

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

JAMES M. ADKINS, Administrator)
of the Estate of Ralph E. Adkins,)
Deceased, et al,)

Plaintiffs,)

vs.)

No. 81-2098)

MONSANTO COMPANY, a Delaware)
Corporation,)

Defendant.)

Deposition of
DR. ERNEST TILLMAN
taken on behalf of the
Plaintiffs.

Reporter: M. Joy Springer

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APPEARANCES:

Paul L. Pratt, Esq.

For Plaintiffs,

Messrs. Bowles, McDavid, Graff &
Love,

by P. Michael Pleska, Esq.
and

Charles M. Love, III, Esq. For Defendant.

IT IS STIPULATED AND AGREED by and between
counsel for the plaintiffs and counsel for the defendant
that the deposition of DR. ERNEST TILLMAN may be taken
pursuant to Rule 26(a) of the Federal Rules of Civil
Procedure, on behalf of the plaintiffs, on June 27 and
June 28, 1983, at the Radisson Hotel, Room 215, 9th
Street and Convention Plaza, St. Louis, Missouri, before
M. JOY SPRINGER, a Notary Public within and for the

1 County of Madison, State of Illinois; that the issuance
2 of notice and dedimus is waived, and that this deposi-
3 tion may be taken with the same force and effect as if
4 all Federal rules and statutory requirements had been
5 complied with.

6 IT IS FURTHER STIPULATED AND AGREED that any
7 and all objections to all or any part of this deposition
8 except objections as to form of the questions asked or
9 answers given, are hereby reserved and may be raised on
10 the trial of this cause; and that the signature of the
11 deponent is not waived.

12 * * * * *

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18 DR. ERNEST TILLMAN

19 produced, sworn and examined on behalf of the plaintiffs,
20 deposes and says as follows:

21 EXAMINATION

22 BY MR. PRATT:

23 (Whereupon the reporter marked Plain-
24 tiffs' Deposition Exhibit #128, Monsanto
25 identification #8330036, consisting of 1 page;

1 Exhibit #129, Monsanto identification
2 #8330067 and #833068, consisting of 2
3 pages; Exhibit #130, Monsanto identifi-
4 cation #8322902, consisting of 1 page;
5 Exhibit #131, Monsanto identification
6 #8326238, consisting of 1 page; Exhibit
7 #132, Monsanto identification #8323065
8 through #8323070, inclusive, consisting
9 of 6 pages; and Exhibit #133, Monsanto
10 identification #233695, consisting of
11 1 page; Exhibit #134, Monsanto identifi-
12 cation #8323177 and #8323178, consisting
13 of 2 pages; Exhibit #135, Monsanto iden-
14 tification #8331253 through #8331259, in-
15 clusive, and #8331262 through #8331271,
16 consisting of 17 pages; Exhibit #136,
17 Monsanto identification #8323234 and
18 #8323235, consisting of 2 pages; Exhibit
19 #137, Monsanto identification #236212
20 through #236215, inclusive, consisting of
21 4 pages; Exhibit #138, Monsanto identifi-
22 cation #8323313 through #8323315, consist-
23 ing of 3 pages; Exhibit #139, Monsanto
24 identification #8326129 through #8326142,
25 inclusive, and #8326149 through #8326160,

1 inclusive, consisting of 26 pages; Exhibit
2 #140, Monsanto identification #8324030,
3 consisting of 1 page; Exhibit #141, Mon-
4 santo identification #8324046, consisting
5 of 1 page; Exhibit #142, Monsanto identifi-
6 cation #234851 and #234852, consisting of
7 2 pages; Exhibit #143, Monsanto identifi-
8 cation #234905 through #234913, consisting
9 of 9 pages; Exhibit #144, Monsanto identifi-
10 cation #232202, consisting of 1 page;
11 Exhibit #145, Monsanto identification
12 #8324311 through #8324313, inclusive,
13 consisting of 3 pages; Exhibit #146,
14 Monsanto identification #232235, consist-
15 ing of 1 page; Exhibit #147, Monsanto
16 identification #232236 and #232237, con-
17 sisting of 2 pages; Exhibit #148, Monsanto
18 identification #232246 through #232267, in-
19 clusive, consisting of 22 pages; Exhibit
20 #149, Monsanto identification #8326531 through
21 #8326533, inclusive, consisting of 3 pages;
22 Exhibit #150, Monsanto identification
23 #232273 and #232274, consisting of 2 pages;
24 Exhibit #151, Monsanto identification
25 #232305 through #232316, inclusive, consisting

1 of 12 pages; Exhibit #152, Monsanto
2 identification #232333, consisting of
3 1 page; Exhibit #153, Monsanto identifi-
4 cation #8324396 through #8324397, inclu-
5 sive, consisting of 2 pages; and Exhibit
6 #154, Monsanto identification #232390
7 through #232394, inclusive, consisting of
8 5 pages, for the purposes of identification.)

9 Q (By Mr. Pratt) Tell us your name,
10 will you, please.

11 A Ernest Tillman.

12 Q Do you have a profession?

13 A I'm a physician.

14 Q And what is your current position?

15 A I'm Senior Physician with Monsanto
16 Company at World Headquarters.

17 Q Do you have personnel under you, sir?

18 A Not directly.

19 Q What does that job entail, that position?

20 A Primarily we are concerned with the
21 health matters related to a number of plants assigned
22 to our responsibility.

23 Q All right. And what do you do involved
24 in that?

25 A We consult with them on health matters,

1 identify the need for health surveillance programs,
2 see to it those programs are implemented, evaluate
3 the results of the program, advise additional matters.

4 MR. PRATT: All right. Your Honor,
5 at this point we would call this witness
6 under Federal Rules of Evidence No. 611.

7 Q (By Mr. Pratt) Now, where did you
8 graduate from medical school and when, sir?

9 A Hahnemann Medical College and Hospital
10 in Philadelphia, 1956. It's now known as Hahnemann
11 University.

12 Q After that did you have a rotating
13 internship?

14 A I did.

15 Q Where at?

16 A At Nazareth Hospital in Philadelphia.

17 Q After that did you have a residency
18 in any specialty?

19 A Because of the nature of licensing
20 procedures in Pennsylvania at that time, I did work
21 in a resident position in psychiatry at the Philadel-
22 phia State Hospital for approximately eight months,
23 nine months, in that range.

24 Q Are you Board certified in any field
25 of medicine?

1 A Occupational Medicine.

2 Q Occupational and Environmental Medicine?

3 A Occupational Medicine.

4 Q When did you receive your Boards?

5 A In 1979.

6 Q What work did you do to receive your

7 Boards, sir?

8 A In addition to the standard medical

9 training, a number of post-graduate seminars, courses,

10 training courses, gathered credits in that fashion and

11 attended the mini-residency at the University of

12 Cincinnati.

13 Q That was under whom?

14 A Under Sydney Leonard and the University

15 of Cincinnati's Medical School.

16 Q How long were you at Cincinnati Medical

17 School?

18 A That comprised a three-week concentrated

19 course and three one-week followup section for the next

20 three years.

21 Q When you left your psychiatric position,

22 where did you go?

23 A I was in the process during that resi-

24 dency of building a general practice in Philadelphia,

25 and when that came to fruition so I could support a

1 family from the proceeds, I left the residency and
2 went into general practice full time.

3 Q What year would that have been?

4 A That would have been March of 1958.

5 Q How long did you practice in general
6 medicine in Philadelphia?

7 A From actually September of 1957, over-
8 lapping the residency, until December of 1965.

9 Q And where did you go after 1965?

10 A I went to work for the DuPont Company
11 in their Chambersburg Plant in New Jersey.

12 Q And what was your position with them?

13 A I was a Staff Physician in the Medical
14 Department there.

15 Q And what were those responsibilities,
16 what did you do there, sir?

17 A Primarily it was examination of em-
18 ployees, oversight of specific medical programs. My
19 particular responsibility was hearing conservation.
20 We also operated a sick call clinic where we would
21 treat injuries occurring on the job and sicknesses that
22 were not necessarily job related.

23 Q O.K. How long were you with DuPont?

24 A Until September of 1968.

25 Q Where did you go then, sir?

1 A To the Clin Corporation in East Alton,
2 Illinois.
3 Q And what was your position with them?
4 A I was Plant Medical Director there.
5 Q Was DuPont, the plant you were at,
6 a chemical plant?
7 A Yes.
8 Q The Olin plant was not, right?
9 A No.
10 Q How long were you with Olin at East
11 Alton?
12 A Until November 30th, 1974.
13 Q And you came to work at that time for
14 Monsanto, right?
15 A That's correct.
16 Q What was your first position there, sir?
17 A Was hired as a Senior Physician.
18 Q And were your duties the same as you
19 related before?
20 A That was part of the duty. We were
21 building a Department of Environmental Medicine, Environ-
22 mental Health and Medicine, in those days, and our job
23 actually evolved into what it is now. I also had charge
24 of the Creve Coeur Clinic for, perhaps, two years at
25 the beginning of my time with Monsanto.

1 Q O.K. Now, in your duties have you
2 been involved with a chemical known as 2,3,7,8 tetra-
3 chlorodibenzo-para-dioxin?

4 A I'm sorry, would you say that again.

5 Q Have you been involved with a chemical
6 2,3,7,8 tetrachlorodibenzo-para-dioxin?

7 A I'm not sure I know what you mean by
8 "involved with."

9 Q Well, have you done any work of any
10 kind or any nature involving this particular chemical
11 in regard to studies, for instance?

12 A I've not overseen any studies per-
13 sonally in that.

14 Q Have you been involved in the Nitro
15 Plant Health Study Task Force?

16 A Yes, I have.

17 Q O.K. When did that begin, sir?

18 A To the best of my recollection, that
19 would have been probably late June or early July, 1979.

20 Q And who were the members of this Task
21 Force?

22 A I don't remember everyone that was on
23 that Task Force, but there were a rather large group of us.
24 Phocion Park, who is our environmental attorney; Bill
25 McCarville; at the time of its initiation Fred Holzapfel

1 was our Chairman; the Plant Manager from the Nitro Plant
2 was one of the members. Occasionally someone else when
3 he could not make it would fill in for him from the
4 plant but was not a normal member of the committee.
5 We had Public Relations people there.

6 Q Let's see if we can get them down.
7 Holzapfel was the Chairman, right?

8 A Right. In the beginning he was.

9 Q All right. You were on it?

10 A Yes.

11 Q Dan Bishop was on it, right?

12 A Yes.

13 Q C. F. Callis?

14 A Yes.

15 Q W. J. McCarville?

16 A Yes.

17 Q Is McCarville a physician?

18 A No, sir.

19 Q F. C. Meyer was on it, right?

20 A That's right, yes, he was.

21 Q Is he a physician?

22 A No.

23 Q R. M. Scott was the Plant Manager?

24 A Plant Manager at the Nitro Plant, right.

25 Q P. R. Wilkins?

1 A For a time, yes. He was not on that
2 committee at the same time, as I recall, that Dan
3 Bishop was. That may be incorrect, but I'm not sure
4 if they served at the same time.

5 Q Was J. T. Nolan on it?

6 A I did not see him at any of our
7 meetings. He may have been an ex-officio member, but
8 I have not seen him attending.

9 Q How about M. Throdahl?

10 A No.

11 Q What was his position at that time?

12 A As I recall, he was a Senior Vice
13 President, which he still is.

14 Q O.K. Would he have been over this
15 group in the Corporate heirarchy?

16 A Yes. It was his instruction that led
17 to the formation of the committee.

18 Q Did the Mt. Sinai group with the
19 Steelworkers and some governmental agency request per-
20 mission to study the workers at Nitro?

21 A Not from me.

22 Q Did they from anyone in the company?

23 A I don't know.

24 Q Well, did in fact a study pursue?

25 A I've been told that it had. I did not

1 see it, but I have been told that it had.

2 Q Well, you're aware that there was a
3 study --

4 A Yes, I am.

5 Q All right. Do you know when that study
6 began?

7 A At some time in 1979, but I'm not
8 sure what the dates are.

9 Q All right. Simultaneously did -- Do
10 you know Dr. Suskind, by the way?

11 A Yes, I do.

12 Q Simultaneously did Dr. Suskind begin
13 a study of these same individuals or former members and
14 members of the --

15 A I don't think simultaneously is the
16 correct word. He did do a study, though, as I under-
17 stand it, some short time after the Sinai group did their
18 study. I don't recall the Sinai dates.

19 Q O.K. What we are going to do, sir,
20 because documents are involved and they will help us
21 in this examination, I'm going to hand you certain docu-
22 ments and I'm going to ask you some questions on them.
23 First exhibit I'm going to hand you is Plaintiffs' Depo-
24 sition Exhibit #35 (Monsanto identification #8322384).
25 You're either a recipient or receiver of a copy or the

1 originator of these documents.

2 This is a letter on Monsanto stationery
3 dated March 29, '79, from F. C. Meyer, Director of Ex-
4 perimental Projects, is it not, sir?

5 A Yes, it is.

6 Q And it's to Dr. Marion Moses of the Mt.
7 Sinai Medical Center in New York, isn't that correct?

8 A Right.

9 Q And you're shown as receiving a blind
10 copy, isn't that correct?

11 A That's correct.

12 Q This letter discusses, does it not,
13 sending a list of clock numbers of active and retired
14 employees who were associated with 2,4,5-T and related
15 intermediate sodium 2,4,5 trichlorophenate during the
16 period 1948 through 1969, isn't that correct?

17 A I don't see anything about trichloro-
18 phenate in here. It does refer to 2,4,5-T. I stand
19 corrected. It's stated in the fourth line down, that's
20 correct.

21 Q All right. And it's a list of active
22 and retired employees?

23 A It refers to such a list.

24 Q And it's divided into two parts on
25 this list. I think it states those directly exposed to

1 2,4,5-T operating departments and, two, those potentially
2 exposed in other departments where some of the final
3 2,4,5-T product was dried, isn't that correct?

4 A That's correct.

5 Q It states in the latter case -- I guess
6 they are talking about 2,4,5 trichlorophenate departments --
7 They were unable to give the Mt. Sinai people clear work
8 history records, isn't that correct?

9 A It just simply says, "Not included."
10 States no reason.

11 Q "In the latter case we can't be sure
12 from the work history records alone."

13 A I thought you said in the last paragraph.

14 Q No. The second --

15 A O.K. I see where you are. Yes, that's
16 right.

17 Q But they were not able to include en-
18 closed list of other employees who occasionally or
19 accidentally had opportunity for exposure, such as
20 maintenance, control lab, et cetera, personnel?

21 A That's correct.

22 Q O.K. Let me ask you this, have you
23 performed work in the nature of the study that they were
24 going to do?

25 A Have I done such a study?

1 Q Yes.

2 A No. This is an epidemiologic function,
3 and I'm not an epidemiologist.

4 Q Of course, you have a working knowledge
5 of epidemiology?

6 A I would have to know something about
7 it in my job, see.

8 Q O.K. Of course, one of the things
9 that's very important for one doing an epidemiological
10 study is to get accurate work history records, isn't that
11 correct?

12 A That's correct.

13 Q The next exhibit, Doctor, I'm going
14 to hand you is Plaintiffs' Deposition Exhibit #129
15 (Monsanto identification #8330067), ask you to look at
16 that, sir.

17 This document, Plaintiffs' Exhibit #129,
18 is on Monsanto's stationery and it's a letter from Judith
19 Zack, Epidemiologist, to Dr. Raymond R. Suskind, Director,
20 Institute of Environmental Health, Kettering Laboratory
21 at the University of Cincinnati, dated April 18, 1979,
22 is it not, sir?

23 A That's correct.

24 Q O.K. Mrs. Zack, apparently -- and it's
25 also shown that you received a blind copy of that document,

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right?

A I did.

Q Who is Mr. O. Dolin?

A O. Dolin is employed at the Nitro Plant.

Q And what was his position there, sir?

A To the best of my knowledge, he's the Chief Chemist at the plant.

Q Is he also the Safety Director?

A No, sir.

Q And in the first paragraph of that letter Mrs. Zack is categorizing approximately 700 active, retired and terminated employees according to birthdate, race, sex, salary code and type of exposure, isn't that correct?

A That's correct.

Q I take it, that was for the purpose of beginning the study that Dr. Suskind did on the Nitro employees, isn't that correct?

A I can't say that I really know that. I was given informational copies of these things, but I wasn't directly involved in what was going on in this type of communication.

Q O.K. Well, they did a morbidity study, did they not, eventually?

A Yes, sir.

1 Q Would you tell the jury what a morbidity
2 study is.

3 A It's the study of the causes of death
4 in a given population, identifying specific causes and
5 relating those specific causes to the expected number of
6 deaths for those same causes in a given population.

7 Q Wouldn't that be a mortality study, sir?

8 A Yes, I'm sorry. I'm describing mor-
9 tality, not morbidity. Actually this would be a study
10 of the types of illnesses that occur in a given group
11 and comparing those incidents of illness to a control
12 group having the same illnesses.

13 Q And she states that there are three
14 groups, as I see it in the letter, isn't that correct?

15 A That's right.

16 Q First group was those employees who
17 worked in a 2,4,5-T production area, regardless of
18 whether or not they had chloracne, is that right?

19 A That's right.

20 Q And then also included were those em-
21 ployees who worked in areas such as Maintenance but who
22 developed chloracne from an intermittent exposure to 2,4,5-T?

23 A That's right.

24 Q Right?

25 A That's right.

1 Q Of course, in Plaintiffs' Exhibit #35,
2 which is the letter from Meyer to Moses, they, apparently,
3 were unable to give the Mt. Sinai people that data, such
4 as on Maintenance people, isn't that right?

5 A That's what it said.

6 Q The intermittent exposure group, these
7 were employees who worked on a job that entailed inter-
8 mittent exposure to 2,4,5-T but did not develop chloracne,
9 isn't that correct?

