IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 78 C 1004
	)	
OUTBOARD MARINE CORPORATION and MONSANTO COMPANY,	)	
	)	
	)	
Defendants.	)	

The deposition of J. COLEMAN WEBER, called by the Defendant, Outboard Marine Corporation, for examination, pursuant to notice and agreement and pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Thea L. Urban, a Notary Public in and for the County of Cook, State of Illinois, and a Certified Shorthand Reporter of said State, at the offices of Kirkland & Ellis, 200 East Randolph Drive, Room 5600, Chicago, Illinois 60601, on the 2nd day of March, A.D. 1982, commencing at 10:00 o'clock a.m.

PRESENT:

MR. JAMES T. HYNES,
(Deputy Chief, Civil Division
United States Attorney's Office
219 South Dearborn Street, Room 1486
Chicago, Illinois 60604),

appeared on behalf of the
United States of America;

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PRESENT: (Continued)

MS. ROSEANN OLIVER,
(Phelan, Pope & John, Ltd.
30 North LaSalle Street
Chicago, Illinois 60602),

and

MS. JOANNA C. NEW,
(Martin, Craig, Chester & Sonnenschein
115 South LaSalle Street
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appeared on behalf of Outboard Marine Corporation;

MR. JAMES H. SCHINK,
(Kirkland & Ellis
200 East Randolph Drive
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appeared on behalf of Monsanto Company.

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I N D E X

WITNESS:	Direct	Cross	Redirect	Recross
J. COLEMAN WEBER				
By Ms. Oliver	4		84	
By Mr. Hynes		66		

E X H I B I T S

Weber-OMC Deposition Exhibit	Marked for ID
No. 1	65

CERTIFIED QUESTIONS

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(Witness sworn.)

J. COLEMAN WEBER,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. OLIVER:

Q Would you state your full name, please.

A J. Coleman Weber.

Q Are you employed by Monsanto?

A Yes.

MS. OLIVER: Let the record show this is the deposition of J. Coleman Weber, taken pursuant to notice, agreement of the parties and Federal Rules of Civil Procedure.

BY MS. OLIVER:

Q Mr. Weber, what is your current job with Monsanto?

A Manager, Product Acceptability for the Nutritional Chemical Division and Special Chemicals Division.

Q Nutritional Chemical Division?

A Yes.

Q How long have you held that job?

A Two years, less than two years. I can't remember when the Nutrition was separated from the other.

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At one time it was both divisions.

Q What type of products are in Special Chemicals?

A In the Special Chemicals Division, we have water treatment chemicals and functional products.

Q Functional products?

A Yes.

Q Are those the industrial fluids?

A That's in that group.

Q Including Pydraul?

A Yes.

Q How long have you been Manager, Product Acceptability for functional products?

A In 1975 when they organized the Special Chemicals Division, I became Manager, Product Acceptability. That was October.

Q Before 1975 did you work with what Monsanto called their industrial or specialty products?

A No.

Q What was your background with Monsanto before 1975?

A Before 1975 I was Manager of Product Acceptability for the Detergent and Fine Chemical Division.

Q When did you first have any title for Product Acceptability Manager with any product?

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A I became a manager, it was in 1972.

Q When did you join Monsanto?

A 1961.

Q Could you tell me briefly in what areas within Monsanto you worked from 1961 to 1972?

A In that period of time, I was Manager of Product Quality for the Inorganic Division which became part of the Monsanto Industrial Chemical Company.

Q Did you work in Product Quality in Inorganic Division until 1972?

A I worked in that division until it became part of Monsanto Industrial Chemical Company. I believe that took place in 1970 or 1971.

Q Did your job change in 1970 or '71 with the reorganization?

A No, it continued with the same product line.

Q In the Inorganic Division, what was the product line you worked with?

A Detergents, food phosphates, water treatment chemicals.

Q When you moved to Manager, Product Acceptability for Special Chemicals in 1975, was that considered a promotion for you within Monsanto?

A No, that was a lateral move.

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Q Were you given any reason by your superiors at Monsanto for the lateral move of Manager, Special Chemicals?

A At the time they formed the division, I was selected to head that function in that division.

Q You replaced Mr. Papageorge?

A Not quite.

Q What was the relationship between you and Mr. Papageorge?

A At the time the Special Chemical Division was formed, it took portions of the job I had and portions of the job that Mr. Papageorge had.

Q At some time did you assume the responsibility for the PCB matters within Monsanto?

A I assumed responsibility for the day-to-day activities in dealing with PCBs at the time I came into Specialty.

Q Did you assume those responsibilities from Mr. Papageorge?

A Yes.

Q Were you given any reason by Monsanto why you were chosen to assume those responsibilities from Mr. Papageorge?

A When I was selected to head up the division,

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that business, the dielectrics which included the PCB fluids was part of Specialties, so that came under my jurisdiction, my responsibility.

Q Did your responsibility in October of 1971 and thereafter include PCBs, PCB matters or inquiries that came to your attention and came to Monsanto's attention outside of the dielectric field?

A I handled the day-to-day routine matters that came into Monsanto.

Q Concerning any PCB inquiry?

A Yes. I was the Coordinator.

Q How did you perform the job as Coordinator?

A It depends on the question that was asked and whether I could answer it or get an expert or a man that knew that could answer the question, handle that inquiry.

Q When you assumed the responsibility that Mr. Papageorge had previously, how did you familiarize yourself with PCB matters?

A When I took over from Mr. Papageorge in the area of Special Chemicals, it included not only his area of expertise in the PCBs, but also other chemicals so that we worked together to get a background on it, but Mr. Papageorge continued to be the focal point for

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the PCBs.

My job was more Coordinator or a day-to-day affair.

Q How long did Mr. Papageorge remain the focal point for PCBs?

A He continued to be the focal point for many years in that area.

Q Is he still the focal point?

A Yes, because he has the background in the area.

Q When inquiries come to you about PCBs, do you refer that to Mr. Papageorge?

A No. We have a man named Dr. Craddock that now has responsibility for dealing with those matters.

Q What is Dr. Craddock's title?

A Manager of Product Safety.

Q Manager of Product Safety?

A Yes. There may be another title to that, but that is my recollection of it.

Q Does Dr. Craddock work under your direction?

A No.

Q Whose direction does he work under?

A He reports to the Director of Environmental Operations for Monsanto Industrial Chemical Company.

Q Who is the Director of Environmental Operations?

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A Dr. Clayton Callis.

Q Dr. Callis' title is Director of Environmental Operations?

A Yes.

Q When you assumed responsibility for the Special Chemical Products in October of 1975, was there a Director of Environmental Operations at Monsanto?

A I am not sure when that position was created, but it could have been in that time. I don't recall the date when that position was created. It might have been later.

Q Mid-'70s or later?

A Late '70s, I believe.

Q Late '70s?

A I believe so.

Q Is the Director of Environmental Operations concerned with environmental impact of products sold by Monsanto?

A Yes.

Q Is he concerned with in-plant Monsanto operations?

A Yes.

Q So he covers both areas?

A Yes.

Q Are you aware of any person who had the job or

responsibility for environmental impact or effects of products sold by Monsanto before this position of Director of Environmental Operations began?

A Yes.

Q Who was that?

A In each division when the job of Manager of Product Acceptability was formed, that was part of the responsibility.

Q When was the job of Manager of Product Acceptability formed?

A That position was created in 1972.

Q That was for all the divisions, as far as you now know?

A Monsanto Industrial Chemical Company, right.

Q Inorganic and Organic?

A The Inorganic no longer existed. It became part of the Monsanto Industrial Chemical Company.

Q From the time you joined Monsanto in 1961 until the time that the job, Manager of Product Acceptability was created in 1972, was there a job within Monsanto with responsibility of environmental impacts or potential on the environment?

A Yes, in the Inorganic Division.

Q What job title was that?

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A He was called the Manager of Product Quality in the Inorganic Division.

Q Are you familiar with the Organic Division?

A At that time I was not as intimately familiar with it as I was with the Inorganic.

