

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

Derek Richard Wallis, an)
Underwriter at Lloyd's,)
London, for himself and on)
behalf of certain other)
underwriters at Lloyd's,)
London; and Certain)
London-Market Companies,)

Plaintiffs,)

vs.)

Cause No. 94-47-HA

PacifiCorp (a.k.a. Pacific)
Power and Light), an Oregon)
Corporation, and its)
predecessors-in-interest,)

Defendant/)
Third-Party)
Plaintiff)

vs.)

American Home Assurance Co.,)
et al.)

Third-Party)
Defendants)

DEPOSITION OF WILLIAM B. PAPAGEORGE
Taken on Behalf of Plaintiff
May 25, 1995

COPY

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Defendant/	)	
Third-Party	)	
Plaintiff	)	
vs.	)	
American Home Assurance Co.,	)	
et al.	)	
Third-Party	)	
Defendants	)	

DEPOSITION OF WILLIAM B. PAPAGEORGE,
produced, sworn and examined on behalf of the Plaintiffs,
May 25, 1995, between the hours eight o'clock in the
forenoon and five o'clock in the afternoon of that day, at
the law offices of Husch & Eppenberger, 200 North
Broadway, St. Louis, MO 63102, before JULIE A. SEKETA, a
Certified Shorthand Reporter and Notary Public.

A P P E A R A N C E S

The Plaintiffs were represented by Ms. Tammy L.
Lewis, of the law firm of Lane, Powell, Spears, Lubersky,
1420 Fifth Ave., Suite 4100, Seattle, WA 98101.

The Defendant PacifiCorp were represented by
Mr. Scott J. Kaplan, of the law firm of Stoel, Rives,
Boley, Jones & Grey, 900 S.W. 5th Ave., Suite 2300,
Portland, OR 97204.

Also present on behalf of Monsanto and
Mr. Papageorge was Mr. Timothy Peck, of the law firm of
Smith, Helms, Mulliss & Moore, L.L.P., 300 North Greene
Street, Suite 1400, Greensboro, N.C. 27401.

I N D E X

	Page	Line
RECORD ON DEPOSITION	5	8
QUESTIONS BY MS. LEWIS	6	15
QUESTIONS BY MR. KAPLAN	71	5
QUESTIONS BY MS. LEWIS	98	16
QUESTIONS BY MR. KAPLAN	102	5

I N D E X O F E X H I B I T S

	Page	Line
Exhibit No. 1	30	2
Exhibit No. 2	31	5
Exhibit No. 3	32	14
Exhibit No. 4	33	25
Exhibit No. 5	36	9
Exhibit No. 6	37	20
Exhibit No. 7	39	21
Exhibit No. 8	41	19
Exhibit No. 9	44	5
Exhibit No. 10	45	6
Exhibit No. 11	48	4
Exhibit No. 12	50	1
Exhibit No. 13	54	1
Exhibit No. 14	56	4
Exhibit No. 15	58	10

1	<u>INDEX OF EXHIBITS</u> (Cont.)		
2			
3	Exhibit No. 16	Page 59	Line 20
4	Exhibit No. 17	61	19
5	Exhibit No. 18	63	2
6	Exhibit No. 19	64	4
7	Exhibit No. 20	66	2
8	Exhibit No. 21	68	6
9	Exhibit No. 22	70	8
10	Exhibit No. 23	95	14
11	Exhibit No. 24	96	14
12	Exhibit No. 25	97	10

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1 IT IS HEREBY STIPULATED AND AGREED by and
2 between Counsel for the Plaintiffs and Counsel for the
3 Defendants, that this deposition may be taken in shorthand
4 by JULIE A. SEKETA, a Certified Shorthand Reporter and
5 Notary Public, and afterwards transcribed into typewriting
6 and is signed by the witness.

7 o-O-o

8 RECORD ON DEPOSITION

9 o-O-o

10 MS. LEWIS: Prior to commencing your
11 questioning, Mr. Papageorge, I believe Mr. Kaplan and I
12 have reached agreement on the stipulation of certain
13 documents as business records.

14 MR. KAPLAN: Well, I agree that we reached a
15 stipulation as to certain facts about these documents. We
16 agree that they are authentic, that is they are what they
17 purport to be, that the documents provided by Monsanto
18 which were Bates stamped WLS 1 through 4384 were
19 maintained by Monsanto in the ordinary course of its
20 business and the documents that purport to be created by
21 Monsanto were, in fact, created by Monsanto. I believe
22 that's the stipulation.

23 MS. LEWIS: Can we further stipulate that
24 they were created by Monsanto in the ordinary course of
25 business?

1 MR. KAPLAN: Yes, and we are not reaching any
2 agreement as to documents other than as to the
3 authenticity as to documents not created by Monsanto and
4 we do not agree that the documents were maintained in the
5 ordinary course of business in the order in which they
6 were produced and, in fact, the fact appears to be that
7 they were not maintained in this order; do you agree to
8 that?

9 MS. LEWIS: I'll agree to that.

10 o-O-o

11 WILLIAM B. PAPAGEORGE,
12 of lawful age, being produced, sworn and examined on the
13 part of the Plaintiffs, deposes and says:

14 o-O-o

15 QUESTIONS BY MS. LEWIS:

16 Q. Mr. Papageorge, my name is Tammy Lewis and I
17 am representing Wallis in this action and London-Market
18 Companies. I will be asking you questions and my
19 questions and your answers will be reported by the court
20 reporter. If for some reason you don't understand a
21 question, please let me know and I'll try and rephrase it
22 so that you can understand it. Also, when you give your
23 answer it's important that you answer verbally with a
24 "yes" or "no" rather than a nod of the head or a shake of
25 the head so that the court reporter can transcribe your

1 testimony. If you need a break at any time, feel free to
2 do so. If you would like to consult with your attorney,
3 you're free to do so as well. I would only ask that you
4 finish answering my pending question before you consult
5 with your attorney. Sometimes you may give an answer as
6 completely as you can and then a little bit later you
7 might remember additional information or want to clarify a
8 prior answer, just let me know and we'll be happy to let
9 you do that. If you can think of any documents that might
10 help you answer a question, let us know and we might be
11 able to provide that document for you. Your attorney may
12 object as to some of my questions. After the objection
13 you may go ahead and still answer the question unless your
14 attorney instructs you not to answer the question.

15 Have you ever been deposed before,
16 Mr. Papageorge?

17 A. Oh, yes.

18 Q. Can you tell me approximately when?

19 A. Well, it's a period of over 20 years, I never
20 kept a score sheet, but I suggest that 30 times or so and
21 that's a very rough estimate.

22 Q. Okay. Do you have an understanding of the
23 subject matter of this lawsuit at all?

24 A. I have some understanding. I don't know
25 whether it's accurate.

1 Q. And what's your understanding?

2 A. It has to do with an underwriter's
3 responsibilities or relating to the reimbursement for some
4 activities that took place as they relate to
5 polychlorinated biphenyls.

6 Q. Did you meet with anyone to prepare for your
7 deposition today?

8 A. I did.

9 Q. And who did you meet with?

10 A. Mr. Tim Peck.

11 Q. Did you review any documents in preparation
12 for your deposition today?

13 A. I did.

14 Q. Do you remember what you reviewed?

15 A. I reviewed a collection of documents which I
16 understand were produced in this particular case.

17 Q. Okay. I'd like to get a little bit into your
18 educational background. Can you tell me about your
19 education?

20 A. Certainly. I received a bachelor of science
21 degree in chemical engineering in 1943 from Washington
22 University in St. Louis and a master of science degree in
23 chemical engineering from the same institution in 1947.
24 And in the period '47 through '51 I earned credits toward
25 a doctor of science degree at Oklahoma A&M, currently

1 known as Oklahoma State University. I never completed
2 that course.

3 Q. Is there any further postgraduate education?

4 A. Yes, I attended -- I'm going to call it an
5 education, I don't think it had any credits or anything
6 associated with it. It was a business-oriented course
7 taught at the school of business at Washington University
8 in St. Louis. It covered, the best I remember, a six to
9 eight month period and it was -- the classes were held on
10 long weekends, Friday through Monday kind of situation,
11 some on campus, some off campus. I also -- I don't know
12 if you included this in University formal type schooling,
13 but I also attended a series of courses sponsored and
14 conducted by the American Management Association in
15 New York City. This also covered a period of several
16 months. I forget the frequency, but I would attend those
17 classes for a week at a time and the subjects had to do
18 again with business management. Those are the types of
19 exposures to education I would consider as being more or
20 less on the formal side. The others were attending
21 seminars and meetings and the like.

22 Q. And what types of seminars would you attend?

23 A. There was so many in that, different types.
24 They were -- some were management oriented, some were
25 scientifically oriented, chemically oriented. Many were

1 environmentally oriented. Yes, again, I would have a
2 difficult time remembering exactly how many and where I
3 went and they were held.

4 Q. Understandably. How about professional
5 associations that you have been a member of?

6 A. Yes, I'm a member of the American Institute
7 of Chemical Engineers and the American Chemical Society.

8 Q. Do you remember approximately when you became
9 a member of the American Institute of Chemical Engineers?

10 A. Oh, approximately late '40's, 47 to 49,
11 somewhere in there. Right after I got my master's degree
12 I joined. I don't know that I joined immediately or
13 waited a year or so.

14 Q. And the second one was the American
15 Chemical --

16 A. -- Society.

17 Q. Okay.

18 A. I joined that society at about the time I
19 joined the Chemical Engineers group.

20 Q. Any others?

21 A. I have been members of groups that -- Would
22 you include such things as the Wilderness Society? I was
23 a member of that for about five years.

24 Q. Sure.

25 A. Let me think a bit here. None come to mind

1 at the moment.

2 Q. Okay. Did you hold any offices in either of
3 these associations?

4 A. I did not.

5 Q. Okay. Have you published any works in your
6 field?

7 A. I have not.

8 Q. I'd like to briefly run through your
9 postgraduate employment. Can you tell me what your first
10 job was after you graduated?

11 A. If you count military service as a job --

12 Q. Certainly.

13 A. Well, that was my first job after I got my
14 bachelor's degree, served in the U.S. Army until 1946. My
15 first industrial association was with Phillips Petroleum
16 Company in Bartlesville, Oklahoma, and I was with them for
17 about four years. I then joined Monsanto Company, and
18 that was in 1951 -- late '51, and I retired in the end of
19 1986.

20 Q. So you started at Phillips Petroleum at
21 approximately '47?

22 A. '47.

23 Q. And what was your job at Phillips Petroleum?

24 A. Two assignments, the first two years was in
25 the research department associated with oil well drilling

1 and what is known as secondary recovery. This is the
2 activities associated with trying to get oil out of fields
3 that are pretty well spent by introducing water or gas or
4 some other device to push out the remaining oil, and the
5 next two years with Phillips was in their refining
6 department which I was involved with the design
7 calculation associated with selecting equipment for
8 refining petroleum products.

9 Q. When you went to Monsanto in 1951, what was
10 your first position?

11 A. First position, I was involved with the
12 engineering associated with the selection of equipment,
13 the proper combination of that equipment to produce a
14 given product.

15 Q. Any particular products spring to mind?

16 A. Yes, this was known chemically as Phthalic
17 Anhydride.

18 Q. And what is Phthalic Anhydride?

19 A. It's a chemical that is used quite
20 extensively in the manufacturing of materials called
21 plasticizers. These are materials that are added to
22 plastics to make them flexible instead of brittle and
23 Phthalic Anhydride is an ingredient that is part of that
24 plasticizer composition.

