecting Westinghouse employees.

1 Q. Had you ever heard of that
2 document in a compilation referred to as
3 a "safe practices manual"?

4 A. Not "safe practices manual."
5 The compilation was the safe practice
6 data sheets. "Sheets."

7 Q. Have you ever heard of a safe
8 practices manual used by Westinghouse
9 employees?

10 A. Not a safe practices manual,
11 no.

12 Q. For example, a Lamp Division
13 safe practices manual?

14 A. They may have had one. I
15 don't know.

16 Q. That would be outside the
17 scope of industrial hygiene?

18 A. Yes.

19 Q. What was the equivalent at the
20 Corporate Headquarters Division of the
21 Buildings and Grounds Department on the
22 plant level, if you know?

23 A. I would guess it would be the
24 construction technology.

25 Q. Were there any standard

1 policies, practices or procedures with
2 regard to the reporting by plants of
3 conditions that were in violation of
4 regulations concerning the presence of
5 substances?

6 A. I'm not following you. What
7 do you mean?

8 Q. Okay. For example, if a
9 plant, say Bloomfield, for example,
10 determined that the presence of mercury
11 within a particular building did not
12 conform to regulations, were there any
13 policies or practices or procedures
14 regarding how that fact would be
15 communicated, if at all?

16 A. I don't think there was a
17 formal policy that they had to respond
18 back. Being decentralized, the
19 responsibility was still back on the
20 plant to be in compliance. I don't
21 think that they had to, well, we took an
22 air sample today and found it above and
23 call our department. No, that was not
24 required.

25 Q. If there was a chronic

1 situation where the investigation
2 revealed a continuing lack of
3 compliance, was there any formal
4 practice, procedure or guideline
5 regarding reporting?

6 A. No, we could pick things up,
7 for example, on the annual injury and
8 illness rates or records that they had
9 to send to us.

10 Q. Those were the documents we
11 were referring to earlier?

12 A. Yes. If we would see that
13 start to climb or increase, this may be
14 an indication there's a problem with the
15 plant. We would then contact the plant
16 and go out and visit and see what was
17 going on. So that was another way of,
18 yes, we had a way of detecting whether
19 or not there was a problem at the plant.

20 Q. Aside from the annual injury
21 and accident rates, were there any other
22 documents which would be reviewed for
23 the purpose of internal compliance on
24 the local levels?

25 A. There was no reporting

1 requirements that I remember.

2 Q. Aside from reporting
3 requirements, was there any standardized
4 practice or policy that you recall?

5 A. Westinghouse had a
6 self-evaluation program, but that was
7 primarily inhouse. You evaluate your
8 own program against these different
9 parameters. And there was no reporting
10 requirement to come back to
11 headquarters, but some might, just
12 saying hey, we scored ourselves and we
13 were 98 percent this year, something
14 like that.

15 Q. Let me see if I understand
16 what you just told me. There was a --
17 can I have the last answer read back?
18 (The question is read by the reporter.)

19 Q. The self-evaluation program,
20 did that concern in anyway the use,
21 handling, presence or disposal of
22 substances?

23 A. The use and handling, yes, as
24 far as employee exposures. Nothing as
25 far as the environmental. Again, it was

1 all industrial hygiene and safety.

2 Q. And was this self-evaluation
3 program something that was implemented
4 by industrial hygiene and safety?

5 A. Yes.

6 Q. That's why you know about it.

7 A. Yes.

8 Q. And so the only things that
9 would be responsive would be issues
10 concerning employee exposure.

11 A. Correct.

12 Q. And therefore, issues
13 concerning the internal environment of a
14 building or external environment would
15 not be within the scope of that
16 self-evaluation program.

17 A. Internal, if it were to cause
18 an employee exposure.

19 Q. But assuming it had not.

20 Q. And if I understood what you
21 said, there was no practice with regard
22 to reporting the results of this
23 self-evaluation program. And you gave
24 the example of perhaps if someone had
25 scored particularly well, they might

1 report to headquarters.

2 A. Yes.

3 Q. Can you recall any examples
4 where a plant scored particularly poorly
5 and they reported it to headquarters?

6 A. No.

7 Q. To your knowledge, was it the
8 practice of plants that had conditions
9 that were below par or below average to
10 bring that to the attention of
11 headquarters?

12 A. There was no practice to do
13 that. There may have been during the
14 year maybe an acquisition, a company we
15 bought, was not used to the Westinghouse
16 system, scored themselves and said hey,
17 I think I'm a little low here, what can
18 I do to improve it. That could happen.

19 Q. With regard --

20 A. Acquisitions always tended to
21 be much lower in score.

22 Q. Aside from the question of
23 acquisitions, with regard to a plant
24 that had a been a traditional
25 Westinghouse holding, do you recall any

1 examples?

2 A. Not offhand.

3 Q. Do you recall that the
4 Bloomfield plant was recognized as
5 having a problem with regard to the
6 presence of mercury for a historical
7 period?

8 MR. BRENDDEL: I'm going to
9 object at this point since you're going
10 into the substantive scope of his
11 deposition. If you want to conduct that
12 type of inquiry on this subject matter
13 now, we can discuss that. But if your
14 intent here is to get into substantive
15 issues now and then reconvene the
16 deposition later to get into substantive
17 issues, then we have a problem.

18 MR. COHEN: Well, I don't
19 think we need to have a problem. That's
20 a strong word.

21 MR. BRENDDEL: I don't think
22 "problem" is a strong word. Maybe you
23 do. Maybe you're more fortunate than I
24 am to go through the day without any
25 problems. Sounds like you've already

1 had one today anyway. So --

2 MR. COHEN: I have no
3 problems, sir, at all. In any event, I
4 want to be very clear. In no way do I
5 intend to forego a substantive
6 deposition. This is not a substantive
7 deposition, and we are reserving all
8 rights to take a substantive
9 deposition. I think it is only
10 necessary for you to state an objection
11 and then direct the witness to either
12 answer the question subject to the
13 objection or direct him not to answer
14 the question. If we have repeated
15 directions not to answer, we can seek
16 intervention.

17 So the purpose of my question
18 was to find out about communications
19 with regard to a situation at
20 Bloomfield, whether there was such
21 communications or if there were not. If
22 you wish to say that you object to the
23 form of the question for assuming a fact
24 being in issue, that is your business.
25 But I would like an answer regarding

1 communications from Bloomfield to
2 headquarters regarding the presence of
3 mercury that was beyond regulated
4 levels.

5 MR. BRENDDEL: Would you please
6 read his question back?

7 (The question is read by the reporter.)

8 MR. BRENDDEL: That question
9 has nothing in it about lines of
10 communication. It's a direct
11 substantive question to the witness, and
12 I'm going to instruct him not to answer
13 on the grounds that that question is out
14 of scope.

15 MR. COHEN: Please just put a
16 little mark next to the question.

17 Q. Do you recall any
18 communications from the Bloomfield plant
19 to Headquarters Division with regard to
20 a chronic situation involving the
21 presence of mercury that did not conform
22 to regulated standards?

23 A. There was correspondence
24 between Bloomfield and our department.
25 And I don't know if it was chronic, but

1 they had on occasion air samples that
2 exceeded the OSHA permissible limit.
3 However, employees were wearing
4 respirators in most cases for their
5 protection and had protective clothing.
6 But they had an ongoing program of using
7 engineering controls, administrative
8 controls to try to correct the problem,
9 housekeeping, and in some cases they
10 were looking for alternative materials
11 other than mercury.

12 Q. Okay. I had only mentioned
13 mercury as an example. In the
14 situations where there were
15 communications, were they pursuant to
16 any formal practice or was this
17 something that happened on an ad hoc
18 basis?

19 A. I think in most cases it was
20 on an ad hoc basis that they would take
21 periodic air samples, and if they found
22 a problem, they would contact us and say
23 what can we do to correct the problem.
24 If the air samples turned out to be less
25 than permissible, there probably was no

1 correspondence to us.

2 Q. With regard to the steps that
3 may have been taken at Bloomfield with
4 regard to a problem, as you earlier
5 referred to, was there any formal means
6 of communicating the programs
7 implemented to other plants or other
8 divisions?

9 A. There could have been, yes.
10 But I can't say specifically we took
11 this and applied it here, but we could
12 have.

13 Q. Is your answer that on
14 occasion this was done?

15 A. I'm just saying it could have
16 happened. I can't remember any specific
17 detail that it did happen.

18 Q. Do you recall whether there
19 was a policy that it should have been
20 done?

21 A. No, there was no policy.

22 Q. Do you recall any discussion
23 that it would be a good idea to
24 disseminate to the various plants
25 programs instituted at a plant to deal

1 with this substance?

2 A. Again, that was not required.
3 Again, our discretion. If we saw
4 something visiting one plant, suggested
5 it maybe to another plant, that could
6 happen. But nothing said formally it
7 had to be disseminated.

8 Q. Do you recall any discussions
9 concerning whether it was a good idea
10 for there to be a formal requirement?

11 A. No, not really.

12 Q. Do you recall any discussions
13 in which the dissemination of such
14 information was discouraged?

15 A. Oh, no, never discouraged.

16 Q. Would you consider a labeling
17 of a memoranda for a restricted
18 dissemination or a confidential use to
19 be discouragement of the exchange of
20 information?

21 MR. BRENDL: I'm going to
22 object to the question on the grounds
23 that it's presumably a hypothetical,
24 there's no foundation for it. I don't
25 know what he's referring to or what type

1 of communication or what type of
2 document the label to which he is
3 referring to applies. I'd ask that
4 there be some foundation if you expect
5 the witness to answer a hypothetical
6 question.

7 MR. COHEN: My question was
8 merely an effort to probe his
9 understanding and his last answer with
10 regard to there never being any
11 disapproval of the dissemination. And I
12 was trying to see within the scope of
13 his answer how the use of the
14 confidential restricted dissemination
15 labels fit.

16 MR. BRENDEN: So it was within
17 the scope of his answer, he was
18 responding with respect to environmental
19 affairs at headquarters and his
20 knowledge of environmental affairs at
21 headquarters. With that understanding,
22 I'll let the witness respond.

23 MR. COHEN: So the record is
24 very clear, I do not agree in anyway
25 with any characterizations in my

1 question, and I will rely upon the
2 transcript and the reader's
3 interpretation.

4 MR. BRENDEL: I mean so there
5 is a clarity here on what you're asking,
6 and I think we should have that if we're
7 not in agreement on what you're asking.
8 You're requesting that his answer extend
9 beyond headquarters environmental
10 affairs? Are you asking him to respond
11 to your question based on his knowledge
12 beyond headquarters environmental
13 affairs?

14 MR. COHEN: I'm asking the
15 witness to respond to my question to the
16 best of his ability during all of his
17 personal knowledge. I do not ask him to
18 speculate or guess, I only ask him to
19 tell me what he knows.

20 MR. BRENDEL: Then I would
21 request that the witness when responding
22 to questions that appear to be overbroad
23 or were not directed to a specific area
24 or issue, to make sure that he answers
25 and defines what he's responding to,

1 since counsel doesn't have any intention
2 to define the scope of the question for
3 the witness.

4 Q. Sir, can you answer my
5 question?

6 A. Can you read the question
7 again?

8 (The question is read by the reporter.)

9 A. The health and safety
10 information that I'm familiar with,
11 again during that time period, I don't
12 know, I can't remember any of it ever
13 saying "restricted" or "proprietary" or
14 anything like that. I really don't
15 remember any.

16 (There is a brief recess.)

17 BY MR. COHEN:

18 Q. Mr. Bickerstaff, in the
19 various positions you have held with
20 Westinghouse, have you received any
21 training with regard to communications
22 or policies that should be followed
23 regarding communications with the
24 subject matter of substances?

25 A. No, not that I remember.

1 Q. Have you ever trained anyone
2 on what should be communicated regarding
3 substances?

4 A. In our training courses, if a
5 particular regulation says that
6 employees should have copies of material
7 safety data sheets and things like that,
8 yes, we would disseminate that in the
9 training courses.

10 Q. And I take it when laws such
11 as -- if I use the phrase RCRA, do you
12 know to what I'm referring?

13 A. Yes.

14 Q. Require notifications or
15 disclosures of the presence of
16 substances, then people have been
17 trained to comply with those laws?

18 A. That was the Environmental
19 Control Department, but I believe there
20 were, yes.

21 Q. But that is not something you
22 specifically know?

23 A. No.

24 Q. Generally speaking, with
25 regard to the handling used for the

1 presence of substances and their impact
2 upon the environment, as opposed to any
3 impact they may have had upon employees,
4 what responsibilities, if any, did you
5 have?

6 A. Probably only to assist the
7 Environmental Control Department as they
8 requested information from us.

9 Q. Okay. Now, I take it
10 generally it has always been your
11 responsibility to assist any
12 Westinghouse department that seeks
13 assistance from industrial hygiene?

14 A. Everybody is our customer,
15 yes.

16 Q. So what I'm asking is aside
17 from those moments when another
18 department would ask for your
19 assistance, did you have any direct
20 lines of responsibility?

21 A. No, I did not.

22 Q. You mentioned with regard to
23 substances and the environment the
24 Environmental Control Department. Is
25 that something separate and distinct

1 from the environmental affairs group?

2 A. The environmental control
3 group is a part of the Environmental
4 Affairs Department, as industrial
5 hygiene and safety is also part of
6 environmental affairs. We're peers.

7 Q. May I have that answer read
8 back?

9 (The question is read by the reporter.)

10 Q. Having had that answer read
11 back, is it accurate?

12 A. As far as I know, yes.

13 Q. Wasn't environmental affairs
14 created in 1981?

15 A. Yes.

16 Q. Prior to 1981, where within
17 the corporate structure of Westinghouse
18 was the Environmental Controls
19 Department?

20 A. It was a group, a group or a
21 person. It was Bud Kerns, B. A. Kerns,
22 and he reported to the Construction
23 Technology Department.

24 Q. Okay. Let me see if I
25 understand. Environmental controls

1 prior to 1981 was personified by Mr.
2 Kerns, who reported to the Construction
3 Development Department?

4 A. Construction technology.

5 Q. Pardon me. In 1981, with the
6 advent of the environmental affairs
7 group, the Environmental Control
8 Department became a subsection of the
9 environmental affairs?

10 A. Correct.

11 Q. Do you have any knowledge
12 concerning the policies, practices and
13 procedures followed by the Environmental
14 Control Department, whether it was
15 within the framework of the Construction
16 Department or the Environmental Affairs
17 Department, concerning communications
18 with divisions?

19 A. No, it was not a distribution,
20 so I don't know what communications they
21 had with the plants or divisions.

22 Q. Okay. In the broadest sense,
23 do you have any knowledge regarding the
24 communications by environmental controls
25 and their practices regarding

1 communications with regard to
2 substances?

3 A. No.

4 Q. Okay. Do you have any
5 knowledge regarding the policies,
6 practices and procedures concerning
7 communications by, between and among
8 Westinghouse headquarters, divisions and
9 plants that did not involve the
10 Industrial Hygiene Department?

11 A. Unless I was copied on it, no,
12 I don't. I don't know what transpired.

13 Q. And you would be copied on an
14 ad hoc basis, not pursuant to any formal
15 practice or rule.

16 A. Right.

17 Q. To your knowledge, was the
18 Human Resources Department involved in
19 communications involving the presence,
20 handling or use of substances?