Q Do you know of a similar job in the Organic Division?

MR. SCHINK: When?

MS. OLIVER: Before 1972.

BY THE WITNESS:

A The man that had --

MR. SCHINK: No, the question was was there a position like Manager of Product Quality within the Organic Division prior to 1972, if you know, recognizing you were not there. You were in the Inorganic.

BY THE WITNESS:

A Not the same setup, to my knowledge.

BY MS. OLIVER:

Q Do you know what kind of setup there was in the Organic Division that may have encompassed the environmental products sold by Monsanto?

A No.

Q Are you responsible today, Mr. Weber, for coordinating inquiries or matters related to PCBs?

A No.

Q Is that now Dr. Craddock's job?

A Yes.

Q When did Dr. Craddock assume the responsibility for PCB matters?

A June 1980.

Q Before June of 1980, I take it you were responsible?

A Yes.

Q During that period when you were responsible, you communicated with Mr. Papageorge about PCB matters?

A He would have been one of the people I would have communicated with.

Q To your knowledge, he still had some involvement in PCB matters within Monsanto up until June 1980?

A Mr. Papageorge had the background in the earlier time frame, the history and the background.

Q So that he was contacted when matters came up?

A If needed.

Q You contacted him occasionally?

A Pardon me?

Q You contacted Mr. Papageorge in matters --

A As needed.

Q Mr. Weber, have you ever testified in any

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hearings or trials or depositions about PCB matters?

A I have not testified. I presented a position to Mr. Train in 1976.

Q Relating to dielectric use?

A I believe it was a status report at that time. I was one of five or six people that presented.

MR. SCHINK: The question was did it relate to dielectric use.

BY THE WITNESS:

A Yes.

BY MS. OLIVER:

Q Other than that statement you presented, you have not testified at any hearings?

A No.

Q Trials?

A No.

Q And you have not given any depositions or statements regarding PCBs?

A No.

Q When you assumed responsibility for PCB matters from Mr. Papageorge, how did you familiarize yourself with the status of what was happening with respect to PCBs?

A Mr. Papageorge and I worked together to bring

me up to speed in the areas that were current on dielectrics and by reading background materials.

Q Am I correct that your work at Monsanto up until that time did not involve PCB products?

A Yes.

Q Did you know what PCBs were?

A Yes.

Q What is your educational background?

A I have a Bachelor's Degree from the University of Missouri and a Master's from St. Louis University.

Q What is your Bachelor's Degree in?

A Chemistry.

Q And your Master's?

A Business Administration.

Q When did you obtain your Master's Degree?

A 1959.

Q Did you have any full-time employers before you joined Monsanto in 1961?

A Mallinckrodt Chemical Works.

Q That is a chemical company?

A Yes.

Q When did you work for that chemical company?

A 1954 until 1961 when I joined Monsanto.

Q What was your job with the chemical company?

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A Nuclear fuels.

Q Nuclear?

A Nuclear fuels, uranium.

Q Were you a chemist during that period of time from 1954 to 1961?

A When I first started employment with Mallinckrodt I was a chemist.

Q When you left what was your position there at that time?

A Assistant Plant Manager.

Q You said you worked with uranium. What type of work was it?

A Mallinckrodt operated the Welvin Springs facility in St. Louis which was a Government contractor to refine uranium from the ore coming up from Colorado.

It also operated a facility for manufacturing nuclear fuels for reactors which was enriched uranium.

Q When you took over Mr. Papageorge's responsibility relating to PCBs, did you familiarize yourself with the sales records from Monsanto regarding PCB products?

A No.

Q Did you familiarize yourself with PCB products

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themselves?

A Relating to the dielectrics?

Q With the other products.

A As needed.

Q Can you give me an example of how you familiarized yourself as needed with respect to, say, Pydraul?

A Relating to PCBs?

Q Yes.

A If someone would call and ask what the composition of Pydraul such-and-such is, I would give them the information.

Q When you became Manager of Product Acceptability in 1975, were you aware of the various products that Monsanto had sold that had PCBs in them or were PCB-bearing products?

A Yes, I knew the products.

Q Did you familiarize yourself when those products were taken off the market?

A Yes.

Q Did you familiarize yourself with the substitute products that were developed?

A Yes.

Q Did you learn the customers of Monsanto who had

used PCB products?

A Prior to?

Q Prior to any specific inquiry from a customer or another person?

A Not past customers, no.

Q Did you communicate with present customers about their past use of PCB products?

A Possibly.

MR. SCHINK: The question is do you recall doing that, is that one of the things you recall doing while you were in the job. That is the question. You do not have to speculate. If you recall that you do, answer yes.

BY THE WITNESS:

A Yes.

BY MS. OLIVER:

Q What customers did you have contact with personally regarding their use of PCB products?

A I recall meeting with Outboard Marine in a meeting.

Q When was that?

A 1976.

Q Any other customers?

A That I personally met with?

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Q Or talked to.

MR. SCHINK: Regarding their past usage.

BY THE WITNESS:

A Yes.

BY MS. OLIVER:

Q Who are the customers?

A I don't recall.

Q Did you keep any notes of your conversations or your meetings with other customers?

A Telephone conversations, no.

Q Meetings?

A I can't recall meeting with any customers other than Outboard Marine.

Q Did you take notes of that meeting?

A I might have, I don't recall.

Q Who else was at that meeting from Monsanto?

A People that were involved at that time, the specific areas: Law, environmental.

Q Sales people from Monsanto?

A Yes.

Q Have you looked for any notes you may have taken at that meeting?

A No.

Q Do you have a file in which you keep notes

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from meetings?

A Any notes that I had taken were typed and added to the customer file.

Q Do you maintain a customer file?

A In regards to what?

Q In regards to your job.

A Yes.

Q And the notes, any notes you may have taken at a meeting would be in a customer file for Johnson Motors or Outboard Marine?

A I do not have that file today. Anything dealing with PCBs of a current nature was transferred to Dr. Craddock.

MS. OLIVER: Jim, has Dr. Craddock's file been produced?

MR. SCHINK: Any notes that would have been prepared by any Monsanto representative at that 1976 meeting would have been produced.

MS. OLIVER: Including anything that is in the current files?

MR. SCHINK: Oh, yes. I am not sure at the time we made our search whether the file was still under the jurisdiction of Mr. Weber or Dr. Craddock. You see, there was a transition in June of 1980.

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BY MS. OLIVER:

Q Have all the PCB files been transferred to Dr. Craddock?

A No.

Q What do you retain?

A The files that were not transferred to Dr. Craddock went to our Record Retention Center with the inventory sheet given to the Law Department.

Q Am I correct that today you have no files relating to PCBs?

A Yes.

Q Who determined which files should go to Record Retention?

A From my office?

Q Yes.

A I did.

Q How did you determine that?

A When I assumed the job of Mr. Papageorge, I kept only the files pertaining to the dielectric business and current information and all other information that was there were bound and sent to Record Retention with a copy to the Law Department.

Q What type of current information did you keep?

A At that time we were involved in the dielectrics

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plus information on the products' composition that we previously sold.

Q Did you keep information on the dielectric and on the product composition of the other products than PCBs?

A Yes.

Q Did you keep any other information?

A Yes, our PR statements, our current reports on chemical properties.

Q What about statements as to the current products or the products that had been discontinued with PCBs?

A Status reports of the PCB business as well as our current product information.

Q Did you review all the information that Mr. Papageorge had accumulated?

A No.

Q Who made the inventory sheet?

A My secretary.

Q Do you recall how much information Mr. Papageorge had accumulated on PCBs?

A I believe there were three file cabinets of old information and one file cabinet of current information.

Q Those are file cabinets with several drawers in

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them?

A Four to five drawers.

Q You did not review any of the information in the three file cabinets with the old information?

A It may have been two or three, whatever.

No, I did not.

Q Did you review the materials in the current file cabinet?

A As needed.

Q Did the materials in the file cabinet with the current information include the PCB statements and status reports we referred to earlier that you kept?

A Yes.

Q And the information on dielectrics?