25 Q. And how long did you hold that particular

1 position?

2 A. These are very approximate. Best I recall
3 about three years, two or three years.

4 Q. And what was your next job at Monsanto?

5 A. I was appointed as an assistant supervisor in
6 a department in the plant that made these plasticizers I
7 just referred to.

8 Q. And what were your responsibilities as an
9 assistant supervisor?

10 A. Well, I was to see that the scheduled
11 material was produced at the amounts required, at the
12 costs that were established, at the quality that was
13 specified and that this was all done in a safe manner,
14 didn't burn down the plant or hurt anyone. I think that
15 just about covers the responsibilities.

16 Q. Okay. And how long were you an assistant
17 supervisor?

18 A. A year or two here.

19 Q. And what was your next job after that?

20 A. I was then given my own department as a full
21 supervisor instead of as an assistant. This particular
22 department made chemicals that were eventually used to
23 make other chemicals used in rubber products.

24 Q. What additional responsibility did you have
25 as a supervisor?

1 A. The responsibilities were the same. I would
2 suggest the magnitude might have been bigger. It was a
3 bigger operation, more people involved, more equipment,
4 but the responsibilities still were the same. Make it
5 safely, make it timely, and the right quantities and the
6 right quality.

7 Q. And you stayed in that position approximately
8 how long?

9 A. Again, couple years. It was over a year but
10 maybe not over two.

11 Q. Okay. And do you remember what you did next?

12 A. I was then made a maintenance supervisor in
13 the maintenance department of the plant as distinguished
14 from the production department.

15 Q. What were your responsibilities in that
16 position?

17 A. I was supervising a group of employees who
18 were involved in what we called minor projects, new
19 additions as distinguished from repairing something. This
20 included such things as replacing a small tank with a
21 bigger tank or replacing a steel pipeline with a stainless
22 steel pipeline. These kinds of changes that were small
23 and were not contracted out to outside construction
24 companies, that's the kind of activity I had.

25 Q. And do you remember approximately how long

1 you were in that position?

2 A. About another couple of years.

3 Q. Okay. And your next position?

4 A. I was then made a superintendent in the
5 maintenance department which included the supervision of
6 not only the group I previously had but the activities
7 associated with major construction projects as well as the
8 maintenance of the entire plant facility.

9 Q. And that included overseeing plant safety
10 operations?

11 A. Yes.

12 Q. And can you tell me where you went after you
13 were a superintendent of maintenance?

14 A. I was then assigned as a superintendent in
15 the plant engineering department referred to by the plant
16 as the technical service department.

17 Q. And what did your responsibilities entail in
18 technical service?

19 A. There, I was supervising anywhere from
20 depending on the work load really -- really anywhere from
21 half a dozen to two dozen engineers and technicians who
22 were assigned engineering problems associated with the
23 production departments. For example, how can I get more
24 production out of this facility or how can I make the
25 product better quality or how can I use less raw material,

1 those are the kinds of problems we were assigned as we
2 worked at it and tried to improve things.

3 Q. Do you remember approximately when you were
4 in that position?

5 A. Yeah, these years in maintenance not all add
6 up, that's why I hesitate. Let me think.

7 Q. I count I think we are at about 1960 or so.

8 A. Yes, that sounds very close, '60, '61.

9 Q. And you remember approximately how long you
10 stayed in that position?

11 A. A year or two again.

12 Q. Okay. And in '60 -- I guess we're in '62, do
13 you recall your next position?

14 A. Yeah, '62 that's about -- that's pretty near
15 correct. I was then made a general superintendent in
16 charge of the operations in the plant that supplied all of
17 the support services to the production departments. That
18 included distribution of steam and electricity and water,
19 picking up the trash, unloading the incoming material,
20 loading the finished product and shipping it out, these
21 kinds of things that supported the operations people.

22 Q. And do you remember approximately how long?

23 A. Yes, I remember specifically until '64.

24 Q. Okay. And how did your responsibilities
25 change in 1964?

1 A. I was then transferred from the first plant
2 that I was assigned to the plant across the river here,
3 the Monsanto plant in Sauget, S-A-U-G-E-T, Illinois, as
4 one of several general superintendents of manufacturing.

5 Q. And the prior plant you were at, was that the
6 plant in St. Louis?

7 A. It's one of the plants in St. Louis referred
8 to as the J.F. Queeny.

9 MR. PECK: "K" or "Q" --

10 A. I'm sorry, "Q" as in "Queen."

11 Q. Thank you.

12 A. I'm thinking of the Krumrick in my mind.
13 Krumrick is the plant across in Sauget, Illinois.

14 Q. And can you give me a general idea of your
15 responsibilities at that plant, the Sauget plant?

16 A. I was responsible for the production of
17 chemicals in about a half a dozen or so units, and those
18 responsibilities were the kind we referred to earlier
19 regarding making the product properly, safely, on time and
20 so on. So I had a series of products, and with the proper
21 supervisors and superintendents, foremen to do these
22 things with me.

23 Q. Do you remember what those products were?

24 A. I remember some of them. I just don't
25 remember all. There was a chemical that was a rubber

1 additive which we call 4NDPA, that's an acronym, and I
2 just don't remember the chemical terminology any longer.
3 We made phenol, we made sulfur dioxide, sulfuric acid,
4 sodium sulfite, dichlorobenzene, pentachlorophenyl, this
5 is the wood treating chemical, and the sodium salt of
6 that. I know there were others, but they don't come to
7 mind any longer. That's an example of the types of
8 products I was involved with.

9 Q. And approximately how long were you in that
10 position?

11 A. About a year.

12 Q. And what was your next --

13 A. I was then assigned to be plant manager at
14 the Anniston, Alabama, Monsanto plant.

15 Q. And how did your responsibilities change if
16 at all?

17 A. Yes, it did. I guess as plant manager I was
18 responsible for everything. The buck stopped there, so I
19 not only had the safety and the chemical products and all,
20 but I had all kinds of other responsibilities like
21 training the new personnel, the hiring of the people,
22 community relations --

23 Q. Uh-huh (yes).

24 A. -- and so on.

25 Q. And how long did you remain as plant manager?

1 A. From 1965 to the end of 1969.

2 Q. And in 1969, what was your next position?

3 A. I was assigned back to the home office in
4 Monsanto in St. Louis and given the title of manager
5 environmental control to address the then evolving PCB
6 environmental issue.

7 Q. Can you describe for me your responsibilities
8 as manager of environmental control?

9 A. Well, it was a new assignment and we all had
10 to learn. I think the way I would describe it, the way I
11 found myself performing was that I was really -- the
12 person that coordinated all the communication relating to
13 PCBs and the environment within Monsanto and outside of
14 Monsanto. In essence to use aphorism I often use let the
15 left hand know what the right is doing and at the same
16 time trying to also gain some knowledge from all parties
17 that I could then pass on to others that didn't have that
18 specific knowledge.

19 Q. And how long did you stay in that particular
20 position?

21 A. I hesitate because there was slight changes
22 through the years and not only in the products that I was
23 concerned with and in addition to PCB but also in title
24 changes, but my involvement with the PCB environmental
25 issue started in the first of the year 1970 and I was

1 officially transferred out in the end of February 1976.
2 During this period of time I had the title of manager
3 environmental control initially and then I picked up the
4 title manager environmental protection and then I was
5 changed to manager product acceptability as I picked up
6 more and more and more products. And that's all within
7 that 1970 to '76 time period.

8 Q. I'm sorry, those three titles are all
9 encompassed in that 1970 to 1976 time period?

10 A. That is correct.

11 Q. How did your responsibilities change from
12 1970 to '76?

13 MR. PECK: Assuming that they did.

14 Q. If they did. You mention that you had more
15 responsibility for other products as well as PCBs?

16 A. Yes, the responsibilities really are in a
17 general way the same except that I've picked up additional
18 problems within Monsanto. So responsibilities still
19 included is the material properly handled, is it disposed
20 of properly, do the customers know what we know, is it
21 labeled properly. So all those responsibilities as they
22 apply to PCBs apply to all the other products in a
23 different way because of the characteristics of each of
24 the products. So the responsibilities were the same
25 except that I picked up more products.

1 Q. Do you recall when the existence of PCBs
2 became an issue at Monsanto?

3 MR. KAPLAN: Objection, that's vague and
4 ambiguous.

5 Q. Do you recall when the existence of PCBs in
6 the environment became an issue of concern at Monsanto?

7 A. Yes, it happened in late 1966.

8 Q. Can you describe to me the circumstances
9 around that period of time which led to the concern?

10 A. I'll try. There were some scientists in
11 Sweden that were working on the presence of DDT in the
12 environment and in their studies they kept running into
13 some interference in their analytical work. They
14 eventually in late '66 felt that they had identified this
15 interference as being a PCB, but they weren't real sure of
16 themselves. As best I recall there was a scientific
17 meeting at which these results were shared with the
18 attendees. Monsanto's representative in Stockholm
19 eventually picked up this information, contacted the
20 Monsanto representatives at the headquarters -- I think it
21 was London at that time -- and arrangements were made to
22 meet with the scientists to compare notes with them and to
23 pick up their analytical techniques. This was forwarded
24 to Monsanto in St. Louis and as best I recall there were
25 meetings between Monsanto and these scientists in Sweden

1 to give Monsanto an opportunity to learn what they can
2 regarding analytical methods that were evolving and were
3 very new at the time. In fact, Monsanto had to even order
4 equipment which was in the way almost custom made. It was
5 not an item that you just purchase and put to work. Does
6 that help? That's the beginning of our knowledge of PCBs
7 being found in environmental samples, and these samples
8 incidentally included pine needles, fur from a stuffed
9 eagle, clippings from an infant's head, fish caught in the
10 Ocean.

11 Q. When is -- in what time period approximately
12 did these meetings between Monsanto representatives and
13 the Swedish scientists take place?

14 A. It was several meetings, '67. There was
15 another meeting with the St. Louis scientists in '69.
16 Then I personally joined those people in 1970. Again, so
17 at least three times that I'm aware of and there were
18 other informal meetings by telephone or mail or so on.

19 Q. Apart from the Swedish, were there other
20 incidents that were brought to Monsanto's attention which
21 contributed to the concern about PCBs?

22 A. You say before that?

23 Q. Apart from that.

24 A. Apart, yes, following the initial disclosure
25 by the Swedish scientists there was a report. I'm trying

1 to think of the date. As best I remember it was late '68
2 regarding the inability of the pelicans off southern
3 California having problems in breeding and the effect on
4 the eggs, and investigators out of the university of
5 California, Berkeley, suspected PCBs were contributing to
6 that problem. There was also studies later from Cornell
7 University relating to the presence of PCBs in prairie
8 falcons and the suspicion that the presence of these PCBs
9 was affecting the reproduction of the falcon. These are
10 the early reports that added to the interest on Monsanto's
11 part in the presence of PCBs in the environment.