10 A I'm sorry. Say that again.

11 Q The intermittent group were those em-
12 ployees who worked on a job that entailed intermittent
13 exposure to 2,4,5-T but who did not develop chloracne,
14 isn't that correct?

15 A Yes.

16 Q And that group included workers in
17 Technical Services, Maintenance, Control Laboratory and
18 other plantwide responsibilities, correct?

19 A That's correct.

20 Q And the third group, which is called
21 a control group, are those employees who worked in the
22 office or in operating departments not associated with
23 2,4,5-T production, right?

24 A That's correct.

25 Q Now, what is the importance, sir, of a

1 control group?

2 A This kind of a study would be used to
3 establish the norm for a particular population as to the
4 incidence of disease, causes of death, if it's mortality
5 study. It's a basis of comparison for the group under
6 study.

7 Q Do you think that getting a control
8 group out of the plant is good epidemiologic practice?

9 A Oh, yes, indeed I do.

10 Q In other words, it's your position that
11 as long as they weren't associated with 2,4,5-T, even
12 though they were in the plant, that control group would
13 be all right, right?

14 A Indeed it would.

15 Q O.K. Monsanto stopped manufacturing
16 2,4,5-T in 1969 at that plant, isn't that right?

17 A 1969 or '70. I'm not precisely sure,
18 but I believe that's correct, yes.

19 Q Do you know of any of the employees
20 that have come down or developed chloracne since the
21 cessation of activities involving 2,4,5-T at that plant?

22 A Are you talking about employees who
23 had been in the 2,4,5-T operation?

24 Q No. People that came to work there
25 afterwards.

1 A Oh, yes.

2 Q You have had employees that have de-
3 veloped chloracne even though you no longer make the
4 product?

5 A We have had people who have had what
6 was diagnosed as a chemically-induced acne.

7 Q O.K. Can you give me the latest case
8 that you know of?

9 A By name?

10 Q By year.

11 A My memory serves me correctly, it would
12 be 1981.

13 Q You remember whether that was a male
14 or a female?

15 A There are three females involved and
16 two males, I believe.

17 Q How would they get exposed to get the
18 acne, sir, do you know?

19 A There was a problem in the Santacure NS
20 Department which was found to be the probable cause of
21 this situation. Totally unrelated to 2,4,5-T.

22 Q Hand you what's been marked Plaintiffs'
23 Exhibit #130, (Monsanto identification #8322902), and ask
24 you what that is.

25 That's a memo to F. C. Meyer, George

1 Roush, Jr., yourself and Jan Yung, right?

2 A That's correct.

3 Q And it's from Judith Zack, and it's
4 dated May 30, 1979, right?

5 A Correct.

6 Q And the subject is Nitro Medical
7 Examination Study, right?

8 A Right.

9 Q And what this gives is as of May 30th,
10 1979, they had about 320 people who had agreed to par-
11 ticipate in the study, isn't that right?

12 A That's right.

13 Q And there is a breakdown on the types
14 of employees, correct?

15 A Right.

16 Q Now, let me ask you this, what pre-
17 cipitated the study by Dr. Suskind at that time?

18 A At that time that was a continuation
19 of a study he had started almost thirty years before.

20 Q O.K. Do you know what studies he con-
21 ducted over the years?

22 A He responded to a request in 1949 along
23 with others from the University of Cincinnati to examine
24 people who had been exposed in a runaway reaction in one
25 of the buildings at the Nitro Plant. He evaluated these

1 people in 1949, again in 1950 and in 1953, as I recall.

2 Q All right. Was there ever any study
3 done, morbidity study, done on these people from '53
4 until '79?

5 A Each of them had available to them,
6 and to the best of my knowledge, many participated in a
7 periodic physical examination program which continued
8 through the years.

9 Q That was done at the plant, right?

10 A Yes.

11 Q Let me ask you, can you tell us who the
12 plant doctor was all those years?

13 A I'm not sure who was there before about
14 1950 or '51, but from that time on it has been Richard
15 C. Wallace.

16 Q O.K. I think he began there September
17 5th of 1950, right?

18 A I'm not sure of the dates, but as far
19 as I can tell you, it was near that time.

20 Q These followup physicals, what did they
21 consist of?

22 A That varied from time to time in terms
23 of what the person would allow to be done. Some people
24 didn't participate, but it would be a routine laying on
25 of the hands, laboratory work that was appropriate to the

1 findings of that examination, x-rays, chest x-rays.

2 That's pretty well it. Standard for the industry in
3 those days.

4 Q All right. They had physical exams,
5 isn't that correct?

6 A That's right.

7 Q But as far as -- and that was done at
8 the plant, right?

9 A That's right.

10 Q There wasn't routinely any blood work
11 done, was there?

12 A No, not routinely. As I said, when
13 there was an indication for blood work, it would be done.
14 If there was a physical finding that suggested there
15 was a problem, then laboratory work appropriate to that
16 finding would be done.

17 Q During that period of time did they do
18 laboratory work, say, from '54 on on anyone that you know
19 about?

20 A Well, I can't really tell you that
21 because I don't have the records to look in, so I can't
22 say from my knowledge that I have sat and tried to memorize
23 what was done. If I had the records to refer to --

24 Q What would have been the criterion or
25 protocol for a routine exam?

1 A The fact you're an employee is the
2 protocol for having one done. It's been the policy for
3 many, many years to provide physical examinations.

4 Q It would be an eye test, wouldn't it?

5 A It might be.

6 Q Hearing test?

7 A It may be.

8 Q A physical exam, looking at the man?

9 A Yes.

10 Q O.K. Were there any examinations to
11 identify, for instance, peripheral neuropathy?

12 A I don't think there were any examinations
13 specifically beyond the usual hands-on that were available
14 in many of these years that you're talking about.

15 Q To your knowledge, did Suskind from
16 '57 through this time, did they come down and examine
17 any of these people themselves?

18 A I really can't say because I wasn't
19 there until 1974.

20 Q Did he from 1974, that you know of,
21 until 1979?

22 A Yes.

23 Q When?

24 A In 1979.

25 Q O.K. But nothing from '74 on up that

1 you know of until '79?

2 A Not that I was involved in or knew of
3 my own personal knowledge, no.

4 Q The first exam in '49 and '50 involved
5 four people, did it not?

6 A 1949, I believe it involved four people.
7 In 1950, I believe, there were more.

8 Q There were a total of, what, thirty-
9 seven that were seen in '53?

10 A I don't know what the number is.

11 Q Hand you what's been marked Plaintiffs'
12 Exhibit #131 (Monsanto identification #8326238) sir, and
13 ask you to look at that.

14 This document, sir, originated from
15 F. J. Holzapfel.

16 A There's no such signature on this,
17 although, the heading of the letter indicates that.

18 Q Dated June 8, 1979, right?

19 A That's the date.

20 Q And the subject is the Nitro Health
21 Study Task Force?

22 A That's correct.

23 Q And it references Messrs. Wilkins,
24 McKee, Throdahl and Nolan, right?

25 A Right.

1 Q And it's to Messrs. Bishop, Callis,
2 Holzapfel, McCarville, Meyer, Park, Scott, Tillman and
3 Wilkins, correct?

4 A That's right.

5 Q O.K. And this document, apparently,
6 is the formation of the Ad Hoc Task Group, right?

7 A That's right.

8 Q The purpose of it was to think through
9 and formalize a strategy and a plan that will make cer-
10 tain all appropriate resources within or outside the
11 Corporation are being applied to resolve the many inter-
12 related and difficult situations surrounding the Nitro
13 Health Study involving trichlorophenol, isn't that correct?

14 A That's correct.

15 Q What's this business about a study
16 or strategy or a plan, what were you going to do? What
17 is the purpose of this organization?

18 A One of the things you have to do when
19 a study like this is done is to be prepared to report
20 to those who participated what those findings were.
21 That calls for appropriate procedures to be followed
22 so this thing is done correctly and the people are
23 properly informed.

24 Q The last paragraph states, "For
25 openers, we need to do some brainstorming -- to identify

1 possible activities -- some of which enable us to react
2 to charges or adverse publicity and some of which might
3 avert such adverse publicity or create a more favorable
4 climate." I take it, then, that one of the functions of
5 this committee, this Ad Hoc Committee, was to create
6 publicity involving the study, isn't that right?

7 A No. It said to react to the publicity.
8 Not to create it.

9 Q Well, did you expect adverse publicity?

10 A That's always possible if the findings
11 are bad. You never know in advance what a study is going
12 to show and you have to be prepared to deal with whatever
13 answer comes from it.

14 Q Now, when did you first have notice
15 that the Vietnam veterans had filed suit in their Agent
16 Orange deal?

17 A I have not been directly involved in
18 that, so I would have to depend on the newspapers.

19 Q Around 1979, wasn't it?

20 A I don't know. I didn't find that im-
21 portant enough to commit to memory since I wasn't directly
22 involved in it. It was a matter of information that I
23 didn't see any need to memorize dates on.

24 Q O.K. I hand you what's been marked
25 Plaintiffs' Exhibit #46 (Monsanto identification #231686),

1 which consists of 3 pages.

2 First page of Plaintiffs' Exhibit #46
3 is a cover letter from Dan R. Bishop to Messrs. Callis,
4 Holzapfel, McCarville, Meyer, Park, Scott, yourself
5 and Wilkins, dated June 12, 1979, right?

6 A That's correct.

7 Q With cc to Mr. J. T. Nolan, right?

8 A Correct.

9 Q And the cover letter says, "For your
10 information, the attached memo from Mr. Nolan places the
11 Nitro situation in the proper perspective and will be
12 an appropriate review document as we prepare for the
13 first meeting of our task force," correct?

14 A That's correct.

15 Q Then the attached document is from
16 Mr. Joe Nolan to Mr. Pierre Wilkins. Mr. Wilkins was
17 what, sir? The letter is dated June 4, 1979.

18 A His role was Public Relations out of
19 New York offices.

20 Q The first paragraph says that there
21 may be considerable agitation against chemical companies
22 in the Kanawha Valley, isn't that right?

23 A That's what it says.

24 Q Said the situation there has a lively
25 potential for national exposure, isn't that correct?

1 A That's correct.

2 Q States that there is a West Virginia
3 Citizens Action Group in that area?

4 A That's right.

5 Q And equally aggressive labor represen-
6 tation from the Steelworkers of America, isn't that right?

7 A That's right.

8 Q He states that these two have succeeded
9 in flagging the attention of media-conscious Dr. Irving
10 Selikoff in New York?

11 A That's correct.

12 Q In the memo he also states that the
13 Agent Orange furor provides just the kind of news peg
14 that the media people look for, isn't that correct?

15 A That's correct.

16 Q In the last paragraph he states, "The
17 Appalachia setting, rich in tawdry tales of business
18 insensitivity, furnishes a natural backdrop for allega-
19 tions of corporate indifference to the human condition,"
20 isn't that right, sir?

21 A That's right.

22 Q And he talks about, on page 2 of Ex-
23 hibit 46, about a Selikoff-Suskind faceoff, isn't that
24 correct, on these two studies?

25 A Yes, it says that.

1 Q He characterized Selikoff as a man
2 skilled in the slashing art of talking in headlines,
3 right?

4 A I don't know if he's talking about
5 Selikoff or Suskind. He says, "one man." He doesn't
6 name that person.

7 Q Well, perhaps, subsequent documents
8 will enlighten us as to which one he's talking about.

9 A All I can tell you is what I see.
10 It says, "one man," and then, "the other." It doesn't
11 name either.

12 Q And in the second paragraph he's talk-
13 ing about the fact that Selikoff's study may be released
14 first, isn't that correct, sir?

15 A I'm not sure which one's he's talking
16 about there. He refers to both studies looking at dioxin,
17 and I'm not sure which one he means will be released first.

18 Q Well, let's see if we can glean from
19 that paragraph. "Dr. Suskind's will be rigorously con-
20 fined to dioxin and the delayed effects (if any) of
21 worker exposure. Dr. Selikoff's will address itself to
22 dioxin, but will be much wider ranging, examining any ill
23 effects workers may have from their experience at Nitro.
24 It is entirely possible we might fare very well in the
25 dioxin study and not so well in the other one which will

1 be released first." Does that indicate to you that
2 there was some concern about the Selikoff study being
3 released first?

4 A Since they both refer to studying of
5 dioxin, no, it doesn't.

6 Q O.K. Wasn't that in fact a concern
7 all through this saga of your Ad Hoc Committee --

8 A I'm not so sure I call it a concern.
9 It was a matter that we considered possible. Since the
10 study was done first, it was logical to assume that it
11 would be published first.

12 Q Truth of fact, neither of these studies
13 have been published, have they?

14 A Not to my knowledge, no, sir.

15 Q Hand you what's been marked Plaintiffs'
16 Exhibit #48 (Monsanto identification #8323037 and #8323038).

17 Plaintiffs' Exhibit 46 is a memo from
18 F. C. Meyer, dated June 18, 1979, the subject of which
19 was Selikoff Nitro Study 'Phone Report, and you're one
20 of the persons who received a carbon copy, isn't that
21 correct?

22 A That's correct.

23 Q And it concerned a 'phone call from
24 F. C. Meyer, apparently, to Dr. Selikoff, isn't that
25 correct?

1 A Right.

2 Q And he, apparently, brings up to date
3 Mr. Meyer -- is that Dr. Meyer?

4 A Dr. Meyer.

5 Q -- on what they have accomplished.
6 They have done the porphyrin studies, immunological
7 studies, clinical chemistries, nerve conduction studies
8 and nerve behavioral data, and he states there was one
9 group not completed a few days ago were electrophoretic
10 or lipoproteins and triglycerides, right?

11 A Right.

12 Q On page 2, apparently, Selikoff tells
13 him that he can call in four weeks and get some results,
14 right?

15 A That's right.

16 Q You as a member of the Ad Hoc Committee
17 ever receive any results of the Selikoff group shown
18 on Plaintiffs' Exhibit 48?

19 A I have not had an opportunity to re-
20 view any of his data.

21 Q Hand you what's been marked Plaintiffs'
22 Exhibit #49 (Monsanto identification #8323058 through
23 #8323060, inclusive).

24 This is a document, Plaintiff's Exhibit
25 #49 is a document authored by Pierre R. Wilkins June 20,

1 1979, and appears to be to members of the Ad Hoc Committee,
2 and you're one of the recipients of it, right?

3 A That's correct.

4 Q And attached is a news release draft
5 in response to charges about dioxin exposure in the
6 Kanawha River, isn't that correct?

7 A That's right.

8 Q And in the news press release the
9 company states that their capability of detection down
10 to 10 parts per trillion, they were able to find no
11 dioxin, is that correct?

12 A That's right.

13 Q And they characterized that as the
14 rough equivalent of one crystal of common table salt in
15 an olympic-size swimming pool filled with water, right?

16 A That's right.

17 Q Hand you what's been marked Plaintiffs'
18 Exhibit #132 (Monsanto identification #8323065 through
19 #8323070, inclusive), and ask you to take a look at that.

20 Plaintiffs' Exhibit 132, which con-
21 sists of 6 pages, is a memo from Jan Yung to F. C. Meyer
22 on June 21, 1979, concerning the study of Nitro Plant
23 workers beginning the week of the 11th of June, 1979, right?

24 A That's correct.

25 Q And you're shown as getting a copy of

1. that, correct?

2. A That's correct.

3. Q And it states this study was done at
4. the Putnam Health Clinic facilities, right?

5. A That's right.

6. Q And it lists by date the number of
7. people who participated in that study, isn't that correct?

8. A That's correct.

9. Q And the number is 436, right?

10. A That's what it says here. There's also
11. a column that shows 15 additions and 36 cancellations.

12. Q But, I take it, the part that says
13. "participated" would be the ones that participated?

14. A Says, "participated, 436, cancellations,
15. 36, additions, 15." The final total was 436.

16. Q Of course, if you look above, there's
17. a correction that says 436, right?

18. A That's correct.

19. Q Then pages 5 and 6 give the identity
20. of the people that participated in the study, right, from
21. the University of Cincinnati?

22. A That's right. University of Cincinnati
23. group is identified.

24. Q Hand you what's been marked Plaintiffs'
25. Exhibit #51 (Monsanto identification #8323133), ask you

1 to take a look at that.

2 Exhibit 51 is a memo from Mr. Wilkins
3 to the Task Force members, dated June 27, 1979, is it not?

4 A Yes, it is.

5 Q It deals with a list of questions
6 and answers to help you prepare for the release of the
7 Selikoff health study, right?

8 A Right.

9 Q There is an attachment we don't seem
10 to have. Do you recall those questions and answers?

11 A Heavens no. That's four years ago.

12 Q States in the second paragraph describ-
13 ing the answers, "Those answers are in somewhat a con-
14 versational tone but offer rational answers to the sort
15 of adversarial queries we can expect," right?

16 A That's right.

17 Q Why did you think that you would get
18 a negative or bad report from the Selikoff Mt. Sinai study?

19 A I hardly think this shows that I would
20 have expected anything. I'm being told here what someone
21 else expects.

22 Q O.K. Hand you what's been marked
23 Plaintiffs' Exhibit #52 (Monsanto identification #8323145
24 and #8323146), sir.

25 Plaintiffs' Exhibit 52 is a memo from

1 F. J. Holzapfel, dated July 2, 1979, with the subject
2 being Nitro Health Study Task Force, Minutes of Meeting
3 6/28/79, and you're one of the persons to receive a copy
4 of that, isn't that correct?

5 A That's correct.

6 Q O.K. Down there in "Items Discussed"
7 under I (c), "Question and answer anticipated upon re-
8 lease of Selikoff study summary. Wilkins distributed
9 with request for comments and additions. Discussion at
10 7/6 meeting," right?

11 A That's right.

12 Q Then I. (d) deals with the Monsanto
13 Mortality Data on personnel involved in 1949 incident,
14 correct?

15 A Correct.

16 Q The data that they were gaining there,
17 would that be the Suskind-Zack study that was published
18 in January of 1980 in the Journal of Occupational Medicine?