21 A. No, not really. If anything,
22 the handling of employee exposure would
23 be from our department.

24 Q. And if it was environment, it
25 would have been construction

1 development? .

2 A. Yes. No, it may have been
3 called works engineering, I'm not sure,
4 but today it's called construction
5 technology. It might have been works
6 engineering back then.

7 Q. Why don't you describe the
8 department to which you're referring and
9 your understanding of their
10 responsibilities.

11 A. Again, I think I told you
12 before what I thought the
13 responsibilities were, but to reiterate
14 this, their responsibility was a service
15 to Westinghouse plants, divisions,
16 whatever, on constructing new buildings,
17 new processes, buying new businesses for
18 Westinghouse, going out and looking at
19 them to see what we could buy. Just the
20 operation of the plants as far as
21 utilities, not so much manufacture and
22 things like that. That's my
23 understanding.

24 Q. When you say the processes in
25 the plant, you mean the ongoing

1 processes in the plant?

2 A. They could be involved, yes.
3 For instance, maybe one operation that
4 we're going to put in requires
5 ventilation or something like this.
6 They might take one of their ventilation
7 specialists into the plant, size it and
8 design it so that, you know, it will in
9 fact ventilate the process.

10 Q. Was construction the
11 appropriate department when a problem
12 had been detected involving a substance
13 that required remediation?

14 A. I don't know. See, I'm not
15 sure when that phased in, I don't know.

16 Q. You know it wasn't industrial
17 hygiene?

18 A. It was not industrial hygiene.

19 Q. Could it have been a
20 department other than construction?

21 A. I can't think of another
22 department, no.

23 Q. And who at construction did
24 Mr. Kerns report to?

25 A. During the time period I

1 think, again, when I first came in, it
2 was Mr. Tom Berry.

3 Q. And did Mr. Kerns continue to
4 report to Mr. Berry with the advent of
5 the environmental affairs group or did
6 he report to someone else?

7 A. I think he continued to report
8 to Tom Berry.

9 Q. Did Mr. Berry become part of
10 the environmental affairs group?

11 A. No, he did not.

12 Q. What was his title with
13 construction?

14 A. I believe he was director of
15 construction technology or works
16 engineering, whatever it was called at
17 that time.

18 Q. And who was the head of
19 environmental affairs?

20 A. There was no environmental
21 affairs.

22 Q. In 1981?

23 A. Oh, in '81? Mr. Frank Beal.

24 Q. Did Mr. Kerns, to your
25 knowledge, ever report to Mr. Beal?

1 A. Oh, yes. Mr. Beal became the
2 director of the environmental affairs
3 when it was pulled together. Both Bud
4 Kerns, Mr. Kerns, and myself reported to
5 Frank Beal.

6 Q. Did anyone else report to Mr.
7 Beal when environmental affairs was
8 pulled together?

9 A. Yes. There was a director of
10 product safety, John Gormley, and there
11 was a manager of transportation and
12 hazardous materials, Mr. Joe Levine.

13 Q. Now, product safety, was that
14 a separate division within corporate
15 headquarters?

16 A. Prior to environmental
17 affairs, that group, department, they
18 were physically located at the science
19 and technology center, as I was. And I
20 don't know if that was a corporate
21 function or if it was part of the
22 science and technologies. I don't
23 know. I don't remember.

24 Q. And with regard to traffic,
25 was that a separate department prior to

1 1981?

2 A. Mr. Levine prior to coming
3 into environmental affairs reported to
4 the corporate Traffic Department, yes.

5 Q. Okay. Did you have any
6 practice with regard to industrial
7 hygiene and employee exposure to any
8 substance as to whether to communicate
9 with a division or directly to a plant?

10 A. Can you?

11 Q. Let's have it read back.

12 (The question is read by the reporter.)

13 A. I don't remember any practice
14 that they had to respond back to me on
15 air monitoring, air measurements, or
16 anything like that. That was their
17 choice.

18 Q. How about your communications
19 downward, so to speak? Would you speak
20 or communicate with the division or with
21 the plant or both?

22 A. Both. It could be both.

23 Q. Was there a formal rule that
24 you followed when making the decision?

25 A. No.

1 Q. What criteria would you employ
2 when reaching your own ad hoc decision?

3 A. If a plant called in and had a
4 particular problem, I may want to call
5 the division to see if they have similar
6 problems at other plants, but again, my
7 choice. I would rely also upon the
8 people in my department who would also
9 visit plants and were familiar with what
10 kind of operations were going on in
11 other plants. But there was no set rule
12 that says you call and talk to, no.

13 Q. And in relying upon other
14 people in your department, did you have
15 any periodic meetings where there would
16 be communications regarding substances?

17 A. We would have periodic staff
18 meetings, yes.

19 Q. How often were these staff
20 meetings?

21 A. They could be monthly, they
22 could be quarterly, as needed.

23 Q. There was no set schedule?

24 A. No set schedule.

25 Q. Another ad hoc sort of

1 decision?

2 A. Exactly.

3 Q. Were minutes kept of the staff
4 meetings?

5 A. No. In this case it was
6 action items, you know, handwritten
7 notes. And I would just have an agenda
8 that I was going to follow, and then I
9 would pass the information and everybody
10 had their opportunity to speak to me
11 about what was going on.

12 Q. Were you involved in anyway
13 with regard to communications concerning
14 worker's compensation claims arising out
15 of exposure to a substance?

16 A. There was nothing that was
17 formal, but if a Westinghouse plant,
18 division, or whatever, had a particular
19 worker's compensation case involving an
20 illness and needed our input, they would
21 contact us, or possibly the person
22 responsible at headquarters for worker's
23 comp might occasionally say we have
24 something here on hearing loss or we've
25 got something here on asbestos,

1 whatever. Again, it was only illness,
2 not injuries. But again, it was as
3 needed.

4 Q. And there were no formal rules
5 requiring someone to communicate with
6 industrial hygiene?

7 A. That's correct.

8 Q. And unless someone took the
9 initiative to communicate with
10 industrial hygiene, you would not know
11 what communications there would have
12 been?

13 A. That's correct.

14 Q. And do you have any knowledge
15 regarding communications on the subject
16 matter of worker's compensation claims
17 from various plants to their divisions?

18 A. No. Unless, again, I was
19 called in and/or copied on it, no.

20 Q. Do you have any knowledge with
21 regard to communications on the subject
22 of worker's compensation claims arising
23 out of exposure to substances from the
24 divisions to headquarters?

25 A. Again, if they felt the need

1 to involve us, yes.

2 Q. And aside from that?

3 A. No, no set policy for it.

4 Q. Where would a worker's
5 compensation claim ordinarily go?

6 A. It could be paid locally at a
7 plant, it could be paid at a division,
8 and it could sometimes even be paid at
9 headquarters. It really depended on the
10 plant, the division, and sometimes the
11 state. Because in some states you could
12 be self-insured, other states you
13 couldn't, whatever. And again, I was
14 only called in as needed.

15 Q. Did the criteria involving
16 where a communication would be directed
17 have any connection with regard to the
18 substance involved in the employee
19 exposure?

20 A. I don't remember any.

21 Q. So whether it was an alleged
22 exposure to PCBs would not necessarily
23 trigger a particular line of
24 communication?

25 A. Not that I'm aware of.

1 Q. Were there any discussions, to
2 your knowledge, about putting the
3 various plants that had PCBs on the
4 premises in communication to coordinate
5 their responsive efforts to work on
6 worker's compensation claims?

7 A. No.

8 Q. Do you recall any discussions
9 as to whether that would have been a
10 good idea or a bad idea?

11 A. No, I don't remember any
12 discussion like that.

13 Q. Were you involved in anyway
14 with regard to communications by any
15 union or employee representative
16 organization concerning employee
17 exposure to a substance?

18 A. I don't remember any offhand,
19 unless it was an employee complaint,
20 OSHA came in and the union was involved,
21 and again, then the plant would involve
22 us. But there was no communication
23 between me and a union or anything like
24 that or my department and a union, no.

25 Q. Were there any procedures

1 involved where there were communications
2 by unions that dictated that industrial
3 hygiene should become involved?

4 A. There was no policy, no, not
5 that I remember.

6 Q. Do you recall any
7 circumstances where you were involved
8 because of a union or even for a
9 complaint with regard to an employee
10 exposure to a substance?

11 A. Yes, we were involved.

12 Q. I am not interested in the
13 substance, I am interested in the lines
14 of communications. With that caveat,
15 please tell me your recollections.

16 A. Again, in most cases it was an
17 employee complaint, OSHA came in. Then
18 the plant in turn, because of the OSHA
19 visit, contacted headquarters,
20 industrial hygiene, for assistance. And
21 then we went out to or gave them
22 information or whatever. But it was
23 after the visit and the plant would call
24 us. But there was nothing that says in
25 writing, you shall call industrial

1 hygiene if this happens.

2 Q. It was your perception that
3 when OSHA became involved, there would
4 be a request from industrial hygiene?

5 A. If it was an industrial
6 hygiene issue. If it was a corporate
7 safety issue, then it would have been
8 the manager of health and safety.

9 Q. What would delineate whether
10 it was an industrial hygiene or a
11 corporate safety issue?

12 A. Industrial hygiene issues tend
13 to be things that would result in an
14 employee illness as opposed to an
15 accident. Safety could be fire
16 extinguishers, tripping hazards, things
17 like that.

18 Q. Would the urinary excretion
19 rates of employees demonstrating mercury
20 levels be an industrial hygiene subject
21 matter?

22 A. Industrial hygiene and
23 probably medical, yes.

24 Q. Was there a separate medical
25 department?

1 A. There was a medical
2 administrator during the time we're
3 talking, yes, corporate.

4 Q. Corporate medical
5 administrator.

6 A. Yes.

7 Q. What lines of communications
8 were there between the Industrial
9 Hygiene Department and the medical
10 administrator with regard to employee
11 exposure to substances?

12 A. Nothing formal. As we
13 developed our documents for our safe
14 practice data sheets, as we would revise
15 it or whatever, we would maybe issue it
16 to the medical administrator for their
17 perusal to make sure that we're not
18 putting something that was not current
19 or whatever, but nothing formal.

20 Q. Who was the medical
21 administrator?

22 A. Mr. Harry Burr at the time.

23 Q. You mentioned him as being
24 "Mr." Harry Burr.

25 A. Yes, he was not a physician.

1 Q. Okay. To whom did he report?

2 A. He reported also through the
3 corporate human resources.

4 Q. Were there any lines of
5 communications from Mr. Burr's office to
6 divisions?

7 A. To divisions and probably
8 plants. He would issue information to
9 the medical divisions at the different
10 Westinghouse organizations, yes.

11 Q. And these would be medical
12 departments at the plant level?

13 A. Correct, plant and division.
14 It could be division too.

15 Q. What was the initial point of
16 contact on behalf of Westinghouse with
17 regard to the unions if there were
18 complaints concerning employee exposure
19 to substances?

20 A. I think the normal line of
21 communication would be the plant would
22 be contacted where the union was
23 organized, try to resolve it there
24 first. And if that didn't happen, then
25 they might contact OSHA, the union.

1 Q. So in the normal course, there
2 was no involvement with headquarters
3 until OSHA became involved?

4 A. Correct. Unless of course the
5 plant would come in and the plant would
6 call us and say we've got this problem,
7 the union is complaining, can you come
8 in and help us. That would happen too.
9 We didn't always say we're not doing
10 anything, call OSHA. We always tried to
11 resolve issues.

12 Q. On occasions, however, OSHA
13 would be brought in when the issue had
14 not been resolved?

15 A. True, that could happen.

16 Q. Forgive me if I've repeated
17 something.

18 A. I'll try to repeat my answer.

19 Q. With regard to questions
20 involving the effects upon the
21 environment by the presence, use or
22 disposal of substances, that was
23 something beyond your scope of
24 responsibility?

25 A. That's correct.

1 Q. And you have no knowledge
2 regarding the lines of communication or
3 practices involving communications?

4 A. That's correct.

5 Q. As the research and
6 development conducted by Westinghouse
7 related to a substance, do you have any
8 knowledge concerning the policies or
9 procedures or practices concerning
10 communications?

11 A. Again, if I was copied on
12 something, but I don't know what the --
13 I don't know who determined the
14 distribution of information, I don't
15 know. In some cases I was copied on
16 information, on maybe a substitute
17 material or something like this. But
18 only again at the discretion of the
19 author.

20 Q. And again, there were no
21 formal rules?

22 A. No formal rules, no.

23 Q. If there was a development
24 reached on a plant level to obviate the
25 need to use a particular substance, how

1 would that information be communicated,
2 if at all, from the plant to a division?

3 A. I don't know.

4 Q. And assuming, if you will,
5 that the information was communicated to
6 the division, how, if at all, would it
7 be communicated to headquarters?

8 A. Unless it involved us finding
9 a new substitute material for a
10 particular substance that OSHA is going
11 to either regulate or change the
12 permissible limit or something like
13 this, we might send out, say, this is
14 going to occur, has anybody found a
15 substitute for this.

16 Q. Was industrial hygiene's
17 communications regarding innovations
18 concerning the use of substances
19 reflective of the regulatory atmosphere?

20 A. Not just because of
21 regulatory. In some cases you know a
22 particular material is going to be on
23 the hit list. Whether benzene,
24 trichloroethylene, whatever. And we
25 would start processes right away to try

1 to either eliminate it or substitute for
2 it or minimize the use in the
3 corporation.

4 Q. Can you think of any other
5 circumstances where industrial hygiene
6 would be involved in these research and
7 development issues other than when there
8 was a change in the regulatory
9 atmosphere or when you predicted that a
10 change would be occurring?

11 A. I can't think of any, no.

12 Q. Do you know whether there were
13 any common practices between the lamp
14 plant in Bloomfield and any other
15 Westinghouse plants concerning the use
16 of any substance?

17 A. No. To me that would be very
18 highly irregular for that kind of
19 correspondence.

20 Q. I'm sorry, I didn't understand
21 the answer. Can I have the question and
22 answer read back?

23 (The question and answer are
24 read by the reporter.)

25 Q. Can you expand upon what you

1 mean?

2 A. Well, Westinghouse lamp plants
3 corresponding with defense or
4 broadcasting or whatever about issues of
5 health and safety or environmental, that
6 just didn't happen. There was no need
7 for it. They just didn't correspond.

8 Q. Was it ever recognized that
9 the various divisions were using some of
10 the same substances?

11 A. Yes, but any correspondence
12 would be through our department and then
13 back out or something to that effect.
14 Never between departments or plants
15 rather.

16 Q. And when it was through your
17 department, that was strictly with
18 regard to industrial hygiene issues.

19 A. Correct.

20 Q. And if it was with regard to
21 environment or environmental issues,
22 which way would the information flow?

23 A. My perception is it would have
24 been to Bud Kerns.

25 Q. And then the issue of

1 centralization and dissemination was
2 made at the headquarters level?

3 A. If it was made, that's where
4 it would take place. One thing you have
5 to realize.

6 Q. Yes, sir.

7 A. I had three or four
8 professionals working for me. Bud Kerns
9 was a single person for those early
10 years. So I had some assistance. So
11 that's why I say if any correspondence
12 back and forth, it would have occurred
13 there. I don't know if it happened.