12 Q. Do you recall an incident in Japan as well as
13 in that -- during that time period?

14 A. Oh, yes, there was an incident in 1968 in
15 which a community of individuals had used an oil extracted
16 from rice bran in their foods and these individuals,
17 several thousands, I don't remember the exact numbers,
18 were ill, exhibiting many symptoms, nausea, weight loss,
19 running eyes, pigmentation of the infants that were born,
20 they were darker skin than expected -- I forget all the
21 symptoms -- and this was traced back to a leak in the oil
22 refining system which used PCBs as the source of heat to
23 distill the oil, to refine the oil. That was reported in
24 '68, as best I recall. The source of all that illness was
25 finally resolved in November of 1975 at a national meeting

1 on PCBs as being a presence of another chemical in the
2 PCBs that entered the oil.

3 Q. Were these incidents fairly well publicized?

4 MR. KAPLAN: Objection, that's vague. Some
5 of these things are scientific discovery or publications.
6 The only incident I guess you discussed is this Japanese
7 thing.

8 Q. How did Monsanto receive information relating
9 to these incidents?

10 MR. KAPLAN: Same objection.

11 A. Several ways. There were -- I'm having some
12 difficulty remembering the exact timing, but there were
13 scientific articles. For example, the work on the falcon
14 was published. I forget the author's name, but it was
15 published in one of the scientific journals. I don't
16 remember exactly the details. The work out of California
17 was initially available to Monsanto out of a -- I think it
18 was a San Francisco chronicle published an article. The
19 scientific version of that information later on appeared
20 in a scientific paper. The individuals involved with
21 these two studies that I recall, the Cornell work and the
22 Berkley California work, were in contact with Monsanto
23 scientists. In fact, they got their PCBs from Monsanto
24 and they got some of the analytical techniques from
25 Monsanto so they were working together. So the

1 information became known to Monsanto even before it
2 appeared in any printed manner.

3 Q. How did Monsanto respond to this information
4 in concern about PCBs in the environment?

5 A. Can you help me, with responding you mean?
6 Well, emotionally or physically or --

7 Q. What actions did Monsanto take to investigate
8 the extent that PCBs were a problem in the environment?
9 Did Monsanto take steps to work with others in the
10 industry to disseminate their knowledge about PCBs?

11 A. The answer is yes, it did. It, of course,
12 worked with the investigators as we became aware of them
13 and many times Monsanto would become aware of
14 investigations from the requests for PCBs, that triggered
15 something. So we worked very closely with laboratories of
16 all kinds, universities, industrial state regulatory labs.
17 We shared with them our growing knowledge of how to
18 analyze to lower and lower levels, you know, refining the
19 procedure. We exchanged samples, we compared the
20 laboratories and we see this, what do you see kind of
21 thing. Monsanto did, as I indicated earlier, get the
22 latest in equipment to -- not only analyze for PCBs but
23 also to confirm that what they're seeing was really a PCB
24 and not something else. And then as time went on we, of
25 course, became very active in sharing with anybody that's

1 interested for any reason what we knew about it in hope
2 that they would share with us what they knew about PCBs
3 and the environment. And Monsanto even started a toxicity
4 study to answer that question, okay, whether there's PCBs
5 or not in the environment, let's assume that there are
6 PCBs, if they were in the environment what effect, if any,
7 might they have. And this was a learning period again
8 because there was nowhere to go to get advice on
9 industrial chemical testing for health effects or
10 environmental effects, so Monsanto chose to test these as
11 though they were going to be put in food that was
12 perceived to be the most severe testing, so we used the
13 procedures then used by anyone that wanted to have a
14 chemical approved by the food and drug administration. So
15 those studies were implemented in '69. As I remember
16 there was some preliminary work in '68 and the studies
17 were started in '69, the formal work. We tried to work
18 with other producers of PCBs. They included, of course,
19 European producers and the Japanese. There was no known
20 U.S. commercial producer of PCBs at that time.

21 Q. Were the Japanese and European producers
22 likewise doing research on the issue with Monsanto?

23 A. I'm not aware of any research that the
24 Japanese producers were doing. Of course, one of the
25 producers was in Monsanto's joint venture so they were, of

1 course, tuned in. So the other producer, I'm not aware of
2 anything that they did other than get the necessary
3 analytical expertise to test for samples. The Europeans,
4 it varied, it varied. Monsanto took the lead. The
5 Europeans were kind of slow in getting on board. They
6 just didn't believe that there was a problem. The Germans
7 finally became interested and then the French and Italians
8 and Spanish especially got on board at a very slow pace.

9 Q. Did Monsanto take steps to communicate the
10 PCB concerns to the users and customers of its products?

11 A. Yes.

12 Q. Can you describe for me the actions Monsanto
13 took in that respect?

14 A. There were many. When Monsanto individuals
15 who were involved with the issue felt that there was
16 something of significance to report, they would share that
17 with their customers so there are -- there were incidents
18 where letters were mailed to customers on record, and I
19 would describe those letters as being sort of status
20 reports, this is what we now know kind of report. As more
21 detailed information would develop additional letters
22 would be mailed out. We would share with those that were
23 interested the status reports on those toxicities that I
24 talked about earlier. In fact, I had the testing
25 laboratory through Monsanto Medical Department supply me

1 with six eight-month status reports, what findings were
2 made as of that point in time, and I would drop those in
3 the mail or someone would call and say, hey, got anything
4 on this? And I'd say, yes, and I would mail it to them.
5 That's another form of communicating. There were
6 meetings, of course, held with customers in which they
7 would send their representatives and we would hold a
8 session and sort of bring them up to date, here's what we
9 know and here's what we're doing and here's the people you
10 should contact if you have questions, that kind of
11 information. There were personal contacts made by
12 Monsanto representatives out in the field. We would train
13 the marketing representatives as to the latest and they
14 would as they made their visits drop off a let's say an
15 annual toxicity study status report, that kind of thing.
16 I personally went to several customer plants. Time didn't
17 permit to cover all the thousands. I just couldn't do it,
18 but I did try for several reasons. One is to educate
19 myself, and the second, to share with the customers, plant
20 people directly instead of the president of the company.
21 Let's see, what I also -- we would meet with government
22 departments, agencies, and they in turn through their
23 normal procedures would either through the federal
24 register or through special reports publish their
25 perception of the situation. So that gave us an

1 opportunity many times to say enclosed is task force
2 report number two and so on about PCBs which we did often.
3 I'm sure I missed something here. The whole intent was to
4 communicate.

5 Q. Do you remember the approximate time period
6 when Monsanto began communicating with the users of its
7 products and equipment manufacturers about its concerns?

8 A. I would suggest that the initial sharing of
9 information started in late '68 with a few of the very big
10 customers, the big guys. I recall a letter going out to
11 some of the key PCB users, Monsanto's customers in early
12 '69. Then as more information was accumulated during 1969
13 I recall also letters sent to customers of Monsanto
14 reported in early 1970, and as I indicated earlier
15 whenever anything was perceived to be of significance we
16 would have a follow-up kind of mailing depending on which
17 product was involved and which type of customer would it
18 be of interest to.

19 Q. Were you involved in determining which
20 customers' information went to PCB issues?

21 A. I was involved, yes.

22 Q. I'm going to introduce a document as an
23 exhibit and I'd like you to take a look at it. I'd like
24 to introduce this as Exhibit No. 1. And this is a document
25 that is Bates stamped WLS 001985 through 001987. It was

1 produced by Monsanto in this litigation.

2 (Reporter marked for identification Deposition
3 Exhibit No. 1.)

4 A. I have scanned the document.

5 Q. Do you recognize that document?

6 A. Yes, I do.

7 Q. Can you identify it for me, please?

8 A. This is a copy of a letter. The original as
9 I remember had the Monsanto logo or letterhead on it
10 authorized by a member of Monsanto's Corporate Medical
11 Department that was mailed to several key PCB customers of
12 Monsanto.

13 Q. Do you recall who those customers were?

14 A. Of course, I don't remember all of them, but
15 I do recall it included such companies as General Electric
16 and Westinghouse. I forget the exact numbers.

17 Q. Is this the letter you were referring to
18 earlier when you stated Monsanto made an initial
19 communication to some of its customers in 1969?

20 A. Yes.

21 MR. PECK: I would state that I object, that
22 my recollection of that testimony was that there were
23 initial communications which were perceived that this
24 might -- I think you referred to this as the initial
25 written communication?

1 A. Yes.

2 Q. Okay. That's all the questions I have on
3 that particular document. I'd like to introduce this
4 document as Exhibit No. 2.

5 (Reporter marked for identification Deposition
6 Exhibit No. 2.)

7 Q. Please take a moment and review it. This
8 document is Bates stamped WLS 001997 through WLS 002004.

9 A. I have reviewed the document.

10 Q. Would this be an example of the open letter
11 that Monsanto sent to customers of its PCB products?

12 A. This is an example of one form of the letter
13 that was mailed early 1970 to customers of PCB products on
14 record with Monsanto.

15 Q. Do you recognize this letter?

16 A. Yes, I do.

17 Q. Can you describe for me in general terms to
18 which customers this letter would have been sent?

19 A. This particular letter was sent to those
20 customers of Monsanto's PCBs that were involved in the
21 manufacture of electrical equipment which used fluids that
22 contained PCBs as an ingredient.

23 Q. Was this letter widely disseminated to many
24 companies or was it strictly to those companies that
25 manufactured electrical equipment?

1 A. This particular letter was sent to those that
2 manufactured the electrical equipment.

3 Q. And what is your understanding of the purpose
4 of this letter or your recollection of the purpose of this
5 letter?

6 A. It's to inform our customers that PCBs were
7 being found in the environment, what type was being
8 identified and which Monsanto products contained that type
9 and in this particular case it referred to the use of the
10 electrical equipment as indicated in that last paragraph.

11 Q. That's all the questions I have on that. I'd
12 like to introduce this document as Exhibit No. 3, and as
13 soon as she's marked it if you would take a look at that.

14 (Reporter marked for identification Deposition
15 Exhibit No. 3.)

16 Q. This document is Bates stamped WLS 002639
17 through 2643.

18 MR. KAPLAN: This exhibit appears to be
19 several documents stamped together.

20 Q. Yes, it is various invoices.

21 A. I have scanned the document exhibit.

22 Q. Do you recognize this document?

23 A. I've seen it before, yes.

24 Q. Can you identify it for me, please?

25 A. Oh, it consists of about five pages, it

1 appears that the first two pages are the same document
2 with the second pages containing some handwritten notes.
3 The third page appears to be a -- it's referred to as a
4 debit page as somebody getting credit for freight
5 adjustment and the last two are two separate shipments of
6 PCB containing fluid.

7 Q. And that would be the Pyranol?

8 A. Pyranol, yes, that's the General Electric
9 trade name for the fluid.

10 Q. And this would be an invoice generated by
11 Monsanto?

12 A. Yes.

13 Q. The invoice states that the Pyranol is sold
14 to a company known as Pacific Power and Light?

15 A. It does.

16 Q. Does that then indicate that Pacific Power
17 and Light is buying Pyranol directly from Monsanto?

18 A. That's what these documents show, yes.

19 Q. Would Pacific Power and Light then have been
20 on Monsanto's customer list --

21 A. Yes.

22 Q. -- for Pyranol? That's all the questions on
23 that document. I'd like to introduce that as Exhibit No.
24 4.

25 (Reporter marked for identification Deposition

1 Exhibit No. 4.)

2 Q. And that is a document stamped WLS 001897 and
3 001898.

4 A. I have scanned the document.

5 Q. Do you recognize that document?

6 A. I do.

7 Q. Could you describe it for me, please?

8 A. It's a copy of a material safety data sheet
9 prepared by Monsanto for the product Aroclor 1221.

10 Q. What was the purpose of this document to the
11 best of your understanding?

12 A. It's intended to share with customers of this
13 product or potential customers who would show an interest
14 in this product some of the characteristics of the product
15 and some of the safety features regarding fire and
16 explosion as well as human health effects, how that might
17 affect the worker and so on.