19 A I'm not sure which one of those two
20 studies that were conducted by Judith Zack is referred to
21 here. I don't recall the dates, relative dates of the
22 two. In one case mortality study was done on those persons
23 involved in the 1949 incident. In the second case the
24 total plant population mortality study was done. I'm not
25 sure which one's being referred to here.

1 Q The total plant study, has it been
2 published?

3 A Yes.

4 Q Can you tell me where it was published?

5 A I believe that's the one that was pub-
6 lished in the J.O.M. Here again, it's been better than
7 three and a half years since it's been published, and
8 I'm not sure of the dates of those things, nor am I
9 absolutely certain of all the journals it may have
10 appeared in.

11 Q It states, "Meyer reports that this data
12 should be available by 8/1 for possible use in partial
13 response to publication of Selikoff data," does it not?

14 A That's right.

15 Q Hand you what's been marked Plaintiffs'
16 Exhibit #53 (Monsanto identification #233691 through
17 #233694, inclusive).

18 Plaintiffs' Exhibit 53 is a document
19 which has an attachment marked as page 2, page 3 and page
20 4 from Pierre R. Wilkins to members of the Ad Hoc Committee,
21 and it's dated July 3, 1979, isn't that right, sir?

22 A That's right.

23 Q What is attached is a draft of the
24 preparedness statement responding to the release of the
25 Selikoff health study, isn't that right?

1 A That's right.

2 Q And, I take it, he's anticipating
3 what this study's going to say, isn't he?

4 A I can't speak for what Mr. Wilkins
5 thought.

6 Q Well, let me ask you this, "So let me
7 state the scenario upon which this is based. 1, the
8 health study will not only include data about various
9 health effects but will specifically allege that there
10 are workplace problems at the plant." Says that, doesn't
11 it?

12 A It says that, yes.

13 Q "2, Those problems will extend beyond dioxin
14 and PAB exposure," says that, too, doesn't it?

15 A Says that.

16 Q And 3, "We should not impute the
17 methodology or medical validity of the Mt. Sinai work
18 but point out that these findings are not conclusive
19 until further evaluated and subjected to peer review,"
20 right?

21 A That's stated for any study, that's right.

22 Q Tell the jury what peer review means.

23 A It means that a group of peers, in
24 other words, people in the same field of expertise, would
25 review the data to be sure the conclusions drawn from

1 that data are correct prior to its publication.

2 Q And in number 5 it says, "We must be
3 equally circumspect in what we say or imply about the
4 Suskind results," right?

5 A That's right.

6 Q Well, how could you worry about the
7 results of either one of these studies when you haven't
8 seen them?

9 A I believe that's the reason that
10 you'd be concerned. You don't know what they are going
11 to show and you have to be prepared to respond to what-
12 ever these studies show.

13 Q Before a study is released for the
14 scientific community and general public, it has to be
15 peer reviewed, doesn't it?

16 A No. There are ways it can be pub-
17 lished in non-peer review journals.

18 Q You know whether the Selikoff group
19 makes it a habit or practice of not being peer reviewed?

20 A I have no idea what their habits or
21 practices are.

22 Q Well, in any event, your statement,
23 by way of summary, is that you say you must be peer
24 reviewed before any conclusions can be made about the
25 past or present health or safety environment of Monsanto's

1 Nitro Plant, right?

2 A That's right.

3 Q And that the Mt. Sinai study is just
4 one of three separate distinct studies being made of
5 the work environment of the Nitro Plant, isn't that right?

6 A That's right.

7 Q Then you go into the University of
8 Cincinnati's morbidity study, isn't that right?

9 A That's right.

10 Q That one being done by Suskind, correct?

11 A That's what it says.

12 Q And that that should be published
13 later in the year, right?

14 A Yes, that's what it says. We have to
15 keep in mind that all of these are statements on a draft.
16 Not a final publication.

17 Q On the third page of Plaintiff's Ex-
18 hibit 53 about halfway down, it states, "First, a re-
19 cent analysis of mortality rates of employees exposed
20 to dioxin in the 1949 incident indicates that there is
21 no substantial variance between the mortality rates
22 of the plant workers and the American public as a whole,"
23 is that what it says?

24 A No. It says, "no statistical variance."
25 Not "substantial."

1 Q Other than that?

2 A Other than that that's correct.

3 Q And, of course, that would be the

4 Suskind and Zack study in the Journal of Occupational

5 Medicine?

6 A As I said before, I'm not sure which

7 one of those two studies was published in the J.O.M.

8 Q That would be the 121 people they

9 were working with?

10 A That's what this indicates to me, yes.

11 Q Did you do any of the work concerning

12 the Suskind and Zack mortality table study?

13 A No.

14 Q But in your job you would receive

15 copies of everything that's done?

16 A Oh, sure. It's my job to be informed,

17 even though that I didn't do the work.

18 Q Pardon me.

19 A It's my job to be informed of it even

20 if I didn't do the work.

21 Q What they are doing in Exhibit 53

22 is anticipating the study coming out and making a

23 statement for a press release to counteract any adverse

24 effect of it, isn't that correct?

25 A What they are doing is drafting a

1 statement which is subject to much review and correction
2 prior to its release.

3 (Whereupon a lunch recess was taken,
4 after which the following proceedings were
5 had.)

6 Q (By Mr. Pratt) Sir, I hand you what's
7 been marked Plaintiffs' Exhibit #133 (Monsanto identifi-
8 cation #233795), and ask you to look at that.

9 Plaintiffs' Exhibit 133 is a memo
10 from Dan R. Bishop, dated July 5, 1979, and it's Nitro
11 Q and A Suggestions, it's to P. R. Wilkins, and you're
12 one of the persons who received a copy of it, right?

13 A Right.

14 Q Now, what was the purpose of this
15 document, anyway?

16 A From what it says in the first sen-
17 tence, suggest changes in some of the answers to a
18 number of questions, A1, 2, 3 and 8.

19 Q This one's for press releases or some-
20 thing?

21 A It doesn't say.

22 Q First question deals with Dr. Wallace
23 who has been there 26 or 27 years, and says he has not
24 seen any abnormal rate of those kinds of symptoms or
25 problems, is that correct?

1 A That's what it says.

2 Q Goes on to say there are periodic
3 physical examinations at the individual's discretion
4 and not mandatory, right?

5 A Nor can they be, that's right.

6 Q Then in A2, answer states that in 1957
7 chloracne was found to be caused by dioxin, is that correct?

8 A That's what it says.

9 Q That's from a German study, is it not?

10 A Doesn't say that here. I have no idea
11 where he got that.

12 Q Answer to number 3, states to take
13 care of the medical for the people with chloracne and
14 you gave them a 4 cent per hour premium pay, right?

15 A Says they got it.

16 Q Hand you what's been marked Plaintiffs'
17 Exhibit #134 (Monsanto identification #8323177 and
18 # 8323178) and ask you to take a look at that.

19 Plaintiffs' Exhibit #134 is a document
20 authored by Dan R. Bishop on July 6 of 1979. The sub-
21 ject is Nitro Health Studies, and it's to the Committee,
22 is it not, and you're one of the people shown there, sir?

23 A Yes.

24 Q On the second page, which we do not
25 have a copy of, it says, "I've also attached copies of

1 an editorial on Agent Orange from the July 5 edition
2 of the New York Times and a letter published in a Charles-
3 ton newspaper authored by a leading Charleston area ortho-
4 pedic surgeon and prominent community leader." Do you
5 know what those documents said?

6 A No, I do not.

7 Q We do not have copies of them.

8 Hand you what's been marked Plaintiffs'
9 exhibit #74 (Monsanto identification #8323203 through
10 #8323205, inclusive), and ask you to take a look at that.

11 Plaintiffs' Exhibit #74 appears to be
12 a three-page document authored by F. J. Holzapfel, dated
13 July 9, 1979. Subject matter is Nitro Health Study Task
14 Force, Minutes of Meeting 7/6/79, is that correct, sir?

15 A That's correct.

16 Q And those present were Messrs. Bishop,
17 Holzapfel, Meyer, McCarville, Nelson for Callis, Park,
18 Scott, yourself and Wilkins, isn't that right?

19 A That's right.

20 Q The first item subject is I(a), "Analy-
21 sis of Mortality Experience of Those Involved in 1949
22 Incident," that's what it says, right?

23 A That's right.

24 Q And Meyer reported that the results
25 were complete, results were not startling, mortality data

1 better than for general population, right?

2 A That's right.

3 Q And agreed that we should issue a
4 press release based on this by July 15th to beat any
5 possible release by Selikoff, that's what it says, right?

6 A That's what it says.

7 Q Why would you want to beat Selikoff's
8 study?

9 A I think for the valuable information
10 that this would provide to the public. First fellow
11 on the block gets most of the attention. Since we had
12 something good to say, we wanted that to be duly noted
13 and not overshadowed by somebody else's report.

14 Q Let me ask you this, do you have first-
15 hand knowledge of the validity of that study?

16 A In what regard would I have it? I'm
17 not sure how you're asking me that question.

18 Q What I'm getting at, did you do any
19 of the work on that study?

20 A No, I did not.

21 Q In other words, what you're relying
22 upon, because in later documents you're involved with
23 the media which are relying on you for the authenticity
24 of the study for others in the company, is that right?

25 A Yes, that's right.

1 Q Under I.(b) of Plaintiffs' Exhibit 74
2 it says, "Moses' (Selikoff) testimony before House Sub-
3 committee on Oversight and Investigations, 6/26/79,"
4 isn't that correct, sir?

5 A That's correct.

6 Q I'm not sure who this is on. "Dis-
7 tributed copies, indicates health survey on Nitro workers
8 has been completed." Who are they talking about there,
9 do you have any idea?

10 A Nitro workers.

11 Q Is that Selikoff's study?

12 A Since it's under that heading, I presume
13 so.

14 Q Goes on to say that catalogs of all
15 the suspected effects of dioxin on human health --
16 allowing reader to infer that these conclusions were
17 based on such health study. Would that, again, be the
18 testimony of Moses or Selikoff in the House Subcommittee
19 on Oversight and Investigations?

20 A I can't say. I don't know what the
21 testimony was. I didn't hear it, I haven't read it and
22 I don't have a copy here to look at.

23 Q Then on page 2 of Exhibit 74 at the
24 bottom under item (m), it says, "Discussion of Wilkins'
25 preparedness statement of 7/3," isn't that correct?

1 A That's what it says.

2 Q "Extensive discussion -- Wilkins will
3 redraft. Decided to sharpen distinction between Mon-
4 santo's own compilation and analysis of past medical
5 histories and the two current health studies of Selikoff
6 and Suskind." Are they referring to a compilation of
7 medical histories that Monsanto did?

8 A Past medical histories is what it
9 refers to, and I would expect that that is exactly what
10 they mean. They say, "compilation and analysis of past
11 medical histories."

12 Q Would Suskind have gotten a copy of that?

13 A He may have, but I can't say that from
14 my own knowledge.

15 Q Would Selikoff have gotten a copy?

16 A Again, same answer.

17 Q Then on page 3 of that exhibit, "Will
18 issue a news release as soon as possible on the mortality
19 data for those involved in the 1949 incident and such
20 other data for which the analysis is complete."

21 A That's what it says.

22 Q That would be the Suskind and Zack study?

23 A I'm not sure. Again, there were two
24 studies. One, I believe, was Zack and the second was
25 Suskind and Zack, and those two are not totally clear in

1 my mind as to their time.

2 Q O.K. Hand you what's been marked
3 Plaintiffs' Exhibit #135 (Monsanto identification #8331253
4 through #8331259 and #8331262 through #8331271, inclusive)
5 for you to look at.

6 O.K. Plaintiffs' Exhibit 135 consists
7 of 17 pages. It's a document from Dan R. Bishop of
8 July 13, 1979, to the members of the Health Study Task
9 Force, isn't that correct, sir?

10 A That's correct.

11 Q And the subject of that is Nitro
12 Position Statement and Backup Q and A's, right?

13 A Right.

14 Q And, again, this document, there is a
15 draft of 7/12/79 which is found on pages 2, 3, 4, is
16 that right?

17 A Yes.

18 Q And a draft, again, of 7/12/79, Q and
19 A, Nitro Health Studies, that's on 5, 6, 7, right?

20 A Correct.

21 Q And page 8 of Plaintiffs' Exhibit 135,
22 there's a cover document by the same person of August
23 7, 1979, and it's a Revised Nitro Position Statement,
24 isn't that right?

25 A Right.

1 Q And the first paragraph states, "Attached
2 for your information is the revised position statement
3 we intend to go with as our first line of defense when
4 Dr. Selikoff issues his report," isn't that right?

5 A That's right.

6 Q And says, "Please destroy the previous
7 statement dated July 13 and replace it with this version,"
8 isn't that correct?

9 A Correct.

10 Q On page 15, question 2 and the answer,
11 "Question, How does Monsanto justify continuing the
12 manufacture of 2,4,5-T until 1969 when workers continued
13 to contract chloracne," and will you read that answer, sir.

14 A "Dioxin was not chemically identified
15 until 1957, and, of course, its relationship to chlor-
16 acne was not established until that time. However,
17 following the 1949 incident, Monsanto revised its 2,4,5-T
18 process, instituted additional safety and industrial hy-
19 giene practices and later built an entirely new unit for
20 the manufacture of the herbicide."

21 Q Let me ask you this, have you ever
22 viewed any of the documents on the amount of TDD that
23 the new plant in Building 92 was showing?

24 A No, I've not seen those documents.

25 Q What additional safety and industrial

1 hygiene practices were put in from '55 to '61?

2 A I cannot tell you that. I was not there,
3 and I have no information to that effect in front of me.

4 Q Do you have an opinion as to what the
5 parts per million, parts per billion, parts per trillion,
6 what is the toxicity of tetrachlorodibenzo-para-dioxin?

7 A You would have to be specific as to
8 which animal species you're talking about because it
9 varies greatly from one to the other.

10 Q How about man?

11 A I'm not sure we know exactly what the
12 toxic level for LD-50, if you will, in humans is. That
13 type of experimentation certainly is unacceptable, and
14 there is no way to develop that kind of knowledge.

15 Q Well, is it the company's position,
16 has it been the company's position that the only thing
17 that 2,3,7,8 tetrachlorodibenzo-para-dioxin has caused
18 is chloracne?

19 A Yes, I think we can say that's not
20 only the company's position but it's the opinion of many
21 medical experts throughout the world, not only ours.

22 Q Hand you what's been marked Plaintiffs'
23 Exhibit #136 (Monsanto identification #8323234 and #8323235),
24 and ask you to look at that.

25 Plaintiffs' Exhibit 136 is, again, a

1 memo from Dan R. Bishop on July 16, 1979. The subject
2 is Nitro Health Study Task Force, Minutes of Meeting of
3 7/13/79, and while you're not present, apparently, you
4 were given a copy of that, right?

5 A Yes.

6 Q Turning to item Ia, which is entitled
7 "Selikoff Preparedness Statement/Q and A's." It states,
8 "Revised drafts of this material were subjected to final
9 scrutiny and final modifications were incorporated. These
10 documents (attached) should now be considered as approved,"
11 it states that, doesn't it, sir?

12 A Yes, it does.

13 Q "Evergreen documents and will consti-
14 tute our first line of defense when the attack occurs."
15 What are evergreen documents?

16 A These are documents that would remain
17 in existence and be updated as they improve our knowledge.
18 As we find new truths to be placed into them, they would
19 be placed in the proper place.

20 Q Then under Ib, "Nitro Mortality Study."
21 States, "Drs. Roush and Meyer will meet with Dr. Suskind
22 in Cincinnati on July 16 and attempt to get his approval
23 to release this data early as a news release," is that
24 what it says?

25 A That's what it says.

1 Q "PR strongly recommends against a
2 joint (Suskind/Monsanto) news release." That's also
3 stated, right?

4 A That's also stated.

5 Q "We feel it could compromise his
6 credibility and his independence -- extremely important
7 aspects of our overall strategy." That's also stated,
8 isn't it?

9 A Correct.

10 Q "If all goes well, we would issue the
11 news release no later than Wednesday, July 18," right?

12 A Right.

13 Q Is it Monsanto's position that Suskind
14 is independent from Monsanto in these studies?

15 A Indeed it is, and that's also Dr. Sus-
16 kind's repeatedly stated position.

17 Q Well, I asked that for the reason I
18 seem to in the documents come across repeated instances
19 of where Monsanto officials are advising and talking to
20 Dr. Suskind. Even with that you say he's independent,
21 is that right?

22 A I'm not aware that the officials have
23 ever advised Dr. Suskind. They have consulted with him,
24 asked his guidance and advice as consultant independent
25 of any company ties. His study was performed out of a

1 special institute at the University of Cincinnati as a
2 research group.

3 Q He's long been affiliated with Monsanto
4 in these studies, though, has he not, since 1949, right?

5 A He has been a consultant to Monsanto
6 since that time.

7 Q Do you know whether or not he testified
8 for Monsanto in the 1956, 1957 workmen's compensation
9 hearings in Charleston, West Virginia?

10 A I'm not really sure whether he did or
11 not. I have no direct knowledge of that. He may have.
12 It wouldn't be surprising to learn that he did.

13 Q O.K. Hand you what's been marked
14 Plaintiffs' Exhibit #77 (Monsanto identification #8323245
15 through #8323248, inclusive), ask you to take a look at
16 that, sir.

17 O.K. This is a memo from Dan R. Bishop
18 to the Nitro Health Study Task Force on July 20 of 1979,
19 the Minutes of Meeting of 7/20/79, is it not?