A Pardon me?

Q And the information on dielectric fluids?

A On the current product line, yes.

Q Did you learn from reviewing any materials when Monsanto first had reason to believe that PCBs were in the environment?

A Yes.

Q How did you learn that information?

A From a report; from a report, from medical reports and environmental reports that were public

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knowledge then.

Q Were those materials that were in the current files or in the old files?

A Some of that was in the library.

Q Did you review the medical information relating to PCBs when you assumed Mr. Papageorge's job?

A No.

Q Did you review internal Monsanto memoranda regarding activities within Monsanto regarding PCBs from the period 1968 to 1973?

A No.

Q Have you ever reviewed any of the Monsanto memoranda regarding PCBs during that period of time?

A Prior to my taking over?

Q Yes.

A Other than the customer letters that were sent to our customers.

Q Well, my question was internal memoranda.

A No.

Q Do you know what work was done relating to PCBs within Monsanto?

MR. SCHINK: What period of time?

MS. OLIVER: Any period of time.

BY THE WITNESS:

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A Well, the reports that were developed, yes.

BY MS. OLIVER:

Q Those are the medical reports?

A Or environmental reports, yes.

Q What is your understanding of what Monsanto has done with respect to PCB tests?

MR. SCHINK: When?

MS. OLIVER: From 19- whatever, the time he joined Monsanto to today.

MR. SCHINK: Well, he did not have any foundation with respect to the period since 1980. I don't think you yet established any foundation with respect to the period prior to 1975.

MS. OLIVER: Whatever he may know. If he doesn't know anything before 1975, I assume he will tell me.

MR. SCHINK: Do you have the question in mind or would you like the reporter to read it back?

THE WITNESS: Could you read it back?

(Question read.)

MR. SCHINK: What kind of tests?

MS. OLIVER: Any kind, chemical, analytical, environmental, toxicological.

MR. SCHINK: I object to the form of the question. You may answer.

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THE WITNESS: Pardon?

MR. SCHINK: I objected to the question for the record.

BY THE WITNESS:

A The question is so broad, I can't recall exact tests without --

BY MS. OLIVER:

Q Are you aware that Monsanto did chemical testing?

A What do you mean by chemical testing?

Q Analyses, laboratory analyses of PCBs.

A Yes.

Q What type of testing are you aware was done?

A We analyzed the products for different PCB composition.

Q In what period of time?

A Since we began manufacturing the polychlorinated biphenyls.

Q For purposes of determining chemical composition of product?

A Chemical composition and performance of the product.

Q Did you ever review a document referred to as PCB Transition Plan?

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A I don't recall.

Q Did you ever review a document called the PCB Action Plan?

A The --

Q Action Plan.

A I don't recall.

Q Are you aware from the information accumulated since taking over Mr. Papageorge's responsibilities relating to PCBs of any environmental testing done by Monsanto for PCBs or relating to PCBs before the 1969-1970 period?

A Other than if I needed a report --

MR. SCHINK: No, the question is since 1975, have you become aware of any testing done by Monsanto prior to 1969 for PCB in the environment.

BY THE WITNESS:

A No.

BY MS. OLIVER:

Q Since 1975 have you become aware of any environmental testing done by Monsanto before the 1969-1970 period relating to effect of PCBs in the environment?

A I don't recall.

Q You don't recall that you have ever seen any material relating to that or you don't recall such testing?

A I don't recall such testing.

Q Since 1975 when you assumed Mr. Papageorge's responsibilities relating to PCBs, did you make any recommendations to any Monsanto customers regarding their prior use of PCB products other than the dielectric customers?

A With respect to what?

Q Their prior use of the product.

A Only as to disposal.

Q What recommendations have you made to customers since 1975 regarding disposal?

A Incineration.

Q To what customers have you made that recommendation?

A I don't recall.

Q What is the recommendation or what was your recommendation regarding incineration?

A To either, at the time our incinerator was in operation, they could use ours or one that was in service such as Rollins.

Q What type of products were involved in those inquiries or your recommendations regarding incineration?

A As it relates to PCBs?

Q Yes.

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A It could have been dielectric fluids.

Q Do you have any recollection of --

A Or hydraulics.

Q Let me ask you again: Do you have any recollection of what products were involved when you made these recommendations regarding incineration?

MR. SCHINK: He said it could have been in dielectrics or hydraulics. He answered your question.

BY MS. OLIVER:

Q Is that your answer?

A Yes.

Q My question is do you have any specific recollection of what the products were that were involved when you made the recommendations?

A Most people that called would name a product and we'd go from there.

Q Is it your testimony, Mr. Weber, that you don't have a specific recollection of any person or customer calling you and making an inquiry?

A We had very many of them and this is part of my business, even today, and I don't recall specific customers or a specific product.

Q Do you make notes when someone calls you and you make a recommendation?

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A Yes.

Q Do you keep those notes?

A Sometimes.

Q Were those sent to Dr. Craddock in 1980?

A Some of that might have been sent to the Record Retention Center.

Q Do you keep a personal file?

A No.

Q Are your notes always typed up?

A No.

Q The recommendation that you would make about incineration of PCB products, was that done in response to an inquiry from a customer?

A Yes.

Q Did you ever make any recommendation to any customer who didn't make an inquiry to you?

A No.

Q When was the Monsanto incinerator taken out of use?

A I believe it was phased out the time we phased out the production of polychlorinated biphenyls.

Q Is that 1977?

A Yes.

Q Do you recall making any other recommendation

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to any other customers in addition to the recommendation about incineration of PCBs?

MR. SCHINK: Are you asking any other techniques that were --

MS. OLIVER: Any other recommendation about prior PCB use.

MR. SCHINK: About disposal?

MS. OLIVER: About prior PCB use.

BY THE WITNESS:

A No.

BY MS. OLIVER:

Q Are you aware when you took over Mr. Papageorge's responsibility relating to PCBs of a program within Monsanto to remove PCBs from its own plant effluent?

A I don't recall.

Q Were you aware that the Monsanto Plant had PCBs in their effluents?

MR. SCHINK: You are referring to the plants where these products were manufactured?

MS. OLIVER: Yes, manufactured or being used.

BY THE WITNESS:

A I was aware of a manufacturing site, yes.

BY MS. OLIVER:

Q Were you aware that PCBs were found in Monsanto

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Plant effluent?

A Yes.

Q When you assumed Mr. Papageorge's responsibility, what was your understanding of what was being done or had been done within Monsanto with respect to that problem?

A It was not my department. It was handled by another department.

Q So you had no understanding of what was happening?

A I had knowledge of what was happening at that point in time.

Q What was your knowledge of what was happening?

A I can't recall specifically.

Q In 1975 when you assumed Mr. Papageorge's responsibilities, whose job was it to oversee or review Monsanto in-plant PCB matters or problems with its own effluent?

A That was handled by another department. I am not sure of the title, but it might have been Environmental Management.

Q Do you know who the manager of that department was?

A At that time, I believe it was Mr. Hosmer.

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Q At that time, was it 1975?

A In that time frame. It could have been after that.

Q Do you know who presently is in charge of that department?

A Robert Nelson.

Q What information did you obtain from Mr. Papageorge about PCBs and PCB matters when you took over this job?

A General indoctrination.

Q Like what?

A Product names, product compositions, uses in the dielectric area.

Q Did Mr. Papageorge and/or you discuss any previous products that had been sold by Monsanto with PCBs?

A Possibly.

Q Do you recall?

A No.

Q Have you or anybody at Monsanto that you are aware of have occasion to make a determination of how much PCB is in the environment?

A Yes.

Q Were you involved in that determination?

A No.

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Q Who was?

A I don't recall.

Q When was the determination attempted or made?

A I don't remember any specific time.

Q Was it after you became Manager of Product Acceptability in 1975?

A I believe so.

Q And before Dr. Craddock took over your responsibilities in June of 1980?

A Yes, I would think so.

Q What do you recall about the determination that was made?

A It was just based on our production records since we were the sole United States producer.