18 Q. How were these documents disseminated to
19 Monsanto's customers?

20 MR. KAPLAN: That assumes facts not in
21 evidence.

22 Q. Were these documents disseminated to
23 Monsanto's customers?

24 A. Yes, they were.

25 Q. Could you describe for me how they would be

1 received by Monsanto's customers?

2 A. Several ways. One was in response to a
3 direct -- we either by telephone or by mail. The other is
4 the field representative would carry his briefcase full of
5 these and drop them off at the customers. When it was
6 initially prepared this was included with every shipment
7 that went out following the preparation of this document
8 to the point where it eventually anyone who used this
9 particular material would have a sheet, a material safety
10 data sheet.

11 Q. So that customers who purchased Aroclor 1221
12 from Monsanto would have in their possession a copy of
13 this document?

14 MR. KAPLAN: That calls for speculation.

15 A. If it was purchased after generation of this
16 document.

17 MR. KAPLAN: That still calls for
18 speculation.

19 A. Well, it would certainly have received a
20 copy. Whether they kept it in their position, I can't
21 speak to that.

22 Q. (By Ms. Lewis) That's all the questions I
23 have on that one. Do you need a break, Mr. Papageorge?

24 A. No, I'm alright.

25 MR. KAPLAN: Yeah, let's take a break.

1 (Whereupon, a short break was taken.)

2 MR. PECK: The record should reflect that the
3 deposition of Mr. Papageorge is technically not taken
4 pursuant to agreement of the 30 (b) (6) notice and is
5 being conducted as a personal deposition of Mr. Papageorge
6 rather than as a 30 (b) (6) company representative.

7 Q. (By Ms. Lewis) I'd like to introduce this as
8 Exhibit 5.

9 (Reporter marked for identification Deposition
10 Exhibit No. 5.)

11 MR. KAPLAN: Before we start I'd like to
12 state for the record the deposition wasn't noticed as a
13 personal deposition for Mr. Papageorge. I'm here, but
14 there are other parties to the case that may not have been
15 aware of that, so go ahead.

16 Q. This document is stamped WLS 003307 to 3308.

17 A. I have reviewed the document.

18 Q. Can you identify this document for me?

19 A. This is a copy of a sales contract on
20 Monsanto letterhead which indicates that the Westinghouse
21 Electric Corporation is the buyer of a material referred
22 to as Aroclor 1242. In parenthesis it refers to the
23 Westinghouse trade name Inerteen PDS - 9818 -- 1 and
24 refers to the approximate quantities expected to be sold
25 in the period of July 1st, 1970, to June 30th, 1973.

1 Q. And this is a document generated by Monsanto?

2 A. Yes.

3 Q. I'd like to direct your attention to the last
4 paragraph on the first page.

5 A. I can see.

6 Q. Can you describe for me the purpose of that
7 paragraph, if you know?

8 A. The purpose is to highlight again to the
9 customers and its representatives the need for preventing
10 PCBs from contaminating the environment.

11 Q. Was this a standard contractual provision, do
12 you know, on PCB products sold by Monsanto after this
13 date?

14 A. After this date, yes.

15 Q. So it would have been included in sales
16 contracts with direct customers of Monsanto?

17 A. Yes.

18 Q. Okay. That's all the questions I have on
19 that document. I'd like to introduce this as Exhibit 6.

20 (Reporter marked for identification Deposition
21 Exhibit No. 6.)

22 Q. And this document is marked WLS 002644
23 through 2651.

24 MR. KAPLAN: Again, they appear to be two
25 different things stapled together, a letter and an

1 article.

2 MR. PECK: I believe that's the referenced
3 attachments, yes.

4 A. I have reviewed the exhibit.

5 Q. (By Ms. Lewis) Do you recognize this
6 document?

7 A. I do.

8 Q. Can you identify it for me, please?

9 A. It's a letter, Monsanto letterhead dated
10 December 15th, 1971, authorized by Howard Bergen, the
11 director of the specialty product group in Monsanto,
12 informing the recipients of the letter that sale of heat
13 transfer fluids containing PCBs would be discontinued and
14 attached to that letter was a copy of an article from a
15 scientific journal Environmental Science & Technology
16 authorized by Carl Gustafson entitled "PCBs -- prevalent
17 and persistent."

18 Q. Can you explain for me the purpose of this
19 letter?

20 A. The purpose was to inform anyone who had
21 either used Monsanto's heat transfer fluids containing
22 PCBs or had considered the possible use of such fluids
23 that Monsanto had made a decision to -- excuse me, to no
24 longer sell that type of fluid and it also describes the
25 conditions under which a changeover would be -- could be

1 accomplished and the material disposed of, the cost
2 associated with it.

3 Q. Would you typically have received a copy of
4 this letter as it was sent out to Monsanto's customers?

5 A. I'm sorry?

6 Q. Would you have received a copy of this letter
7 that was sent out to Monsanto's customers?

8 A. Yes, I would see a rough draft. I would be
9 given an opportunity to contribute a comment and I would
10 see the final draft, yes.

11 Q. Would it be fair to say that you supervised
12 the dissemination of this letter to Monsanto customers?

13 A. I find it hard to say supervised. Since
14 Mr. Bergen is my boss, I can't supervise him. He relied
15 on me to help him compose such a letter, but it was really
16 his ideas as the leader of that group.

17 Q. I'd like to introduce this entire group of
18 documents as Exhibit No. 7.

19 MR. KAPLAN: You have the Bates stamp?

20 A. Yeah, it's WLS 003925 through WLS 004049.

21 (Reporter marked for identification Deposition
22 Exhibit No. 7.)

23 A. I have scanned the exhibit.

24 Q. Can you identify Exhibit 7 for me?

25 A. Exhibit 7 is a multi-paged document which are

1 copies of a post office form on which are listed
2 addressees with their street numbers and office -- post
3 office address and this is a list of mailings from
4 Monsanto Company for which a return receipt request was
5 attached and it lists that number of the return receipt
6 and the addresses, and it has information regarding
7 postage cost and so on.

8 Q. What is the significance of this particular
9 list?

10 MR. KAPLAN: That's vague and ambiguous.

11 A. Well, one significance is this is a record of
12 who received the mailing from Monsanto and what was the
13 return receipt number associated with that particular
14 mailing.

15 Q. Is it fair to say that that is a mailing
16 based upon Monsanto's customers list?

17 MR. KAPLAN: That's vague and ambiguous and
18 it assumes there's only one list.

19 Q. Is it fair to say that the companies listed
20 on that list are customers of Monsanto?

21 A. Certainly.

22 Q. Taking into account the additional pages of
23 this exhibit, do you have a conclusion as to what letter
24 is being referenced by this document?

25 A. Yes, this is reference to a letter dated

1 December 15th, 1971.

2 Q. Would that be the December 15th, 1971, letter
3 that was entered as Exhibit 6?

4 A. Yes.

5 Q. I'd like to -- May I borrow the exhibit for a
6 moment? On one of the pages of this document stamped WLS
7 004026 there's an entry for Pacific Power and Light.

8 A. I see it.

9 Q. From your examination of this document and
10 Exhibit 6, can you make any conclusions about whether a
11 copy of that letter was sent to Pacific Power and Light?

12 A. Yes, I can.

13 Q. And your --

14 A. A copy was mailed.

15 Q. Okay. Thank you. That's all the questions I
16 have on that particular exhibit. I'd like to introduce
17 this as Exhibit No. 8 which is a document stamped 002653
18 through 2656.

19 (Reporter marked for identification Deposition
20 Exhibit No. 8.)

21 A. I have reviewed the exhibit.

22 Q. Do you recognize the first two pages of this
23 Exhibit?

24 A. I do.

25 Q. Could you describe for me what this document

1 is?

2 A. These two pages were used by the managers of
3 a PCB heat transfer fluid program in Monsanto to in
4 essence keep track of the activities relating to a
5 particular customer in terms of location, substitute
6 material offered and the size of the equipment and so on.
7 This is just a sort of -- in essence, a score sheet of the
8 activities relating to that customer.

9 Q. And what was the purpose of this document?

10 A. This is to help the managers of the
11 conversion program keep track of the status of the program
12 at each customers.

13 Q. Could you describe for me in a little more
14 detail what the program is you're referring to?

15 A. PCBs were an ingredient in a fluid used in
16 systems where heat from a source was applied to this fluid
17 and the fluid is then pumped to another location for use
18 where that location may pose a threat regarding fires or
19 explosions and could not support the use of a fuel oiled
20 flame or gas flame so the PCB fluid would be heated in one
21 area and the hot fluid pumped to another and used to heat
22 something and then returned to be reheated and recycled.
23 When Monsanto chose to terminate sales of PCB type fluids
24 to those systems, they offered non-PCB substitutes and
25 offered also as an incentive such things as a free

1 destruction of the old fluid. They even picked up some of
2 the freight costs, but not all, and as I remember they
3 gave them attractive prices on their replacement fluid.
4 That kind of program did take place and these sheets were
5 kept to sort of keep a current status report as to where
6 did this activity stand at each location.

7 Q. Would these sheets be something kept by the
8 customers?

9 A. No.

10 Q. Or simply kept by Monsanto?

11 A. This is Monsanto's working document.

12 Q. I'd like to direct your attention to the
13 third page of the document which is marked 2655 and the
14 fourth page which is 2656.

15 A. I see that.

16 Q. And taken in conjunction with the last
17 exhibit we looked at which listed Pacific Power and Light
18 as an addressee for a registered letter, and in fact if I
19 may look at that exhibit one more time, would you agree
20 that this return receipt which is number 649525 indicates
21 that Pacific Power and Light did, in fact, receive that
22 December 15th, 1971, letter?

23 A. Yes.

24 Q. Okay, thank you. That's all the questions I
25 have on that document. I'd like to introduce this group

1 of documents as Exhibit 9 and they are Bates stamped WLS
2 004050 through 004183. Actually that should be corrected
3 to reflect it ends at 4185. Take a moment and review
4 that.

5 (Reporter marked for identification Deposition
6 Exhibit No. 9.)

7 A. I have scanned the documents.

8 Q. Do you recognize this document?

9 A. I have seen it before, yes.

10 Q. Can you describe it for me?

11 A. This is a -- I see several things in it
12 really. One is a copy of that status sheet that we
13 discussed previously regarding Pacific Power and Light
14 with copies of the post office return receipt card, and
15 the bulk of the exhibit consists of copies of sheets which
16 had one time contained address labels used for a mailing,
17 and this particular mailing refers to the December 15th,
18 1971, letter.

19 Q. If you'll turn to the handwritten notes which
20 I believe are immediately in back of the status sheet, can
21 you describe for me the purpose of this particular list or
22 is it possible for you to tell from these documents?

23 A. Glancing through it I recognize customers of
24 Monsanto PCBs product. The purpose of this particular
25 list is to inform them of Monsanto's decision not to sell

1 anymore heat transfer fluids which contained PCBs and the
2 reasons for it, that's the purpose of this mailing list.