14 Q. When did Mr. Kerns become more
15 than a single person?

16 MR. BRENDAL: I'm going to
17 object to the question, for obvious
18 reasons.

19 MR. COHEN: I'll rephrase the
20 question.

21 Q. When did Mr. Kerns become the
22 head of a unit that included people
23 other than himself?

24 A. Well, when environmental
25 affairs was pulled together, I think at

1 that point in time is when his staff, he
2 started to permit them to add staff.

3 Q. And that was in 1981?

4 A. I think then or soon
5 thereafter.

6 Q. Do you recall how big Mr.
7 Kerns' staff grew to?

8 A. By 19 -- well, again, this is
9 out of that time frame. But I don't
10 know if we got into -- I don't know
11 exactly. He would be better to answer
12 that.

13 Q. Aside from issues involving
14 industrial hygiene and employee
15 exposure, do you have any knowledge
16 regarding the reporting requirements
17 imposed upon Westinghouse's divisions
18 and plants concerning the handle and
19 use, disposal and storage of any
20 substances?

21 A. No.

22 Q. Is that again something which
23 was Mr. Kerns' responsibility?

24 A. Yes.

25 Q. And I take it the answer is

1 the same with regard to the
2 environmental effects of any such
3 substances?

4 A. Correct.

5 Q. Am I correct that you have no
6 knowledge concerning the reporting
7 requirements with regard to procedures
8 for insurance claims generally and
9 arising out of the presence of any
10 substance?

11 A. That's correct.

12 Q. No knowledge whatsoever?

13 A. No knowledge.

14 MR. COHEN: Let us go off the
15 record for a minute.

16 (There is a discussion off the record.)

17 (There is a one-hour recess.)

18 BY MR. COHEN:

19 Q. Good afternoon, Mr.

20 Bickerstaff.

21 A. Good afternoon.

22 Q. Do you realize you're still
23 another oath, sir?

24 A. Yes.

25 Q. I am correct that you are

1 still a Westinghouse employee?

2 A. Yes.

3 Q. And are you represented by
4 counsel here today?

5 A. Yes, I am.

6 Q. Your attorney is Mr. Neal
7 Brendel?

8 A. Yes.

9 Q. When did you first learn of
10 your appearance at this deposition?

11 A. A couple of weeks ago. I'm
12 not sure exactly what day, but a couple
13 of weeks ago.

14 Q. Have you reviewed any
15 documents in preparation for the
16 deposition?

17 A. My attorney and I reviewed
18 documents yesterday, yes.

19 Q. And can you describe the
20 documents in any manner?

21 A. I believe those were the
22 documents that was indicated to us that
23 were going to be present today.

24 Q. Aside from your conversations
25 with counsel, have you discussed your

1 appearance here today with anyone at
2 all?

3 A. My boss, yes, Dr. Fisch.

4 Q. What was the substance of that
5 conversation?

6 A. To tell him that we were
7 preparing for it and I would be coming
8 up here.

9 MR. COHEN: Could we mark as
10 Bickerstaff Exhibit 1 a one-page
11 document bearing Bates stamp number
12 006 02073?

13 ("Headquarters Contacts"
14 Document is marked as Exhibit
15 Bickerstaff 1 for Identification.)

16 Q. Have you ever seen this
17 document before, sir?

18 A. I saw it yesterday.

19 Q. Aside from that?

20 A. I may have. I may have seen
21 it.

22 Q. Do you have any understanding
23 of when it was created?

24 A. It was after 1981, because it
25 says "environmental affairs" here, but

1 B. A. Kerns had several people reporting
2 to him at that time.

3 Q. Do you recall any formalized
4 procedure with regard to headquarters
5 contacts for environmental incident
6 reporting prior to the creation of this
7 document?

8 A. Not offhand.

9 Q. Do you recall any rules or
10 guidelines concerning what constituted
11 an environmental incident that
12 necessitated a report?

13 A. I don't remember. If there
14 was one, I don't know. I can't recall.

15 Q. In the course of your duties,
16 were you ever called upon to report an
17 environmental incident in accordance
18 with these or any other procedures?

19 A. No, not that I remember.

20 Q. Did you ever have any
21 communications with the Westinghouse Law
22 Department with regard to the presence,
23 use, handling or disposal of any
24 substances?

25 A. Yes.

1 Q. And could you explain to me
2 how that would have happened?

3 A. I could have gotten a call
4 from Mr. R. E. Wills on any number of
5 issues. Again, if he would call us, it
6 was always to talk about maybe toxicity
7 of something, chemical material, as far
8 as exposure to people or employees.
9 That's the way it probably would come in
10 from Mr. Wills.

11 Q. Do you recall any instances
12 where you began the communication
13 process?

14 A. Not offhand. I may have, but
15 I don't remember.

16 Q. Were there any procedures that
17 you followed or that you were aware of
18 when you should have began the
19 communication process with the Law
20 Department?

21 A. After the Environmental
22 Affairs Department was formed, I would
23 inform my own boss at that time, which
24 was Mr. Beal. And then he in turn would
25 inform the Law Department.

1 Q. In the time period before the
2 Environmental Affairs Department, were
3 there any procedures you were to follow
4 with regard to initiating communications
5 with the Law Department regarding
6 substances?

7 A. I don't remember any such
8 procedures per se. There may have been
9 some. I don't remember an incident
10 where I had to do that, that's why.

11 Q. The next document, which we
12 will mark as Bickerstaff Exhibit 2, is a
13 procedure for asbestos removal with the
14 Westinghouse logo, Safety and Health
15 Department, PGOD, Westinghouse Electric
16 Corporation, Lester, Pennsylvania, Bates
17 stamp number 006 03647 through 03651.

18 ("Procedure for Asbestos
19 Removal" Document is marked as Exhibit
20 Bickerstaff 2 for Identification.)

21 Q. Have you had an opportunity to
22 review the document, sir?

23 A. Yes.

24 Q. Can you describe for me what
25 Exhibit 2 is?

1 A. It appears to be a procedure
2 for asbestos removal for the
3 Westinghouse plant in Lester,
4 Pennsylvania.

5 Q. Now, was the Safety and Health
6 Department part of the Corporate
7 Headquarters Division?

8 A. I guess I'm not following
9 you.

10 Q. The document on its very first
11 page indicates "Safety and Health
12 Department."

13 A. Right.

14 Q. Was that particular department
15 part of corporate headquarters?

16 A. No. This would have been the
17 Safety and Health Department for the
18 Lester plant.

19 Q. Do you know what division that
20 plant belonged to?

21 A. The PGOD, Power Generation
22 Operations Division I believe.

23 Q. Would communications regarding
24 the procedures developed by this
25 particular plant be transmitted to the

1 division headquarters or PGOD?

2 A. It could have been.

3 Q. Do you know?

4 A. I don't remember offhand
5 seeing this prior to yesterday.

6 Q. Do you know where the PGOD
7 divisional headquarters were located?

8 A. I think at the time that was
9 East Pittsburgh. I think that was East
10 Pittsburgh. They since moved down to
11 Florida. I'm sorry, the East Pittsburgh
12 facility, plant.

13 Q. The East Pittsburgh plant is
14 separate and distinct from corporate
15 headquarters?

16 A. Yes.

17 Q. Was there any procedures for
18 between communicating the PGOD asbestos
19 removal plant to corporate headquarters?

20 A. During that time period, no.

21 Q. And what time period do you
22 mean?

23 A. The time period from 1975
24 through 1981.

25 Q. Are you aware of any changes

1 at any time with regard to your answer?

2 A. Yes.

3 Q. Can you tell me the change you
4 are aware of please?

5 A. I believe it was in 1987,
6 there was a directive sent out saying
7 the corporate industrial hygiene had the
8 responsibilities for asbestos abatement
9 in the corporation.

10 Q. And that is the same directive
11 which instructed the plants not to
12 communicate directly with the EPA but to
13 send all responses through corporate
14 industrial hygiene to be sent on to the
15 EPA?

16 A. Without seeing the document, I
17 couldn't say.

18 MR. COHEN: Let us mark as
19 Exhibit 3 a document dated August 20 of
20 1987. That is the forwarding memo.
21 There's a two-page attachment, its Bates
22 stamp numbers are 144 0086931 through
23 0086933.

24 (Memo dated 8/20/87 is
25 marked as Exhibit Bickerstaff 3 for

1 Identification.)

2 Q. Have you had an opportunity to
3 review the document?

4 A. Yes.

5 Q. Is this a memo which you wrote
6 to a J. Gianquinto?

7 A. Yes.

8 Q. That is your signature on the
9 bottom of the first page?

10 A. Correct.

11 MR. BRENDDEL: I'm going to
12 object. This is clearly outside the
13 specified chronological scope of this
14 deposition.

15 MR. COHEN: I am simply
16 following up on his previous answers.
17 I'm mostly going to be using this
18 document to ask him questions within
19 that scope. It is impossible to avoid
20 the overlap.

21 Before I continue with a
22 speech, may I ask you, Mr. Brendel, are
23 you directing him not to answer? In
24 fact, I believe he has already answered,
25 so I'm not sure what your objection is,

1 other than noting the objection, which I
2 understand.

3 MR. BRENDDEL: If you have any
4 trouble understanding my objections, let
5 know and I'll be pleased to explain them
6 to you.

7 MR. COHEN: I don't understand
8 the purpose of an objection after an
9 answer has been given.

10 MR. BRENDDEL: You've shown him
11 a document. Perhaps you have no further
12 questions in mind, in which event I'll
13 withdraw the objection.

14 MR. COHEN: I do. Why don't
15 we take them one at a time, shall we?

16 MR. BRENDDEL: That's fine.

17 Q. In your memo, you make
18 reference to past involvement with
19 several people from the broadcast and
20 technical services TV group concerning
21 asbestos abatement. Was that
22 involvement pursuant to any formal
23 practice or guideline at Westinghouse?

24 A. No. It was in some cases
25 during renovation. The asbestos was in

1 the way. They chose to remove it.
2 There was no memo saying that you will
3 take out asbestos or anything like that,
4 no. I think in most cases it was
5 because of renovation.

6 Q. And at those instances in the
7 past when corporate industrial hygiene
8 became involved with this division, was
9 it at the behest of the division?

10 A. Yes, yes.

11 Q. On the second page of the
12 document, which is the beginning of a
13 two-page memorandum concerning the
14 asbestos abatement project review, in
15 the second paragraph there is a
16 delineation between headquarters
17 environmental affairs having
18 responsibility for defining Westinghouse
19 policy with respect to compliance with
20 laws and regulations for protection of
21 the environment and the responsibility
22 of corporate industrial hygiene because
23 of the potential effect in the work
24 place on employees due to the presence
25 of asbestos. Do you see to where I am

1 referring?

2 A. Yes.

3 Q. To your knowledge, was that a
4 change of any prior delineation of
5 responsibility that had been in effect
6 in the past?

7 A. No, not really.

8 Q. Prior to 1981, who had the
9 responsibility for the area outlined by
10 headquarters environmental affairs?

11 A. For what area are you talking
12 about?

13 Q. Referring to the paragraph,
14 "responsibilities for defining
15 Westinghouse policy with respect to
16 compliance with laws and regulations
17 provided for the protection of the
18 environment."

19 A. I would assume that was the
20 headquarters, works engineering or
21 construction technology, whatever it was
22 called at the time.

23 Q. The reference to management
24 directive and the E55, do you see that,
25 sir?

1 A. Yes.

2 Q. What was that directive?

3 A. I don't know. I think it's
4 for environmental control. I don't
5 know.

6 Q. The third full paragraph on
7 the page outlines what industrial
8 hygiene is responsible for in assisting
9 facilities. Did that reflect any change
10 in industrial hygiene's responsibilities
11 from prior practices?

12 A. I think the change would have
13 been to centralize some of this
14 activity, and especially on selected
15 landfills, to make sure it was going to
16 the appropriate landfill.

17 Q. And prior to this I take it
18 there were no formal written guidelines
19 to be implemented?

20 A. That's correct, for asbestos,
21 yes.

22 Q. On the second page of the
23 two-page memo or the very last page of
24 the exhibit, the recipients are directed
25 to call you, sir, regarding plans

1 related to asbestos abatement. Was this
2 a change from prior practice leaving the
3 decision making at the plant level?

4 A. I think at this point what it
5 did, it centralized, saying my
6 department did have that
7 responsibility. Up to that point, if
8 they didn't choose to call us -- but
9 they were finally directed to do that.

10 MR. COHEN: We'll mark
11 Bickerstaff Exhibit 4, a two-page
12 document without Bates stamp numbers,
13 previously marked in another deposition
14 as Plaintiff's Exhibit 1905.

15 (Memo dated 4/16/74 is
16 marked as Exhibit Bickerstaff 4 for
17 Identification.)

18 A. Is this page the same?

19 Q. It is not exactly the same.

20 A. Okay, it started off the
21 same.

22 Q. Off the record.

23 (There is a discussion off the record.)

24 Q. Have you had an opportunity to
25 review the document, sir?

1 A. Yes, I have.

2 Q. Have you ever seen it before?

3 A. Yesterday.

4 Q. Aside from yesterday.

5 A. No.

6 Q. Looking at the first page of
7 the exhibit, it indicates that the
8 document went from the Sharon plant to
9 the Bloomington plant.

10 A. Okay.

11 Q. Now, were the Sharon plant and
12 the Bloomington plant both part of the
13 same division?

14 A. Yes.

15 Q. What division was that, sir?

16 A. That was the transformer. It
17 was the transformer business. I don't
18 know if it was a division, but the two
19 plants were sister plants.

20 Q. So I can understand, sir, what
21 was the general business of the two
22 plants that made them sister plants, if
23 not a complete division?

24 A. The plant at Sharon
25 manufactured transformers. The plant at

1 Bloomington manufactured capacitors..

2 Q. I take it that both of these
3 plants in the course of their duties or
4 responsibilities were involved with
5 PCBs?

6 A. Yes.

7 Q. Now, there is a cc to mails,
8 if I'm reading it correctly, and
9 manufacture technology, fluid insulation
10 section, at the very bottom of the
11 page. Do you see that?

12 A. Right here?

13 Q. Yes.

14 A. I think that's the person who
15 signed the letter. I don't know, it's a
16 carbon copy.

17 Q. So the mails and manufacture
18 technology was --

19 A. I think it's "materials."

20 Q. Pardon me. Materials and
21 manufacture technology, that would be a
22 department within the Sharon plant?

23 A. Yes, that's what I would
24 guess.

25 Q. Having looked at this

1. document, do you have any refreshed
2 recollection or any recollection
3 whatsoever concerning procedures,
4 policies or practices regarding
5 plant-to-plant communications with
6 regard to the presence, the use or
7 handling of substances?

8 A. No. I believe the Bloomington
9 plant, the process for the capacitors, I
10 think they may have started at Sharon
11 and they moved it to Bloomington as they
12 developed that whole operation, and I
13 think that's the tie-in between the two
14 plants.

15 Q. Now, am I correct that from
16 the face of this document, there is
17 absolutely no indication that it ever
18 went to corporate headquarters?

19 A. Yes.

20 Q. Do you have any reason to
21 believe, looking at the front page of
22 this two-page exhibit, that the document
23 went to corporate headquarters?

24 A. No, I don't.

25 Q. What was the division

1 headquarters for these two plants, if
2 you know?