20 A Yes.

21 Q And you're one of the gentlemen that
22 were addressed, right?

23 A Yes.

24 Q Turning to page 2 of that document
25 under d, "McCarville reported that Selikoff will do a

1 health study funded by NEISS in cooperation with NIOSH
2 and Arkansas Department of Health at the Vertac Plant in
3 Jacksonville, Arkansas," isn't that right?

4 A Right.

5 Q And that's a former Hercules Plant
6 where they made Agent Orange during the war, right?

7 A That's what it says here.

8 Q And over on page 3 of that document
9 it states, "It's generally felt that Selikoff is getting
10 involved at Vertac to either collaborate his Nitro find-
11 ings or to find problems he was unable to uncover at
12 Nitro, and in either case, he is expected to report the
13 two together in such a way that it will be difficult to
14 sort out one from the other," is that correct?

15 A That's what it says.

16 Q Then also on page 3 under e, which is
17 entitled "Nitro Plant Mortality Study," we have a meeting
18 between Meyer, Dr. Roush and Suskind in Cincinnati on
19 July 17 to review a draft of the Mortality Report, isn't
20 that correct?

21 A That's correct.

22 Q I thought Judith Zack was the author
23 of that.

24 A That's correct.

25 Q Well, what would your Medical Department

1 be doing reviewing a draft of that report with Suskind?

2 A The epidemiology group is part of that
3 Medical Department. Dr. Roush as Director of it would
4 have Epidemiology reporting to him.

5 Q You don't find it strange that the
6 co-author, Mrs. Zack, was not present at that meeting?

7 A Not at all since she reported to Dr.
8 Meyer.

9 Q O.K. Then over on page 4 of Plaintiffs'
10 Exhibit #77 I note that in the Charleston Nitro area that
11 Monsanto has hired an outside PR firm called Ryan and
12 Associates, isn't that right?

13 A Correct.

14 Q Hand you what's been marked Plaintiffs'
15 Exhibit 78 (Monsanto identification #236205 through #236208,
16 inclusive), and ask you to take a look at it, sir.

17 Plaintiffs' Exhibit #78 is a four-page
18 document authored by Dan R. Bishop on July 27, 1979, the
19 subject being Nitro Health Study Task Force, Minutes of
20 Meeting 7/27/79, and it doesn't show that you were there.

21 A That's correct.

22 Q Did you ever see this document?

23 A Apparently not. I have not if I had
24 not been included in the distribution.

25 Q Hand you what's been marked Plaintiffs'

1 Exhibit #80 (Monsanto identification #236212 through
2 #236215, inclusive), which consists of four pages, ask
3 you to take a look at that, sir.

4 O.K. This document, Plaintiffs' Ex-
5 hibit 80, is authored by F. J. Holzapfel, dated August
6 6 of 1979. The subject is Nitro Health Study Task Force,
7 Minutes of Meeting of 8/3/79, and you are a recipient
8 of that document, right?

9 A Right.

10 Q O.K. If you would turn to page 2
11 under paragraph 2, "Suskind Study - Allocation of Costs."
12 Is it your understanding that Monsanto paid for this study?

13 A Monsanto paid a portion of the cost.

14 Q Who else paid for it?

15 A The National Institute of Environmental
16 Health Sciences and the University of Cincinnati's --
17 I've forgotten the precise name of this group -- but it
18 was shared in part by the other two organizations as well.

19 Q Do they know the total cost of this study?

20 A I'm sure someone does.

21 Q Well, it's still going on. That's why
22 I'm wondering if there is a total bill on that.

23 A I have no idea what the cost would be.
24 I don't get involved in financial aspects of things like
25 this.

1 Q Who would be involved?

2 A I can't give you a name. I can tell
3 you it would probably be identifiable through the
4 Accounting people or financial people in the company.

5 Q Under 3 it says, "Suskind Study -
6 Followup to Employees," right?

7 A Oh, yes.

8 Q And the first and second paragraphs
9 deal with Suskind's office have advised the Nitro Plant
10 nurse that they were contacting the physicians of all
11 people and the nurse was getting inquiries from those
12 examined concerning the results, right?

13 A Right.

14 Q Second paragraph under 3 says, "The
15 group recommends that feedback be provided to all em-
16 ployees as soon as possible," the group being the Ad Hoc
17 Committee, I take it, right?

18 A The group as stated here is the Ad Hoc
19 Committee, I expect, and the people to be informed were
20 the people to be examined.

21 Q Says, "Dr. Gaffey will discuss this with
22 Dr. Roush to determine who in DMEH will contact Dr. Suskind,"
23 right?

24 A Right.

25 Q And there was three alternatives that

1 were discussed: A letter from Suskind's office to each
2 employee, a letter from the Plant Manager and group
3 meetings at Nitro, right?

4 A Right.

5 Q Do you know which they did or if they
6 did anything?

7 A Yes. Dr. Suskind sent each employee
8 a copy of a report of his findings of each employee's
9 examination.

10 Q Hand you what's been marked Plaintiffs'
11 Exhibit #138 (Monsanto identification #8323313 through
12 #8323315, inclusive) and ask you to take a look at that.

13 Plaintiffs' Exhibit #138, the author
14 appears to be Mr. Holzapfel, dated August 20, 1979.
15 It's a Nitro Health Study Task Force, Minutes of Meeting
16 of 8/17, to the Committee. I call your attention to
17 page 1, "Mortality Study." There it states, "Dr. Suskind
18 has suggested some changes in the draft of Monsanto's
19 'Mortality Study' which we would like to submit for pub-
20 lication in a reputable journal," isn't that correct, sir?

21 A That's correct.

22 Q "Dr. Gaffey (and possibly other DMFH
23 personnel) will visit Suskind week 8/20 in an effort to
24 resolve differences and avoid further delay in publica-
25 tion." That's also stated, is that right?

1 A That's right.

2 Q And under 3 of page 1, get back to
3 Dr. Selikoff, "Selikoff Study at Vertac," that's the
4 heading, right?

5 A That's right.

6 Q States, "Dr. Meyer called Selikoff
7 who reported that some 200 people were involved in the
8 Vertac study, that the cases seemed more active than
9 those at Nitro and that he was still analyzing the Nitro
10 data," isn't that correct, sir?

11 A That's correct.

12 Q On page 2 of Exhibit 138 at the top
13 under 4, it says, "Feedback to Employees from Suskind
14 Examination," isn't that right, sir?

15 A That's right.

16 Q It states, "As part of visit to Suskind
17 week 8/20, Dr. Meyer will press for feedback to employees
18 whose examinations have not revealed anything serious
19 enough to warrant feedback to their physicians (see
20 attached memo of 8/8 from O. Dolin for status report on
21 health study.)" What would that have been about, sir?

22 A Are you talking about the attached
23 memo or part of the Suskind visit? I'm not sure what
24 you're asking me about.

25 Q About the Suskind visit.

1 A Obviously what they are trying to do
2 is get Dr. Suskind to report back to individuals who
3 have not had previous communication about the results
4 of their examination.

5 Q Goes on to say, "Holzapfel will deter-
6 mine whether Dr. Wallace (Nitro Plant doctor) has been
7 contacted by any of the physicians who have been con-
8 tacted by either Suskind or Selikoff," right?

9 A Right.

10 Q Hand you what's been marked Plaintiffs'
11 Exhibit #83 (Monsanto identification #8323316 through
12 #8323320, inclusive), ask you to look at that, sir?

13 Plaintiffs' Exhibit #83 purports to
14 be a memo from F. J. Holzapfel, dated August 24, 1979,
15 the subject being Nitro Health Study Task Force, Minutes
16 of Meeting of 8/24/79, listing all those present, and
17 I'm asking you if that's not a document that you have
18 seen, sir?

19 A Yes.

20 Q Turning to page 2 of that document,
21 the top paragraph on page 2 entitled "Monsanto Mortality
22 Study."

23 A Right.

24 Q First paragraph relates that the draft
25 has not been accepted by Suskind yet but he promises he

1 will review it next week, right?

2 A Right.

3 Q And that Dr. Meyer will follow up on
4 that, right?

5 A Right.

6 Q Paragraph 3 states that the Carbide --
7 Carbide is a chemical company out there locally, right?

8 A Carbide is a chemical company which
9 has several plants in the Charleston area.

10 Q Carbide University of Pittsburgh
11 study involved 819 deceased employees who had been em-
12 ployed at its South Charleston Plant, that's what it
13 states in that first sentence, right?

14 A Right.

15 Q Goes on to say that, "Carbide's study
16 showed higher than normal incidence of three types of
17 cancer and led to the larger 40,000 man epidemiology
18 study announced last week." That was also stated, right?

19 A Right.

20 Q Then in the final paragraph of section
21 2, "We must be prepared to differentiate between the two
22 kinds of studies, if our future news release is to have
23 credibility," does it not?

24 A Yes.

25 Q Goes on to state, "Dr. Gaffey explained

1 that a study which included only deceased employees
2 would be expected to show more cancer than a study of
3 an entire group (living and dead) that had been exposed
4 to an 'incident' such as ours in 1949," right?

5 A Right.

6 Q So what he's saying is that the Carbide
7 study, because they studied deceased persons alone,
8 would not have validity, right?

9 A No, that's not right.

10 Q Well, he's saying that it would have a
11 higher incidence of cancer?

12 A That's right. That doesn't say it's
13 not a valid study.

14 Q Under section 3, back to the Suskind
15 study, that's the morbidity study, is it not, sir?

16 A I expect that's what's been referred to.

17 Q Dr. Suskind advised Dr. Meyer that
18 he'll send a report to each patient examined, to the
19 man's personal physician and send a letter to each man
20 examined advising that the file's been sent to his
21 physician, that's what is stated there, right?

22 A Right.

23 Q Then it goes on to state, "We understand
24 that the Monsanto medical community will receive a copy
25 of the test results for that individual's medical file."

1 Are they referring to the local Nitro Plant getting a copy?

2 A I would expect that's what's meant
3 by this.

4 Q Then it goes on to state, in essence,
5 that Dr. Meyer will try to resolve any problem with this
6 man, is that right?

7 A Yes. I believe that relates to the
8 confusion as to when that letter would be sent.

9 Q Hand you what's been marked Plaintiffs'
10 Exhibit #84 (Monsanto identification #8331273 and #8331274),
11 ask you to look at that, sir.

12 Plaintiffs' Exhibit 84, sir, is a memo
13 from F. C. Meyer, dated August 27, 1979, and the subject
14 is 'Phone Discussion with Dr. Ray Suskind, re: Nitro
15 Health Studies, is it not?

16 A Yes.

17 Q And you're were one of the recipients
18 of that document, is that correct?

19 A Correct.

20 Q On paragraph 1 on page 1 of Plaintiffs'
21 Exhibit 84 it says, "He," and I suppose they mean Sus-
22 kind, "has the '1949 accident' mortality revised publi-
23 cation slated for Journal of Occupational Medicine and
24 agrees it should go out this week." That's what's stated
25 here, right?

1 A Right.

2 Q States also, "He is reviewing it today
3 and will call later in the day to discuss. I volunteered
4 J. Zack and William Gaffey, if necessary, to visit
5 Cincinnati for resolution of any problems which cannot
6 be handled by 'phone," isn't that right?

7 A That's right.

8 Q And under paragraph 2, deals with the
9 Nitro Health Study carried out June 11 through 18 con-
10 cerning communications of individuals' results that have
11 been carried out or are in process. That would be the
12 morbidity study, right?

13 A Yes.

14 Q It states under a, "Fairly soon after
15 the exams, for several patients found to have symptoms
16 needing immediate followup (not necessarily related to
17 work exposure), 'phone contacts were made with the
18 patient's physicians," right?

19 A Yes.

20 Q And under 2b, that deals with the
21 patients who signed a consent form, that the reports
22 would go to their doctors with a letter of confirmation
23 to the patients, right?

24 A That's right.

25 Q And under c, a letter saying that the

1 results were complete and a consent form going back
2 so that they can send the reports to their physicians,
3 isn't that correct?

4 A Correct.

5 Q And that sample copies of those letters
6 would be sent to Dr. F. C. Meyer in St. Louis, right?

7 A Right.

8 Q On page 2 of that document, sir, para-
9 graph 3, apparently, Suskind related the fact that he
10 had attended an early August interagency meeting in
11 Washington on 2,4,5-T and 2,4-D held by NIOSH, OSHA,
12 NIEHS or reported orally on the progress of the Nitro
13 study, isn't that right?

14 A That's right.

15 Q Then it also makes reference in para-
16 graph 3, Selikoff being there and he only mentioned
17 Nitro privately and talked about Vertac examinations
18 and as an example of a, quote, clean, I think it is,
19 2,4-D exposure and further mentioned his preliminary
20 examination of workers handling pentachlorophenol in a
21 Weyerhaeuser wood treating plant in Arkansas, that's all
22 in there?

23 A Except it says 2,4,5-T on my copy.

24 Q Mine's cut off. It's 2,4,5-T, fine.

25 Paragraph 4 says, "Suskind was informed

1 that Bill Gaffey would contact him today concerning
2 data on PAB exposed employees." That's what's stated
3 there, right?

4 A Right.

5 Q His study, as I understand it, was on
6 dioxin. Was he studying PAB on these employees, also?

7 A No, he was not studying it but he had
8 to consider it as a factor which would help to explain
9 the finding of excessive number of bladder cancers in
10 that study group. That's to make sure you don't relate
11 it to the wrong exposure.

12 (Whereupon a short recess was taken,
13 after which the following proceedings were had.)

14 Q (By Mr. Pratt) Hand you what's been
15 marked Plaintiffs' Exhibit #56 (Monsanto identification
16 #8323334, #8323335 and #8323336), ask you to look at that.

17 Plaintiffs' Exhibit #56, sir, purports
18 to be a memo from F. J. Holzapfel, dated September 4,
19 1979, with the subject matter being Nitro Health Study
20 Task Force, Minutes of Meeting of 8/31/79, and that you
21 were present, is that correct?

22 A That's correct.

23 Q And the leadin paragraph states, "Re-
24 statement of Task Force Objectives - 'To ensure that
25 Nitro doesn't become Monsanto's Love Canal.'" States

1 that, doesn't it, sir?

2 A Yes, it does.

3 Q Do you ensure that you don't have a
4 Love Canal with publicity, sir?

5 A I don't see anything that refers to
6 publicity in that. But, yes, you do because what you
7 do is give the public factual information instead of
8 emotional issues to deal with.

9 Q Is it your statement that Love Canal
10 was an emotional issue rather than a factual one?

11 A I do indeed believe that was 99% of the
12 problem at Love Canal as opposed to factual issue showing
13 any true problems there.

14 Q Turn to page 3 of Plaintiffs' Exhibit
15 #56, sir. Under 7, "Mortality Study," states, does it
16 not, "Meyer reports Suskind still procrastinating on
17 release of study for publication. Meyer to try to re-
18 solve remaining issues (ego-related) this week." Is
19 that what it says?

20 A That's what it says.

21 Q In paragraph 6 it says, "Recent Chlor-
22 acne Cases. Judy Zack has reviewed records and identi-
23 fied about 300 employees hired since January, '73," right?

24 A Right.

25 Q And you were to review the medical

1 records to identify chloracne cases in this group.

2 Did you do that?

3 A I'd have to go back into my records
4 and be sure.

5 Q What would be the purpose of that work,
6 sir?

7 A It's very simple. To determine whether
8 or not we are still seeing chloracne in people who had
9 no known or identifiable exposure to the 2,4,5-T
10 operation or any of the materials, equipment involved
11 in that operation.

12 Q Did you find any out of those 300
13 people to have chloracne?

14 A I don't recall what the findings of
15 my study were. I'm not sure when that was completed
16 or what I wrote on that. I'd have to go back in my
17 files to see exactly what I said. To the best of my
18 knowledge, we did not see chloracne in this group of
19 people.

20 Q Hand you what's been marked Plaintiffs'
21 Exhibit #57 (Monsanto identification #8323340 through
22 #8323342, inclusive), which is a three-page document
23 authored by F. J. Holzapfel, dated September 10, 1979,
24 and the subject is Nitro Health Study Task Force,
25 Minutes of Meeting September 7, 1979, and you're shown

1 on the list of recipients, is that correct, sir?

2 A That's correct.

3 Q And under paragraph 1, "Mortality
4 Study," it states, "Suskind still insisting on in-
5 clusion of references to his past speeches and is
6 pursuing with editor of journal. Expect to reach de-
7 cision next week," isn't that right?

8 A That's right.

9 Q And goes on to say, "Acceptance for
10 publication at least six weeks away, thus, precluding
11 any news release on our part until then," right?

12 A Right.

13 Q That might have been why Mr. Holzapfel
14 referred to ego-related problem in Exhibit 56, right?

15 A That's possible.

16 Q Hand you what's been marked Plaintiffs'
17 Exhibit #58 (Monsanto identification #8323370 through
18 8323372, inclusive), ask you to look at that, sir.

19 Plaintiffs' Exhibit #58 consists of
20 three pages authored, apparently, by F. J. Holzapfel,
21 dated October 1, 1979, subject of which is Nitro Health
22 Study Task Force, Minutes of Meeting of 9/28, and you're
23 a recipient, is that correct?

24 A That's correct.

25 Q On page 1 of that document, paragraph

1 2, it states, "Mortality Study. Suskind has completed
2 his quibbling and the document has been received by
3 the Journal of Occupational Medicine. Meyer will keep
4 in touch," is that correct, sir?

5 A That's right.

6 Q On page 2 of that document under 3,
7 "Feedback to Employees," it states, "Letters from Scott
8 and Suskind to employees favorably received. Union
9 officials chagrined at lack of communication from
10 Selikoff," does it not?

11 A Yes, it does.

12 Q On number 7 of that same page of Plain-
13 tiffs' Exhibit 58 states, "Selikoff Seminar , New York,
14 10/15 through 17." It states underneath that, "Billed
15 as a discussion of recent advances in occupational
16 medicine. Dr. Moses is expected to talk. Discussion
17 on Agent Orange and dioxins seems inevitable." That's
18 what that states, right, sir?