Q Was that your understanding in 1975 up until the present time, that Monsanto was the sole United States producer of PCBs?

A Yes.

Q What determination do you recall having been made about the amount of PCBs in the environment?

A Just based on production figures.

Q Do you recall what that number was?

A No.

Q Did you obtain that information in a report

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form?

A I don't recall seeing a report, but we made reports to the EPA on our production figures.

Q Did you see the estimate or calculation of the amount of PCBs in the environment in writing?

A Yes, in that EPA report.

Q From the EPA report?

A Yes.

Q Did someone at Monsanto attempt to confirm or review that estimate?

A The report was reviewed before submission to EPA.

Q Maybe I am confusing myself here as well as you. My question, Mr. Weber, is the determination that was made regarding estimate of the amount of PCBs in the environment, was that done within Monsanto?

A Yes.

Q Your testimony is you do not recall who the person was who made that determination or estimate?

A No. I recall it being made in conjunction with submission to the EPA.

MR. SCHINK: The question is is it not correct you do not recall who made it.

THE WITNESS: Yes, correct.

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BY MS. OLIVER:

Q Was the estimate given to the EPA or --

A Production numbers were given to EPA.

Q Was the estimate made based on those production numbers on the amount of PCBs in the environment given to EPA?

A I don't know.

Q Were you involved in reviewing the report given to EPA?

A No.

Q Whose responsibility was it?

A Mr. Papageorge prepared the report.

Q That was after you assumed his position of Manager of Product Acceptability?

A It was at the time.

Q During that same time period, was this estimate or determination of amount of PCBs in the environment made by someone in Monsanto?

A Based on production numbers.

Q In the period of time you were in the position of Manager of Product Acceptability with responsibility for PCB matters, what products did you become aware of that were found in the environment containing PCBs?

MR. SCHINK: Products themselves?

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BY MS. OLIVER:

Q What types of products of Monsanto's products?

A They referred to products as PCBs or Aroclors.

Q Let me ask it another way.

What uses did you become aware of or learn that PCBs were in the environment?

A All uses.

Q Did the group have products containing PCBs that were used as plasticizers?

A Well, PCBs were present in the environment and were not identified as specific use, but identified as PCB products and Aroclors, specifically.

MR. SCHINK: She's not asking that. She's asking did you become aware that a particular product found its way into the environment in a particular setting, not was Aroclor 1242 reported by somebody inasmuch as Aroclor 1242 was used in many products, so you couldn't tell what product it was.

MS. OLIVER: I'm not sure if I have my question or the answer. Could you read it?

(Record read as requested.)

BY MS. OLIVER:

Q What products did Monsanto sell, Mr. Weber, that you were aware of that had PCBs in them?

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MR. SCHINK: When?

MS. OLIVER: That he has learned about in his position.

MR. SCHINK: No, sold them when?

MS. OLIVER: Sold them anytime.

BY THE WITNESS:

A The Aroclor series of products and the Pydraul products.

BY MS. OLIVER:

Q Any others?

A That covers it, I believe.

Q The Aroclor series of products you are referring to are the dielectrics?

A No, I am referring to a group of products that were identified as Aroclors.

Q Do you know what those products were used for?

A In many uses.

Q What were the uses that you recall?

A Dielectrics, hydraulic fluids, paints, plasticizers, sealants.

Q Do you recall any uses as insecticides?

A No.

Q Do you recall any uses as extenders for insecticides?

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A No.

Q Have you had contact with State or Federal agencies regarding PCB matters since 1975?

A Yes.

Q What contacts have you had with State, first?

A I don't recall specific States, but it would be a matter of answering a question that would come in the office.

Q Did you have any contact with Federal agencies?

A With the EPA, yes.

Q What was your contact with the EPA?

A Again, to answer, provide information that they requested.

Q On the contacts that you had and communications with State and Federal agencies, did you make notes of those contacts?

A Any record of those contacts were part of the files.

Q Have you kept any of those records?

A No.

Q When did you first learn that Pydraul products that had been sold by Monsanto had PCB in them?

A When I became Manager for the Special Chemical Division.

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Q You took over Mr. Papageorge's job in 1975?

A When I became Manager, Product Acceptability for the Special Chemicals, I did not take over Bill's complete job of PCBs.

Q Was that in 1975 that you learned that Pydraul had PCBs?

A Yes, when I became Manager, that included that product group.

Q Was that before you took over PCB matters for Mr. Papageorge?

A That was included when I became Manager of Product Acceptability.

Q Did you familiarize yourself with any of the Pydraul products with PCBs in them?

A I had a list of the products that had PCBs.

Q You made no investigation regarding any sales of those products in previous years?

A No.

Q Did you have any knowledge of the substitute products that were sold by Monsanto in the 1970 period?

A Yes.

Q Are you familiar with what was called Pydraul A-200?

A From the list, yes.

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Q What was your understanding of what Pydraul A-200 was?

A I don't recall other than from the list of composition I had of the product.

Q Did you learn when you assumed the job, Manager of Product Acceptability, of the largest customers of Pydraul?

MR. SCHINK: The largest customers of the Pydrauls that were then being sold or the largest customers of Pydrauls that had been sold in the past that contained PCBs?

MS. OLIVER: Sold in the past that had contained PCBs.

BY THE WITNESS:

A No.

BY MS. OLIVER:

Q Did you familiarize yourself with the largest customers who were then buying Pydraul?

A Yes.

Q How did you do that?

A In the day-to-day work.

Q Who were the largest customers?

MR. SCHINK: Do you know who they were, the largest customers that were buying non-PCB Pydrauls after 1975?

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THE WITNESS: I can recall some names.

BY MS. OLIVER:

Q Who were they?

MR. SCHINK: I direct the witness not to answer the question.

MS. OLIVER: Certify the question.

BY MS. OLIVER:

Q Did you make any investigation to determine whether the largest customers who were buying Pydraul in 1975 had bought the PCB-bearing Pydraul?

A No.

Q In 1975 what was your responsibility as Manager of Product Acceptability with respect to the Pydraul fluids?

A The Pydraul fluids at that time were phosphate esters. My job was to ensure that they met our quality standards and to make sure that we had performed certain studies on the products.

Q What studies?

A On the quality and performance of the products.

Q Were they tested to see if they were PCB-free?

A Yes.

Q That was a test that was being done when you became Manager?

A Yes.

Q Do you know when that testing began?

A I don't recall.

Q Is that something you would consider part of the Product Acceptability?

MR. SCHINK: What?

MS. OLIVER: To test the product for PCBs.

MR. SCHINK: Wait, test on what product?

MS. OLIVER: Pydraul. We are talking about Pydraul.

MR. SCHINK: As of '75, the question is did he consider it part of the Product Acceptability to test whether there were PCBs in the Pydraul then being sold?

MS. OLIVER: Yes, right.

BY THE WITNESS:

A No testing was done in my office. It was done at the plant level.

BY MS. OLIVER:

Q I know, but you were responsible for Product Acceptability.

A Yes.

Q Did you consider that a part of your responsibility, to make sure that the Pydrauls that were being sold were free of PCBs?

A Yes.

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Q And that testing had been ongoing before you assumed that position?

A Yes.

Q Were you aware of a product called A-200A sold by Monsanto?

A A-200A? If it was on that list of the products that we previously sold, yes.

Q You don't have a recollection of a product called A-200A?

A No.

Q How about A-200B? Do you recall such a product?

A No.

Q Did you learn in 1975 or after that period of time who made the decision within Monsanto to remove PCB products from the market in the 1970-1972 time period?

A To remove, to discontinue the sale in the hydraulic area?

Q Hydraulic area and the heat transfer area.

A The open applications.

Q Is that what you would refer to as hydraulic fluids or heat transfer fluids?

A Yes.

Q Do you know who made the decision?

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A No.

Q What do you mean when you refer to the hydraulic fluids or the heat transfer fluids as open applications?

A That was terminology developed within and outside of Monsanto to describe those applications.

Q How is it descriptive of the applications?

A It was assumed that in the use of a dielectric fluid that it was a closed system and that other applications were open.