3 Q. Okay. That's all the questions I have on
4 that document. Let's see, I would like to introduce this
5 document as Exhibit No. 10.

6 (Reporter marked for identification Deposition
7 Exhibit No. 10.)

8 Q. This document is marked WLS 003855 through
9 WLS 003924. If you can take a moment and review those
10 documents. I realize there are several different types of
11 documents contained in that particular exhibit.

12 A. I have scanned the exhibit.

13 Q. Do you recognize this document?

14 A. Yes.

15 Q. Can you describe for me the -- for me --
16 Strike that. Does this document relate to the heat
17 fluid -- the heat transfer fluid program you mentioned
18 earlier?

19 A. It does.

20 Q. I have some specific questions about certain
21 portions of the document. This is a list set forth here
22 with states and representatives. Can you explain for me
23 the significance of that particular list?

24 A. This list is really a reference list as to
25 which Monsanto representative covers the geographic areas

1 listed and most are bi-state, and then you have
2 subdivisions of states listed where more than one person
3 is involved. So if you want to know who covers Arkansas,
4 for example, you look at the list and you find
5 Mr. Fredrickson. That's the purpose of that.

6 Q. How does that list relate to the heat
7 transfer fluid program?

8 A. Well, the field individuals were key people
9 in making the initial contact to inform them about the
10 program, to encourage them to participate and inform in
11 advance after mailing that you're going to be receiving
12 such and such a letter, call me if you got questions and
13 to also get reports on the status of what that customer
14 was doing and how it associated with the program, whether
15 he was doing it on his own, whether he expected Monsanto
16 to do it or whether he was doing nothing, and they would
17 try to stimulate that to doing something. So they were
18 key people in this whole effort, very important because
19 the people back in St. Louis were all alone.

20 Q. Okay. Well, let me just clarify for the
21 record that we are referring to the list starting at WLS
22 003909.

23 MR. PECK: Actually it starts on the prior
24 page.

25 Q. Actually commencing at 3908. Turning to

1 another section in this document --

2 MR. KAPLAN: Well, it stops at --

3 Q. The list appears to stop at 3911. I would
4 next like to draw your attention to the section commencing
5 at WLS 003913 which also attaches a list of customers.
6 Could you explain the significance of this particular
7 list?

8 A. This list reflects the results of the study
9 that followed the mailing in terms of which of these
10 Monsanto customers actually had a heat transfer system
11 that used Monsanto's product and this list includes those
12 facilities or plant sites that were not contacted by
13 Monsanto, could not verify that PCB type heat transfer
14 fluids were on site.

15 Q. Okay. Therefore, turning to page 3919 which
16 lists Pacific Power and Light, what would be the
17 significance of that entry?

18 A. What that says is that although Pacific Power
19 and Light received our December 15th, 1971, letter there
20 is no evidence in Monsanto's records that indicate that
21 they had at their site PCB type heat transfer fluid.

22 Q. Which is distinguished by electric fluid
23 containing PCBs?

24 A. That is correct.

25 MR. KAPLAN: Let's take a couple minutes.

1 (Whereupon, a short break was taken.)

2 Q. I'd like to introduce this letter as Exhibit
3 No. 11.

4 (Reporter marked for identification Deposition
5 Exhibit No. 11.)

6 A. I have read the exhibit.

7 Q. Do you recognize this letter?

8 A. I do.

9 Q. Can you describe it for me, please?

10 A. It's a letter dated February 28th, 1972,
11 Monsanto letterhead authorized by Thomas L. Gossage who
12 was a marketing director for specialty products in
13 Monsanto. This particular one is addressed to a plant
14 engineer of a customer with a carbon copy of a purchasing
15 agent of that customer informing them in essence that the
16 dielectric fluids containing PCBs could no longer be
17 bought directly from Monsanto, the owner of the equipment
18 or the repair shops that worked on equipment, that the
19 owner of the equipment had to go to the manufacturer of
20 the equipment to replenish his fluid supplies.

21 Q. Can you explain to me why direct sales of PCB
22 products were discontinued as stated in this letter?

23 A. There was several reasons. The driving
24 reason really was to be able to make certain that the
25 purchaser of the PCB type fluid understood the importance

1 of keeping it out of the environment and one way to do
2 that was to limit the number of purchasers, and this was
3 in turn at that point in time 19 -- early 1972 accompanied
4 by an agreement by the purchaser of that equipment and
5 Monsanto regarding an understanding of the need for
6 control, and if anything wasn't properly controlled that
7 the purchaser of the equipment was responsible to get that
8 kind of agreement with the perhaps hundreds or thousands
9 of potential buyers who would buy it by the bucket or by
10 the drum instead of by the tank car would have been a
11 difficult communications problem as well as a control
12 problem. So to make my long story short, it was decided
13 that it would be best to deal with the larger purchasers
14 with a clear understanding of the need for control. It's
15 up to this large purchaser to make certain that whoever
16 receives smaller quantities would also get that message.

17 Q. Were you also involved in the drafting of
18 this letter?

19 A. Yes.

20 Q. And was your participation the same as in the
21 December 15th, 1971, letter where you worked with
22 Mr. Gossage?

23 A. Similar, yes.

24 Q. That's all the questions I have on the
25 letter. I'd like to enter this as Exhibit No. 12.

1 (Reporter marked for identification Deposition
2 Exhibit No. 12.)

3 Q. And for the record that document commenced at
4 WLS 004316 through WLS 004384. If you could take a moment
5 and glance through that, please?

6 A. I have scanned the exhibit.

7 Q. Do you recognize this group of documents?

8 A. Yes, I do.

9 Q. Can you describe generally for me the nature
10 of these documents?

11 A. It's a compilation of letters to customers
12 informing them of Monsanto's plans to sell PCB containing
13 dielectric fluids after the first of 1972 to those
14 customers who would agree to sign a special arrangement
15 regarding an understanding that the need for control of
16 the material from getting into the environment and the
17 responsibilities relating to the situation where it was
18 not contained and did get into the environment. It also
19 includes letters that are sent to the small users telling
20 them that they could no longer get it directly from
21 Monsanto but would have to go to the company that made the
22 equipment that uses that particular fluid and then also
23 contains a list of customers that were on record as having
24 involvement with Inerteen and Pyranol type of dielectric
25 products.

1 Q. So that list was generated by Monsanto based
2 upon its records of customers of dielectric fluids; is
3 that fair to say?

4 A. Yes.

5 Q. May I? On the page that is marked 4333
6 there's a handwritten notation. Can you tell me if that
7 reference is to the following list of companies?

8 A. I see no relationship between that note and
9 the list. I don't understand that note.

10 Q. Okay. So the list which commences at 4334
11 relates to the February 28th, 1972, letter that was sent
12 out which we've already marked as Exhibit 12?

13 MR. KAPLAN: There's no foundation. That's
14 leading. First of all, there's several different form
15 letters in that packet.

16 Q. Let me rephrase my question. Do you have an
17 understanding of which letters that particular list
18 relates to?

19 MR. KAPLAN: And no foundation.

20 Q. You can go ahead and answer.

21 A. I have an understanding. The list that
22 you're referring to which is in the back end of this
23 exhibit contains those addressees who received one of the
24 copies of the February, 1972, letter, and I say one
25 because there are different addressees, some are addressed

1 to a purchasing agent and then there are others for a
2 plant engineer, and then there are others with no specific
3 job title, it could be the president of the company
4 received it, but one of these versions of that letter was
5 mailed to the companies listed on the right-hand side of
6 the tabulation at the back end of that exhibit.

7 Q. And you were involved with the drafting of
8 this February 28th letter and assisted in disseminating it
9 to those customers that are listed in this document?

10 A. I was involved in the preparation of this
11 wording that ended up in the final version of the letter.
12 I was aware of this activity of the -- I did not
13 personally get involved in stuffing envelopes or typing
14 address labels.

15 Q. Right, but to the best of your knowledge that
16 February letter would have been sent to each of those
17 customers?

18 A. Certainly, in one form or another depending
19 on whether it was addressed to purchasing agent or
20 president or to some other officer.

21 Q. That's misleading. There's nothing addressed
22 to the president?

23 A. That's correct --

24 Q. May I see the exhibit? On the first page of
25 this exhibit which is stamped with WLS 004316 there is a

1 memorandum which appears to be dated February 29th, 1972,
2 and you've reviewed that memorandum?

3 A. Yes.

4 Q. Based upon your understanding of that
5 memorandum, was the list for the February 28th, 1972,
6 mailing based upon the earlier mailing that was sent out
7 in December of 1971?

8 A. When you say "based upon" I have some
9 difficulty. The intent was always to send mailings to
10 customers on record, and each time a mailing was made the
11 mailing list would be reviewed and corrected and updated,
12 so this list we were looking at for this exhibit is really
13 the latest up-to-date version at that point in time of
14 previous lists going back to '71, 1970, and even '69, so
15 in a way it's based, but it's not totally dependent upon
16 previous lists, it's a combination of many pieces of
17 information lists available in the home office, lists
18 available in the district office, sales office, salesmen's
19 notebooks and so on.

20 Q. That's all the questions I have on that
21 document. Can we take just a short break?

22 (Whereupon, a short break was taken.)

23 Q. I would like to introduce this group of
24 documents as Exhibit 13. They commence with WLS 003436
25 through WLS 003622.

1 (Reporter marked for identification Deposition
2 Exhibit No. 13.)

3 Q. You can take a moment and review that.

4 A. I have scanned the document.

5 Q. I'd like to draw your attention to the first
6 page of the document which is a letter dated April, 1972.

7 A. Yes.

8 Q. Is that your signature on the second page?

9 A. It is.

10 Q. And did you authorize that document?

11 A. I did.

12 Q. Can you describe for me the purpose of this
13 particular letter?

14 A. It had a twofold purpose. I believe one was
15 to inform our customers that the Environmental Protection
16 Agency was extremely interested in getting names and
17 locations in which PCBs were used and, the second intent
18 here was to point out that the FDS was also interested in
19 PCBs and it issued a notice of a proposed rule in the
20 Federal Register.

21 Q. Would it be fair to say that this is another
22 example of how Monsanto took steps to disseminate
23 information relating to PCBs to its customers and entities
24 in the industry?

25 A. It is.

1 Q. If I could draw your attention to the next
2 section of the document. Do you recognize the list and
3 the handwritten notations?

4 A. I don't recognize the handwritten notations.
5 I don't know who prepared these. I do recall the list,
6 not in it's entirety, but it's make-up and the type of its
7 appearance and all and I do recall receiving unopened
8 envelopes of the letter of which we have some copies here.

9 Q. And this list again is a list of Monsanto
10 customers who purchased PCB products?

11 A. Yes.

12 Q. And I assume that was the most updated
13 version of the list at the time of that letter; is that
14 correct?

15 A. That is the intent, yes.

16 Q. And that letter was then mailed to the
17 companies that are listed on that list; is that correct?

18 A. Yes.

19 Q. If I can draw your attention to one
20 particular page stamped 3555 where it sets forth Pacific
21 Power and Light Company.

22 A. I see that.

23 Q. Would it be your conclusion that this letter
24 was mailed to Pacific Power and Light Company based
25 upon --

1 A. At that address, yes.

2 Q. Thank you. That's all the questions I have
3 on that one. I'd like to enter this as Exhibit No. 14.

4 (Reporter marked for identification Deposition
5 Exhibit No. 14.)