19 A Yes.

20 Q Then it says, "Tillman and Wilkins
21 planning to attend. Position paper and Q and A's seem
22 adequate for responses," does it not, sir?

23 A Yes.

24 Q And did you attend?

25 A Yes, I did.

1 Q And was Agent Orange and dioxin talked
2 about?

3 A I'd have to refer back to the program
4 to be sure of all the subjects covered. I do recall
5 some discussion of dioxin.

6 Q And did Dr. Moses talk as expected?

7 A Yes, she did.

8 Q She make any reference to the Nitro
9 study?

10 A Nitro was not named.

11 Q Hand you what's been marked Plaintiffs'
12 Exhibit #59 (Monsanto identification #231814 through
13 #231817, inclusive), ask you to take a look at that, sir.

14 All right. Plaintiffs' Exhibit #59
15 consists of four pages. The cover letter is a memo
16 from Dan R. Bishop to members of the Nitro Health
17 Study Task Force, dated October 8, and you're a re-
18 cipient of that, are you not, sir?

19 A Correct.

20 Q And it states, "Attached is a draft of
21 the Nitro mortality news release prepared by Pierre
22 Wilkins. Please look it over and let me have any
23 comments today if possible." Then there are three
24 pages, are there not?

25 A That's correct.

1 Q And on page 3 of the document, page 2
2 of the press release, it states in the second full
3 paragraph, "According to the authors, while the size
4 of the worker group was small and the results cannot
5 be considered conclusive, they noted that 'it is im-
6 portant that no apparent excess of total mortality
7 or in deaths from malignant neoplasms or diseases of
8 the circulatory system was observed in a group of
9 workers with a high peak exposure to TCDD followed
10 over a period of nearly 30 years,'" is that correct?

11 A Yes, it does.

12 Q Is there anything of significance other
13 than what I just read in that study? Anything else of
14 significance?

15 A Other than the mortality?

16 Q Other than the fact that according
17 to this study there was less deaths from cancer and
18 from circulatory diseases than the national average.

19 A Well, I think the conclusion that one
20 would draw from that is that this exposure did not
21 produce any adverse effect which would cause an excess
22 number of deaths or deaths due to cancer.

23 Q Or circulatory disease?

24 A Or circulatory diseases.

25 Q Did you have anything to do with

1 selecting the subjects of this study?

2 A No.

3 Q You had no knowledge about that what-
4 soever, right?

5 A Not from a participating point of view.
6 I have knowledge of the study because I did read it
7 after it was published.

8 Q And in a group such as this, this is
9 the only definitive study that's in existence at the
10 present time, right?

11 A Well, I understand that there is some
12 studies going on with the exposed group at Seveso in
13 Italy, an event that occurred some seven years ago,
14 and to date they have not reported any excessive mor-
15 tality or excessive cancer either.

16 Q What are the names of those studies,
17 who are the authors?

18 A I don't know. The authors are out
19 of Seveso, and I don't recall all of their names, nor
20 do I recall the titles of their paper. I know Dr.
21 Regianni out of Switzerland was involved as a director
22 of some of this.

23 Q He was a Medical Director of that
24 clinic that blew up, wasn't he?

25 A I'm not sure if he was Medical Director

1 of that plant or Corporate Medical Director of Harlan
2 LaRouche that owned this plant as one of its subsidiaries.

3 Q But other than the Seveso situation,
4 you know of no other definitive study such as this one?

5 A None that we have been involved in.
6 There are many studies going on in reference to this
7 material, however.

8 Q Plaintiffs' Exhibit #60 (Monsanto
9 identification #236245 and #236246), sir, consists of
10 of two pages, the author of which appears to be F. J.
11 Holzapfel, dated October 15, 1979, and the subject is
12 the Nitro Health Study Task Force, Minutes of Meeting
13 of 10/12/79, and it appears that you're on the list
14 of those who received this document, is that correct?

15 A That's correct.

16 Q On page 1, number 1, it states, "Mor-
17 tality Study. Final revisions made in response to
18 comments of editor of Journal of Occupational Medicine.
19 Hope for notice of acceptance for publication by Octo-
20 ber 30, thus making possible our news release," is that
21 correct?

22 A That's correct.

23 Q Then on number 3, the same page, it
24 says, "Suskind Study. Results available December ear-
25 liest. Data now ready for computer input and analysis,"

1 is that correct?

2 A That's correct.

3 Q So what he's saying is that he thinks
4 he will have it done by December of 1979, isn't that
5 correct?

6 A He's saying that's the earliest he
7 could have it done.

8 Q And the date is three and a half years
9 after that, and it's still not done, is it?

10 A That's correct.

11 Q Hand you what's been marked Plaintiffs'
12 Exhibit #61 (Monsanto identification #8321780), con-
13 sisting of one page, and ask you to look at that.

14 This is a document authored by Dan
15 R. Bishop, dated October 19, 1979. The subject is
16 Mortality News Release, and it's referenced to the
17 Nitro Task Force, and you're on that list, is that
18 correct, sir?

19 A That's correct.

20 Q And the paragraph states, "We have
21 received written confirmation from the Journal of
22 Occupational Medicine that the Nitro Mortality Study
23 has been accepted for publication as well as approval
24 from Dr. Suskind to release the attached summary news
25 release on Monday, October 22. We will give it wide

1 distribution beginning at 10 A.M., St. Louis time,"
2 isn't that right, sir?

3 A That's right.

4 Q Hand you what's been marked Plaintiffs'
5 Exhibit #62 (Monsanto identification #8323392 through
6 #8323394), ask you to look at that.

7 Plaintiffs' Exhibit #62, which is a
8 three-page document authored by F. J. Holzapfel, dated
9 October 29, 1979, the subject matter being Nitro Health
10 Study Task Force, Minutes of Meeting October 29, 1979,
11 and it shows that you're recipient of this document,
12 is that right?

13 A That's correct.

14 Q Under paragraph 1, page 1, "Mortality
15 Study," states that you sent copies to Dr. Selikoff,
16 Mr. Ratliff from the Steelworkers, NIOSH, OSHA, NIEHS
17 and Dow at the same time the news release was issued,
18 right?

19 A That's correct.

20 Q Then there is a paragraph 2, which is
21 entitled "Feeler from Steelworkers," is that right?

22 A That's correct.

23 Q There a Dr. Parkinson, who is a con-
24 sultant to the Steelworkers, had called Dr. Suskind
25 to explore the possibility of having him meet with the

1 Steelworkers to explain the Suskind study, is that right?

2 A That's right.

3 Q And are they talking about the mortality

4 study or are they talking about the morbidity study

5 that he's doing?

6 A As I recall, that was in reference to

7 Dr. Suskind's morbidity study of the 436 individuals.

8 Q And, apparently, it's come to some-

9 body's knowledge, and I would take it it would be Mr.

10 Holzapfel's, the Steelworkers were irritated at Seli-

11 koff's failure to communicate results to those examined

12 by him, right?

13 A That's right.

14 Q The Task Force, meaning all of you,

15 agreed that Monsanto should encourage a meeting of

16 Suskind with both Monsanto and the Steelworkers, isn't

17 that right?

18 A That's right.

19 Q And it says, "Dr. Tillman will deter-

20 mine status from Dr. Roush." What's that mean?

21 A That means I was to pursue with Dr.

22 Roush the possibility of having a meeting and ask him

23 to pursue that matter if he deemed it appropriate.

24 Q Was that done?

25 A Yes. Dr. Parkinson was contacted, and

1 as I recall, he did meet with Dr. Suskind in Cincinnati.

2 Q Can you tell me why, if you know,
3 that the Suskind study has never come out?

4 A What I have been told is that this
5 information is so voluminous that it takes considerable
6 time to evaluate it, tabulate it, to draw various con-
7 clusions to present to certain consultants in the field,
8 to make sure they are accurate and correct, and having
9 to write the paper after having done this requires a
10 considerable period of time. This is not uncommon
11 for a study like this to take several years following
12 publication.

13 Q There was some talk in previous docu-
14 ments about him being able to finish it by December of
15 '79, and it's now three and a half years later. Was
16 there some problem with it, that you know of?

17 A Not that I'm aware of. I'm not sure
18 that it was Dr. Suskind's idea of December of '79. I
19 think that was wishful thinking in that we would have
20 liked very much to have early reports of what was found.

21 Q Under paragraph 3 of pages 1 and 2 of
22 Plaintiffs' Deposition Exhibit #62 it says, "Feedback -
23 Selikoff to Those Examined," isn't that right?

24 A That's right.

25 Q States that they have been receiving

1 letters from Dr. Selikoff saying that within two weeks
2 each will receive a letter explaining the results of
3 his examination earlier in the year. That's what was
4 stated there, is that right?

5 A That's right.

6 Q The Task Force then discussed various
7 possible actions and responses but agreed no action
8 should be taken in advance of receipt of letters.
9 That's also correct, is it not?

10 A That's correct.

11 Q Tell me what was discussed as possible
12 actions and responses.

13 A I'd have to refer to my notes I have
14 taken. I don't have them in front of me, so I can't
15 really tell you what we talked about four years ago.

16 Q Hand you what's been marked Plaintiffs'
17 Exhibit #64 (Monsanto identification #236249), ask you
18 to take a look at that.

19 Plaintiffs' Exhibit #64, this is a four-
20 page document authored by F. J. Holzapfel, dated Novem-
21 ber 19, 1979. Subject matter is Nitro Health Study
22 Task Force, Minutes of Meeting of 11/16/79, to the
23 Task Force of which you appear to have a copy, right?

24 A That's correct.

25 Q First paragraph on the first page is

1 entitled, "Feedback-Selikoff to Those Examined," isn't
2 that correct?

3 A Correct.

4 Q Says, "Dr. Selikoff had sent letters
5 to those examined and Dr. Marion Moses was in Charleston
6 on 11/11 to discuss with those employees interested.
7 No news stories or TV coverage resulted. We have no
8 indication of employee interest or concern. Olin Dolin
9 will probe -- discreetly." Is that what that states, sir?

10 A That's correct.

11 Q And he is, what, head of --

12 A Olin Dolin?

13 Q Right.

14 A I'm not sure who Olin Dolin is. I
15 know Owen. This may be a misprint. If it's Owen Dolin
16 being referred to, he's Chief Chemist.

17 Q Chief Chemist there at Nitro at that time?

18 A Right.

19 Q On paragraph 2, having said, "Education-
20 Steelworkers Heirachy," right?

21 A Right.

22 Q It says, "Messrs. Roussen and Booth
23 of Steelworkers with Dr. Parkinson (Steelworkers' con-
24 sultant) scheduled to spend 12/20 with Dr. Suskind to
25 learn about epidemiology study methodology," isn't that

1 right?

2 A Correct.

3 Q "No indication of ulterior motive,
4 but in view of Roussen's egotism and bias, hope that
5 this will not result in giving him a basis for belittling
6 Suskind study when published," right?

7 A That's what it says.

8 Q Then on page 2 of Plaintiffs' Exhibit
9 64 under paragraph 3, "Publication-Selikoff and Suskind
10 Studies," right?

11 A Right.

12 Q It states in the first paragraph,
13 "Dr. Marion Moses is scheduled to appear before Congress-
14 man Eckhardt's committee and has announced plans to
15 announce the results of the Selikoff study then," right?

16 A Right.

17 Q "Mr. Pickard has contacted the committee
18 staff and learned that they are in no hurry to schedule
19 hearings on Agent Orange and dioxins," isn't that right?

20 A Correct.

21 Q And Mr. Pickard is who, sir?

22 A He's our liason in Washington. I'm
23 not sure exactly what his total role is there.

24 Q He's a lobbyist, isn't he?

25 A I would think that may be a correct title

1 for him.

2 Q A registered lobbyist with the govern-
3 ment?

4 A Yes, I believe so. I know he was a
5 Monsanto employee who was headquartered in Washington.

6 Q And it goes on to state that Pickard
7 was to contact the committee staff, isn't that correct?

8 A It says he has contacted the committee
9 staff.

10 Q And that's the staff of Congressman
11 Eckhardt and other Congressmen, isn't that correct?

12 A That's right.

13 Q Then in the second paragraph of num-
14 bered paragraph 3, says, "Messrs. McCarville/Pickard
15 will furnish a copy of the mortality study to the
16 committee," isn't that right?

17 A That's right.

18 Q "This refers to a broader study to be
19 completed shortly -- and this will be called to the
20 attention of the committee staff," isn't that right?

21 A That's right.

22 Q It states in the third paragraph of
23 numbered paragraph 3, "Dr. Meyer reported that a recent
24 check with Dr. Suskind's staff confirms that no report
25 is anticipated before January," and I guess they are

1 talking about the morbidity study, is that right?

2 A I believe that's correct. We made re-
3 peated efforts to get that study. I think it indicates
4 Dr. Suskind's independence when he did not yield to
5 any pressure on our part when we tried to get him to
6 make his findings public.

7 MR. PRATT: Move to strike that state-
8 ment as non-responsive.

9 Q (By Mr. Pratt) Number 4 says, "Suskind
10 Feedback to Employees," is that right?

11 A Yes.

12 Q One of the employees had written to
13 Suskind for the details of his examination and had been
14 refused and was referred to his personal physician, isn't
15 that right?

16 A That's right,

17 Q Hand you what's been marked Plaintiffs'
18 Exhibit #65 (Monsanto identification #8331279), ask you
19 to take a look at that, sir.

20 Plaintiffs' Exhibit #65, which is a
21 two-page document authored by F. C. Meyer, dated
22 November 21, 1979, the subject being Suskind's November
23 20th Meeting with Dr. Parkinson and Union Representatives
24 L. Ratliff and Delaney (Local V.P.). You're shown on
25 the distribution as being in the Task Force, isn't that

1 correct, sir?

2 A That's correct.

3 Q And the first paragraph says, "Dr.
4 Suskind called to report briefly the results of his
5 November 20 subject meeting," isn't that correct?

6 A That's correct.

7 Q The next paragraph states, "The overall
8 meeting was friendly and frank in tone, although, no
9 higher officials of the National Union showed up."
10 Isn't that what that says?

11 A That's correct.

12 Q Paragraph entitled 1 says, "No mention
13 was made of Selikoff's study, and Suskind did not feel
14 it appropriate to bring it up," isn't that right, sir?

15 A That's right.

16 Q Then he discusses the protocol in para-
17 graph numbered 2 as approved by the University of Cin-
18 cinnati Medical School Clinical Review Committee, and
19 this was reviewed in depth by Dr. Parkinson and the
20 Union representatives, is that right, sir?

21 A That's right.

22 Q And "Suskind showed that this was not
23 just a local study, but the Nitro study related to other
24 world dioxin accidents, such as Vietnam and Seveso."

25 A That's correct.

1 Q "He indicated a well-controlled, ob-
2 jective study here could make a less well-controlled
3 study proposed for the VA of questionable value,"
4 is that correct?

5 A That's correct.

6 Q Then there is parenthesis that says,
7 "Not in the eyes of veteran groups," isn't that right?

8 A That's right.

9 Q Numbered paragraph 3 he stated he re-
10 viewed the procedures and types of individual examina-
11 tion results which had been completed and supplied to
12 physicians designated by the participants. This in-
13 cluded early recommendations by followup (by 'phone
14 where felt urgent), examination or treatment of condi-
15 tions whether related or not to any occupational
16 association. That's stated in that paragraph, isn't
17 that correct?

18 A Correct.

19 Q Paragraph 4, "The Union representatives
20 questioned whether they would get the results, and Sus-
21 kind assured them that his agreement called for all in-
22 terested groups, government agencies, WHO, employees
23 as well as Monsanto would have access to the published
24 overall results of the study," isn't that correct?

25 A That's correct.

1 Q Of course, Monsanto's already had
2 information, have they not, sir?

3 A No, I haven't received any information
4 of individual results, and I haven't seen any published
5 overall results of the study. As you pointed out, it
6 wasn't published yet.

7 Q Hasn't Monsanto seen preliminary reports --

8 A We seen tabulations of some of the
9 data. We have not seen reports.

10 Q Well, haven't they seen preliminary
11 reports, sir?

12 A I'm not sure I know what you mean by
13 preliminary report.

14 Q Or rough drafts?

15 A No, I haven't seen any rough drafts
16 which precede publication.

17 Q Don't they have copies of all the data
18 that was generated in this study all the way from the
19 medical data that they had control of from Nitro and
20 from the data generated at the examinations at Putnam
21 County Medical Center?

22 A Are you talking about individual results?

23 Q I'm talking about raw data.

24 A No, sir, we have not seen the raw data.

25 Q Would you be one that would see the raw

1 data had it been disclosed?

2 A That's entirely probable.

3 Q Is it possible that it has been viewed
4 by persons from Monsanto and you not be included in that
5 group?

6 A I would think that highly unlikely.

7 Q Page 2, paragraph 5, "The Union asked
8 about mortality data for chloracne cases not associated
9 with the accident, for other 2,4,5-T exposed persons
10 and for non-exposed workers." That was said in that
11 paragraph, right?

12 A Right.

13 Q "Suskind indicated these would be re-
14 ported in Monsanto's followup studies and published,"
15 is that correct?

16 A That's right.

17 Q And is that the study that comes after
18 the 121 people?

19 A Yes.

20 Q Do you have any idea where a copy of
21 that study could be obtained?

22 A Right off the top of my head, no.

23 MR. PRATT: Off the record.

24 (Whereupon discussion was had off the
25 record.)

1 Q (By Mr. Pratt) Then in the last para-
2 graph of page 2 of Plaintiffs' Exhibit 65, "Suskind
3 indicated his willingness to testify, if asked, before
4 a Congressional committee (presumably Eckhardt's) on
5 the results of his Nitro study, possibly to counter-
6 balance Dr. Moses proposed report of the Selikoff study,"
7 isn't that correct, sir?