Q When you say open, you mean were used in a manner so as to find their way into the environment?

A Possible.

Q When did you first learn of the terminology, open applications?

A When I became Manager for the Special Chemical Division.

Q Is that what Mr. Papageorge called the heat transfer hydraulic fluids?

A That was public knowledge.

Q Was that what the fluids were called within Monsanto?

MR. SCHINK: When?

MS. OLIVER: For the period he just mentioned, when he first became aware of the terminology.

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BY THE WITNESS:

A The PCB fluids?

BY MS. OLIVER:

Q Was the terminology open applications with respect to hydraulic fluids and heat transfer fluids used within Monsanto?

A For PCBs, yes.

Q For PCBs.

To your knowledge, did Monsanto ever receive any information or communication from a Government agency that it would take some type of action against Monsanto if Monsanto did not withdraw PCBs from the market?

A No.

Q Do you have any knowledge, Mr. Weber, of the transition program undertaken by Monsanto to substitute a non-PCB fluid for a PCB fluid?

A I was aware that a program had taken place when I took over the job.

Q What are you aware that that program consisted of?

A To replace the PCBs and the terphenyls with phosphate esters.

Q Were you aware of any recommendations or actions

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taken with respect to customers who had been using PCB fluids?

A The letters that were sent to our customers informing them of those changes.

Q Anything else beside the letters?

A No.

Q When you refer to letters to customers, you are referring to certain letters that were prepared within Monsanto and sent to the PCB product users, customers?

A Sent to our customers that purchased the hydraulic fluids.

Q And before 1975, if any letters were sent out, you would not have personal knowledge that they were sent?

A No.

Q Have you reviewed letters dated 1970, 1971, '72, '73?

A That is before my time.

Q So you have not reviewed those letters?

A The only ones I saw were letters that went out to our customers on hydraulic fluids and informed them of the changes.

Q What were the dates on those letters?

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A I don't recall.

Q Why is it that you reviewed the letters sent to hydraulic fluid users and not other users?

A I reviewed any letter that went out to our standard customer mailing list at that particular time when I took over.

Q But your recollection is you only remember seeing hydraulic fluid?

A I remember seeing letters that went out to customers. Now, I'm not sure if it was just hydraulic fluid or whenever, whatever; we change our product line.

Q Do you know who drafted the letters?

A No.

Q You had no input into the letters?

A No.

Q Are you aware, Mr. Weber, of any recommendation made by Monsanto to its customers to remove PCBs from customer plants' effluent?

A No.

Q Are you aware of any recommendation made to Monsanto customers who have purchased PCB fluids concerning methods of removing PCBs from reclaimed fluid?

A No.

Q Are you aware of any methods developed within

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Monsanto to remove PCBs from plant effluent?

A No.

Q Do you know, Mr. Weber, whether there is any PCB litigation involving Monsanto besides this lawsuit?

A Yes.

Q What other litigation are you aware of?

A That other suits have been filed.

Q Do you know where they have been filed?

A No.

Q Do you know what products are involved?

A No.

Q Do you know how many other lawsuits have been filed?

A No.

Q Does Dr. Craddock have that information presently?

A Possible.

Q How did you obtain information that other lawsuits have been filed?

A Conversation.

Q With whom?

A With our legal people.

Q You have no recollection of any other lawsuits other than a general recollection that there are some

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others?

A That's correct.

Q You have no recollection of whether those lawsuits involve dielectric fluids, industrial hydraulic fluids or heat transfer fluids or any other PCB products?

A No.

Q Were you involved in arranging indemnification agreements with dielectric users?

A No.

Q Were you aware that indemnification agreements were entered into?

A Yes.

Q What period of time were you aware that those agreements were entered into?

A When I became Manager of Product Acceptability.

Q To your knowledge, were any indemnification agreements related to PCB matters entered into with any customers other than users of dielectric fluid?

A No. My involvement was only with the dielectrics.

Q You are not aware of any other indemnification agreements?

A No.

Q You mentioned a meeting that you attended with Johnson Motors in 1976, is that right?

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A Yes.

Q Is that the only meeting you've attended with Johnson Motors?

A There was one after that.

Q Have you ever been to Johnson Motors' plant?

A No.

Q How did it come to your attention that a meeting was going to be held with Johnson Motors?

A The first meeting, I was called that there would be a meeting with Johnson Motors. The second meeting, I set it up.

Q Who called you regarding the first meeting?

A I don't recall, but I believe it would have been a Marketing Manager.

Q Was that a meeting that was held in St. Louis?

A Yes.

Q Would it have been on February 13, 1976?

A There was a meeting early in '76.

Q Was Mr. Slowikowski present at that meeting?

A Yes.

Q Do you recall whether he was the person who called you regarding the meeting?

A I believe so. I don't recall though.

Q What do you recall occurred at that meeting?

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A A general information session that we were informed of the problems that Outboard Marine had and Johnson Motors.

Q What was the problem you recall occurring?

A The EPA had notified Johnson Motors that there was a discharge or leakage of PCBs into the waterways.

Q Do you recall Johnson Motors being provided with detailed information concerning the nature of PCBs?

MR. SCHINK: From whom?

MS. OLIVER: From Monsanto at the meeting.

BY THE WITNESS:

A That information, whatever information was asked for that we had I believe we furnished them.

BY MS. OLIVER:

Q Do you recall who was at the meeting besides yourself and Mr. Slowikowski?

A Our attorney, Tom Botini; Marketing people.

Q Do you recall who in Marketing?

A Slowikowski, I believe Rich Cook and we had Ed Hosmer there.

Q Was Mr. Mellon there?

A He would be Marketing; possibly.

Q How about a Mr. Paton?

A I don't recall.

Q Anyone else from Monsanto that you recall?

A Possibly Mieure, our Environmental.

Q Mieure?

A Mieure.

Q What do you recall Johnson Motors asking for information about the PCBs at that meeting?

A They outlined the problem and asked for information regarding that particular problem.

Q Do you recall what information Monsanto provided regarding the problem?

A No.

Q Were you at the meeting the entire time?

A Yes.

Q How long did the meeting last?

A I believe it started in the morning and ended at lunchtime.

Q Two hours, three hours?

A That's my guess.

Q Do you recall Monsanto providing Johnson Motors with possible methods of alleviating the problem?

A No.

Q Do you recall Monsanto providing Johnson Motors with suggested methods for approaching the EPA?

A Possibly.

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Q What specifically do you recall from the meeting?

A Very little because I was new in the area at that time.

Q Do you recall someone from Monsanto telling Johnson Motors people that Monsanto is a total supplier of products?

A Of PCBs?

Q Of Pydraul products.

A Pydrauls, that Monsanto --

MR. SCHINK: No, the question is do you recall somebody suggesting at the meeting that she just indicated that Monsanto was a total supplier of products.

BY THE WITNESS:

A No.

BY MS. OLIVER:

Q Do you recall anyone telling Johnson Motors that they'd be better off to stay with Monsanto?

A No.

Q Do you recall Johnson Motors being provided with information from Monsanto about the chemical composition of PCBs?

A If they asked for it at that time, they were provided it.

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MR. SCHINK: The question is do you recall.

BY MS. OLIVER:

Q You don't have any knowledge?

A No.

Q Do you recall a subject of terphenyls coming up during that meeting?

A No.

Q Do you recall any recommendations made by Monsanto and action that should be taken by Johnson Motors?

A No.

Q Do you recall Mr. Slowikowski or anyone else at that meeting observing that Johnson Motors was obviously quite naive with respect to PCBs?

A No.

Q Did you review any memoranda concerning that meeting after the meeting took place?

A If anything was circulated that had my name on it, I did.

MR. SCHINK: The question is do you recall as you sit here today reviewing some document.

BY THE WITNESS:

A No.

MR. SCHINK: After that meeting which --

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THE WITNESS: No.

BY MS. OLIVER:

Q Did you prepare any memoranda concerning that meeting?

A No.

Q Did you take any action after that meeting with respect to the matters that came up during the meeting?