3 A. I'm not sure. I think
4 Sharon.

5 Q. Could it have been anything
6 but Sharon or Bloomington, to your
7 knowledge?

8 A. No, I think it was either one
9 of those two.

10 Q. On the second page of the
11 document, there is a handwritten
12 notation to T. K. Shoat I believe, and I
13 make no representations as to my ability
14 to read the handwriting, and Bob Kunz, I
15 believe, who appears to be the author of
16 the original memo.

17 MR. BRENDL: Kurtz or Kunz?

18 MR. COHEN: You would probably
19 know better than I.

20 A. K-U-R-Z, Kurz.

21 Q. First of all, do you recognize
22 the handwriting or the signature?

23 A. No.

24 Q. The written note to Mr. Kurz
25 and another person is, "I think you

1 should convey this info verbally and not
2 by letter." Was there any practice that
3 you were aware of at corporate
4 headquarters regarding the communication
5 of information verbally?

6 A. No.

7 Q. Were you aware of any flow of
8 information from the plants to
9 divisional headquarters or to corporate
10 headquarters regarding what would be
11 conveyed verbally or in writing?

12 A. No.

13 Q. Having looked at this document
14 with the handwriting notations on it, is
15 there any indication of it ever being
16 received by corporate headquarters?

17 A. I don't see anything on here,
18 no.

19 MR. COHEN: Let us mark as Mr.
20 Bickerstaff Exhibit 5 a document bearing
21 Bates stamp numbers 844 6053353 through
22 6053355.

23 (Memo dated 7/10/51 is
24 marked as Exhibit Bickerstaff 5 for
25 Identification.)

1 Q. Are you ready, sir?

2 A. It's difficult to read.

3 Q. I understand. I sympathize
4 with you, I suffer the problem myself.
5 This document appears to be either a
6 memo or a letter from the East
7 Pittsburgh Industrial Hygiene Laboratory
8 to Kansas City Works. Were East
9 Pittsburgh and Kansas City Works part of
10 the same division?

11 A. I don't know.

12 MR. BRENDDEL: At what point in
13 time are you referring?

14 A. This is 1951.

15 MR. COHEN: I will take his
16 knowledge at any point in time.

17 A. I don't know.

18 Q. Do you know which division
19 either of these two plants may have ever
20 belonged to?

21 A. East Pittsburgh was the power
22 generation with, I think we talked
23 earlier, Lester. Kansas City, I have no
24 knowledge of that plant. It's no longer
25 in the Westinghouse portfolio. I have

1 no idea when it was sold.

2 Q. In the letter, there is a
3 reference to a June medical report.

4 A. I saw that.

5 Q. Do you know what medical
6 report the reference is to?

7 A. No.

8 Q. Are you aware of any practice
9 at any plant concerning the preparation
10 of a monthly medical report?

11 A. No.

12 Q. Prior to your employment at
13 corporate headquarters in 1976, did you
14 ever have an opportunity to come into
15 contact with a medical report prepared
16 on a monthly or any other periodic
17 basis?

18 A. No. The only thing that we
19 ever did at the divisions was send in
20 annual injury/illness records.

21 Q. And those were within which
22 divisions that you did that?

23 A. When I worked at Westinghouse
24 Cheswick, that was part of nuclear, and
25 when I worked at the nuclear

1 headquarters, again, that was part of
2 nuclear. That's the times that I had
3 responsibilities for completing or at
4 least assisting in the completion of
5 that data.

6 Q. Now, the writer on this memo
7 notes that from the June medical report
8 he has noticed a number of dermatitis
9 cases resulting from various substances
10 including trichloroethylene. Is that
11 the substance that you had mentioned
12 earlier with regard to being aware of
13 the possibility of impending regulations
14 or am I confusing it with a different
15 subject?

16 A. It could have been. There's
17 been a lot of materials and chemicals,
18 asbestos and whatever, that OSHA has
19 proposed to impose permissible limits.
20 This could have been one.

21 Q. In the second paragraph the
22 author seems to be answering an inquiry
23 concerning the composition of a red
24 dye. Do you know of any procedures
25 pursuant to which one plant would be

1 communicating with another plant
2 concerning employee exposure to
3 chemicals resulting in medical
4 complications or how to use a particular
5 product such as red dye?

6 MR. BRENDDEL: What time
7 period?

8 MR. COHEN: To the best of
9 this witness's knowledge.

10 MR. BRENDDEL: I would still
11 like to know what time period. I
12 understand anytime he answers a question
13 it's to the best of his knowledge.

14 MR. COHEN: My question is
15 with regard to any time period
16 whatsoever. If he tells me he has no
17 knowledge, I have nothing to follow up
18 on. If he tells me he only knows of
19 something within a time period between
20 '75 and '82, I suspect, I make no
21 guarantees, we will have no problems.
22 If he tells me he has knowledge in a
23 time period outside that framework, we
24 can deal with any problems that may or
25 may not be. It was just a general

1 question to get to the subject matter.

2 A. I think as far as health and
3 safety or exposures, I think that was
4 his main intent was employee exposures.
5 Plants tended to always contact
6 headquarters. If headquarters knew
7 another operation in other plant, maybe
8 they could get the information and send
9 it, whatever. But I don't know if
10 plants would go out, you know, would --

11 Q. Directly plant to plant?

12 A. Yeah. In most cases employees
13 didn't know what the other plant was
14 making.

15 Q. Now, I am correct or am I
16 incorrect that East Pittsburgh is not
17 corporate headquarters?

18 A. East Pittsburgh was not
19 corporate headquarters, correct.

20 Q. And the industrial hygiene
21 laboratory at the East Pittsburgh plant
22 was not part of the Corporate
23 Headquarters Division.

24 A. That's wrong.

25 Q. That's wrong?

1 A. That's wrong. They were
2 physically located there. They were
3 tenants, because they had needs for the
4 laboratory. That's the same department
5 that I have today.

6 Q. So this is a document from
7 corporate headquarters?

8 A. Yes. Wilbur Speicher was one
9 of my predecessors.

10 Q. The author?

11 A. Yes, sir.

12 Q. And so when he writes in the
13 third paragraph that he has not heard
14 from South Philadelphia concerning a
15 substitute for toluene, he is reflecting
16 his inquiry to a plant?

17 A. Yes. Again, that's what I'm
18 assuming.

19 MR. BRENDAL: I will object to
20 the extent that we're assuming what the
21 author may have meant. Obviously the
22 author is not here and we don't know and
23 this witness doesn't know.

24 MR. COHEN: I'm only asking
25 for the witness to give his

1 understanding based on his experience
2 with Westinghouse.

3 MR. BRENDDEL: Well, I mean the
4 question at issue was a specific
5 question about what may or may not have
6 been intended by the author.

7 MR. COHEN: I think your
8 objection is noted.

9 Q. On the second page, the author
10 notes a number of suggestions concerning
11 the handling of various substances.
12 This is the communication from
13 headquarters industrial hygiene to a
14 plant on how to handle a substance?

15 A. Yes.

16 MR. COHEN: This is
17 Bickerstaff Exhibit 6, bears Bates
18 numbers 844 6067234 through 6067235.

19 (Memo dated 7/16/56 is
20 marked as Exhibit Bickerstaff 6 for
21 Identification.)

22 Q. Sir, does this document, which
23 is from East Pittsburgh Works to
24 Vicksburg Safety Department reflect a
25 communication that is division to

1 division, plant to plant or headquarters
2 to a division or plant?

3 A. To me it looks like it's
4 headquarters to a plant.

5 Q. So that in this time frame,
6 the Works Department was located in East
7 Pittsburgh and not corporate
8 headquarters?

9 A. Correct.

10 Q. And the Industrial Hygiene
11 Department was within or part of the
12 Works Department?

13 A. Well, they just happened to be
14 physically located in East Pittsburgh.

15 Q. Now, in this document, which
16 I'm going to paraphrase rather than read
17 it, there is information provided to the
18 Vicksburg Works plant regarding the
19 problem with disposal of Inerteen that
20 reflects efforts to burn it, use with
21 absorbing materials, burying it in
22 porous soils, spraying on dusty roads to
23 lay dust or the use for exterminating
24 termites. Were there any, to your
25 knowledge, procedures for the

1 communication of policy with regard to
2 the disposal of Inerteen from corporate
3 headquarters to plants?

4 MR. BRENDDEL: I'm going to ask
5 that the witness limit himself to the
6 time period specified in the notice of
7 deposition. You can respond. I also
8 object at this point -- well, I'll stand
9 by the objection that I've made without
10 amplifying further.

11 (There is a discussion off the record.)

12 MR. COHEN: I take it you're
13 not directing the witness to testify as
14 to any other knowledge he may have?

15 MR. BRENDDEL: With regard to
16 out of scope areas, yes.

17 MR. COHEN: I think that since
18 we designated this document, that you
19 reviewed the document with the witness
20 yesterday, there is no surprise. If he
21 has information, pertinent information,
22 it should be provided. However, I will
23 not belabor the record further, and let
24 us take the answer and we will mark our
25 disagreement.

1 MR. BRENDEL: I will respond
2 to your comments. The fact that you
3 designated a document or series of
4 documents that may exceed the scope of
5 what you designated as your subject
6 matter or the scope of what you're
7 entitled to explore in this deposition
8 doesn't constitute who noticed the
9 deposition or doesn't constitute notice
10 to us that you intend to expand the
11 scope of the deposition. As I've
12 indicated, we don't know what your
13 question is going to be until you ask
14 it. And I give you the presumption that
15 you may have some permissible use for
16 this document that escaped my review
17 when you designated the document. The
18 witness may respond to the question
19 within your specified period.

20 MR. COHEN: I don't agree with
21 anything you just said. Let us
22 continue.

23 A. Can you read the question
24 back?

25 (The question is read by the reporter.)

1 A. During the time period again
2 1975 through '81, it was not the
3 responsibility of disposal of materials
4 for the Industrial Hygiene Department.
5 If anything, that came out of the
6 corporate environmental control.

7 Q. Are you aware of any time
8 frame when it was the responsibility of
9 the Industrial Hygiene Department?

10 A. I don't think there was a
11 directive saying that's your
12 responsibility. I think in the absence
13 of somebody there, they may have on this
14 particular material here passed that
15 information on, which they may have
16 gleaned again, I don't know, may have
17 gleaned from the manufacturer of the
18 Inerteen. Because we didn't
19 manufacture, we bought Inerteen.

20 Q. Now, perhaps I've been less
21 than clear. We have been referring just
22 recently with regard to East Pittsburgh
23 as the Industrial Hygiene Department
24 located there as being part of
25 headquarters. Is that the Corporate

1 Headquarters Division?

2 A. That's a Corporate

3 Headquarters Division of Westinghouse
4 Corporation, yes.

5 Q. Which was later moved to where
6 the rest of headquarters was located in
7 Pittsburgh?

8 A. Well, it moved from East
9 Pittsburgh in 1975 to the science and
10 technology center. Again, they were a
11 tenant there. They were not part of the
12 science and technology, they were still
13 corporate. They needed a lab. Then in
14 1988, our department was physically
15 located in the headquarters building.
16 The laboratory is still at the science
17 and technology center.

18 Q. Thank you.

19 MR. COHEN: Let us mark as Mr.
20 Bickerstaff Exhibit 7 a two-page
21 document bearing Bates stamp number 844
22 6059885 through 6059886.

23 (Letter dated 4/7/59 is marked
24 as Exhibit Bickerstaff 7 for
25 Identification.)

1 Q. Sir, is this a document from a
2 department within corporate headquarters
3 to corporate headquarters?

4 A. Yes.

5 Q. So it is the Industrial
6 Hygiene Department of corporate
7 headquarters communicating to the
8 employee relations office within
9 corporate headquarters?

10 A. Correct.

11 Q. The document responds to a
12 request for comments regarding
13 activities in various plants for the
14 past five years and gives a summary of
15 information. Are you aware of any
16 procedures regarding historical
17 summaries of information at various
18 plants concerning the use of substances?

19 MR. BRENDEL: You may respond
20 for the requested period.

21 MR. COHEN: And we both
22 reserve what we just said moments ago
23 without lengthy recitations?

24 MR. BRENDEL: I will, if you
25 will.

1 MR. COHEN: Deal.

2 A. I can't remember putting a
3 summary together of plants that had
4 problems or whatever during that '75 to
5 '81.

6 Q. During the time frame to which
7 you are being permitted to answer, were
8 you aware of any prior practices that
9 had been discontinued with regard to
10 summarizing activity at various plants
11 with regard to the use, presence or
12 disposal of substances?

13 A. No.

14 Q. To your knowledge, it was
15 always done on an ad hoc basis?

16 A. Or if there was a monthly
17 report or whatever, you know. I don't
18 know that it was always on an ad hoc
19 basis. It might have been a monthly
20 report. But again, this guy here, Mr.
21 Crook, I believe was Mr. Speicher's
22 supervisor.

23 Q. Mr. Speicher was a predecessor
24 of yours?

25 A. Yes, because when I came into

1 the job, I reported to an individual who
2 reported to Mr. Crook.

3 Q. And when you came into the
4 job, you did not prepare monthly
5 reports?

6 A. I would write monthly reports
7 on activities, what we did for that
8 month. Training course, whatever, so
9 many visits to such and such a plant.
10 Very brief, one page, one and a half
11 pages, just to show them what we did for
12 the month.

13 Q. Now, the monthly reports that
14 you prepared, were they based on any
15 reports that you received from other
16 sources?

17 A. There might have been
18 information gleaned from the people that
19 worked for me.

20 Q. Did they report to you on a
21 periodic basis to enable you to prepare
22 monthly reports?

23 A. Yes, they gave me monthly
24 activity reports on what they did.

25 Q. And who gave you monthly

1 activities reports?

2 A. I had about three
3 professionals working for me, industrial
4 hygiene engineers.

5 Q. And what was the subject
6 matter of the reports that you received?

7 A. Things that they did. Plant
8 visits.

9 Q. So my question is clear, I am
10 concerned with regard to communications
11 concerning the use, handling or disposal
12 of substances and the communication
13 practices.

14 A. Okay. No, our information was
15 almost exclusively for industrial
16 hygiene concerns.

17 Q. Which at times was involved in
18 these subject areas?

19 A. Limited. Again, use of, not
20 disposal of.

21 Q. Would not the question of
22 disposal at times involve exposure to
23 employees?

24 A. It could.

25 Q. And in those circumstances it

1 would be within the scope of a report?

2 A. Yes, that's where we would
3 come in.

4 Q. And otherwise it would be, if
5 it was just a question of environmental
6 contamination, it would be outside of
7 your department?

8 A. Right.

9 Q. To your knowledge, did the
10 other departments within corporate
11 headquarters have a similar procedure
12 with regard to the preparation of
13 monthly reports?

14 A. I don't know.

15 Q. Do you have any knowledge
16 concerning the practices at industrial
17 technology with regard to the
18 preparation of monthly or periodic
19 reports?

20 A. The construction technology
21 group, I don't know. I don't know if
22 they had monthly reports.

23 Q. Or any other type of periodic
24 reports?

25 A. I don't know.

1 Q. And I take it your answer is
2 the same with regard to any other
3 division other than industrial hygiene?

4 A. Right. Remember, I was
5 physically at the science and technology
6 center, we were the only people there
7 from headquarters.