8 A That's correct.

9 Q Hand you what's been marked Plaintiffs'
10 Exhibit #66 (Monsanto identification #8323441), ask you
11 to take a look at that, sir.

12 Exhibit #66, which consists of four
13 pages, which is marked December 10, 1979, the Nitro
14 Health Study Task Force, Minutes of Meeting of 12/7/79,
15 and you were present, isn't that correct, sir?

16 A That's correct.

17 Q On the second page, second paragraph,
18 "Dr. Suskind-Eckhardt Committee."

19 A Yes.

20 Q "Dr. Suskind had indicated to Dr. Meyer
21 (on 11/21) a willingness to testify before the Eckhardt
22 Committee when it holds hearings on Agent Orange/dioxins
23 next year."

24 A That's what it says.

25 Q "Bill McCarville had agreed to suggest

1 to the Committee staff that Dr. Suskind be invited to
2 testify." Isn't that what that says, sir?

3 A It does.

4 Q Under 5, "Selikoff Study-Visit by Dr.
5 Moses to Charleston." States, "Visit uneventful. No
6 publicity, no questions from employees, no unrest,"
7 does it not, sir?

8 A That's what that paragraph says.

9 Q And that document was authored by F.J.
10 Holzapfel.

11 Hand you what's been marked Plaintiffs'
12 Exhibit #72, sir, (Monsanto identification #232050), ask
13 you to take a look at that.

14 Plaintiffs' Exhibit #72 consists of
15 three pages, the first page being a letter from Dan R.
16 Bishop, Director of Environmental Communications, to
17 Mr. Don Dare of KSDK news in St. Louis, Missouri, dated
18 February 8, 1980. That's a letter to Mr. Dare, is it
19 not, sir?

20 A Yes.

21 Q And in the letter Mr. Bishop is com-
22 plaining about a so-called documentary that was done
23 that he had given information in, isn't that right?

24 A That's right.

25 Q Stating that somehow he had been short-

1 changed, isn't that correct?

2 A I don't see those words here.

3 Q Well, I mean, in other words, what he's
4 saying is he didn't feel it was a fair interview, right?

5 A I don't see him saying that either.

6 Q Well, if you'll look at the third para-
7 graph, states, "The fact that you chose to ignore it
8 completely in your so-called documentary -- puzzles me
9 to say the least." Isn't that what it says?

10 A It says he was puzzled, yes.

11 Q Then on pages 2 and 3 of Plaintiffs'
12 Exhibit #72 is a memo from Dan R. Bishop to a number
13 of people, dated February 13, 1980, the subject being
14 KSDK/Agent Orange, and you're one of those recipients,
15 are you not?

16 A I am.

17 Q And, apparently, it says in the first
18 paragraph, "For your information, Don Dare of KSDK news
19 called Tuesday in reponse to my letter of February 8
20 with the following comments. He said he was sorry I
21 was disappointed with the documentary and that he felt
22 it was fair -- very fair." Is that what that states, sir?

23 A That's right.

24 Q Hand you what's been marked Plaintiffs'
25 Exhibit #73 (Monsanto identification #232076).

Plaintiffs' Exhibit #73 is a memo from Dan R. Bishop, March 6, 1980, and it's to a number of people, most of which are in the Task Force Committee, and you being a recipient of this memo, isn't that correct?

A That's correct.

Q The first paragraph states, "For your information, the attached will be of interest. By the way, this is the first press conference to Australian veterans joining in the class action suit." That's what that states, right, sir?

A That's right.

Q And he's referring to the Agent Orange class action suit, is that right?

A I presume that's what it meant.

Q Then he states in paragraph 2, "In a related matter, you should know that Monsanto was invited and has graciously declined an invitation to defend our position on Agent Orange on the CBS Evening News," isn't that correct, sir?

A That's correct.

Q Goes on to state, "Dow and Hercules declined before us. I gave as our reason, 'Monsanto has nothing to gain by stepping forward and being perceived by your millions of viewers as the terrible

1 chemical company responsible for all those horrible
2 ailments," isn't that correct, sir?

3 A That's correct.

4 Q I hand you what's been marked Plaintiffs'
5 Exhibit #128 (Monsanto identification #8330036), and ask
6 you to take a look at that, sir.

7 This document is a memo to the file
8 which you're cc'd on from F. C. Meyer, dated March 9
9 of 1979, the subject of which is Nitro-2,4,5-T Studies,
10 Dr. Raymond Suskind 'Phone Discussions 3/7/79, right?

11 A That's correct.

12 Q First paragraph states, "Contact made
13 with Dr. Suskind to determine his schedule of open dates
14 and potential timing for conducting a Nitro Plant medi-
15 cal examination study on former Sodium TCP/2,4,5-T
16 workers." That's what it states in the first paragraph,
17 right?

18 A That's right.

19 Q Second paragraph deals with his un-
20 availability to do the study until late April, early May,
21 isn't that correct?

22 A That's right.

23 Q The third paragraph deals with the
24 study protocol where he's considering combination of all
25 cases, both active and retired, of chloracne associated

1 with Sodium trichlorophenol and 2,4,5-T, which includes
2 group 1 (1949 accident-associated) and group 2 (post-
3 accident-associated cases) and comparing those with
4 workers exposed to Sodium trichlorophenol and 2,4,5-T
5 who did not get chloracne, isn't that correct?

6 A That's correct.

7 Q "A third group for controls would be
8 constructed from workers who had no known contact with
9 Sodium trichlorophenol/2,4,5-T if sufficient numbers
10 with the required matching characteristics are avail-
11 able." That's what it says, right, sir?

12 A Yes.

13 Q It goes on to state in the third para-
14 graph, "If not, he would like to consider whether
15 controls from another local plant or even a Monsanto
16 plant from another location could be provided." That's
17 what that states, right?

18 A That's right.

19 Q Then Meyer says, "We are examining the
20 microfilm tapes of the retrospective Nitro work history
21 data to confirm these groups in order to meet the re-
22 quired medical study timing," isn't that correct, sir?

23 A Yeah, that's work history data, yeah.

24 Q Hand you what's been marked Plaintiffs'
25 Exhibit #85 (Monsanto identification #8323831), and ask

1 you to look at that.

2 Plaintiffs' Exhibit #85, which consists
3 of two pages, is authored by R. M. Scott, who at the
4 time was Plant Manager at Nitro, isn't that right, sir?

5 A That's right.

6 Q Dated March 17. The subject is Nitro
7 Health Study Task Force, Minutes of Meeting March 14,
8 1980, and it shows that you were present, isn't that
9 correct?

10 A That's correct.

11 Q And under 1. it says, "Suskind Status,"
12 does it not?

13 A Yes.

14 Q States, "A meeting among Bill Gaffey,
15 Judy Zack and Dr. Suskind is set for March 31, 1980.
16 Suskind has indicated that the data might be (no promise)
17 ready for preliminary review." Second paragraph says,
18 "The first output from the Nitro mortality study (number
19 2) is being reviewed. It covers deaths only on exposed
20 versus non-exposed individuals who worked hourly em-
21 ployment since 1955." Goes on to state, "The scope
22 is 800 people and 150 deaths within a 100% trace."
23 That's what it states thus far in this paragraph, right,
24 sir?

25 A Right.

1 Q Goes on to say, "Indications are that
2 the mortality of exposed workers is O.K. compared to
3 national averages." That's what that states, right?

4 A Right.

5 Q "The non-exposed group shows a slightly
6 high cardiovascular incident rate compared to national
7 averages. The study will eventually be compared to
8 incident rates in the Kanawha Valley, but this compari-
9 son is not presently ready," and that's what that states,
10 right, sir?

11 A Right.

12 Q And that's the study that we have
13 been talking about, which is after the study that Sus-
14 kind and Zack did that's in the Journal of Occupational
15 Medicine, right?

16 A Right.

17 * * * * *

1 (Whereupon the following proceedings
2 were had on June 28, 1983.

3 Q (By Mr. Pratt) Hand you what's been
4 marked Plaintiffs' Deposition Exhibit #139 (Monsanto
5 identification #8326129), ask you to take a look at
6 that, sir.

7 Plaintiffs' Exhibit #139, cover letter
8 appears to be a memo from Dan R. Bishop, dated March
9 19, 1980, to Dr. Callis, Dr. Gaffey, Mr. Holzapfel,
10 Dr. McCarville, Dr. Meyer, Mr. Park, Mr. Scott, Dr.
11 Tillman, Mr. Wander and Mr. Wilkins, is that correct,
12 sir?

13 A That's correct.

14 Q And pages 2 through 14 appear to be
15 Monsanto's official position on Agent Orange, isn't
16 that correct?

17 A Well, it's the first draft of that
18 position.

19 Q First draft. All right. Now, on
20 page 15 is another cover letter by Dan R. Bishop,
21 dated March 11, 1980, subject, Agent Orange Position,
22 and it lists Dr. Carpenter, Dr. Spurrier and Messrs.
23 Fischer, Ingenthron, McKee and Wander, with a copy to
24 several other persons.

25 A I might add that I was not included in

1 that distribution.

2 Q You are on the original.

3 A In the original, but these were issued
4 on separate dates, March 19 and March 11.

5 Q Well, what we're getting at, Dr. Till-
6 man, is pages 16 through 26, the final draft of this
7 position paper.

8 (Whereupon discussion was had off the
9 record.)

10 Q (By Mr. Pratt) Are you able to tell
11 if pages 16 through 26 is the final draft?

12 A I can't state that from this. I have
13 no way of telling which is the final draft. Neither
14 of those two documents are dated as to when they are
15 published, and the one, pages 16 through 26, is
16 attached to a letter with a date preceding the earlier
17 one.

18 Q I think if you look at the bottom of
19 page 26, you see a date March 3, 1980.

20 A I see that.

21 Q You look at page 12, you see, "Revised
22 March 17, 1980."

23 A Yes.

24 Q So, I take it, the document which is
25 2 through 14 would be the revised draft, would you agree

1 with that, based on the dates, anyway?

2 A Yes, based on those dates I would.

3 Q Let me ask you, where was this docu-
4 ment disseminated?

5 A I think the only thing I can tell you
6 is what it shows on the memo attached to it, to the
7 people that are named on there. You have already named
8 most of them. There's also Mr. Berendt, Mr. McKee,
9 Mr. Nolan and Mr. Throdahl named here.

10 Q If you'll look at page B of Plaintiffs'
11 Exhibit 139, second paragraph of the text of the memo
12 from Mr. Bishop says, "We intend to make multi-phased
13 internal distribution of this information, followed by
14 selected external distribution, in the next few weeks."
15 What is multi-phased internal distribution?

16 A That's, apparently, a PR term with which
17 I'm not familiar and can't answer you.

18 Q You don't know who within the company
19 got it, then, other than what's shown --

20 A Only thing I can tell you is what's
21 on the page. There are a few additional names on this
22 memo I didn't read off the previous memo.

23 Q What about external distribution?

24 A Again, that's PR function with which
25 I have no involvement, and I have no idea what to tell

1 you about that.

2 Q Apparently, if you'll look at page 5
3 and pages 13 and 14, what the position paper is rely-
4 ing upon, at least as to page 5, are five so-called
5 scientific studies, isn't that correct, and you see
6 those --

7 A Those studies are cited by the numbers
8 in the parentheses and referred to in the references
9 on page 13 and into page 14.

10 Q Those documents were written by, num-
11 ber 1, Lamm; number 2, Mantel; number 3, Newton;
12 number 4, A. H. Smith; 5, S. L. Wagner and others, right?

13 A That's correct.

14 Q Then other studies that this position
15 paper relies upon or other incidents would be the
16 Seveso one which is talked about on pages 7 and 8, right?

17 A Right.

18 Q And Nitro, which is found on pages 8
19 through 12 of Plaintiffs' Exhibit 139?

20 A Yes.

21 Q And what is discussed on pages 8 through
22 12 is the mortality study by Suskind and Zack, isn't
23 that correct, sir?

24 A That's mentioned as part of that.

25 Q And also Suskind's Nitro epidemiological

1 study which is not in print yet, isn't that correct?

2 A Yes.

3 Q Those are the sole documents with the
4 exception, if you'll look on page 14, of the articles
5 contained in number 6 through 13, right?

6 A I don't know what your question is.

7 Q Well, I say, the five documents that
8 we talked about plus the discussion of the Seveso
9 incident and the two studies of Suskind and Zack, Sus-
10 kind plus articles that are contained in articles 6
11 through 13 are what are relied upon for this position
12 paper, is that right?

13 A Those are the ones that are cited here.

14 Q Of course, the world literature on
15 dioxin is probably how many documents?

16 A Oh, I'd have to say there are probably
17 more than 40,000 of those by now.

18 Q I hand you what's been marked Plain-
19 tiffs' Deposition Exhibit #87 (Monsanto identification
20 #8323866), sir.

21 Plaintiffs' Exhibit #87, sir, is a
22 document authored by R. M. Scott and dated April 21,
23 1980, the subject of which is Nitro Health Study Task
24 Force, Minutes of Meeting of April 18, 1980, isn't
25 that correct?

1 A That's correct.

2 Q And the Task Force is shown there, and

3 you're one of the members of the Task Force, right?

4 A Right.

5 Q Under 1, "Suskind Status," states,

6 "Judy Zack and Dr. Gaffey met with Dr. Suskind and Dr.

7 Blair Smith in Cincinnati on March 31, 1980, to establish

8 the status of the Nitro Health Study," is that correct?

9 A Correct.

10 Q "Status report indicates that Dr. Suskind

11 is still in the 'computer phase,' working with the data

12 input," is that right?

13 A That's right.

14 Q Goes on to say in that paragraph, "Dr.

15 Suskind indicated that he expected data input to be com-

16 plete in about a month and then the analysis efforts

17 could begin," is that right?

18 A That's right.

19 Q Second paragraph of that number 1 item

20 says, "The group discussed methods to consider for improv-

21 ing the completion timing. Dr. Callis and Fred Holzapfel

22 agree to review further with Mr. Throdahl seeking assis-

23 tance (done 4/18/80)." Do you recall what was said about

24 improving completion timing, how they were going to do it?

25 A No. I can only tell you what the minutes

1 read here as to what went on.

2 Q Third paragraph was an invitation from
3 Suskind to the new health center opening on May 9 of 1980,
4 isn't that correct?

5 A That's correct.

6 Q Then the second item, which is on the
7 bottom of page 1 of Exhibit 87 and the top of page 2,
8 is delineated, "Monsanto Study," and, I take it, that
9 would be the second mortality study, is that correct?

10 A That's what's referred to in the first
11 sentence and others.

12 Q Was Suskind in that study in any way,
13 shape or form that you know of?

14 A I'm not sure what kind of work he may
15 have done with it. I know we used him as a consultant
16 to be sure of correctness of the data being put into
17 a study of that sort, correctness of interpretation.

18 Q Whether he did any actual work or con-
19 sulting on that study --

20 A I can't speak to that point.

21 Q Hand you what's been marked Plaintiffs'
22 Deposition Exhibit #89 (Monsanto identification #8323876),
23 and ask you to look at that, sir.

24 Plaintiffs' Deposition Exhibit #89, sir,
25 is a four-page document authored by R. M. Scott, dated

1 May 19, 1980, subject is Nitro Health Study Task Force,
2 Minutes of Meeting of May 16, 1980, isn't that right?

3 A That's right.

4 Q And those present were the personnel
5 involved with the Task Force, including yourself, right?

6 A Right.

7 Q And on the bottom of page 1, again,
8 the Suskind Status, item 2, is discussed, right?

9 A Yes.

10 Q Again, the gist of that paragraph is
11 trying to figure ways to speed up Suskind's results, isn't
12 that correct?

13 A That's right.

14 Q On page 2 of Plaintiffs' Exhibit 89,
15 item 3, "Monsanto Study," states, "Dr. Gaffey indicated
16 that Judy Zack had completed a second pass at the computer
17 output for the Nitro mortality related to all employees
18 at Nitro since 1955." That's what that states, right?

19 A That's right.

20 Q Last sentence says, "Completion is ex-
21 pected within a few weeks, but Dr. Gaffey felt that this
22 would have to go through Dr. Suskind before publication,"
23 isn't that correct?

24 A That's correct.

25 Q So, apparently, on that second mortality

1 study he did have some involvement in the thing.

2 A As I mentioned, Dr. Suskind has been
3 a prime consultant for matters of this sort to be sure
4 of the scientific correctness of what's written.

5 Q All right. Hand you what's been
6 marked Plaintiffs' Exhibit #140 (Monsanto identification
7 #8324030), ask you to take a look at that.

8 This is a document, Plaintiffs' Exhibit
9 140, is a document authored by you to Fred Holzapfel,
10 dated 6/5/80, isn't that correct, sir?

11 A That's correct.

12 Q And it discusses in general the
13 bringing in of Dr. Parkinson who is a consultant to the
14 United Steelworkers Union, bringing him in to have some
15 relationship with this Suskind morbidity study, isn't
16 that correct?

17 A To be present when that study was re-
18 ported, yes.

19 Q Of course, that's moot because it hasn't
20 been reported, isn't that right?

21 A No, that's not entirely correct. Dr.
22 Suskind did make a presentation to the employees at the
23 Nitro Plant summarizing his findings. Dr. Parkinson
24 was invited to attend but was unable to be there.

25 Q O.K. Was that proceeding recorded?

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A Yes, it was videotaped.

MR. PRATT: Off the record.

(Whereupon discussion was had off the record.)

Q (By Mr. Pratt) Hand you what's been marked Plaintiffs' Exhibit #141 (Monsanto identification #8324046), and ask you to take a look at that, sir.

Plaintiffs' Exhibit #141 is a memo from F. J. Holzapfel to R. M. Scott with yourself receiving a copy, isn't that correct?

A That's correct.

Q The first paragraph deals with the fact that the company's going to invite Dr. Parkinson to attend when Dr. Suskind reviews the results of the study to the company, is that correct?