6 A. I have reviewed the exhibit.

7 Q. Can you tell me who J.G. Bryant, the author
8 of the letter, is, if you know?

9 A. At that time in April, 1970, Mr. Bryant was a
10 member of Monsanto's marketing team in St. Louis that was
11 involved with the sales of PCB containing dielectric
12 fluids.

13 Q. Do you recognize this letter? Have you seen
14 it before?

15 A. Yes, I have. Yes.

16 Q. Do you recall this meeting that's referenced
17 in the letter on the first page?

18 A. I do.

19 Q. Was this an example of some of the actions
20 that Monsanto took when it became aware of environmental
21 concerns about PCBs in that it met with some of its
22 customers of PCB products?

23 A. Yes.

24 Q. And what was the purpose of this meeting?

25 A. It's to again conduct a two-way exchange of

1 information from a key customer, Westinghouse in this case
2 and Monsanto, as to where did we stand regarding PCBs in
3 the environment and the proper use in electrical
4 equipment.

5 Q. Was this the initial meeting that you had
6 with Westinghouse, if you recall?

7 A. I'm sorry?

8 Q. Was this the initial meeting that you had
9 with Westinghouse, if you recall?

10 A. It was the first meeting at which I
11 participated in my new assignment in early 1970. I
12 hesitate because I believe there were -- it was at least
13 another meeting that occurred in '69, but I was not
14 involved at that time.

15 Q. Okay.

16 MR. PECK: You're referring to meetings in
17 St. Louis?

18 Q. Yes.

19 A. As opposed to meetings with Westing -- at a
20 Westinghouse facility.

21 Q. Yes. On the second page of the document the
22 very first sentence, it references the Ryan report.

23 A. Yes.

24 Q. Can you describe for me what the Ryan report
25 is?

1 A. Referring to Congressman Ryan of New York who
2 was very active in Congress regarding the issue of PCBs in
3 the environment, and at that time Congressman Ryan was
4 attempting to pass legislation in Congress regarding the
5 control of the use of PCBs and that's what that sentence
6 refers to.

7 Q. Okay. Thank you. That's all the questions I
8 have on that particular document. I'd like to mark this
9 as Exhibit 15.

10 (Reporter marked for identification Deposition
11 Exhibit No. 15.)

12 Q. It's a document stamped WLS 002810 through
13 WLS 002812.

14 A. I have reviewed the document.

15 Q. Do you recognize this document?

16 A. I do.

17 Q. Can you describe it for me?

18 A. Well, this is a letter dated April 15th,
19 1970, with the letterhead of General Electric Company out
20 of Pittsfield, Massachusetts, authorized by Edward -- the
21 letterhead refers to a Edward Dobbins, but the signature
22 doesn't look like Dobbins. Maybe I can't read properly.

23 MR. KAPLAN: The question I have, do you
24 remember this letter from 1970 or just from reading?

25 A. I remember not word for word, but I remember

1 the activity that took place relating to this letter and
2 the fact that I was permitted to see this letter and
3 comment on it.

4 MR. KAPLAN: No objection.

5 Q. Would you routinely be copied on letters of
6 this nature that would come in from Monsanto customers
7 regarding their activities with respect to PCBs?

8 A. I don't know that I was routinely. I
9 encouraged all Monsanto individuals involved with the PCB
10 issue to send me copies of correspondence of this type.
11 Whether they all did it properly, I have no way of
12 knowing. I saw many, many letters.

13 Q. Would this be -- Would it be fair to say this
14 is an example of the joint efforts undertaken by Monsanto
15 with its customers such as General Electric in order to
16 disseminate information regarding PCBs?

17 A. This is a good example, yes.

18 Q. That's all the questions I have on that one.
19 I'd like to mark this as Exhibit No. 16.

20 (Reporter marked for identification Deposition
21 Exhibit No. 16.)

22 A. I have reviewed the exhibit.

23 Q. Do you recognize this document?

24 A. I do.

25 Q. And could you describe it for me, please?

1 A. This is a letter authorized by Ronald Graham
2 of Monsanto who was the dielectric fluids representative
3 in the field, direct contact with the customers. The
4 letter is dated December 29th, 1970, and it's addressed to
5 a Mr. Larry Crowe of General Electric Company in Rome,
6 Georgia.

7 Q. The first paragraph of this letter refers to
8 a meeting with the General Electric Pollution Group. Do
9 you recall this meeting or was this a meeting you
10 participated in?

11 A. I did not participate at this particular
12 meeting, but I know that the Georgia plant had their own
13 team formed for PCB and environmental control and
14 Mr. Graham asked for a meeting with that group as sort of
15 a review, status review, and that's what he's referring
16 to.

17 Q. The last paragraph of the letter refers to Ed
18 Raab?

19 A. Yes.

20 Q. Could you tell me who Mr. Raab is?

21 A. Mr. Raab was the key individual at the
22 General Electric Corporation who was involved with the
23 manufacture, design, distribution, what have you of
24 transformer to transformer manufactured by General
25 Electric containing PCB dielectric fluids.

1 Q. The third paragraph from the bottom on that
2 same page refers to a Don Olson letter.

3 A. Yes.

4 Q. Do you know what letter that would be?

5 A. He's referring to the February 18th, 1970,
6 letter signed by Mr. Olson.

7 Q. And Frank McCann, can you tell me who Frank
8 McCann is?

9 A. It seemed to me he was involved with General
10 Electric's I'm going to call it public relations
11 department or group. I don't recall what location, where
12 he was stationed.

13 Q. Would you agree that this letter again
14 demonstrates efforts undertaken by Monsanto to work with
15 its customers such as General Electric on the PCB issues?

16 A. Certainly.

17 Q. That's all the questions I have on that. I'd
18 like to mark this as Exhibit 17.

19 (Reporter marked for identification Deposition
20 Exhibit No. 17.)

21 Q. And this document is stamped WLS 002806 and
22 2807.

23 A. I've reviewed the exhibit.

24 Q. Do you recognize this letter?

25 A. I seen it before, yes.

1 Q. Would you agree that it's an example of the
2 type of open letters that were sent out by Monsanto
3 customers to their customers further disseminating
4 information on PCB concerns?

5 A. Yes.

6 MR. KAPLAN: I'm going to interpose an
7 objection that this is unsigned, it's undated, I don't
8 know if it's a draft or a final letter and so there's no
9 foundation for that question.

10 Q. You have seen this letter before?

11 A. Yes.

12 Q. And it was contained in Monsanto files?

13 A. Yes.

14 Q. Would you typically receive copies of open
15 letters sent by Monsanto customers regarding PCB concerns?

16 A. I don't know how to describe typically. We
17 did on many occasions get copies. I don't know if that
18 represents all the mailings. I have no way of knowing.

19 Q. On many occasions, however, you would receive
20 copies of open letters sent by Monsanto customers?

21 A. Yes.

22 Q. And this would be a typical example of such a
23 letter?

24 A. Yes.

25 Q. That's all the questions I have on that one.

1 Thank you. I'd like to introduce this as Exhibit 18.

2 (Reporter marked for identification Deposition
3 Exhibit No. 18.)

4 A. I have read the exhibit.

5 Q. Do you recognize this letter?

6 A. Yes, I do.

7 Q. And was it authorized by you?

8 A. Yes.

9 Q. Can you describe for me the purpose of this
10 letter?

11 A. It's twofold. One is to tell Dr. Simons that
12 I had seen a copy of the letter from General Electric and
13 the second one, the second purpose is to point out if
14 there's additional information, up-to-date information
15 which I hope they would incorporate.

16 Q. If you know, you reference an undated open
17 letter in this document, do you know whether that is, in
18 fact, the same letter that has been marked Exhibit 17?

19 A. I'm not certain. I don't know.

20 Q. There were many of these kinds of letters and
21 I don't know which one I'm referring to in 1975.

22 A. Fair enough.

23 Q. Would you agree that this is again an example
24 of how Monsanto worked with its customers to disseminate
25 the most current information that was available on PCBs?

1 A. I do.

2 Q. That's all the questions I have on that
3 particular document. I'd like to mark this as Exhibit 19.

4 (Reporter marked for identification Deposition
5 Exhibit No. 19.)

6 A. I have reviewed the exhibit.

7 Q. Do you recognize this letter?

8 A. Yes. Yes.

9 Q. Can you describe it for me, please?

10 A. This is a copy of Westinghouse Electric
11 Corporation letterhead of a disagreement between
12 Westinghouse and Monsanto regarding the future sales after
13 the date of this exhibit, January 15th, 1972, of
14 dielectric fluids containing PCBs from Monsanto to
15 Westinghouse.

16 Q. And what was the purpose of this agreement?

17 A. Well, it had again at least two purposes.
18 One is to again emphasis a need to protect the environment
19 to exposure to PCBs and the intent there was to get an
20 official in the high levels of the customer's company to
21 become personally involved by signing this document to the
22 point where if any resources were needed to control the
23 use of PCBs he'd been in a position to help, and the
24 other, of course, there's a legal ramification regarding
25 if involved measures were not taken and problems resulted

1 who would be responsible.

2 Q. Would it be accurate to say that this is an
3 example of Monsanto's concern which was of enough
4 significance that they took steps to restrict sales of
5 PCBs?

6 A. Yeah, I think that properly describes it.

7 Q. If you know, can you explain for me why
8 Monsanto did continue to sell PCB product to its
9 customers?

10 A. The only reason was --

11 MR. PECK: Can you put that in a time frame?

12 Q. At the time of this letter.

13 A. By early '72 the only customers receiving PCB
14 fluids were the electrical equipment manufacturers and
15 this is only because the electrical equipment
16 manufacturers insisted strongly that there was no
17 acceptable alternative and they were quite addiment about
18 it, and Monsanto was really in a position where it would
19 have preferred to discontinue the manufacture and sale of
20 these materials, but acknowledging the need of the
21 electrical equipment makers they decided that we will
22 continue under these conditions as described in this
23 document. So it was really to my way of thinking a bit of
24 a compromise on Monsanto's part.

25 Q. Okay. Thank you. That's all the questions I

1 have on that. I'd like to mark this as Exhibit 20.

2 (Reporter marked for identification Deposition
3 Exhibit No. 20.)

4 Q. This document is stamped WLS 003338.

5 A. I have read the exhibit.

6 Q. Do you recognize this letter?

7 A. I just saw it recently.

8 Q. This letter makes reference to potential
9 contamination of oil filled transformers manufactured by
10 Westinghouse. During your meetings and communications
11 with Westinghouse employees and officers do you recall any
12 discussions about potential cross-contamination of oil
13 filled transformers with PCBs?

14 A. I was involved with discussions prior to my
15 February, 1976, job change and this had to do with as
16 chairman of the ANSI committee which prepared guidelines
17 for the proper use of PCB dielectric fluids. There were
18 representatives of the electrical equipment manufacturers
19 including Westinghouse people that brought up the subject
20 of the presence of PCBs in mineral units and it was
21 decided that this committee would address that issue and
22 see what they could come up with regarding recommendations
23 on the proper way to handle it.

24 Q. What were those recommendations?

25 A. I was not chairman when that work was

1 completed, I just don't know.

2 Q. During the time that you were still on the
3 committee, were there any preliminary recommendations that
4 the committee considered?