8 Q. So you were somewhat isolated
9 from headquarters?

10 A. We were eight to ten miles
11 away. So I don't know what kind
12 of. . .

13 Q. To your knowledge, was it a
14 corporate practice of Westinghouse to
15 prepare monthly reports that were
16 followed on the headquarters divisional
17 and plant levels?

18 A. In the jobs that I had
19 previous at different Westinghouse
20 locations, there were monthly activities
21 reports, yes.

22 Q. Now, the reports that you have
23 seen or read or been involved in, would
24 they have been titled anything?

25 A. Monthly activities report.

1 Q. And that would be at the top
2 as a title?

3 A. Right. And again now,
4 information from ours would be health
5 and safety. The previous locations, it
6 would have been what my responsibility
7 was at that plant.

8 Q. Understood. But for example,
9 with the Industrial Hygiene Department,
10 there would be a monthly activity report
11 labeled as such for industrial hygiene.

12 A. Exactly.

13 MR. COHEN: Neal, I have made
14 an effort since Tuesday to search for
15 monthly reports, and I have for the most
16 part with the exception of perhaps six
17 pieces of paper struck out. Do you know
18 if they have been produced?

19 MR. BRENDDEL: You have found
20 some?

21 MR. COHEN: Six I believe,
22 perhaps four, but nothing that would
23 indicate --

24 MR. BRENDDEL: I don't have
25 anything more to contribute than what's

1 already been said on what was produced.
2 I can't respond to an inquiry from you.
3 I don't have anymore information, it's
4 not something that I looked into.

5 MR. COHEN: I would ask you if
6 you could look into whether that was
7 within the scope of the production made
8 by Westinghouse, the various types of
9 monthly reports. Based on today and
10 Tuesday, I'm aware of monthly operating
11 reports prepared at the plant level that
12 went to divisional headquarters, and I'm
13 aware of monthly activity reports at the
14 Industrial Hygiene Department.

15 A. I note myself, I would keep
16 mine maybe a couple of years and I would
17 discard them, even my own copy.

18 Q. Did you forward your reports
19 to anyone?

20 A. Just to my supervisor.

21 Q. And what was the purpose of
22 these compilations?

23 A. To keep him informed of what
24 we had done, and then in most cases I
25 would also put in there what we had

1 planned maybe for the next month. Bill
2 is going to go to such and such a plant
3 or we're going off to this training
4 course, whatever.

5 Q. Do you know what your
6 supervisor did with the monthly reports
7 that you gave to him?

8 A. I don't know if he saved them
9 any longer than a month or two months or
10 a year, I don't know.

11 Q. Let me ask you this. Did your
12 supervisor receive monthly activity
13 reports from other departments besides
14 yours?

15 A. In that time period, again,
16 because I've had six different
17 supervisors, that's why.

18 Q. Okay. Let us begin with the
19 time frame when you were, if I may, in
20 charge of the Industrial Hygiene
21 Department at corporate headquarters in
22 '76 I believe through '81 or '82.

23 A. During that time period I had
24 I think three different supervisors, and
25 I think it was the practice of at least

1 two of the three that they were getting
2 monthly reports from the other people.

3 Q. Which two would that have
4 been?

5 A. The first two. When Mr. Beal
6 came in, I don't think it was a
7 requirement initially that he got
8 monthly reports from the other people.
9 I just always did, and I continued.
10 Again, he was downtown Pittsburgh and I
11 wasn't. So I'm not sure what he was
12 getting from the other people.

13 Q. Mr. Beal then was in
14 environmental affairs?

15 A. Right.

16 Q. And his two predecessors to
17 whom you reported?

18 A. Well, the first person I
19 reported to was a Mr. William Ziefel.
20 He was manager of industrial hygiene and
21 safety.

22 Q. And was that --

23 A. He reported to Mr. Crook.

24 Q. Was industrial hygiene and
25 safety a larger department than your

1 department?

2 A. He then had one manager
3 reporting to him who was the manager of
4 safety.

5 Q. So safety was a separate
6 department from yours?

7 A. Well, separate group.

8 Q. Separate group within the same
9 department?

10 A. Yes.

11 Q. So there would be two managers
12 reporting to your superior.

13 A. Yes.

14 Q. And then would he prepare a
15 report based on the reports that he
16 received?

17 A. I honestly don't know.

18 Q. Do you know if the information
19 that was conveyed to your superior was
20 transmitted upward within the corporate
21 structure?

22 A. Honestly I don't know.

23 Q. Do you know if it was
24 disseminated laterally or down?

25 A. If anything, he may have given

1 it at least to the manager of safety,
2 and I don't know if he took mine, added
3 it to his, I don't know. Because I
4 didn't get a copy back, if he did that.

5 Q. Did you get a copy of the
6 safety manager's reports?

7 A. No.

8 Q. And aside from the Industrial
9 Hygiene Department, which I understand
10 included the safety section within it?

11 A. Well, again, my
12 responsibilities have always been just
13 industrial hygiene. There's always been
14 somebody else who has had the safety
15 responsibility.

16 Q. And the two of you together
17 comprised the department?

18 A. Yes, industrial hygiene and
19 safety.

20 Q. So your knowledge and your
21 testimony is only with respect to the
22 industrial hygiene half of the
23 Industrial Hygiene and Safety
24 Department.

25 A. Correct.

1 Q. And then you certainly have no
2 knowledge beyond that department.

3 A. Correct.

4 Q. Now, were there any procedures
5 that you are aware of which would
6 indicate from where the information in
7 Exhibit 7 was derived?

8 A. Other than personal knowledge
9 of the plant --

10 Q. Well, here the author I
11 believe is not a plant but industrial
12 hygiene.

13 A. That was Mr. Speicher.

14 Q. You mean his personal
15 knowledge of the plant?

16 A. Yes, his personal, between
17 himself and the staff that reported to
18 him, three or four professionals.

19 MR. BRENDAL: I'm going to
20 object to the extent that you're asking
21 the witness to speculate on what Mr.
22 Speicher knew or what he knew, when he
23 knew it or where he knew it. I'm going
24 to ask the witness to limit himself to
25 his own personal knowledge.

1 Q. Looking at this document, do
2 you have any refreshed recollection
3 concerning procedures or the means by
4 which the Industrial Hygiene and Safety
5 Department at corporate headquarters
6 would learn of the circumstances
7 involving substances at various plants
8 throughout the United States?

9 A. Other than plant visits, you
10 know, there was no requirement for them
11 to, that I'm aware of, even during that
12 five-, six-year period, '75 to '81, that
13 they had to on any kind of periodic
14 basis send information to headquarters
15 industrial hygiene.

16 Q. Was there any practice or
17 requirement regarding visiting of plants
18 by hygiene?

19 A. No, not that I'm aware of.

20 Q. Now, with regard to
21 Bloomfield, for example, there is a
22 reference to correspondence and
23 telephone calls concerning information
24 regarding the toxicity of materials,
25 problems with thorium and radium and the

1 safe usage of mercury. Is this, to your
2 knowledge, pursuant to ad hoc
3 communication and not any procedures?

4 A. That's what I would guess,
5 yes.

6 MR. BRENDDEL: I ask you not to
7 guess.

8 A. Okay, then I don't know.

9 MR. COHEN: Let us mark as
10 Exhibit 8 a one-page document bearing
11 Bates stamp numbers 00266616.

12 (Memo dated 2/20/68 is
13 marked as Exhibit Bickerstaff 8 for
14 Identification.)

15 Q. Sir, from a review of this
16 document, can you tell if this is a
17 communication from headquarters to
18 divisions, division to division, plant
19 to plant or plant to headddquarters or
20 any other permutation?

21 A. I have no idea. I don't
22 recognize any of the names.

23 Q. And from the author's title as
24 a materials engineer, can you glean any
25 insight?

1 A. No.

2 Q. The fact that the document
3 provides advice regarding the state of
4 the law concerning the disposal of
5 substances such as trichloroethylene and
6 PCBs, does that provide you with any
7 insight?

8 A. No.

9 MR. COHEN: Let us mark as Mr.
10 Bickerstaff Exhibit 9 a two-page
11 document bearing Bates stamp number 003
12 105797 through 105798.

13 (Memo dated 1/14/69 is
14 marked as Exhibit Bickerstaff 9 for
15 Identification.)

16 Q. Have you had a chance to
17 review the document?

18 A. Yes.

19 Q. Is this a division reporting
20 to lamp plant superintendents at the
21 various lamp plants?

22 A. I don't know.

23 Q. Is there anything in this
24 document that indicates communication to
25 corporate headquarters?

1 A. No.

2 Q. There is a reference to
3 Department 316 personnel in paragraph
4 two. Do you have any idea what that
5 reference is to?

6 A. No.

7 Q. Now, the author is an R. T.
8 Williams, division administrator,
9 accident prevention. Did you know him,
10 sir?

11 A. Yes.

12 Q. Was he the division
13 administrator for the Lamp Plant
14 Division?

15 A. He had two responsibilities.
16 He had direct responsibility for
17 accident prevention, health, safety,
18 then it was called accident prevention,
19 for the Bloomfield plant.

20 Q. That would be a local plant
21 level job?

22 A. Right. He also had
23 dotted-line responsibilities for the
24 rest of the "Lamp Plant Division,"
25 dotted line. Each of those plants had

1 individual people directly responsible.

2 Q. But he would have overall
3 supervision responsibility?

4 A. They would be dotted line. In
5 other words, they would be paid for by
6 the plant. He could send them
7 information, okay, but they still had to
8 answer to their boss first. He had
9 division responsibilities, but his main
10 responsibility was for the Bloomfield
11 plant.

12 Q. In this letter as a division
13 administrator, accident prevention,
14 despite the use of the word "division,"
15 this is a local plant document?

16 A. That's what it looks like to
17 me. I don't want to guess, but that's
18 what it looks like.

19 Q. I only want your understanding
20 based on your experience.

21 A. Yes.

22 Q. And as far as which
23 superintendents this is directed to, do
24 you have any understanding of whether it
25 was the various lamp plants, plants

1 outside of the Lamp Division or just
2 superintendents within the Bloomfield
3 plant itself?

4 A. To the superintendents inside
5 the Bloomfield plant, because it lists
6 the plant at the top there.

7 Q. And I take it if it was sent
8 to headquarters, there would be an
9 indication?

10 A. Yes.

11 Q. And if for some reason it was
12 sent to a division other than the Lamp
13 Division or another plant, there would
14 be an indication?

15 A. I would think so.

16 Q. You would expect it in the
17 course of your experience?

18 A. Yes.

19 Q. Now, the document sets forth
20 procedures to be used concerning the
21 disposal of various wastes. Were the
22 plants required to inform headquarters
23 concerning their procedures for the
24 disposal of hazardous waste?

25 A. I don't know.

1 Q. Do you know who would know
2 that?

3 A. If there is a person, it might
4 be Bud Kerns. It might be, I don't
5 know, because this may predate him.

6 MR. COHEN: Let us mark as Mr.
7 Bickerstaff Exhibit 10 a one-page
8 document bearing Bates stamp number
9 00259566.

10 (Memo dated 7/30/70 is
11 marked as Exhibit Bickerstaff 10 for
12 Identification.)

13 Q. Mr. Bickerstaff, is this a
14 document from all appearances which
15 remained within the purview of the
16 Bloomington Works plant?

17 A. That's what it appears to be.

18 Q. What division was Bloomington
19 Works?

20 A. It was part of the Transformer
21 Division.

22 Q. Where was the divisional
23 headquarters?

24 A. I believe I answered that
25 earlier, and I think it was Sharon,

1 Pennsylvania.

2 Q. The document mentions process
3 specs for the handling and disposal of
4 Inerteen. You understand that to be
5 PCBs I take it?

6 A. Yes.

7 Q. It mentions a review, an
8 informal review of the specs with a Bob
9 Sawyer and Jack Curl. Do you recognize
10 either of those individuals as being
11 part of the Headquarters Division?

12 A. No.

13 Q. Do you recognize them at all?

14 A. Bob Sawyer.

15 Q. And what division was he in?

16 A. He was at Bloomington.

17 Q. The third paragraph strongly
18 urges immediate action because of
19 possible legal action by the state
20 against Westinghouse if Inerteen is
21 disposed of in the city storm sewer
22 systems. Were there any procedures,
23 practices, policies or guidelines of
24 which you are aware concerning
25 communications to divisional

1 headquarters or to corporate
2 headquarters regarding potential legal
3 liability arising out of the disposal of
4 substances?

5 A. No, I'm not aware of any.

6 Q. And I take it, and again
7 forgive me if I'm repeating something we
8 did earlier, you have no knowledge
9 regarding the communication process as
10 to any insurance department?

11 A. Did you ask that before?

12 Q. I'm not sure. Let me just ask
13 the question. Are you aware of any
14 practices, procedures, guidelines,
15 whether formal or informal, concerning
16 the communication process when there was
17 a potential legal liability as a result
18 of the use, handling or disposal of
19 substances such as Inerteen?

20 MR. BRENDL: I'm going to
21 object, just because it's outside the
22 scope of the deposition.

23 MR. COHEN: I will then
24 rephrase the question by simply
25 prefacing it for the time period of '75

1 through '82..

2 A. No, I am not aware of any.

3 Q. Not that there was none, it's
4 just that you have no knowledge one way
5 or the other?

6 A. Correct, correct.

7 Q. And I'm correct, am I not,
8 sir, that this document shows no
9 indication of having left the
10 Bloomington plant?

11 A. I don't see any on there.

12 MR. BRENDAL: Let us mark as
13 Exhibit 11 a two-page document bearing
14 Bates stamp numbers 00266654 through
15 00266655.

16 (Memo dated 8/20/70 is
17 marked as Exhibit Bickerstaff 11 for
18 Identification.)

19 Q. Is this document a memo from
20 Bloomington Works to various managers,
21 engineers or supervisors within the
22 Bloomington Works plant?

23 A. That's what it appears like to
24 me.

25 Q. Now, are the recipients or the

1 addressees part of the Corporate
2 Headquarters Division or part of the
3 division to which the Bloomington plant
4 belongs?

5 A. I don't know, but I would -- I
6 think this is just a Bloomington person
7 sending it to people at Bloomington, all
8 within the plant.

9 Q. Now, the Industrial Hygiene
10 Department to which you belonged, which
11 was a corporate department, did it have
12 employees located at various plants?

13 A. No.

14 Q. The memo concerns violations
15 of process specs for various hazardous
16 wastes.

17 MR. BRENDAL: That's your
18 characterization.

19 MR. COHEN: It absolutely is
20 my characterization.

21 MR. BRENDAL: And obviously it
22 states what it states.

23 MR. COHEN: Good point, so let
24 me quote it.

25 Q. "The above-referenced process

1 specs cover instructions for marking by
2 the section the scrap originates,
3 handling and disposing of hazardous
4 waste. Since the date of issue, almost
5 every manufacturing section has
6 completely disregarded these specs."

7 When specs were being
8 violated, were there any procedures,
9 practices or guidelines for reporting
10 the violations to headquarters?

11 A. I don't know.

12 Q. Within the communications that
13 you were involved in that came to
14 industrial hygiene because of potential
15 employee exposure, was the fact of a
16 violation of a spec a determinant factor
17 as to whether industrial hygiene would
18 be made aware of the circumstances?