A That's correct.

Q Hand you what's been marked Plaintiffs' Exhibit #92 (Monsanto identification #232139), ask you to take a look at that.

This is a memo from Dan R. Bishop to the Nitro Health Study Task Force, dated July 10, 1980, is that correct?

A That's correct.

Q And it has to do with hearings that were held on Agent Orange, right?

1 A Yes, that's correct.

2 Q First paragraph states, "For your in-
3 formation, on Tuesday, July 22 the Medical Facilities
4 and Benefits Subcommittee of the House Veterans Committee
5 will hold hearings on Agent Orange."

6 A That's what it says.

7 Q Second paragraph says, "It's believed
8 that Dr. Selikoff will testify, along with others sym-
9 pathetic to the veterans, in what promises to be a
10 witch-hunt staged for the news media," is that correct?

11 A That's correct.

12 Q "No one from industry has been invited
13 to testify." That's also stated there, right?

14 A That's also stated.

15 Q The last paragraph says, "ABC will
16 have a 20/20 crew there and will probably air something
17 on July 24. I'm planning to attend the hearings as a
18 specator," is that correct?

19 A That's correct.

20 Q Hand you what's been marked Plaintiffs'
21 Exhibit #93 (Monsanto identification #232148), ask you
22 to look at that.

23 A O.K.

24 Q This document, Exhibit #93, is authored
25 by Dan R. Bishop, dated July 25, 1980, subject being

1 House Agent Orange Hearing, and it's to members of the
2 Nitro Health Study Task Force, is that correct?

3 A That's correct.

4 Q The first paragraph states, "For your
5 information, the hearings of the House Veterans Committee
6 were predictable and dull. Monsanto was not mentioned,
7 but Dow caught quite a bit of flak," is that correct, sir?

8 A That's correct.

9 Q Next paragraph is, "Dr. Suskind did
10 not testify. He pulled out at the last minute, apparent-
11 ly realizing what he was about to get involved in. Dr.
12 Epstein, in his usual rapid-fire style, indicted the
13 phenoxy herbicides and dioxin -- calling TCDD the 'most
14 potent synthetic carcinogen known to man' and a powerful
15 teratogen and mutagen which causes 'multi-system' chronic
16 effects." Is that what that says?

17 A Yes.

18 Q Next paragraph goes on to say, "Drs.
19 Stellman, a husband and wife team from New York, were
20 introduced as epidemiological experts and proceeded to
21 collaborate Epstein's charges." Is that what it says?

22 A That's what it says.

23 Q Then it goes on to say in the next para-
24 graph, "Congressman Daschle, Democrat, South Dakota, see
25 attached news release, went after Dow, as did Epstein.

1 They both said Dow had done a study in '77'78 of the
2 wives of 300 2,4,5-T workers and have never published
3 the results -- charging a 'coverup.'" That's what that
4 says, right?

5 A That's what that says.

6 Q The next paragraph states, "The hearings
7 wound up with a parade of Vietnam veterans taking turns
8 describing the horrors that have befallen them and their
9 families since being exposed to Agent Orange," right?

10 A Right.

11 Q The last paragraph states, "Additional
12 hearings will be scheduled. There was nothing on 20/20
13 last night." That's what that says, isn't that right?

14 A Yes.

15 Q Hand you what's been marked Plaintiffs'
16 Deposition Exhibit #94 (Monsanto identification #8324055),
17 ask you to look at that, sir.

18 Doctor, Plaintiffs' Exhibit #94 is a
19 four-page document, again, authored by R. M. Scott, dated
20 August 4, 1980, subject being Nitro Health Study Task
21 Force, Minutes of Meeting August 1, 1980, and it's to
22 the Task Force, including yourself, is that correct?

23 A That's correct.

24 Q And the first item of business is
25 Mr. Holzapfel retired and Callis, Dr. Callis, assumed the

1 chairmanship of the Nitro Health Study Task Force, is
2 that correct?

3 A That's correct.

4 Q And Mr. Galloway was appointed to re-
5 place Scott as the Nitro representative, isn't that right?

6 A That's right.

7 Q Again, there's made mention of the
8 Suskind Status in this report, on the epidemiological
9 study, right?

10 A Right.

11 Q Morbidity?

12 A Right.

13 Q On page 2 of Plaintiffs' Exhibit #94,
14 reference is made to the Zack Study where Gaffey indi-
15 cates that the final report is being written and should
16 be ready within two weeks, and Dan Bishop proposed to
17 have a press release ready by September 1 of 1980, is
18 that correct?

19 A That's correct.

20 Q And was a press release given on that
21 study?

22 A To the very best of my recollection,
23 it was.

24 Q Hand you what's been marked Plaintiffs'
25 Exhibit #142 (Monsanto identification #234851), consisting

1 of two pages, ask you to take a look at that.

2 A O.K.

3 Q Plaintiffs' Exhibit #142 is a two-page
4 document which is entitled Press Query, and it's dated
5 9/24/80, right?

6 A Sorry, I can't see a date. It's hard
7 to read. The date is partially obscured there.

8 Q And the person making the query was
9 from a program called Speak Up America and a Marie
10 Suzanne, is that correct?

11 A That's what I would gather what it
12 says next to "Reporter and Media."

13 Q And the question was from NBC, right?

14 A I see a reference to NBC entertain-
15 ment program but I don't see where it says the question
16 came from NBC.

17 Q The question is, "NBC entertainment
18 program is planning a segment on Agent Orange in next
19 two to three weeks and would like to interview a Monsanto
20 spokesman or get a statement from us for use on air."

21 A That's what I see.

22 Q And the answer was that you declined
23 to provide spokesman for interview, stating that it would
24 be inappropriate since the situation is in litigation,
25 and you offered to read an approved statement for use

1 and it was accepted and the statement was attached, right?

2 A Right.

3 Q And this would be the subject matter
4 on page 2 of Plaintiffs' Exhibit #142, isn't that correct?

5 A That's correct.

6 Q Now, let me ask you this, of the people
7 that are on this committee, which ones, including your-
8 self, are experts on the literature concerning dioxin?

9 A I can't tell you who's an expert on
10 what. I can only speak to what I know myself.

11 Q All right. Do you consider yourself
12 expert on the literature of dioxin?

13 A I'm afraid I'd have to ask you to de-
14 fine "expert" for me.

15 Q Well, have you reviewed the world
16 literature?

17 A All of it, no. I haven't read every
18 article ever written on dioxin. I very seriously doubt
19 that very many people have. There's too much of it.

20 Q Well, do you consider yourself what
21 we would say is, you know, a man of expertise concerning
22 this literature?

23 A If you're asking me whether or not I
24 can understand it when I read it, the answer is yes.

25 Q Now, you appeared on several television

1 and radio media events, right?

2 A As a spokesman for Monsanto, yes.

3 Q And you have reiterated to the public
4 that the only thing the literature shows that dioxin will
5 do is cause chloracne, isn't that correct?

6 A As a long-term health effect, yes, and
7 that's based on a considerable volume of literature.

8 Q Would you tell me what literature
9 supports that position?

10 A I think one of the most recent is the
11 AMA Council on Scientific Affairs which summarizes the
12 situation very well and made that statement. It also
13 called for additional study to identify any additional
14 effects which are presently unknown.

15 Q O.K. And that study came out when, sir?

16 A I'm not sure of the date. It would
17 have been probably within the last year or so. I don't
18 have a copy before me, so I don't know exactly what date
19 it carries.

20 Q Can you give me some other articles
21 that substantiate that position.

22 A I'm not carrying a bibliography in my
23 head. I can go back to my files and give you any number
24 of references, if that's what you'd like me to do.

25 Q Well, you know, as a man who's putting

1 this forth to the public, I would think that you might
2 have at your fingertips additional articles, you know.

3 A I would have the articles, that's
4 correct. As I said, I have not committed the authors to
5 memory. I concern myself more with the content of the
6 article and what scientific information it presents, not
7 who wrote it.

8 Q Well, you would consider the Suskind-
9 Zack mortality table authoritative for that position,
10 that all it will cause is chloracne?

11 A I'd say it supports our position on
12 that subject, yes.

13 Q And we're talking also about the AMA
14 article, right?

15 A Yes, I would consider that authoritative.

16 Q Anything else you can think of?

17 A There's a rather good review of the
18 subject based on many scientific articles in C.E.N. News,
19 I believe that's Chemical Engineering News, and that
20 was a June, 1983, article. I'm not sure of the exact
21 date. It may have been June 6 or early June of 1983.

22 Q Of course, that's an industry publication,
23 isn't it?

24 A Sure, but it carries fact.

25 MR. PRATT: Off the record.

1 (Whereupon discussion was had off the
2 record.)

3 Q (By Mr. Pratt) Can you think of any
4 other articles that are authoritative to that position?

5 A As I said, I could go back to my files
6 and pull out any number of such articles and reiterate,
7 but I concern myself with the content of the article,
8 what information it conveys to me.

9 Q Now, going back to the 1953 article or
10 study by Suskind, are you familiar with that study?

11 A I'm aware that it was done. I have
12 information on it, but not in front of me here.

13 Q Those 37 people are the basis -- Are
14 those 37 people that were studied the basis for Monsanto
15 saying that no long-term health effects from dioxin is
16 evident other than chloracne?

17 A They are only a part of that basis.

18 Q What else is the basis?

19 A Additional studies that have been re-
20 ported. For example, Seveso incident.

21 Q O.K.

22 A And that hasn't been as long as ours,
23 but there's now seven years and no long-term health
24 effects have been identified to this period of time.
25 We are waiting to hear from Dr. Suskind's third-year study.

1 Q That would be number 3, Seveso and,
2 you know.

3 A Oh, yes. O.K. That's one, certainly
4 one of the best opportunities to look at a volume of
5 people. Some 37,000 people involved in Seveso.

6 Q And would the mortality table, study
7 by Suskind and Zack, be also --

8 A That would certainly help to substantiate
9 that position.

10 Q Anything else?

11 A Specific articles, is that what you're
12 asking?

13 Q Yes.

14 A As I said, I'd have to go back to my
15 files and see what's there. I do not carry a bibliography
16 in my mind.

17 Q But basically, then, Monsanto's position
18 is, of course, based on the 1953 study of the 37 or 38
19 individuals, based on the literature on Seveso, based
20 on the mortality table study of Suskind and Zack, Mon-
21 santo has concluded that the only long-term effects of
22 dioxin is chloracne, right?

23 A That's part of what led us to that
24 position, yes. There is additional literature in rather
25 large volume that would also substantiate that position.

1 Q Would it be fair to say there's sub-
2 stantial literature on other explosions and other ex-
3 posures that differ with that opinion?

4 A There have been some substantiated
5 suggestions of other health effects, but when those
6 studies were submitted to critical review, defects in
7 the study format, the population selected, the control
8 group selected, were found; and, therefore, the study
9 could not be considered as being conclusive.

10 Q Can you tell me what those studies were?

11 A Well, there's one in particular by
12 Ward that suggested immunological defect, and Ward has
13 said himself the study was flawed in that his control
14 group was not properly selected.

15 Q That's the fellow that did the immuno-
16 logical work on Coalite?

17 A I believe that's where it was done, yes.

18 Q Which was recently in the news, right?

19 A It certainly was.

20 Q Anything else, any other articles that
21 you say these studies are invalid?

22 A Again, I'd have to go back to my
23 literature and pull those out. I'm not sure just what
24 every one of those is. It's a rather large folder and
25 it's not something you can commit to memory right off the

1 top of your head.

2 Q Hand you what's been marked Plaintiffs'
3 Exhibit #143 (Monsanto identification #234905), ask you
4 to take a look at that.

5 This Exhibit #143, pages 2 through 9,
6 are radio and television appearance by yourself, isn't
7 that correct?

8 A That's correct. I might add that page
9 6 is illegible and I can't be sure what it says.

10 Q And what you're saying generally in
11 these appearances, you're talking about the Suskind
12 and Zack mortality study, are you not?

13 A The total plant mortality study, yes.
14 That was the second of two studies of mortality.

15 Q That would have been the one after
16 the one in J.O.M.?

17 A Yes.

18 Q That would have been the one with 950
19 subjects in it?

20 A I'm not sure precisely what the total
21 number is off the top of my head, but I know it reports
22 on 58 deaths.

23 Q The second study, the one that I don't
24 have a copy of at the present time, is the one with 58
25 dead ex-employees?

1 A Right.

2 Q How many live employees were the
3 subject of that mortality table study?

4 A There's no such thing as a live person
5 in a mortality study.

6 Q In other words, what was studied was
7 58 deaths, right?

8 A Right. What were the causes of death,
9 how do they relate to what would be expected in terms
10 of numbers and causes.

11 Q And that's from 1955 'til when?

12 A Up to the cutoff date of that study,
13 which would have been when it's done, and I'm not sure
14 of what that date is because I don't have a copy of the
15 study before me, but it, obviously, would have been
16 before October of 1980 when all of this was reported.

17 Q You know anything about the protocol
18 for that study?

19 A I'd have to look at the study again to
20 tell you that.

21 Q That was the one done by Gaffey, I guess?

22 A Well, Zack works for Dr. Gaffey and
23 anything that went out of his department would certainly
24 have to have his approval and review.

25 Q And could you just summarize what the

1 findings that you gave to the news media presented and
2 what the findings were of that study.

3 A The causes of death for all persons
4 who have been employed at the Monsanto plant from 1955
5 until the cutoff date of the study were reviewed. They
6 were related to the causes of death and the numbers.
7 This was compared to a standard population which would
8 give you statistics telling you how many people you
9 would have expected to die out of a population that
10 size and what causes of death you would have expected
11 to see. Statistically these numbers are analyzed one
12 against the other and a determination is made as to
13 whether or not there is significance in any differences
14 seen. This study reported that there were no significant
15 differences in either the number of deaths experienced
16 or in the causes of those deaths.

17 Q And what causes were specifically re-
18 ferred to?

19 A I would have to look at the study to
20 answer that question. I do not have it before me.

21 Q You state here, related to cancer,
22 nervous system, circulatory system, respiratory system
23 or the digestive system.

24 A That's right. We didn't see any excess
25 deaths in that area. That doesn't tell me what the causes

1 of death were.

2 (Whereupon a short recess was taken,
3 after which the following proceedings were
4 held.)

5 Q (By Mr. Pratt) Hand you what's been
6 marked Plaintiffs' Exhibit #144 (Monsanto identification
7 #232202), and ask you to take a look at that, sir.

8 Plaintiffs' Exhibit #144 is authored
9 by William R. Gaffey and it's to G. Roush, Jr., dated
10 February 6, 1981, and the subject matter is Dr. Suskind
11 and Nitro and Dr. Moses, and you're a person who would
12 have gotten a copy of this, right?

13 A Right.

14 Q And it reiterates a telephone conver-
15 sation between Gaffey and Dr. Suskind, isn't that correct?

16 A That's right.

17 Q Concerning Marion Moses' preliminary
18 findings on the Mt. Sinai Nitro Study, right?

19 A I don't see any mention of Mt. Sinai,
20 nor do I see the name Marion. I see a Dr. Moses.

21 Q You know Dr. Moses, don't you?

22 A Personally?

23 Q Yes.

24 A No, we have not met.

25 Q You know what Dr. Moses' first name is?

1 A The Dr. Moses at Mt. Sinai, who is
2 at Mt. Sinai, is Marion. I presume that's what he
3 means, but he doesn't say so in that document.

4 Q First two paragraphs state, "I talked
5 on the 'phone with Dr. Suskind about Dr. Moses' upcoming
6 dog and pony show at Nitro. He says that we are over-
7 reacting and that this is the same presentation which
8 he heard her give (a) in Rome last October and (b) at
9 a VA meeting yesterday. He talked with her about these
10 preliminary findings." That's what's stated in the
11 first paragraph, right?

12 A Right.

13 Q The second paragraph he tells Gaffey
14 that she'll report, (a) that chloracne still exists in
15 some men; (b) that there is an excess of triglycerides
16 which is correlated with level of previous exposure.
17 She determined levels of exposure by asking the men at
18 the time they were examined. She has no information
19 (says Suskind) on duration or recency of exposure. Para-
20 graph goes on to say that Suskind says the elevated tri-
21 glycerides are no news because they turned up in the Seveso
22 incident and also occurred with exposure to other sub-
23 stances, such as PCB's and penta. Is that what it says?

24 A That's what it says.

25 Q Hand you what's been marked Plaintiffs'

1 Exhibit #145 (Monsanto identification #8324311).

2 (Whereupon discussion was had off the
3 record.)

4 Q (By Mr. Pratt) Let me hand you in
5 addition to the previous document, Plaintiffs' Exhibit
6 #146 (Monsanto identification #232235), Exhibit #147
7 (Monsanto identification #232236), Exhibit #149 (Mon-
8 santo identification #8326531) and Exhibit #151 (Mon-
9 santo identification #232305). Why don't you take a
10 look at those.

11 Plaintiffs' Exhibits 145, 146, 147,
12 149, 151 deal generally with the National Institute for
13 Occupational Safety and Health's desire to get certain
14 records from Monsanto, isn't that correct?

15 A That's correct.

16 Q And, specifically, the person requesting
17 them was a Patricia A. Honchar, Ph. D. of NIOSH in Cin-
18 cinnati, is that correct?

19 A I'm not sure where she's from, but,
20 yes, that's her name.

21 Q What documents was she requesting, sir?

22 A I think those are the ones that are
23 mentioned in the communications: Medical records, work
24 histories, production records.

25 Q And what was the purpose they gave for

1 requesting those documents?

2 A Well, I'd have to go back through all
3 these to be sure I could tell you that.

4 Q Was it to establish an industry-wide
5 registry on 2,4,5-T workers?

6 A An industry-wide registry of workers
7 exposed to dioxin isomer contaminated materials.

8 Q And do you have any knowledge as to
9 whether or not Dr. Honchar did in fact get the documents
10 that she requested?