5 A. Well, there were discussions really and I
6 don't know that I call this recommendations. There were
7 discussions regarding, first of all, testing the mineral
8 oil to see if it was contaminated, then there were
9 discussions regarding how did it get contaminated in the
10 first place, was it back in the manufacturing stage or
11 later on in use or when it was serviced and did the
12 service company that came on-site cross-contaminate with
13 other liquids, that kind of discussion took place when I
14 was involved, but after February '76 I do not know what
15 took place.

16 MR. KAPLAN: I just, I think -- What is ANSI?

17 A. I'm sorry?

18 Q. What is ANSI?

19 A. American National Standards Institute, and
20 this particular letter references to FEMA which was part
21 of that group.

22 Q. During your meetings on this issue do you
23 recall committee members discussing notifying purchasers
24 of oil filled transformers and notifying them of this
25 potential contamination?

1 A. Well, that was the purpose of this committee
2 to come up with guidelines and then disseminate that
3 information to the users of the equipment.

4 Q. I'd like to back track a little bit in time
5 again and I'd like to introduce this as Exhibit 21.

6 (Reporter marked for identification Defendant's
7 Deposition Exhibit No. 21.)

8 Q. And for the record that's stamped WLS 003623
9 through WLS 003854.

10 A. I have scanned through the exhibit.

11 Q. Alright. I'd like to ask you specifically
12 about this letter which is stamped 3628, do you recognize
13 that letter?

14 A. I do.

15 Q. Can you describe it for me, please?

16 A. It's a letter on Monsanto letterhead dated
17 May 25th, 1972, addressed to -- signed by Cumming Paton
18 who was the product manager of heat transfer dielectrics
19 and transfer fluids at that time. It describes a change
20 in the assistance Monsanto would give regarding the
21 disposal of heat transfer fluids which were PCB type
22 fluids and drained from units that were being converted.

23 Q. And that refers back to the heat transfer
24 fluid program you mentioned earlier?

25 A. It does.

1 Q. Can you describe for me the purpose of this
2 letter?

3 A. The purpose is to inform the recipient that
4 there was a change. Instead of Monsanto paying for the
5 cost of freight and disposal of these fluids that
6 effective July 1st, 1972, the change would include a
7 charge for the incineration of the scrap fluid and it
8 would also charge additional for other heat transfer
9 fluids that were non-Monsanto type.

10 Q. Did you participate in the drafting of this
11 letter?

12 A. Yes.

13 Q. If we can take a look at the list which is
14 attached, can you tell me the significance of this list?

15 A. It's a -- it's similar to the previous list
16 we looked at undated to the point in time, May 25th, 1972.
17 It includes those customers on record as of that point in
18 time that Monsanto representatives thought ought to
19 receive this communication.

20 Q. And this letter was then sent to the
21 companies listed on this list?

22 A. Yes.

23 Q. If I could take just a moment here I'm
24 looking at a page which is stamped WLS 003783. A copy of
25 this May 25th, 1972, letter then was sent by Monsanto to

1 Pacific Power and Light?

2 A. It was.

3 Q. Okay. That's all the questions I have on
4 that one. Can I take just a minute off the record?

5 (Whereupon, an off the record discussion was held.)

6 Q. I'd like to introduce this document as
7 Exhibit 22. It's marked WLS 004186 through 004315.

8 (Reporter marked for identification Deposition
9 Exhibit No. 22.)

10 Q. And, Mr. Papageorge, it might help for you to
11 review it in conjunction with the last two pages of
12 Exhibit 9.

13 A. I have scanned the exhibit.

14 Q. Can you explain the significance of that
15 particular list of companies?

16 A. No, I see a date handwritten in the upper
17 right-hand corner of August 12th, '71, but at the moment I
18 don't recall a mailing in August of '71. That doesn't
19 mean it can't take place. I just can't tie this into any
20 specific mailing and it's just too early to comply to a
21 December mailing. That would have required an additional
22 revision. I personally can't relate the last two pages of
23 Exhibit 9 with Exhibit 22.

24 MS. LEWIS: Alright. That's all the
25 questions I have right now. I may have some follow-up

1 questions after Mr. Kaplan is done.

2 MR. KAPLAN: Should we take a break?

3 (Whereupon, a short break was taken.)

4 EXAMINATION

5 QUESTIONS BY MR. KAPLAN:

6 Q. Mr. Papageorge, my name is Scott Kaplan and I
7 represent PacifiCorp, formerly Pacific Power and Light
8 Company, and I'd just like to discuss a little bit some of
9 the exhibits that we've looked at today in some of your
10 prior testimony. Now, these discussions you've testified
11 to in the late '60's with the Swedish scientists, were
12 those publicized?

13 A. What was? I'm sorry.

14 Q. The discussions that you had with the Swedish
15 scientists about PCBs, were those made known to the
16 general public at the time?

17 A. I don't know by the general -- you mean
18 Monsanto's discussions or with the scientists?

19 Q. (Mr. Kaplan nods head affirmatively.)

20 A. Well, I recall one of the letters we mailed
21 in February of '70 referred to these findings. There were
22 some discussions between Monsanto employees
23 representatives and customers representatives principally
24 were the major PCB users.

25 Q. Do you know if there were any discussions

1 about electric utilities prior to February of 1970?

2 A. I'm not aware of any, no.

3 Q. You discussed the research you were doing
4 into PCBs in that you had to buy new equipment and that
5 kind of thing. So is this basically cutting edge research
6 that you were engaged in?

7 A. I would call it that in the analytical field,
8 yes.

9 Q. And you said, let me know if I'm misquoting
10 you, something like there was nowhere to go at the time to
11 get advice in industrial chemical testing at the time you
12 were doing this research?

13 A. Yeah, this was restricted to testing for
14 health effects on animals and humans, yes.

15 Q. So that kind of information wasn't widely
16 available at the time; is that correct?

17 A. That's correct.

18 Q. Now, you mentioned that it took longer for
19 Europeans to become convinced that there was some problems
20 associated with PCBs; is that correct?

21 A. That is correct, yes.

22 Q. Do you recall about when -- Do you have a
23 date when you would say that, yes, this is the time that
24 Europeans stated there is a problem with PCBs?

25 A. I don't know whether I could pinpoint it very

1 specifically. It was an evolving concept that -- I would
2 suggest that by 1975 they began to accept the kinds of
3 things that Monsanto talked to them at least five years
4 earlier.

5 Q. So they were just beginning to accept that?

6 A. Yes.

7 Q. And these were companies that actually
8 manufactured PCBs?

9 A. Yes.

10 Q. Now, I think you mentioned in 1968 a letter
11 was sent out to key users of PCBs; is that right?

12 A. No, '69.

13 Q. And were the key users customers like General
14 Electric or Westinghouse?

15 A. They were certainly on the list, yes.

16 Q. Were electric utilities considered key users?

17 A. No. No, not based on volume.

18 Q. And the letters -- We were discussing that
19 Exhibit -- Strike that. Take a look at Exhibit No. 1
20 again.

21 A. I have it.

22 Q. Look at the last paragraph on the second
23 page. Could you read for the record the first two
24 sentences of that paragraph?

25 A. "The Swedish and American scientists also

1 imply that polychlorinated biphenyls are 'highly toxic'
2 chemicals. This is simply not true."

3 Q. Does that -- I know you didn't write this
4 letter, but does that reflect your understanding as of the
5 time with regard to PCBs?

6 A. Yes.

7 Q. And could you read for me the last sentence
8 of that paragraph?

9 A. "During more than 30 years of U.S. production
10 and use, cases of any toxic effect have been extremely
11 rare -- and then only where the simple precautions
12 recommended for use were not followed."

13 Q. Does that reflect what you understood in
14 March, 1969?

15 A. Yes.

16 Q. I think you testified that this was sent out
17 to key customers or am I wrong about that?

18 A. Key PCB customers, yes.

19 Q. And again were electric utilities considered
20 key customers?

21 A. No, this was based on volume of material sold
22 and they would not fit that category.

23 Q. Now, this Exhibit No. 2, was that also sent
24 just to the key PCB customers?

25 A. This particular one was sent to all

1 manufacturers of electrical equipment that used PCB
2 fluids, small and large.

3 Q. But it wasn't sent to the manufacturers of
4 the electrical equipment?

5 A. No.

6 Q. Looking at the first page, item number two,
7 it's states that, "PCBs with chlorine content of less than
8 54% have not been found in the environment and appear to
9 present no potential problem to the environment." Again,
10 you didn't write this letter, but does that reflect your
11 understanding as of the time?

12 A. Yes.

13 Q. Now, Exhibit No. 3 which is the collection of
14 invoices, you said you had seen those before. When had
15 you seen those?

16 A. Lately, and I don't remember exactly when,
17 but I can't remember the specifics, but they are not
18 strange to me.

19 Q. Okay. The product purchased is referred to
20 as Pyranol, does that mean that the product was being used
21 with relation to a General Electric piece of equipment?

22 A. Not necessarily.

23 Q. When would Monsanto sell the product and call
24 it Pyranol?

25 A. We would blend and package this dielectric

1 fluid based on General Electric's requirements. It would
2 be then marketed under that name Pyranol with the letters
3 and numbers after it and the customers that would order
4 that would have an idea of what to expect in that
5 particular fluid.

6 Q. Now, do you have any understanding what kind
7 of facility, if any, this Pacific Power and Light, 1550
8 Southwest Harbor Way, Portland Oregon is?

9 A. I do not.

10 Q. Now, you mentioned there were customer lists
11 or lists that Monsanto had. Were there separate lists
12 kept for various sorts of customers?

13 A. Yes, there were lists by product and were
14 mailing lists that we discussed based upon these customer
15 lists, certainly, yes.

16 Q. And if the factory were on a customer list
17 for one product would not necessarily mean that you were
18 on a customer list for another product; is that right?

19 A. Unless the company bought both products,
20 right.

21 Q. So the mailings that were the mailings based
22 upon these mailing lists would only have been directed to
23 those companies who were on that list for that particular
24 product; is that right?

25 A. Not necessarily.

1 Q. Would you explain?

2 A. We will go back on the record and say which
3 is buying the Pyranol that we talked about. For example,
4 which is buying this heat transfer fluid in the
5 designation and we would pull all those lists together and
6 look to see if there was any commonality across it and
7 then try to combine so you didn't send 15 copies of the
8 same letter to the same company, that effort was made
9 although it wasn't always successful. At times we would
10 send a half dozen to the same company. Eventually that
11 came to be consolidated with no special reference to
12 whether they purchased the hydraulic fluid and the heat
13 transfer fluid and the dielectric fluid, it just became a
14 PCB list.

15 Q. And do you know when that occurred?

16 A. It didn't happen in an instant. It was
17 evolved I suspect from the very first mass mailing in
18 February some of that occurred, this attempt to
19 consolidate and reduce the number of mailings, and with
20 each subsequent mailing modification would be made to the
21 previous list so there were changes each time.

22 Q. Look at Exhibit 4, you said that would
23 initially be included in every shipment of PCB product; is
24 that right?

25 A. Only after it was prepared.

1 Q. Right.

2 A. Yes.

3 Q. Okay. And if the PCB product, for example,
4 was going to go into a dielectric fluid for a transformer,
5 is that commonly known as an MRSDS, this piece of paper?