19 A. I doubt it.

20 Q. Now, the end of the second
21 paragraph reads, "this practice is going
22 to end up causing injury to personnel
23 handling unknown waste and some of it is
24 going to end up at the loyal dump and
25 found by the state, which will bring

1 legal action against Westinghouse."

2 Were there any policies,
3 practices or procedures for the
4 conveying of this type of information to
5 headquarters?

6 A. I don't know.

7 Q. Do you know of any such
8 practices, policies or procedures for
9 the conveying of this type of
10 information from a plant to a division?

11 A. Again, I don't know.

12 Q. Are you aware from a review of
13 this document of any indication
14 indicating that it went beyond the
15 Bloomington plant?

16 A. I can't see anything that
17 references that.

18 (Memo dated 3/11/71 is
19 marked as Exhibit Bickerstaff 12 for
20 Identification.)

21 (There is a brief recess.)

22 Q. Have you had a chance to
23 review the document?

24 A. Yes.

25 Q. Is this a document from the

Bickerstaff - direct

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1 Bloomfield Lamp Division headquarters to
2 the various Lamp Division plants?

3 A. That's what it appears to be.

4 Q. It refers to a pollution
5 questionnaire that was circulated to the
6 lamp plants. Do you know of any
7 procedures by which that questionnaire
8 would have been circulated at the behest
9 of corporate headquarters?

10 A. I don't know.

11 Q. And do you know of any
12 procedures pursuant to which the answers
13 would have been passed on to corporate
14 headquarters?

15 A. I don't know.

16 Q. Do you have any information
17 whatsoever regarding this document?

18 A. No.

19 MR. COHEN: Let us mark as Mr.
20 Bickerstaff Exhibit 13 a one-page
21 document bearing Bates number 00259560.

22 (Memo dated 4/19/71 is
23 marked as Exhibit Bickerstaff 13 for
24 Identification.)

25 Q. Sir, is this a memorandum

1 went from plant to plant?

2 A. I don't know.

3 Q. Do you know was there a plant
4 in St. Louis, to your knowledge, sir?

5 A. Yes, there was a plant in St.
6 Louis, yes.

7 Q. And do you know what division
8 the plant was within?

9 A. I think there were several
10 plants there, and again, I'm only
11 speaking from 1975 on or '76 when I came
12 in.

13 Q. That is pursuant to your
14 directives from counsel?

15 A. Well, again, I only came into
16 corporate in 1976. So I had no, see,
17 when you're at the plant, you don't
18 know what the other plants -- I mean I
19 know --

20 Q. Tell me what you personally
21 know.

22 A. Okay. In 1976 when I came in,
23 there were two plants in St. Louis. One
24 was a repair plant, and another plant
25 was a Distribution Equipment Division.

1 It basically -- I'm trying to think what
2 they made there.

3 Q. Are you aware of any plants in
4 Cincinnati?

5 A. In 1976 again, there was a
6 Distribution Equipment Division plant in
7 Cincinnati.

8 Q. Do you have any reason to
9 believe that did not exist in 1971?

10 A. I don't know.

11 Q. This document reflects a spill
12 of a substance referred to as "askarel"
13 as a result of the improper securing of
14 drum bungs. From a review of the
15 document, is there any indication of
16 communication to corporate headquarters,
17 whether it was the Law Department or
18 industrial hygiene or any other
19 department?

20 A. I don't know.

21 Q. Do you see anything that
22 indicates that?

23 A. I don't see anything more than
24 you do.

25 Q. Specifically there are some

1 cc's on the right. NJOHN, and PB, it's
2 very difficult to read, ENI. Are those
3 acronyms that in anyway refer to
4 headquarters?

5 A. Not that I'm aware of.

6 Q. The document indicates that
7 this was the second incident and the
8 first was not reported, but there is a
9 request made for the appropriate
10 personnel in Westinghouse to renew or
11 review the incident to prevent future
12 problems, and there's a reference to the
13 adverse legal and environmental
14 consequences. Do you know if there were
15 any rules or regulations or requirements
16 within Westinghouse directing that a
17 document concerning this subject matter,
18 the adverse legal and environmental
19 consequences of a substance spill, be
20 reported to division headquarters or to
21 corporate headquarters?

22 A. Back in this time frame, I
23 don't know.

24 Q. And during the time frame for
25 which you are familiar?

1 A. There may have been, but I
2 don't recollect it.

3 Q. And to the best of your
4 recollection, were there any formal
5 written procedures or was it some sort
6 of informal practice?

7 A. I believe informal.

8 Q. And to the best of your
9 recollection, was the practice that the
10 decision making was decentralized and
11 resided in the plants?

12 A. To the best of my knowledge,
13 yes.

14 Q. You will notice, sir, in the
15 upper right-hand corner of the document
16 that the word "confidential" appears.
17 Earlier today we discussed the use of
18 such labels. Can you tell from a review
19 of this document whether that is a
20 "confidential" label or stamp that was
21 used in the ordinary course of
22 Westinghouse business? Does that look
23 like a Westinghouse "confidential"?

24 A. I don't know, I've not had to
25 use a "confidential," so I don't know.

1 Q. If you would look back at
2 Exhibit 12, you'll see there is also the
3 word "confidential." It is slightly
4 different. Do you have any familiarity
5 with either of those?

6 A. No.

7 MR. COHEN: Neal, when we met
8 on Tuesday, it became apparent that
9 there are some documents which were
10 stamped confidential contemporaneously
11 with their creation and some documents
12 which perhaps your firm had stamped
13 confidential pursuant to a protective
14 order entered in this case. And I had
15 asked you to advise me whether you would
16 identify which documents had the stamp
17 your firm put on and you took my request
18 under advisement. I'm wondering if you
19 have reached any decision on that
20 inquiry.

21 MR. BRENDL: I think as part
22 of our document production we have
23 provided written designation of those
24 documents which were being designated as
25 confidential.

1 MR. COHEN: And therefore,
2 only those which were designated would
3 have a stamp placed by your office?

4 MR. BRENDDEL: Well, it would
5 be my understanding that those which
6 were designated would have a stamp.
7 Now, I know that there were initially
8 some documents that were released which
9 weren't stamped but which we wanted
10 designated as confidential. This is my
11 recollection.

12 MR. COHEN: I'll talk with you
13 off the record, and perhaps not this
14 afternoon, on this issue to resolve
15 this.

16 MR. BRENDDEL: Yes, I don't
17 think it can be done this afternoon.
18 What you might want to do is give me a
19 letter and then I can respond
20 accordingly.

21 MR. COHEN: It will be my
22 pleasure. Let us mark as Exhibit 14 for
23 identification a document bearing Bates
24 stamp numbers 132/4192913 through
25 4192916.

1 (Memo dated 12/28/71 is
2 marked as Exhibit Bickerstaff 14 for
3 Identification.)

4 Q. Mr. Bickerstaff, in the upper
5 right-hand corner there is some language
6 that is difficult to read, but in
7 essence it states that the document is
8 subject to a strictly limited
9 distribution, it is not to be circulated
10 outside the company, and that within the
11 company the recipient must have a
12 specific need for the information in
13 conduct of his assignment and
14 responsibilities and that the document
15 should be destroyed by burning or
16 shredding. Have you ever seen that
17 stamp in the course of your duties, sir,
18 or any language similar to it on a
19 Westinghouse document?

20 A. I don't know exactly word for
21 word, but that looks like the kind of
22 language on documents coming out of the
23 Westinghouse research or science and
24 technology center.

25 Q. And is this a document coming

1 out of the research or science and
2 technology center?

3 A. That's what it looks like.

4 Q. And what division did that
5 center belong with?

6 A. That was its own division, but
7 it eventually then reported back to
8 headquarters. It was essentially the
9 headquarters research and development
10 center. It's now called science and
11 technology.

12 Q. When you received a document
13 that had language to this effect, did
14 you implement the procedure outlined by
15 destroying the document?

16 A. If I didn't have any further
17 need for it, then yes, I would do
18 something like that.

19 Q. What was your understanding of
20 your freedom to distribute the document
21 when you received it with this type of a
22 legend upon it?

23 A. That I was to maintain the
24 distribution within the company.

25 Q. And did you understand that

1 you had any limitations upon your
2 disseminating the document within the
3 company?

4 A. Before I would do that I would
5 probably call the author and ask him.

6 Q. Were you aware of any
7 division, department or section which
8 had anything to do with the creation of
9 the rules regarding strict limited
10 distribution or confidential treatment
11 of documents?

12 A. No.

13 Q. Do you know who was in charge
14 or had anything to do with that?

15 A. No, I don't.

16 Q. Now, first of all, do you
17 recognize any of the addressees in the
18 document on the left-hand corner?

19 A. The second name Schoaff.

20 Q. And do you know which plant or
21 division he was with?

22 A. He was at the R and D center.

23 Q. Do you recognize the name
24 Munson?

25 A. No. J. C. R. Kelly, he was

1 also at research, and Mandelcorn, he was
2 also at research, but the other ones I
3 don't recognize.

4 Q. The document in the first
5 paragraph states that it's concerning
6 the situation with PCBs. And in the
7 second paragraph it notes that another
8 "very large use of these materials is
9 in lightning ballasts associated with
10 all fluorescent lights being used in
11 residential and commercial
12 applications. "

13 Are you aware of any
14 procedures, policies or guidelines so
15 that the information in this document
16 would have been disclosed to the Lamp
17 Plant Divisions?

18 A. No, I don't. What wee you
19 saying about the ballasts?

20 Q. Let me point it out to you so
21 you can read it.

22 A. Okay. Well, the reason I ask
23 that is Westinghouse made fluorescent
24 lights, but they did not make ballasts.

25 Q. Did the lights that

1 Westinghouse make --

2 A. We made like the fluorescent
3 tubes.

4 Q. Right. When they were
5 ultimately distributed, did they have
6 ballasts?

7 A. No, the ballast is the fixture
8 it goes into.

9 Q. And when Westinghouse
10 manufactured a fluorescent tube, when
11 did the tube become connected to a
12 fixture?

13 A. When the person would take it
14 and put it into the light fixture.

15 MR. BRENDAL: Off the record.
16 (There is a discussion off the record.)

17 A. There may not have been a need
18 for them to send this on, because they
19 didn't make a product that contained
20 PCB.

21 Q. Do you know if there were any
22 PCBs at the any of the Lamp Plant
23 Divisions?

24 A. Not as a product I don't
25 believe.

1 Q. Are you aware that at one time
2 product was sent to the Bloomfield plant
3 for storage that contained PCBs?

4 A. No, I'm not aware of it.

5 Q. The memo makes several points
6 about PCBs at the bottom of page one
7 going on to page two concerning their
8 interactions with animals. Was this the
9 kind of information which you expected
10 to receive at the Industrial Hygiene
11 Department at any time?

12 A. We could have, but I don't see
13 the distribution here.

14 Q. I understand that you could
15 have. What I'm asking specifically
16 about is what your expectations would
17 have been at the Industrial Hygiene
18 Department.

19 A. If it's something which was
20 brand new that they were aware of that
21 we may not have been aware of, I think
22 that we would have been on the
23 distribution, but I don't know. I don't
24 know why we were not -- I don't know.

25 Q. Do you recall ever learning

1 regarding the characteristics of PCBs
2 and how they affected the reproductive
3 cycle of animals or children as set
4 forth in paragraphs three and four of
5 this memo?

6 A. Yes, I got that information
7 through public information from NIOSH
8 and OSHA, whatever.

9 Q. Do you recall when that would
10 have been?

11 A. After I got on the job in
12 1976.

13 Q. Do you recall ever receiving
14 the information from a source within
15 Westinghouse?

16 A. I could have from somebody
17 picking up a news article and sending it
18 to me.

19 Q. Do you have any specific
20 recollection?

21 A. I don't remember, no.

22 Q. On page three, the memorandum
23 reads, "there is sufficient evidence
24 that PCBs can be deleterious to the
25 health of animal and human life and that

1 the risks are ignoring the evidence that
2 does exist was inappropriate for," and
3 then there is a symbol which I assume to
4 mean Westinghouse. Is that the kind of
5 information which you expected to
6 receive at industrial hygiene with
7 regard to employee exposure to
8 substances?

9 A. Yes, I would expect to.

10 MR. COHEN: Let us mark as
11 Exhibit 15 a document bearing Bates
12 stamp numbers 053/0008842 through
13 0008846.

14 (Memo dated 6/21/72 is
15 marked as Exhibit Bickerstaff 15 for
16 Identification.)

17 Q. Sir, have you ever seen
18 Exhibit 15 before?

19 A. Yesterday was the first time.

20 Q. The document concerns the
21 centralized waste disposal system for
22 Westinghouse plants in southwest
23 Pennsylvania. Do you know of any
24 procedures by which waste disposal
25 practices were centralized for various

1 plants in a given geographic area?

2 A. I don't know.

3 Q. On the second page, there is
4 some discussion of a meeting at which a
5 Mr. Kerns discussed national solid waste
6 disposal picture and intended
7 regulations. I take it that would be an
8 environmental issue and those
9 communications were outside the scope of
10 your responsibility?

11 A. Correct.

12 Q. I have no further questions on
13 this document.

14 MR. COHEN: Let us mark as
15 Exhibit 16 a two-page document bearing
16 Bates stamp numbers 144/0148450 and
17 144/0148453. The documents are not in
18 consecutive numerical order.

19 MR. BRENDDEL: Is this the
20 sequence that you placed them and
21 stapled them?

22 MR. COHEN: I personally did
23 not do so, so I cannot tell you how it
24 occurred.

25 MR. BRENDDEL: It occurred

1 subsequent to the production or were
2 they produced --

3 MR. COHEN: I can only draw
4 the same references you can draw from
5 the Bates stamp numbers, nothing else.

6 MR. BRENDDEL: So my question
7 was was it stapled when you received
8 it.

9 MR. COHEN: When I received
10 it, yes, but that's not answering what
11 you really want to know. I don't know
12 the answer to what you want to know.

13 MR. BRENDDEL: All right.

14 Then --

15 MR. COHEN: Shall we call it a
16 composite exhibit and reserve your
17 objections?

18 MR. BRENDDEL: To the extent
19 that there is an issue as to how the
20 Exhibit was assembled and stapled and to
21 the extent that this is not the fashion
22 in which it was maintained, we would
23 object.

24 MR. COHEN: Okay. I don't
25 agree with anything, but he has his

1 right to object.

2 (Safety Course Listing is
3 marked as Exhibit Bickerstaff 16 for
4 Identification.)

5 Q. Have you ever seen Exhibit 16
6 before, sir?

7 A. Yesterday.

8 Q. Aside from yesterday, have you
9 ever seen it before?

10 A. No.

11 Q. It reflects I believe various
12 courses offered in 1975 by the
13 Industrial Hygiene and Safety
14 Department. Is that correct?

15 A. That's what it looks like,
16 yes.

17 Q. Did you have anything to do
18 with these courses?

19 A. Not back in 1975, no.

20 Q. How about in 1976, sir?

21 A. In 1976, yes.

22 Q. And what role did you play
23 with regard to these courses with
24 respect to communications concerning
25 substances?

1 A. From that time on we pretty
2 much put on equipment courses for
3 Westinghouse facilities. We would
4 sponsor them in most cases in the
5 Pittsburgh area.