11 A I'm not sure what the final outcome
12 of that was since I wasn't personally involved in doing
13 anything with it. I would expect if the agreement was
14 reached, that those records were made available so the
15 information necessary could be developed.

16 Q O.K. Now, Dr. Moses testified in
17 the Veterans Administration Advisory Committee on health-
18 related effects of herbicides, isn't that correct?

19 A I don't know. I don't see anything in
20 front of me to say so and I wasn't there.

21 Q Let me hand you Exhibit #148 (Monsanto
22 identification #232246), sir.

23 Plaintiffs' Exhibit #148 has a cover
24 letter from Dan R. Bishop to the members of the Nitro
25 Health Study Task Force, dated April 20, 1981, isn't that

1 correct?

2 A That's correct.

3 Q It says in the first paragraph,
4 "Enclosed are excerpts from the proceedings of the VA's
5 Advisory Committee on Health-Related Effects of Herbi-
6 cides (seventh meeting February 4, 1981) plus the agenda
7 for the next meeting scheduled for May 5." Isn't that
8 what it says in the first one?

9 A That's correct.

10 Q It also states in the second paragraph,
11 "I have included all of Dr. Marion Moses' testimony
12 which covers her 'findings' to date of the Nitro Health
13 Study," isn't that right?

14 A That's right.

15 Q Then pages 2 through 22 set forth her
16 testimony, isn't that right?

17 A I read that more as a presentation
18 than testimony under oath.

19 Q At the bottom of page 6 and at the top
20 of page 7 she states, "These are Monsanto Chemical Com-
21 pany workers in Nitro, West Virginia. And we have also
22 studied another group of workers involved in the manu-
23 facture of 2,4,5-T and 2,4-D, and these are Vertac
24 Chemical Company workers in Jacksonville, Arkansas."
25 Isn't that what it says?

1 A That's what it says.

2 Q Then at the bottom of page 11 and then
3 page 12 down to line 9 it states, "So, this is just to
4 sort of set the scene because I am going to show you some
5 data now in which we looked at -- I'm just going to give
6 you the biochemist, the liver function tests and the
7 lipids because this is something everybody is interested
8 in. Cholesterol or triglycerides we know have been re-
9 ported to be abnormal. Liver function tests are extra-
10 ordinarily important, and I'm going to show you some
11 frequencies of abnormalities based on these groups and
12 based on whether or not they ever had chloracne." That's
13 what that area of testimony says, right?

14 A Right.

15 Q Then on page 17 of Plaintiffs' Exhibit
16 #148, line 5 states, "O.K. What this represents here is
17 that 71 people of the 226 that we saw had current evidence
18 of chloracne. Half of the people that we saw had chloracne
19 currently or had had it at some time in the past. Now,
20 this directly answers the gentleman's question in the back.
21 Of the people that we saw, half of them had had their
22 chloracne more than 20 years. This is based on asking
23 them how long they had had it. So it is very persistent."
24 Then skipping down to line 18, "I put cholesterol on
25 here not because we found an increased prevalence of abnormal

1 cholesterol, but because people are going to want to know
2 what we found. That's the only reason it is on here.
3 SGPT and SGOT and GGT are all liver function tests and
4 are very, very important in this. They are here be-
5 cause we did find an increase prevalence^d of abnormalities."
6 That's what that testimony says on page 17, right, sir?

7 A Yes.

8 Q On page 19 of Plaintiffs' Exhibit #148
9 at the top she states, "For triglycerides, you will see
10 that related to exposure, there was an increased preva-
11 lence of abnormalities. The same it goes for SGPT,
12 SGOT and much, much more clearly in the heavy exposure
13 group with GGT. I emphasize, these are abnormals."
14 That's what that says, isn't it, sir?

15 A That's what it says.

16 Q On page 20 of Plaintiffs' Exhibit
17 #148, line 14, she states, "In terms of chloracne, the
18 SGOT and the GGT, which are both liver function tests,
19 were shown to be significantly higher in the people who
20 had chloracne as opposed to the people that didn't.
21 The triglycerides were found to be significantly higher
22 only in relationship chloracne but not in relationship
23 to exposure." And that's what that says, isn't it?

24 A Yes, it does.

25 Q Hand you what's been marked Plaintiffs'

1 Exhibit #150 (Monsanto identification #232273), ask you
2 to take a look at that.

3 Plaintiffs' Exhibit #150 is a two-
4 page document by William R. Gaffey, dated April 27, ,
5 1981. The subject is Dr. Moses' progress report on the
6 Selikoff Study, and you received a copy of that, isn't
7 that correct, sir?

8 A That's correct.

9 Q And, apparently, it's her report to
10 a group of management and Union representatives at Nitro,
11 right?

12 A It's a report of that.

13 Q O.K. And a synopsis of that is
14 generally what was found in her testimony before the
15 VA, right?

16 A They would appear to be similar.

17 Q The five items that Gaffey reiterates
18 is, "1, Chloracne versus severity of exposure. Those
19 with heavy exposure had more chloracne. 2, Chloracne
20 versus hire date. Those hired before 1950 had more
21 chloracne than those hired later. 3, Total cholesterol.
22 No association with exposure or chloracne. 4, SGPT and
23 GGT. Statistically significant association with chlor-
24 acne. 5, Triglycerides. Statistically significant
25 association with chloracne." That's what she reported to

1 Monsato and the Union representatives, right?

2 A That's Dr. Gaffey's report of what
3 she reported.

4 Q That Gaffey's report of what she
5 reported?

6 A Right.

7 Q You know whether or not the group
8 that she saw or that Mt. Sinai saw, group of people
9 were included in the same group that Dr. Suskind saw?

10 A She's never provided me with a list
11 of people she saw, so I can't speak to that point.

12 Q Hand you what's been marked Plaintiffs'
13 Exhibit #152 (Monsanto identification #232333).

14 This is a document, Plaintiffs' Exhibit
15 #152, is a document from Dan R. Bishop, dated September
16 24, 1981, subject being Agent Orange, and it's to the
17 Nitro Health Study Task Force, is it not?

18 A Correct.

19 Q And in there it states that the Wall
20 Street Journal reported to the Secretary of Health and
21 Human Services Schweiker, it's stated that there was a
22 link for Agent Orange that affected many of the illnesses
23 that the veterans claimed to have.

24 A Would you say that again. I didn't
25 follow you there.

1 MR. PRATT: Read it back.

2 (Whereupon the reporter read back the
3 preceding question.)

4 A Yes, it states there is a link to a
5 variety of ailments.

6 Q (By Mr. Pratt) O.K. Hand you what's
7 been marked Plaintiffs' Exhibit #153 (Monsanto identifi-
8 cation #8324396), and ask you to take a look at that, sir.

9 This is a two-page document, this
10 being Plaintiffs' Exhibit #153, is a two-page document
11 authored by Dan R. Bishop on February 12, 1982, to
12 members of the Nitro Health Study Task Force, is it not,
13 and you're a recipient of that document?

14 A Yes.

15 Q And it says in the first paragraph,
16 "For your information, the review with Dr. Suskind went
17 very well. He's produced a very thorough, professional
18 study which will prove very helpful." Did that have to
19 do with his trip to Nitro where he talked to the in-
20 dividuals?

21 A No. That's mentioned later as still
22 pending.

23 Q As what, sir?

24 A That's mentioned later as still pending.

25 Q O.K. Says in the third paragraph,

1 "Once it's been accepted for publication (probably in
2 six to eight weeks) the following release schedule will
3 apply: (1) Nitro Plant Visit. Dr. Suskind will pre-
4 sent findings/conclusions to employees and answer
5 questions." That's stated there, right?

6 A Yes.

7 Q "(2) Public Release. The following
8 day (or as soon after the employee briefing as possible)
9 Dr. Suskind will preside at a bull-blown press conference
10 at the University of Cincinnati. All material, includ-
11 ing the news release, will be on University letterhead,
12 i.e., it will be his show, with Monsanto people there
13 only as interested observers." That's what the second
14 paragraph says, right?

15 A Yes.

16 Q Third paragraph, "Post-Suskind Re-
17 lease. Once the study is made public, Monsanto would
18 be free to participate in followup, local angle inter-
19 views. At Nitro, David Frazer will be our spokesman.
20 In St. Louis, it should presumably be Drs. Tillman and
21 Gaffey." That's what that says, right?

22 A It says, "it should probably be," but,
23 yes.

24 Q "(4) Once the study is published in
25 a journal, we will be free to supply copies on request."

1 And this document is dated February 12 of 1982, isn't
2 that correct, sir?

3 A That's correct.

4 Q And as of this date that study has
5 not been forthcoming, has it?

6 A Not to the best of my knowledge it
7 has not been published.

8 Q Is the Nitro Health Study Task Force,
9 is that still in existence?

10 A On a basis of as-needed the membership
11 would be called together, but we do no longer have routine
12 meetings.

13 Q Well, have you consulted with Dr.
14 Suskind about why this study has not been published?

15 A No. It's been Dr. Roush's territory.

16 Q He'd be the man to testify as to that?

17 A He could tell you what contacts have
18 been made there. I've not personally contacted Dr.
19 Suskind to ask the status of it. We try to limit that
20 to one particular person making contact rather than
21 badger the man with calls from any number of interested
22 parties.

23 Q O.K. Hand you what's been marked
24 Plaintiffs' Exhibit #154 (Monsanto identification
25 #232390), sir.

1 Plaintiffs' Exhibit #154, pages 1
2 through 5, cover page being a document from R. M.
3 Galloway, dated March 5, 1982, and the subject is
4 Nitro Visit - Dr. Suskind, and it's to all the members,
5 it looks like, of the Nitro Health Study Task Force,
6 is that correct?

7 A That's correct.

8 Q And is it clear to you from pages 2
9 through 4 that Monsanto is orchestrating the entire
10 press conference business on that study that's not yet
11 in existence?

12 A No, that's not clear to me at all from
13 this.

14 Q Well, let's look at page 2. First
15 part of the page it says, "Who Will Attend?" doesn't it?

16 A It does.

17 Q Next heading is, "How Will Participants
18 be Contacted?", does it not?

19 A It does.

20 Q Next heading is, "Where to Hold the
21 Meeting?", does it not?

22 A It does.

23 Q Next one says on page 2, "Where will
24 Press Confermce be Held?", does it not?

25 A It does.

1 Q And on page 3 the final heading is,
2 "How to Communicate to Employees who Cannot Attend,"
3 does it not?

4 A It does.

5 Q Then on page 4 there is a letter
6 that proposed that Dr. Suskind write to the people who
7 are going to attend the meeting, right?

8 A Yes, there is a proposed letter.

9 Q O.K. Then on page 5 there is a pro-
10 posed postcard that they are to mail back, right?

11 A That's correct, there is a proposed
12 postcard.

13 Q And it's your feeling that Monsanto
14 was not orchestrating the whole press conference?

15 A No. Not when we use the word "pro-
16 posed." That means to me a suggestion made to others.
17 That's exactly what I would interpret from this. These
18 are our suggestions for how to do this thing.

19 Q Now, we have gone over in your depo-
20 sition some 55 documents, and 34 of those documents,
21 if my count is right, Dr. Suskind's name appears as
22 being contacted by members of this Task Force. Would
23 that be a fair statement?

24 A I'll have to take your word for the
25 number, but, yes, he was contacted frequently.

1 Q And Monsanto was given data on the
2 progress of his study, isn't that correct?

3 A Monsanto was shown tabulations of his
4 data.

5 Q O.K. And you had people, such as
6 Gaffey and Zack, who were in close contact with him
7 on these studies, isn't that correct?

8 A They'd have close contact with him
9 primarily on their mortality studies.

10 Q Did you know that Dr. Suskind was
11 under contract to Monsanto organization in this study?

12 A He was under contract for the study
13 as a representative of Environmental Health Institute
14 at the University of Cincinnati.

15 Q You ever seen a copy of that contract?

16 A I believe I have.

17 Q Let me hand you Plaintiffs' Exhibit
18 #96 (Monsanto identification #8331250).

19 Plaintiffs' Exhibit #96 is a copy of
20 that contract, consisting of three pages, isn't that
21 right, sir?

22 A I'm not sure what it is. I've never
23 seen this before.

24 Q And it sets forth some of the terms
25 of that document, doesn't it?

1 A Apparently so.

2 Q For instance, on page 2, item 3, it
3 states, "Monsanto will provide the Principal Investi-
4 gator with all data from death certificates, hospital
5 and other clinical records Monsanto has regarding the
6 health status of past and present employees of Mon-
7 sonto's plant at Nitro, West Virginia, who were exposed
8 to the 2,4,5-T process from 1948 to 1969 and to the
9 materials involved in the 1949 runaway reaction described
10 in the attached protocol." That's what that says?

11 A Yes.

12 Q Did Monsanto pick the people that
13 would be in that study or the deceased persons?

14 A I can't answer that. I wasn't involved.

15 Q Who were the people that would be in-
16 volved?

17 A I'm not sure who it would be. Since
18 I was not party to this, I can't say who did what.

19 Q Paragraph 4, "Monsanto will also provide
20 the Principal Investigator with copies of all work his-
21 tories and medical records it has for the individuals
22 covered by the study," right?

23 A It says that.

24 Q Also states in there in paragraph 4
25 that Monsanto is to be provided a preliminary report of

1 the findings of the study upon completion of a proper
2 analysis of the data, is that correct?

3 A I'm trying to find where you're reading.

4 Q It's right on down in 4.

5 A Yes.

6 Q Is that what that says?

7 A That's what it says.

8 Q Has Monsanto to date been, to your
9 knowledge, been provided a preliminary report?

10 A I've not seen anything other than
11 tabulations of data which are produced in slides to
12 Monsanto's employees some time ago.

13 Q Paragraph 6, "The administrative
14 aspects of this agreement for Monsanto shall be under
15 the direction of Dr. George Roush." That's what number
16 6 says, right?

17 A Dr. George Roush.

18 Q Paragraph 7, Suskind agrees to testify
19 for a period of five years after the study any place
20 Monsanto wants him to testify and to give affidavits
21 they want, isn't that correct?

22 A Yes.

23 Q And you, sir, are telling this jury
24 that Dr. Suskind is independent in his dealings with
25 Monsanto, is that right?

1 A That's pointed out very adequately
2 in item 5 on this same paper.

3 MR. PRATT: That's all I have.

4 Let me state for the record that we
5 had scheduled today Jack Garrett, and we
6 have just finished a little after noon with
7 the testimony of Dr. Ernie Tillman, which
8 took a half day longer than we thought, and
9 that we were forced to cancel Garrett at
10 this time, the reason being that the docu-
11 ments which were sent out to me on that
12 particular deposition weren't in the mail
13 that I got; so we would like to set him
14 at another time. I guess what we can do
15 is just continue on with the present schedule.
16 Tomorrow we have -- you have it before you.
17 Who do we have?

18 MR. LOVE: Tomorrow we have scheduled
19 Mr. Ferdinand Zienty at 9:00 A.M. and Mr.
20 M. T. White at 1:00 P.M., and I would in-
21 dicate to you that those folks are not
22 employees of Monsanto Company and will have
23 to be subpoenaed, but pursuant to my letter
24 addressed to you June 15, 1983, scheduling
25 them for this time, I indicated to you they

1 had agreed to allow me to accept service
2 for witness subpoenas for their appearance,
3 but I suggest you serve them at the time and
4 place of the deposition and we'll have them
5 here.

6 (Whereupon discussion was had off
7 the record.)

8 MR. LOVE: I would indicate to you
9 also that Jack Garrett's deposition was
10 scheduled for today at 9:00 A.M. and
11 scheduled for a full day, and he's the
12 Director of Industrial Hygiene for Mon-
13 santo Company in St. Louis, and he, con-
14 sequently, is a very busy person. We
15 spent substantial period of time preparing
16 him for his deposition on yesterday, and
17 this morning I was advised that you were not
18 prepared to take his deposition due to lack
19 of delivery of documents from your office
20 in Charleston and to advise Mr. Garrett that
21 his deposition was cancelled. Just for the
22 purpose of the record, he was not happy
23 about that. He is a very busy man and
24 set aside both yesterday and today for the
25 purposes of his deposition. I understand

1 that these problems arise with regard to
2 documents. We'll do the best we can in
3 terms of supplying him at a later date,
4 but in the future if such arises, I would
5 appreciate it if you would give us more
6 advance notice and, perhaps, we can cause
7 these individuals less difficulty in terms
8 of their scheduling and ours.

9 MR. PRATT: Very good.

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Dr. Ernest Tillman
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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF MADISON)
4

5 I, M. JOY SPRINGER, a Notary Public, duly
6 commissioned and qualified in and for the County of
7 Madison, State of Illinois, do hereby certify that
8 pursuant to notice came before me on June 27 and
9 June 28, 1983, at the Radisson Hotel, Room 215, 9th
10 Street and Convention Plaza, St. Louis, Missouri,
11 DR. ERNEST TILLMAN, who was by me duly sworn to
12 testify to the truth and nothing but the truth of
13 his knowledge touching and concerning the matters
14 in controversy in this case; that he was thereupon
15 carefully examined upon oath, and his examination
16 reduced to writing under my supervision; that the
17 deposition is a true record of the testimony given
18 by the witness; and signature of the witness was not
19 waived.

20 I FURTHER CERTIFY that I am neither
21 attorney nor counsel for nor related to nor employed
22 by and of the parties to the action in which this
23 deposition is taken; and further, that I am not a
24 relative or employee of any attorney or counsel em-
25 ployed by the parties hereto, or financially interested
in the action.

1 IN WITNESS WHEREOF, I have hereunto set my
2 hand and affixed my notarial seal on this _____
3 day of July, 1983.
4
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8 _____
9 Notary Public within and for the
10 County of Madison, State of Illinois.
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