A No.

Q What was the purpose of the meeting?

A The purpose was to provide information to Johnson Motors if they requested it. They requested the meeting with Monsanto.

Q And as Johnson Motors asked for information, information was provided by Monsanto?

A Yes.

Q Do you recall Mr. Hosmer making any suggestions or recommendations about the finding of PCBs in the Waukegan Harbor?

A I believe he did.

Q What do you recall observing?

A I don't recall any specifics.

Q Do you recall generally what his recommendation was?

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A No.

Q Do you recall anyone else at the meeting on Monsanto's side making any suggestions or recommendations?

A No. I would think if a question was asked --

MR. SCHINK: No, the question is as you sit here today and you think back of that meeting can you say Mr. X's recommendation was so and so at that meeting?

BY THE WITNESS:

A The answer is no.

BY MS. OLIVER:

Q Did you discuss the meeting with anyone from Monsanto afterwards?

A Possibly. I don't recall.

Q You don't recall any discussions?

A No.

Q And you don't recall any action taken by you concerning the matters that came up at that meeting?

A Taken by me?

Q Yes.

A No.

Q Do you recall any actions that were taken by anybody at Monsanto concerning that meeting?

A I believe we might have sent out some literature to them that they requested.

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Q Anything else you recall?

A No.

Q When was the second meeting you attended with Johnson Motors?

MR. SCHINK: At or with Johnson Motors?

MS. OLIVER: With Johnson Motors.

BY THE WITNESS:

A Later that year in St. Louis.

BY MS. OLIVER:

Q Who called that meeting?

A Marketing.

Q What was the purpose of that meeting?

A To continue to follow up with Johnson Motors, I believe at their request, with additional information.

Q Who was present at that meeting from Monsanto?

A I don't recall.

Q The same people that were at the first meeting?

A I don't recall.

Q How many people were there?

A I don't remember.

Q At the first meeting with Johnson Motors, how many people were there from Johnson Motors?

A I recall the Plant Manager, the attorney and several consultants.

(Brief interruption - phone call.)

BY MS. OLIVER:

Q Do you recall who was at the second meeting from Johnson Motors?

A No.

Q What was discussed at the second meeting?

A I don't recall, other than I would --

MR. SCHINK: What do you recall? Do you recall anything that was discussed at that meeting? You don't have to speculate or guess about what might have been discussed.

As you sit here today, do you have a recollection of anything that was discussed at that meeting?

BY THE WITNESS:

A Further information on their PCBs and their action with the EPA.

BY MS. OLIVER:

Q Do you recall anything more specific than that?

A No.

Q You don't recall any further information that was provided to Johnson Motors?

A No.

Q Did Mr. Hosmer attend the second meeting?

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A I don't recall.

Q At the first meeting in early 1976 with Mr. Slowikowski, do you recall anyone taking notes at the meeting?

A No. I believe that notes were taken by various people, but not specifically, no one was instructed to take any notes.

Q You don't recall whether you took notes yourself or not?

A Usually at a meeting I scribble attendees.

MR. SCHINK: The question is do you recall at that meeting, this is the third time she is asking you the question. Can you answer it again? As you sit here today, do you recall whether you took notes at that meeting in 1976, that first meeting?

BY THE WITNESS:

A No.

BY MS. OLIVER:

Q It was your practice to take notes at meetings?

A Yes.

Q And your practice was to put those notes into the customer file?

A Yes.

Q Mr. Weber, I would like you to look at what

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was marked as Seger Deposition Exhibit No. 1 which is a memorandum dated February 19, 1976 by Mr. Slowikowski, handwritten notes attached. I would like you to review the memorandum and the notes for a minute.

MR. SCHINK: The witness has completed paging through the document.

BY MS. OLIVER:

Q Have you ever seen that document before, Mr. Weber?

A Yes.

Q When do you recall having seen the document?

A Yesterday.

Q Had Mr. Schink shown it to you?

A Yes, preparing for the deposition.

Q Does that refresh your recollection of the meeting you attended in February 1976 with Johnson Motors?

A Yes.

Q Does it refresh your recollection as to what was discussed at that meeting?

A Only what was --

MR. SCHINK: The question is having looked at the document now again today, do you have a greater recollection than you had a few minutes ago when Ms. Oliver

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asked you questions about what took place at the first meeting.

BY THE WITNESS:

A No.

BY MS. OLIVER:

Q Before yesterday, you hadn't seen that memorandum or the notes before, is that correct?

A That is correct.

Q The second meeting that you attended with Johnson Motors in late 1976, that was the same time, about the same time as the first meeting?

A I would assume so.

Q Do you know, do you remember?

A No, I attend many meetings. I do not recall that one.

Q Have you ever attended a meeting with a customer of Monsanto who was being sued by the EPA for PCBs?

A Only Johnson Motors.

Q In fact Johnson Motors is the only customer you have ever met with relating to PCBs?

A Yes.

Q You have no recollection as you sit here today of what was discussed at either one of the two meetings?

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A No.

MR. SCHINK: Other than insofar as he has testified previously?

MS. OLIVER: Sure.

BY MS. OLIVER:

Q I would like to show you, Mr. Weber, several documents that were produced by Monsanto in this litigation entitled Sales Forecasts, Sales Report, and I ask you if you have ever seen those documents before.

A No.

Q Have you ever seen documents of that type before within Monsanto?

A Relating to PCBs?

Q Relating to any products.

A Yes.

Q The first document is identified as Tippee Exhibit No. 1 entitled 1972 Sales Forecast. Can you tell me what this document purports to be?

A A sales forecast of the Pydraul A-200B with projection for February, March, April, May, June, July of 1972.

Q Under February there is an indication of 180. Is that a forecast of 180,000 pounds to be sold?

A That's what this indicates up here.

Q Since assuming your job as Manager, Product Acceptability, did you see any sales forecasts for PCB products?

A No.

Q If you would look at Tippee Exhibit No. 2, it is entitled Sales Forecast and Captive Use Production. Have you seen a document like this before?

A No.

Q You are not familiar with Tippee Exhibit 2?

A No.

Q Tippee Exhibit No. 3 is a five-year forecast. Do you know what that document is?

A I know that they are prepared, but I am not in Marketing and I do not have anything to do with those documents.

Q Do you know whether such documents were prepared in 1975 on a regular basis?

A No.

Q Have you ever had occasion to interpret these documents?

A No.

Q You can't tell me what this document means?

MR. SCHINK: Come on, Rose. This man has not been in Marketing. The man is ill.

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Why don't you try to get into something that has some bearing on his background.

MS. OLIVER: Wait a minute, Mr. Schink. I got a letter from Mr. Featherstone saying that Mr. Johnson would be able to tell us what those documents were.

MR. SCHINK: And he told you for three hours what those documents were and so forth involved in Marketing. This witness is not.

MS. OLIVER: He testified the documents were so deleted he couldn't make any sense --

MR. SCHINK: He did not testify to that at all. Let us not waste time as you've done with this line of questioning.

BY MS. OLIVER:

Q Is your testimony you cannot tell me what Tippee Exhibit No. 3 is?

A Other than the title, it said a five-year forecast.

(Weber-OMC Deposition Exhibit No. 1 marked for identification, 3/2/82, TLU.)

BY MS. OLIVER:

Q Mr. Weber, I show you Exhibit No. 1 which is called Product Customer Sales Reports. Have you ever

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seen documents like those before?

A No.

Q Am I correct, Mr. Weber, that the only document that you'd seen before is a five-year forecast for sales?

A In relation to what?

Q In relation to any product sold by Monsanto.

A Yes.

MS. OLIVER: I don't have any further questions.

CROSS EXAMINATION

BY MR. HYNES:

Q Mr. Weber, do you recall about when that second meeting was with Outboard Marine and Johnson Motors?

A Yes, April.

Q I believe you stated you didn't take any notes and didn't review any notes of that meeting, is that correct?

A I take notes of any meeting I attend and depending on the nature of the meeting, how detailed the notes are, but I do not recall anything specific on that meeting.