6 Q. Now, when did this practice of
7 having courses with regard to industrial
8 hygiene and safety and the hazards posed
9 by radiation or other substances begin?

10 A. I don't know.

11 Q. The front page lists the date
12 of presentation and tuition fees.

13 A. Correct.

14 Q. Who was charged tuition for
15 attending these courses?

16 A. All of the students.

17 Q. Were the students Westinghouse
18 employees?

19 A. Yes.

20 Q. Did the Westinghouse employees
21 actually bear the expense of these
22 courses?

23 A. No.

24 Q. Were they reimbursed by their
25 local plants?

1 A. No. What would happen was
2 there would just be a charge from budget
3 to budget so that somebody from
4 Bloomfield we'll say attending a course
5 would just fill out the form and put his
6 budget number down.

7 Q. And then the Bloomfield plant
8 would be billed by industrial hygiene?

9 A. Yes, correct.

10 Q. Was there any requirements
11 concerning attendance at these courses?

12 A. There wasn't a requirement, it
13 was highly recommended that they attend.

14 Q. And who was it recommended
15 would attend?

16 A. The manager of industrial
17 hygiene and safety, work and human
18 resources that they reported to.

19 Q. Were these courses offered on
20 an annual basis?

21 A. Some of them were, other ones
22 were maybe offered just as a special,
23 maybe on radiation. It might not be
24 offered again for another three years.

25 Q. Were any of the courses

1 offered on anything more frequent than
2 an annual basis?

3 A. I can't remember anymore
4 frequent than annual.

5 Q. The second page of the
6 document is "engineering and hazard
7 evaluation for materials used in
8 manufacturing." The course description,
9 which is the third paragraph on the left
10 margin states that the course will
11 describe the organization of the
12 Corporate Standards Department, their
13 Westinghouse contacts and the purpose
14 and function of their basic material
15 parts and service codes. Was that
16 another department, the Corporate
17 Standards Department within corporate
18 headquarters?

19 A. That was a department that was
20 physically located at the science and
21 technology center, corporate standards.
22 I believe they reported to the science
23 and technology center, which in turn
24 reported to the headquarters.

25 Q. Now, was this a course that

1 was open to all divisions?

2 A. Yes.

3 Q. And generally were these
4 courses open to all divisions?

5 A. Yes.

6 Q. In the course description, the
7 next to last paragraph reads, "explain
8 the need for standardization of
9 products, to eliminate costly errors in
10 choice of materials." Was it a policy
11 or practice of Westinghouse to
12 standardize the practices used or the
13 products I should say used in its
14 various plants?

15 A. The Corporate Standards
16 Department, if if you were going to use
17 a new material say, or even a new use
18 for an existing material, and you
19 determine what you want that product to
20 have, and maybe it's a new paint spray,
21 it must have this, whatever. You would
22 write a spec for that, you would find a
23 vendor that would meet the specs, the
24 information would go to all Westinghouse
25 facilities. If they wanted to buy that,

1 they would just buy that spec number.

2 And in some cases we always got some
3 pricing, better pricing.

4 Q. Because you would be buying in
5 bulk?

6 A. Right.

7 Q. And I take it by the
8 standardization of products, the
9 manufacturing process could become more
10 efficient?

11 A. In some cases, yes.

12 MR. COHEN: Let us mark as Mr.
13 Bickerstaff Exhibit 17 a one-page
14 document with Bates stamp number 003
15 105836.

16 (Memo dated 1/30/75 is
17 marked as Exhibit Bickerstaff 17 for
18 Identification.)

19 Q. Have you had a chance to
20 review the document, sir?

21 A. Yes.

22 Q. Is this a document which was
23 internal to the Bloomfield plant?

24 A. That's what it appears to be,
25 yes.

1 Q. Was it your expectation that
2 meetings concerning the disposal of
3 waste chemicals at a plant was a subject
4 matter which involved employee exposure
5 to waste chemicals?

6 MR. COHEN: Should I rephrase
7 that?

8 MR. BRENDDEL: Yes.

9 Q. I don't think I put that
10 together all that well. What I want to
11 know, sir, is when a meeting was held at
12 a plant regarding the disposal of waste
13 chemicals, was that something you
14 expected to be within the purview of the
15 Industrial Hygiene Department?

16 A. They could be invited. They
17 could be, I don't know.

18 Q. "They" being industrial
19 hygiene?

20 A. The local industrial hygiene
21 safety rep at that plant could be
22 invited.

23 Q. And that safety rep, however,
24 would be part of the same division for
25 which the plant belonged and not part of

1 your corporate division.

2 A. Correct.

3 Q. And then the question of
4 whether or not the subjects discussed at
5 the meeting made it to the corporate
6 level would remain at the plant level in
7 the first instance and then if it
8 reached a division level would remain at
9 the division level?

10 A. It would.

11 Q. Were there any processes or
12 procedures that you were aware of where
13 the information would pass directly to
14 corporate?

15 A. No.

16 MR. COHEN: Let us mark as
17 Exhibit 18 a one-page document bearing
18 Bates stamp number 003 105836.

19 (Memo dated 10/25/74 is
20 marked as Exhibit Bickerstaff 18 for
21 Identification.)

22 Q. Sir, this document, have you
23 ever seen it before with the exception
24 of preparing for your deposition?

25 A. No, I haven't.

1 Q. The document reflects three
2 reports of mercury vapor levels in an
3 area of the Bloomfield plant in excess
4 of permitted levels, and states that the
5 higher than permitted mercury vapor
6 level would be viewed by the Bureau of
7 Engineering and Safety as evidence of
8 our inability to control employee
9 exposure. We will be re-cited, given
10 time to get in compliance and possibly
11 fined.

12 Was the Bureau of Engineering
13 and Safety part of Westinghouse or
14 something external to Westinghouse?

15 A. I think it says New Jersey
16 Department of Labor, Bureau of --

17 Q. Up above. Perhaps you're
18 correct.

19 A. Here in New Jersey the
20 Department of Labor --

21 Q. In the first paragraph?

22 A. Yes.

23 Q. Fine. The second paragraph
24 from which I read with regard to the
25 Bureau of Engineering, there is the

1 statement which I read. Is this
2 something which you would have expected
3 to be made aware of at corporate
4 headquarters?

5 MR. BRENDEL: What are you
6 referring to?

7 MR. COHEN: This is the second
8 paragraph of this document, the quote
9 that I read. If you like, I'll rephrase
10 the question.

11 MR. BRENDEL: If it could make
12 it clearer, fine.

13 MR. COHEN: It could help to
14 make it clearer.

15 MR. BRENDEL: Okay.

16 Q. Sir, at the Industrial Hygiene
17 Department of corporate headquarters,
18 did you expect to be advised of a
19 situation where a government agency was
20 expected by the local plant in viewing
21 the circumstances as giving evidence of
22 an inability to control employee
23 exposure to mercury?

24 A. I'm not sure what in 1974
25 existed, but from 1976, the plants were

1 directed to contact corporate in a
2 situation like this if they were cited.

3 Q. If they were cited.

4 A. Yes.

5 Q. Prior to being cited however,
6 I take it there was no direction?

7 A. No direction.

8 Q. And even once a citation was
9 received, the directive was an informal
10 one. Is that correct?

11 A. Correct.

12 MR. BRADFORD: Just for the
13 record, I do want to state that we
14 reserve the right to recall this witness
15 with respect to the substantive matters
16 that are not included within the scope
17 of the current deposition notice that
18 he's appearing here today on.

19 MR. COHEN: Let us mark as Mr.
20 Bickerstaff Exhibit 19 a one-page
21 document bearing Bates number 003 02217.

22 (Memo dated 12/27/73 is
23 marked as Exhibit Bickerstaff 19 for
24 Identification.)

25 Q. Mr. Bickerstaff, this document

1 concerns a program, for lack of a better
2 word, of periodic examinations for the
3 detection of berylliosis for active and
4 retired Bloomfield employees. Are you
5 aware of any communications regarding
6 these periodic examinations between the
7 Bloomfield plant and corporate
8 headquarters?

9 A. No.

10 Q. Do you know if this process
11 had anything to do with a directive from
12 corporate headquarters at any time?

13 A. No.

14 Q. And do you know of any
15 communications or procedures implemented
16 so that corporate headquarters and
17 particularly industrial hygiene was made
18 aware of this circumstance?

19 A. No, I'm not aware of that.

20 Q. Is this something that was
21 within the scope of industrial hygiene?

22 A. No, this probably would be
23 within the scope of corporate medical.

24 Q. And could you explain to me
25 how you draw the delineation?

1 A. They're talking about periodic
2 exam. To me they're examining
3 employees, and that would be some sort
4 of physical exam, and not being a
5 physician, I wouldn't know what to look
6 for in berylliosis.

7 Q. Now, the corporate medical
8 department, that was not headed by a
9 physician. Is that correct?

10 A. From the time period we're
11 talking, it was not.

12 Q. At any time period was it, to
13 your knowledge?

14 A. Mr. Burr retired in the early
15 '80s and then there was a medical
16 director in there from the 1980s until
17 now.

18 Q. Sometime in the 1980 decade?

19 A. Right. Earlier than that, I
20 don't know.

21 MR. COHEN: Let us mark at the
22 same time two documents as Exhibits 20
23 and 21. Exhibit 20 is Bates stamped 132
24 4429230 through 132 4429231. Exhibit 21
25 is Bates stamped 132/4181442 through

1 444.

2 (Memos dated 10/22/75
3 and 9/21/76 are marked as Exhibits
4 Bickerstaff 20 and 21 for
5 Identification.)

6 Q. Have you had an opportunity to
7 review the exhibits, sir?

8 A. Yes.

9 Q. Exhibit 20, am I correct that
10 this is a memoranda from the
11 Westinghouse Sharon Works?

12 A. That is what it looks like,
13 Westinghouse Sharon, yes.

14 Q. So this is not a division
15 document as an originating source but a
16 plant document. Is that correct?

17 A. That's what it looks like to
18 me.

19 Q. And the addressees, whether
20 they're the direct addressees or the
21 copy recipients, can you tell me, are
22 any of those division level or corporate
23 level?

24 A. The only name that I recognize
25 is G. E. Laverty. He worked at Sharon.

1 That's the only one I recognize.

2 Q. There are some prefix letters
3 and number codes. Do you know what
4 those mean? For example, they all have
5 the same prefix with ML.

6 A. Well, some plants will have
7 MS, it's called "mail stop." This might
8 be "mail location."

9 Q. Is that "mail location"?

10 A. Mail, M-A-I-L. I'm guessing,
11 I don't know.

12 Q. Now, the document concerns the
13 focus on asbestos known stocks and
14 possible replacements. Is there
15 anything about this document which
16 indicates that it was communicated to
17 corporate headquarters or division
18 headquarters from the Sharon plant?

19 A. I don't see anything on here.

20 Q. Now, is there anything on
21 document 20 which indicates
22 communication to the Beaver Works?

23 A. To the Beaver Works?

24 Q. Yes.

25 A. I don't see anything on here.

1 Q. Now, if you look at Exhibit
2 21, you'll see a number of people listed
3 at the Beaver Works.

4 A. Okay.

5 Q. And you can check me, but to
6 my eye it looks that nobody who received
7 Exhibit 20 was addressed on Exhibit 21.

8 A. I don't see any.

9 Q. Exhibit 21 is from the control
10 equipment group and it concerns an
11 asbestos substitution project. Do you
12 know to what plant, division or
13 department the control equipment group
14 belonged?

15 A. I believe that's Beaver.

16 Q. And is there anything on
17 Exhibit 21 which indicates that the
18 document left the Beaver plant?

19 A. I don't see anything that says
20 that.

21 Q. Was the Beaver plant within
22 the same division as the Sharon plant?

23 A. No.

24 Q. Very briefly, could you just
25 tell me the divisions for each plant?

1 A. Sharon was in the transformer,
2 capacitor business unit. Beaver, I'm
3 not sure exactly what business unit they
4 were in, but they were not tied to the
5 Sharon plant.

6 Q. Okay. Would the decisions by
7 plants to begin eliminating the use of
8 asbestos-containing materials be
9 something that fell within the purview
10 of the corporate Industrial Hygiene
11 Department because of potential employee
12 exposure to asbestos?

13 A. Yes, I would expect that.

14 Q. Do you have any recollection
15 of being advised of these developments
16 first in October of 1975 at Sharon and
17 then second in September of '76 at
18 Beaver?

19 A. No. In the first one I was
20 not on the job at that point.

21 Q. Fair enough.

22 A. On the second one, I was on
23 the job three weeks at that point.

24 Q. Were there any procedures
25 pursuant to which this information was

1 required to be forwarded to industrial
2 hygiene?

3 A. I think industrial hygiene
4 earlier in the year, '76, had taken the
5 initiative to start looking for
6 substitute materials for asbestos.

7 Q. Was there any requirement,
8 however, for the plants that were
9 looking for substitute materials to
10 report that to headquarters?

11 A. The document they put out at
12 the time, I can't say.

13 Q. Looking at these documents, is
14 there anything that would have required
15 them to be forwarded to headquarters?

16 A. I don't see anything here.

17 Q. Now, shortly after you joined
18 the Industrial Hygiene Department, did
19 you have occasion to visit Bloomfield in
20 October of 1976?

21 A. I know it was in the fall of
22 '76, yes.

23 Q. Did that visit have anything
24 to do with the lines of communication
25 with regard to the handling, use or

1 treatment of any substance?

2 A. I think it went back to 1976.
3 They contacted me because of an old
4 radiation process that they had back
5 there during the Manhattan project, and
6 that occurred actually back in the
7 '40s. They were notified that people
8 from Oakridge University wanted to do
9 some measurements.

10 Q. Did you coordinate that
11 information with regard to any other
12 plants that may have had a similar
13 circumstance involving radiation?

14 A. On that particular, the
15 Manhattan project, the Westinghouse East
16 Pittsburgh plant was also suspect. We
17 also went in there and visited that
18 area, and they took measurements and
19 nothing was found. Again, it was
20 alleged, nobody could find any records.
21 Just the two plants.

22 Q. Was there any communication
23 between the two plants?

24 A. Only through me.

25 Q. Now, in '76 when you were the

1 manager of industrial hygiene, was your
2 immediate superior part of that same
3 department?

4 A. Well, I was manager of
5 industrial hygiene and he was manager of
6 hygiene and safety.

7 Q. Got it.

8 MR. COHEN: Let us mark as
9 Exhibit 22 a document with Bates stamp
10 numbers 844 6048653 through 6048654.

11 (Memo dated 9/22/76 is
12 marked as Exhibit Bickerstaff 22 for
13 Identification.)

14 Q. Sir, I recognize that the
15 photocopying quality of this document is
16 not perfect, but is this a document from
17 Westinghouse corporate headquarters?

18 A. It's from corporate
19 headquarters industrial hygiene, yes.

20 Q. And was Zella Heasley someone
21 who reported to you?

22 A. Yes.

23 Q. That was one of the three
24 professionals you mentioned earlier?

25 A. Yes, that's correct.

1 Q. What were the names of the
2 other two?

3 A. At that time, I've got
4 different people moving in and out.
5 Mark Perriello, and at that time John
6 Adams. That was 1976.

7 Q. And did your staff change at
8 some point?

9 A. John Adams in 1977 was
10 promoted to supervisor of industrial
11 hygiene and he went to the Baltimore
12 defense group. And at that point Diane
13 Whittier came in to replace him.