Q Do you recall any discussions at that meeting concerning dredging?

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A No.

Q Do you recall Mr. Hosmer bringing up the subject of dredging?

A If that was brought up by --

MR. SCHINK: As you sit here today, do you recall Mr. Hosmer bringing up the subject of dredging at the second meeting in April 1976?

BY THE WITNESS:

A No.

BY MR. HYNES:

Q Do you recall any discussion that PCBs would go to great depth in sediment, would not adhere to sand but would adhere to mud and silt?

A At that meeting?

Q At that meeting.

A Yes.

Q Who brought up that topic?

A I don't recall.

Q Was it someone from Monsanto?

A I don't recall.

Q Did Monsanto, to your knowledge, have that information available to them prior to the meeting?

MR. SCHINK: What information?

MR. HYNES: That PCBs would not adhere to sand but

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would adhere to mud and silt?

BY THE WITNESS:

A Yes, I believe that was available in a Government report developed for Monsanto.

BY MR. HYNES:

Q Have you ever seen that Government report before?

A I believe that was information that was available in the 1972 Task Force Report.

Q Was it the Federal Government Interdepartmental Task Force Report, or some such name as that?

A Yes.

Q Had you reviewed that document prior to that date?

A Yes.

Q Do you recall any discussions on Johnson Motors hiring a marine biologist consultant at that meeting?

A They had two consultants there. Their qualifications, I don't recall.

Q That wasn't my question.

My question was do you recall any discussion about them hiring a marine biologist, at that meeting?

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A No.

Q Do you have any recollection of a recommendation made not to hire a particular consultant?

A No.

Q Do you have any recollection of recommending methods of disposal of PCBs in the sediment or PCB products at that meeting?

A PCB products were recommended by incineration.

Q Do you recall that anyone from Monsanto actually made that recommendation?

A No.

Q Do you recall any mention of a disposal site called Sheffield being brought up at that meeting?

A No.

Q Do you recall any recommendations or discussions made on fish sampling at that meeting?

A No.

Q In preparation for your deposition today, did you review any documents relating to that April 1976 meeting?

A Yes.

Q Can you describe what that document was?

A Yes. Ms. Oliver showed it to me. That was the notes.

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Q That is the document here?

A Yes. (Indicating Seger Deposition Exhibit No. 1.)

Q This is the only document that you reviewed concerning any meeting with Outboard Marine and Johnson Motors that you recall?

A No, the teletype to me setting up the second meeting.

Q Who was the teletype from?

A Our Akron office.

Q Is that a sales service office?

A Yes.

Q For Monsanto?

A Yes.

Q Correct me if I am wrong, but I believe you stated in your deposition that when inquiries came in to you, after you took over Mr. Papageorge's position, concerning methods of disposal of PCBs, your recommendation was incineration. Is that correct?

A Yes.

Q As you sit here today, you don't remember making any recommendation for disposal other than incineration?

A If the product could be incinerated, that was our first recommendation. If they talked about rags or

sawdust or things like that which could not be incinerated, then we would recommend an approved landfill.

Q What condition did the product have to be in in order to be incinerated?

A It depended on the incinerator. Some incinerators could handle almost anything. Others were very limited.

Q Would it be your normal practice to talk to the person making the inquiry to find out the condition of product that they wanted to dispose of before you would make the recommendation?

A No, other than to get an idea on what service could perform the duty and suggest that it be called.

Q While Monsanto had their own incinerator in operation?

A Yes.

Q What were the conditions that the product had to be in to be used in the Monsanto incinerator?

A Liquid, not much water.

Q Other than these two meetings with Johnson Motors that you just testified to, did you ever have, you personally, any other contact with anyone from Johnson Motors after this April 1976 meeting?

A No.

Q No phone calls?

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A I don't remember any.

Q Do you recall any written correspondence?

A If I had, I don't recall any.

Q Do you recall any discussions with other people from Monsanto as to subsequent meetings or conversations they had with Johnson Motors personnel?

A Nothing.

Q You stated that when you took over the Manager, Product Acceptability position from Mr. Papageorge, you were, and correct me if I am wrong, in charge of the day-to-day inquiries concerning PCBs.

A That was part of the job.

Q Am I correct that you would handle most of these inquiries yourself without getting help from someone else? Is that correct?

A It depended on the inquiry and what was needed.

Q Can you state what the typical type of inquiry would be where you would be able to handle it yourself without reference to some other person in Monsanto?

A Identification of a product.

Q Can you state what a typical type of inquiry would be where you needed to go somewhere else to get information before you responded?

A Health effects.

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Q Where would you go for information of that type of inquiry?

A Either to our Department of Medicine and Environmental Health.

Q Would it have been the normal method of doing business that they would go back to you and you would respond to the person who made the inquiry or would they directly respond to the person making the inquiry?

A Normally it was a direct response.

Q Did they then notify you in some manner that they had made the response to the person making the inquiry?

A Usually they came back and said the request had been handled.

Q Were responses usually made in writing or were they made over the phone?

A Telephone.

Q Do you recall if there was a normal practice for notes to be made confirming memoranda to be generated from those oral responses?

A No, unless he had a follow-up on something to provide information or something like that.

Q What do you mean by a follow-up?

A A request to send some information on a product.

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Q Then that further information would go under a cover letter, that type of direct response?

A Written response, yes, yes.

Q What were the type of inquiries or work that Mr. Papageorge continued to be involved in after you took over part of his function with regard to PCBs?

A Well, he was the focal point on the PCB area.

Q What do you mean by the focal point?

A He handled all the normal public relations area and had the background to answer questions that I did not have.

Q What do you mean by the public relations type of work?

A For interviews, the press, or this type of thing.

Q Would he still be responsible for testimony before some governmental body?

A Yes.

Q At some point, did you take over, to use your words, that focal point responsibility from Mr. Papageorge?

A The only public appearance I made on PCBs was the reading of the document to Mr. Train in May of 1976.

Q My question is did you ever become yourself the focal point of PCBs?

A No.

Q He remained that for some period of time?

A Yes.

Q Were you ever made aware of any directives or policies within Monsanto that sales personnel were supposed to determine that Monsanto products were being properly disposed of by customers?

MR. SCHINK: Do you understand the question? Do you want her to read it for you?

THE WITNESS: Yes, because I'm not sure what you are asking.

MR. HYNES: Read the question, please.

(Question read.)

BY MR. HYNES:

Q Do you understand the question?

A Yes. The answer is no, other than to provide the technical bulletins on how to dispose of it.

Q Am I correct that if there was a section in a technical bulletin or a technical bulletin dealing with disposal of products, then the sales force was supposed to follow whatever that directive was, is that right? Is that correct?

A That is correct, pass that on to the customer.

Q Are you aware that any such directives were

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promulgated by Monsanto?

A Yes.

Q When did you first become aware that those directives were promulgated?

A Standard practice for our products.

Q Starting when, to the best of your knowledge?

A Since I've started working for Monsanto.

MR. SCHINK: You are talking about things like proper handling of products, things like that?

THE WITNESS: Yes.

BY MR. HYNES:

Q Do you recall whether there were any specific directives of that type relating to PCB-bearing products?

A Yes.

Q When did you first become aware of those?

A When I became involved with the PCB products.

Q That was in 197- --

A '75.

Q '74 or '75?

A Yes.

Q What division or department would generate such directives?

A The coordination effort, either perhaps the technical bulletin would come under the Marketing

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Department and each department that was involved with the expertise in the case of toxicity and handling, that work was done through the Department of Medicine and Environmental Health.

Q Were the subject matter of these bulletins only related to disposal or would disposal be a part of a larger publication dealing with other properties of the product?

A In general both types of bulletins are available. In many cases, we just have one bulletin that covers performance, use, safe handling and so forth.

Q Any other sources, any other types of directives other than what you talked about that would have related to the proper disposal of Monsanto products?

A If something had to be disposed of, sometimes that information would appear on the label of a product.

Q Was there any other medium for disseminating this type of information?

A Today we are using material safety data sheets.

Q When did that procedure start?

A We had material safety data sheets available in the early '70s.

Q Would you explain what is contained in those material safety data sheets?

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A When one of our first material safety data sheets were printed, they were very general in nature and just giving some properties of a chemical, of a product, and recommending handling and disposal technique; very brief.

Q And now they are a little bit more complex?

A Yes, they went from two pages to, I think we have four now.

Q How are they disseminated to customers?

A At that time early on, we sent them out.

Q At that time?

A Early '70s. Those were handled by request.

Q Customer request?

A Customer request.

Q Now as a matter of course, they are all sent out?

A We send them out to all our Marketing customers on our Marketing list.

Q Have you had any involvement in the dissemination or the content of these?

A Yes.

Q What has been your involvement?

A To make sure the information that is given is correct and to disseminate it.

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Q How do you determine whether the information is correct?

A We effectively review policy within Monsanto. Each department that is involved in that research, Medical and Environmental Health, our distribution people, labeling people, review the data that is presented and it is reviewed by our Law Department.

Q You are a piece of this review process, is that correct?

A We are the one that has the responsibility to make sure to put all the pieces together for products assigned to our division.

Q When did you first have this responsibility, about what year?

A That was assigned to our division when we first started, using this material safety data sheet.

Q About what year was that?

A I believe it started in '72.

Q And you have been involved continually in some form or other with this process?

A For the products I am responsible for, yes.

Q In any of your meetings with Johnson Motors-Outboard Marine Corporation, do you recall any types of information they requested that were not provided to them?

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A No.

Q Do you have any recollection that you offered information that they did not request at any of these meetings?

A No.

Q In that time period, was there a category of information that it would be Monsanto's policy that they would not have given over to Johnson Motors or to any customer, any category of information that you can think of that it was not Monsanto's policy to turn over to customers?

MR. SCHINK: You are talking about --

MR. HYNES: 1976.

MR. SCHINK: When they had this meeting.

BY THE WITNESS:

A We were to only turn over information to them that pertained to Johnson Motors or pertained to performance or safety of the product. We would not turn over any information regarding other customers.

BY MR. HYNES:

Q Other than other customers, is there any other category of information that you would not turn over to them?

A No.

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Q Are you familiar or are you aware that Industrial BioTest Company did several toxicity studies concerning PCBs for Monsanto?

A Yes.

Q And are you aware that an audit is being done of those studies at the present time?

A An audit has been done on all IBT studies.

Q Not just the PCB, but all work IBT did for Monsanto?

A Yes.

Q Do you know what the status of the audit is at the present time?

A Not on the PCBs. The audit that is being done by IBT --

MR. SCHINK: What he is interested in is PCBs.

BY MR. HYNES:

Q I just want to know is the audit completed? Is it concluded on all of the studies that Monsanto has reviewed?

MR. SCHINK: He said he doesn't know the status on PCBs, so I don't see how he can answer that question.

BY THE WITNESS:

A The only section I am aware of is what pertains to our division.

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BY MR. HYNES:

Q Pertaining to your division today?

A Today.

Q And you don't know if the PCB audit is completed as of today?

A No.

Q Who would know that?

A Dr. Craddock.

Q Are you aware of any preliminary results on any of the PCB studies in this audit?

A No.

Q Were you aware of any policy, oral or written, within Monsanto that if a sales person believed a customer of Johnson Motors was discharging an industrial chemical into waste water or improperly disposing of it, they were supposed to notify their superiors at Monsanto?

Are you aware of any such policy?

MS. OLIVER: I am going to object to the form of the question, aware of any discharger like Johnson Motors.

MR. SCHINK: The question is are you aware that such a policy within Monsanto --

MR. HYNES: Did I say customers of Johnson Motors?

MS. OLIVER: Yes.

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BY MR. HYNES:

Q (Continuing.) Customer of Monsanto is aware that a policy --

MS. OLIVER: I still object to the form of the question.

THE WITNESS: Could we have the question again so I know what I am answering?

BY MR. HYNES:

Q Are you aware of any policy within Monsanto whereby salesmen or sales personnel of Monsanto were supposed to notify a customer or their suppliers within Monsanto that the customer was discharging industrial chemicals into waste water or improperly disposing of industrial chemicals?

MS. OLIVER: I am going to object to the form of the question.

MR. SCHINK: I object to the form of the question. You may answer if you were aware of such policy.

BY THE WITNESS:

A No. The customer --

MR. SCHINK: You've answered the question.

BY MR. HYNES:

Q You are not aware of any such policies within Monsanto, is that the answer?

A Yes.

MR. HYNES: That's it.

REDIRECT EXAMINATION

BY MS. OLIVER:

Q Were you involved in any preparation for the meetings with Johnson Motors within Monsanto?

A No, because I was new at the time.

Q How about the second meeting? Was there any discussion within Monsanto of the meeting about what information to provide to Johnson Motors?

A I don't recall. I would assume --

MR. SCHINK: You don't have to assume or guess. If you recall a discussion about --

THE WITNESS: I don't recall.

MR. SCHINK: -- about what was discussed, you certainly should relate them.

BY MS. OLIVER:

Q Do you know, Mr. Weber, whether any information was given to PCB product customers of Monsanto before 1970 regarding environmental concerns about products?

A I wasn't involved.

Q In the last five years from 1975 to 1980, do you recall reviewing any information that was given or provided to customers before 1970 about environmental

concerns relating to PCB products?

A Before 1970?

Q Right.

A No.

Q Could Monsanto's incinerator take PCB fluids that were mixed with phosphate ester fluids?

MR. SCHINK: Currently?

MS. OLIVER: Up until the time it stopped being used.

BY THE WITNESS:

A No.

BY MS. OLIVER:

Q Why not?

A In the burning of phosphate esters, you form B205 and our incinerator was not designed to handle that.

Q So that if a customer had PCB fluid mixed with the new Pydraul fluid, for example, he couldn't dispose of PCB fluid through your incinerator?

MR. SCHINK: In any amount, one part per million phosphate esters and the balance PCBs?

MS. OLIVER: I don't know.

BY THE WITNESS:

A If they have a very, very small level, if it was predominantly PCBs, it could be handled, but there

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were other commercial incinerators available for that disposal.

BY MS. OLIVER:

Q What other incinerators were available in 1975 besides Monsanto's?

A Rollins Environmental Service.

Q Anybody else?

A We had a list of approved incinerators and landfill sites that was prepared by EPA and that we used and gave to customers.

Q When you gave those to customers, again, that was given upon request by the customer?

A Yes.

MS. OLIVER: I don't have anything else.

MR. SCHINK: Thank you, Mr. Weber.

(Witness excused.)

FURTHER DEPONENT SAYETH NOT. . .

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 78 C 1004
	)	
OUTBOARD MARINE CORPORATION and MONSANTO COMPANY,	)	
	)	
	)	
Defendants.	)	

I hereby certify that I have read the foregoing transcript of my deposition given at the time and place aforesaid, consisting of Pages 1 to 86, inclusive, and I do again subscribe and make oath that the same is a true, correct and complete transcript of my deposition so given as aforesaid, as it now appears.

_____
J. Coleman Weber

Subscribed and sworn to
before me this _____ day
of _____, A.D. 1982.

_____
Notary Public.

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UNITED STATES OF AMERICA)
NORTHERN DISTRICT OF ILLINOIS)
EASTERN DIVISION) SS:
STATE OF ILLINOIS)
COUNTY OF COOK)

I, Thea L. Urban, a notary public in and for the County of Cook and State of Illinois, do hereby certify that J. COLEMAN WEBER was by me first duly sworn to testify the whole truth and that the above deposition was recorded stenographically by me and was reduced to typewriting under my personal direction, and that the said deposition constitutes a true record of the testimony given by said witness.

I further certify that the reading and signing of said deposition was not waived by the witness and his counsel.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Chicago, Illinois, this _____ day of March, A.D. 1982.

_____
Notary Public, Cook County, Illinois.
My commission expires May 31, 1983.

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