14 Q. Was the defense group a
15 separate division within Westinghouse?

16 A. Yes.

17 Q. So when you named the
18 divisions earlier today --

19 A. That's one of the divisions,
20 right.

21 Q. Okay. Was there anything
22 unique about the lines of communication
23 from the defense group to corporate
24 headquarters with regard to the use,
25 treatment or handling of substances?

1 A. No..

2 Q. Were there anymore restrictive
3 rules regarding the dissemination of
4 information?

5 A. No. They voluntarily sent
6 their monthly safety meetings and things
7 like that just for updates.

8 Q. The defense group?

9 A. Yes.

10 Q. So there were two divisions
11 that did that then?

12 A. No, that was defense. That
13 was the one we talked about earlier.

14 Q. I'm sorry, thank you. Now,
15 the document mentions a letter and a
16 focus upon trichloroethylene, which is,
17 according to this document, the
18 carcinogen for humans, and the response
19 by corporate headquarters concerning
20 information that the Westinghouse
21 industrial hygiene has with regard to
22 that substance. Was this kind of
23 document something which Ms. Heasley
24 would pass to you before sending out to
25 a plant?

1 A. Normally she would do that,
2 yes, or carbon me on it.

3 Q. And I take it that Hamilton
4 Canada is a particular Westinghouse
5 plant?

6 A. Hamilton Canada, I believe
7 that's the headquarters for the Canadian
8 operations.

9 Q. Would Canadian operations.
10 constitute a separate division?

11 A. At that time, yes.

12 Q. And the safety manager for
13 personal relations, would that be a
14 person within the Canadian division?

15 A. Yes.

16 Q. So this is an example of
17 responsive communication from corporate
18 industrial hygiene to division
19 headquarters.

20 A. Correct.

21 Q. The document notes that the
22 substance trichloroethylene has been
23 definitively established as resulting in
24 cancer in animals under certain
25 conditions and this only serves as an

1 alert for the potential for future human
2 carcinogenicity. When this document
3 went out, were there any communications
4 to other divisions and plants that may
5 have been using the substance?

6 A. I don't remember any.

7 Q. Was there any requirement that
8 all divisions and plants that were using
9 the substance be provided the same
10 information that was being given in
11 response to a request?

12 A. No.

13 Q. I take it there was neither a
14 formal requirement or an informal
15 practice along those lines?

16 A. We would send information out
17 as we saw need to. But I think if you
18 look, it indicates here that we don't
19 have any detailed information. She may
20 have heard something, she may have seen
21 a news release. So what I'm saying is
22 if we had information that said yes, in
23 fact it is a known human carcinogen, she
24 would have concluded that, but she is
25 saying it's a suspect at this time.

1 It's still a suspect. It's never been
2 declared, even today.

3 Q. And so the information is
4 being given in response to an inquiry
5 and it is not something that is coming
6 from headquarters on its own initiative
7 to the plant level?

8 A. In this case, you're correct.

9 MR. COHEN: Let us mark as
10 Exhibit 23 a one-page document bearing
11 Bates stamp number 844 6033215.

12 (Memo dated 11/24/76 is
13 marked as Exhibit Bickerstaff 23 for
14 Identification.)

15 Q. Now, Exhibit 23 has in the
16 upper left-hand corner the word or the
17 letter W followed by "proprietary" with
18 a number symbol and then the number
19 one. Is that correct?

20 A. That's what it looks like,
21 yes.

22 Q. Were there different levels
23 for proprietary information labeling?

24 A. I believe so, I don't know.

25 Q. Do you recall which was the

1 most restrictive level?

2 A. No, because I never had to put
3 a proprietary on anything that I sent
4 out.

5 Q. The document also has two
6 different confidential stamps on it. I
7 take it you can't tell if either of
8 those were part of the original
9 document?

10 A. No.

11 Q. The document concerns a list
12 of suspected carcinogens, it is from the
13 division administrator at Bloomfield,
14 Mr. Williams. Am I correct that the
15 document is only addressed to Bloomfield
16 employees?

17 A. Yes.

18 Q. The document indicates that
19 the New Jersey Department of
20 Environmental Protection has issued a
21 report containing a list of
22 cancer-causing chemicals that are "a
23 potential concern to the residents of
24 New Jersey." In the second paragraph it
25 is noted that within group one is

1 trichloroethylene. Is there any
2 indication that this information was
3 conveyed to corporate headquarters and
4 the Industrial Hygiene Department
5 specifically?

6 A. In this letter?

7 Q. Yes.

8 A. I don't see anything that
9 indicates that.

10 Q. Was there any practice,
11 procedure or rule, either formal or
12 informal, requiring Mr. Williams to pass
13 this information on to corporate
14 headquarters?

15 A. Not that I'm aware of.

16 Q. Do you have any recollection
17 of Mr. Williams ever advising the
18 Industrial Hygiene Department of this
19 list published by the New Jersey
20 Department of Environmental Protection?

21 A. I don't personally remember
22 it, no.

23 Q. Returning to Exhibit 23 for
24 just a moment, in it Mr. Williams
25 recommends substitute materials be found

1 to avoid the use of suspected
2 carcinogens. Is this something that you
3 would have been expected to have been
4 alerted to within the Industrial Hygiene
5 Department because of possible exposure
6 to Westinghouse employees?

7 MR. BRENDDEL: I'm going to
8 ask, when you say "this," I don't
9 understand what you mean.

10 MR. COHEN: I will rephrase
11 the question.

12 Q. Was the circumstance that a
13 state Department of Environmental
14 Protection had published a list
15 concerning potential carcinogens and
16 then a division administrator for the
17 Lamp Plant Division had recommended the
18 eradication of the use of those
19 substances something that you would have
20 expected to be brought to your attention
21 at corporate headquarters because of
22 potential employee exposure?

23 A. It would be their prerogative
24 if they wanted to involve us, yes.

25 Q. Strictly their prerogative?

1 A. Their prerogative, yes.

2 MR. COHEN: Let us mark as
3 Exhibit 24 a one-page document bearing
4 Bates stamp number 844 6058563.

5 (Memo dated 10/19/76 is
6 marked as Exhibit Bickerstaff 24 for
7 Identification.)

8 Q. Have you had a chance to
9 review the document?

10 A. Yes.

11 Q. Aside from preparing for
12 today's deposition, have you ever seen
13 it before?

14 A. I remember -- well, it was
15 sent to me. So I must have reviewed it
16 back in 1976.

17 Q. Did you review it in
18 preparation for the deposition?

19 A. Yes, we looked at it
20 yesterday.

21 Q. The documents is from the
22 Relay Instrument Division Where was
23 headquarters for that division located?

24 A. I don't know about
25 headquarters, but the plant in question

1 here was in Newark.

2 Q. Now, when you say the plant in
3 question here, is that because you know
4 that the personnel relations --

5 A. The person, he was in the
6 Relay Instrument Division and he was
7 also at Newark.

8 Q. Now, in Mr. Merkle's letter,
9 he is advising you of a NIOSH bulletin
10 concerning possible carcinogenic
11 substances and various fluids and he is
12 focusing on the cutting fluids. Do you
13 recall ever responding to his inquiry?

14 A. I can't say. I'm sure I did,
15 but I don't. . .

16 Q. Would it have been your
17 practice to respond to this type of an
18 inquiry in writing or verbally or did
19 you not have a standard practice?

20 A. I probably would call him
21 initially on the phone to find out more
22 information and then respond back in
23 writing. Either I would respond back in
24 writing or Miss Heasley, who was our
25 materials person for the department.

1 Q. Okay. Was this, to your
2 recollection, the first you learned of
3 the October 6 NIOSH bulletin regarding
4 the possible carcinogenic substances?

5 A. I don't know.

6 Q. How often did you receive
7 NIOSH bulletins?

8 A. As they were issued. But you
9 don't always get all NIOSH bulletins.
10 If you're on the list to get ones for
11 cutting fluids or if you're on the list
12 to get ones for certain things, you only
13 get certain ones. But in most cases we
14 got most bulletins.

15 Q. Now, here Mr. Merkle is
16 writing to you on October 19 and
17 referring to an October 6 NIOSH
18 bulletin. So he apparently was on the
19 cutting fluid list.

20 A. Right.

21 Q. Did you have the experience
22 where people in the field would advise
23 you of government bulletins concerning
24 potential carcinogenic substances that
25 were being used in the field?

1 A. On occasion. There might be
2 information prior to us receiving it,
3 yes.

4 Q. Generally, however, you
5 received all of the bulletins?

6 A. In most cases we did, yeah.

7 Q. And do you know which plants
8 received what bulletins?

9 A. No.

10 Q. Was there any standard
11 practice regarding what bulletins would
12 be received at the plants?

13 A. No, not that I'm aware of.

14 Q. Was it the practice that the
15 corporate Industrial Hygiene Department
16 would be the resource for the plants to
17 use when they needed information?

18 A. Correct. In most cases, yes.

19 MR. COHEN: Let us mark as
20 Exhibit 25 a one-page document bearing
21 bearing Bates stamp number 844 6033230.
22 Before.

23 (Memo dated 5/3/77 is
24 marked as Exhibit Bickerstaff 25 for
25 Identification.)

1 Q. Have you had a chance to
2 review the document, sir?

3 A. Yes.

4 Q. Is this a document from a
5 member of your staff to Mr. Williams,
6 division administrator at the Bloomfield
7 Works?

8 A. Yes, it is.

9 Q. In the document, am I correct
10 that Mr. Adams is reporting to Mr.
11 Williams concerning the results from a
12 sampling for airborne asbestos fibers in
13 Building 2 at the Bloomfield Works?

14 A. That's correct.

15 Q. On the bottom of the document,
16 there is a legal statement. Do you see
17 that, sir?

18 A. Yes.

19 Q. And the statement indicates
20 that the sampling process regardless of
21 to whom it's delegated is being
22 performed by agents of the Westinghouse
23 Law Department. What communications
24 were there between the Westinghouse Law
25 Department and the Industrial Hygiene

1 and Safety Department regarding the
2 presence of substances in the workplace?

3 A. Between the Law Department
4 and?

5 Q. Let's have it read back.

6 (The question is read by the reporter.)

7 MR. BRENDAL: At this point
8 I'm going to object on the grounds that
9 to the extent of having substantive
10 communication between Westinghouse
11 lawyers and people in the Industrial
12 Hygiene Department relating to the
13 rendering of legal advice, I believe the
14 attorney client privilege applies. And
15 to the extent that your question can be
16 broadly interpreted to encompass those
17 types of communications, I would direct
18 the witness not to respond.

19 MR. COHEN: I do not agree.
20 Let us see if we can work around this
21 for the moment.

22 Q. I am concerned about the
23 process, not the substantive
24 communications, by which the Industrial
25 Hygiene Department and the Corporate Law

1 Department communicated regarding air
2 sampling in the workplace and
3 specifically when that practice began.

4 MR. BRENDDEL: If you can
5 formulate some questions that do not ask
6 for the substantive communications, then
7 we'll proceed and see how the questions
8 go. Obviously if you ask questions that
9 are so detailed as to the information
10 that you're requesting that it begins to
11 reveal the substantive communications,
12 then I'll object. But I think that
13 there may be some questions to
14 understand procedures regarding
15 communication that wouldn't be
16 privileged.

17 MR. COHEN: I am not agreeing
18 with your position regarding the
19 privilege, but I don't need to draw any
20 lines in the sands here, so I'm going to
21 try and ask questions in an effort to
22 get answers and we can revisit the issue
23 if necessary later.

24 Q. To your knowledge, sir, when
25 did the practice begin that the

1 Industrial Hygiene Department began
2 acting as agent of the Westinghouse Law
3 Department when performing tests on
4 samples of airborne asbestos in the
5 workplace?

6 MR. BRENDDEL: I'm going to
7 object to the question to the extent of
8 the issue of agency and, number one, it
9 presumes certain facts for which there
10 is no foundation at this point, and
11 number two, agency is a legal notion,
12 and this witness is not competent to
13 testify on what constitutes agency or
14 what doesn't constitute agency.

15 MR. COHEN: Subject to all
16 those objections, will you allow the
17 witness to answer the inquiry?

18 MR. BRENDDEL: Not if you're
19 asking him the question on agency.

20 MR. COHEN: I'm not asking
21 him. I am taking the statement from the
22 document, which indicates, and I share
23 your sense that it is a dubious
24 proposition, that industrial hygiene was
25 an agent of the Law Department.

1 MR. BRENDEL: Well, I didn't
2 state that. I stated that it's not
3 within his purview to make that
4 characterization one way or the other.
5 So I disagree with your characterization
6 of what I'm saying. Let's take a brief
7 adjournment.

8 (There is a discussion off the record.)

9 (The question is read by the reporter.)

10 MR. BRENDEL: I reiterate my
11 objection. The question calls for a
12 legal conclusion that this witness is
13 not competent to make regarding what
14 constitutes the fuzzy and gray
15 boundaries of agency under the common
16 law. Subject to that objection, I'll
17 allow the witness to respond to the
18 question the best he can.

19 MR. COHEN: Thank you.

20 A. Under advice of Corporate Law
21 Department, this statement was to go on
22 the reports as they went out. The Law
23 Department was not copied on any of
24 this, we just were advised to put the
25 statement on it.

1 Q. What reports did this
2 statement go on?

3 A. It went on trip reports that
4 went out to a plant. Obviously it was
5 also put on air sample results. That's
6 the ones that I know of for sure.

7 Q. When did this practice begin?

8 A. I don't know.

9 Q. Was it in existence when you
10 became manager of the Industrial Hygiene
11 Department in 1976?

12 A. Yes.

13 Q. Did the practice ever cease?

14 A. Yes.

15 Q. When?

16 A. I think late '70s.

17 Q. Do you know why?

18 A. We were just advised by the
19 Law Department that the statement was no
20 longer necessary.

21 Q. When the statement was put on
22 a document, was it your understanding
23 that that would restrict the
24 dissemination of the document within
25 Westinghouse?

1 A. I don't know. I have no idea
2 what that meant.

3 Q. You have no idea one way or
4 the other?

5 A. No.

6 Q. Do you have any idea whether
7 the statement which says the document is
8 to be treated as a confidential legal
9 document limited the dissemination of
10 the document beyond Westinghouse or
11 outside of Westinghouse?

12 A. I don't know.

13 (There is a discussion off the record.)

14 (The deposition is
15 adjourned at 5:10 PM.)

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1 CERTIFICATE OF OFFICER

2

3 I, ANN P. CONLON, a Notary Public
4 and Certified Shorthand Reporter of the
5 State of New Jersey, do hereby certify
6 that prior to the commencement of the
7 examination the witness was duly sworn.

8 I DO FURTHER CERTIFY that the
9 foregoing is a true and accurate
10 transcript of the testimony as taken
11 stenographically by and before me at the
12 time, place and on the date hereinbefore
13 set forth.

14 I DO FURTHER CERTIFY that I am
15 neither a relative nor employee, nor
16 attorney or counsel to any of the
17 parties involved; that I am neither
18 related to nor employed by such attorney
19 or counsel, and that I am not
20 financially interested in the outcome of
21 the action.

22



23 NOTARY PUBLIC OF THE STATE OF NEW JERSEY

24 My Commission Expires: June 28, 1994.

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