6 A. In a dielectric fluid --

7 Q. If the PCB product was going into a
8 dielectric fluid -- dielectric fluids for a transformer --

9 A. Yes.

10 Q. -- that was made by General Electric.

11 A. Yes. This material safety data sheet would
12 go to General Electric and to whoever purchased it by that
13 time. It would -- Pyranol so and so, up here would cover
14 that particular mixture and whoever ordered that Pyranol
15 mixture at least for the first order following the
16 availability of a sheet they would get a copy.

17 Q. So it was the initial purchaser of the PCB
18 product who got this?

19 A. I don't know what you mean by initial.

20 Q. Well, let's say my sample, General Electric
21 buys a product that it's going to put into a transformer.
22 It would be General Electric who got the material safety
23 data sheet?

24 A. Correct.

25 Q. And you wouldn't know one way or another

1 whether General Electric forwarded this on to the
2 purchaser of the equipment?

3 A. I personally would not know.

4 Q. Do you know if Pacific Power purchased
5 Aroclor 1221?

6 A. I don't know that.

7 Q. Is Pyranol 3B a different product than
8 Aroclor 1221? Okay, Exhibit 5, sales contract with
9 Westinghouse, do you have any knowledge as to whether
10 Westinghouse disclosed this contract to electric
11 utilities?

12 A. I do not know that.

13 Q. This was a contract Monsanto entered into
14 with companies like Westinghouse or General Electric?

15 A. It's a type of contract, yes.

16 Q. Do you know if Monsanto entered into the same
17 or similar contract with any other electric utilities?

18 A. Not to my knowledge.

19 Q. Now, looking at Exhibit 6 which is the
20 December 15th, 1971, letter, could you explain a little
21 bit what some typical uses for Therminol would have been?

22 A. Well, there's industrial type use that comes
23 to mind in a situation where you're heating a flammable
24 material like gas line for refining purposes and you don't
25 want to expose that area to an open flame, whether it be

1 oil or gas flame, but you have to reach a high temperature
2 and you want to do that without using high pressure steam
3 because high pressure steam requires you to have a boiler
4 operator that's registered with the authorities and then
5 all the inspections that go with high pressure systems.
6 So over in one corner of your plant you installed a gas
7 fired unit that heats a pot of Therminol fluid and you
8 pump that hot fluid over to the other end and you heat
9 this gasoline mixture without any real fear of an
10 explosion or a fire, that's one example. Another one that
11 was popular in food factories, many ovens had instead of a
12 gas fired oven it would use these coils in which the
13 Therminol would flow and heat the chambers and the
14 conveyor belt with the loaves of bread would go through
15 and get baked. The same coil principal would be used
16 inside of a container full of cooking oil and it would
17 cook such things as fish or potato chips and so those are
18 just some examples that come to mind. There are many
19 others.

20 Q. So the chemical industries, the food
21 processing industry. Do you know if Therminol was
22 typically used by utility companies?

23 A. When you say typically, I'm not aware of it
24 being typical, but not knowing enough about the utility
25 type operation I can't say that it don't have a need for a

1 high temperature fire resistant heating source.

2 Q. You just can't think of what that might be?

3 A. No, I can't.

4 Q. And do you know whether or not Pacific Power
5 and Light used Therminol?

6 A. I have no information that leads me to think
7 that.

8 Q. Now, the December 15th, 1971, letter, second
9 paragraph, second sentence states in part studies indicate
10 PCBs may be accumulating in the environment. Was it your
11 understanding that they may be, they may not be, the
12 question is there's a debate on the question?

13 A. Yes, there was.

14 Q. And the letter refers to the usage of PCBs in
15 open systems. Can you explain to me what an open system
16 is?

17 A. Yes, I can think of a few examples, the
18 sealant, caulking used around windows, like caulking in
19 this building, they had PCBs in them. We call that an
20 open system. It's right in the environment. The traffic
21 lines in your highways, the yellow and white paint used to
22 have PCBs in them. That's an open system. Adhesives,
23 both the tacky type and the hot melt that stick to
24 carpeting and linoleum and so we call that open. I think
25 colored ink. So all kinds that was considered open those

1 are a few examples of.

2 Q. Is the use of PCBs as transformer dielectric
3 fluid an open system or a closed system?

4 A. That was considered a closed system.

5 Q. And this December 15th, 1971, letter did not
6 address the idea of PCBs in closed systems?

7 A. I don't think those words appeared. I'm
8 looking to see. It does not address that, no.

9 Q. And in Exhibit 7 was a name and address for
10 Pacific Power as Director of Purchases, Pacific Power and
11 Light Company, 920 Southwest Sixth Avenue, Portland,
12 Oregon?

13 A. It does.

14 Q. And do you know if there was a director of
15 purchases for Pacific Power and Light Company at that
16 address at that time?

17 A. I personally don't know.

18 Q. Do you know what kind of facility, if any,
19 Pacific had at that address?

20 A. I do not.

21 Q. Looking at the last page of Exhibit 8, the
22 return receipt, second to last page, 002655. Do you
23 recognize the signature for Pacific Power and Light?

24 A. No, I do not.

25 Q. Do you have any idea who that individual may

1 be?

2 A. I do not.

3 Q. Could have been somebody in the mail room for
4 all you know?

5 A. I have no idea.

6 Q. Now, you mentioned that the records that have
7 been marked as Exhibit 9 show there was no follow-up done
8 with Pacific Power; is that right?

9 A. I'm trying to refresh my memory on that.

10 Q. Sure.

11 A. You say the record.

12 Q. I'm sorry, that's the exhibit.

13 A. I'm sorry?

14 Q. Let's take a look at Exhibit 10. Does
15 Exhibit 10 indicate to you that Pacific Power was not
16 contacted to follow-up on the December 15th, '71, letter?

17 A. I'm sorry, would you repeat the question?

18 (Whereupon, the reporter read back the last
19 question.)

20 A. Yes, on the page WLS 003919 which lists sites
21 not contacted, I see reference to Pacific Power and Light,
22 Portland, Oregon.

23 Q. And the reason that you didn't contact the
24 people indicated in Exhibit 10 because you had no
25 indication that they used a Therminol system?

1 A. True.

2 Q. Now, I was -- In Exhibit 10 there was a list
3 of sales representatives on pages WLS 909 through 11 and
4 there doesn't appear to be a sales representative for
5 Oregon; is that correct?

6 A. That is correct.

7 Q. So there was no particular individual
8 possibly for contacting Oregon customers to your
9 knowledge?

10 A. That's what this list would indicate, but I
11 find that hard to believe personally.

12 Q. Do you know if there was someone who had that
13 assignment.

14 A. By name, no. As I remember, it's the same
15 person as the State of Washington.

16 Q. Is there anyone listed there for the State of
17 Washington?

18 A. At that time Mr. Kriss.

19 Q. Now Exhibit No. 11 I think you testified is
20 an example of a letter that was sent out by Monsanto in
21 February, 1972, to certain customers?

22 A. Yes.

23 Q. And in Exhibits 11 and 12 there are various
24 forms of the letter. For example, one that says plant
25 engineer, one that says purchasing manager -- sorry,

1 purchasing agent, and one that just says dear sir; is that
2 correct?

3 A. That's correct.

4 Q. And I believe it was your testimony that the
5 file indicating to you that one form or another was sent
6 to Pacific Power?

7 A. Yes.

8 Q. Can you tell which form of the letter was
9 sent to Pacific Power?

10 A. I really can't, no.

11 Q. Take a look at page WLS 004368. Now, does
12 that reflect that the address this letter was sent to was
13 Pacific Power and Light, 1550 Southwest Harbor Way,
14 Portland, Oregon.

15 A. It does.

16 Q. Do you know what facility, if any, Pacific
17 Power had at that address?

18 A. I do not.

19 Q. Now, that's a different address than was used
20 for the previous mailing that we discussed which referring
21 to Exhibit 9 was 920 Southwest Sixth Avenue. Do you have
22 any idea why a different address was used?

23 A. I do not.

24 Q. Do you know if this letter was sent certified
25 mail?

1 A. Let's see. This letter here, no, this was
2 not certified.

3 Q. Is there any indication in your files that
4 the letter was received by Pacific Power and Light?

5 A. No.

6 Q. I wasn't clear from your testimony whether
7 you personally knew that these letters had been sent out
8 to the people on that list?

9 A. Well, I knew mailings were taking place. I
10 knew of the existence of these lists as I indicated
11 earlier. I personally did not stuff envelopes or put
12 address labels on the envelopes or take them to the mail
13 room.

14 Q. So is it fair to say then that you don't have
15 personal knowledge that a letter was sent to every single
16 person on that list?

17 A. Personally, no.

18 Q. And there's no return receipt in your files
19 for Pacific Power and Light for this letter?

20 A. For this February '72 letter, no.

21 Q. Now, looking at the next letter, I'll just
22 refer to Exhibit No. 11. The first sentence of the second
23 paragraph states, "PCBs may be accumulating in the
24 environment." At the time this letter was written was
25 there a debate as to whether PCBs were, in fact,

1 accumulating in the environment?

2 A. Yes, it was a debate. It was hard to
3 distinguish between a recent spill and what happened
4 decades ago.

5 Q. Does the letter indicate that PCBs will
6 continue to be available for dielectric fluid for use in
7 transformers, capacitors and other electrical equipment
8 and components?

9 A. Yes. That is correct.

10 Q. So you were telling users of PCBs that the
11 product would still be available for them?

12 A. For only that use.

13 Q. Okay. And you suggested that the recipient
14 contact the transformer manufacturer if they need some
15 more of the fluid?

16 A. Yes.

17 Q. From the information you have would you
18 consider Pacific Power a small user of PCBs? Well, you
19 had used the term earlier and as to small users and large
20 users, what would you characterize the kinds of?

21 MS. LEWIS: Objection, vague and ambiguous.

22 A. My hesitation has to do with I have no idea
23 how many transformers and capacitors the utility had which
24 in turn would tell me how much in the way of PCBs they had
25 in their possession. If you measure only by the amount of

1 material they bought to service their units, very much
2 like the oil you add to your car or an exchange, then you
3 would say they were a small user of replacement fluid. I
4 have no measure of the total fluid on their premises.

5 Q. Do you have any information that Pacific
6 Power purchased PCBs other than as indicated in Exhibit 3?

7 A. I do not.

8 Q. Taking a look at Exhibit 13, in particular
9 the handwritten note that's on the third page of the
10 exhibit, does that indicate that the mailing that Exhibit
11 13 was related to the Therminol mailing that we discussed
12 earlier?

13 A. No, that tells me the people involved with
14 the Therminol activity mailed their letter and this is the
15 list that they used.

16 Q. Okay.

17 A. That's all that tells me.

18 Q. And the address used for Pacific Power and
19 Light in this Exhibit is back to 920 Southwest Sixth
20 Avenue, Portland, Oregon; is that right?

21 A. That's what it indicates, yes.

22 Q. Do you know why that address was used instead
23 of the Harbor Way Address?

24 A. I do not.

25 Q. Do you know would this mailing have been

1 addressed to plant manager?

2 A. That's what it indicates, yes.

3 Q. Do you know what plant, if any, Pacific Power
4 and Light had at that location?

5 A. I do not.

6 Q. Or if there was even a plant manager at that
7 location?

8 A. I have no idea.

9 Q. Again, do you have personal knowledge that
10 the letter was actually mailed to every single address on
11 that list?

12 A. Personally, no.

13 Q. Was there a return receipt in your files for
14 Pacific Power and Light for this letter?

15 A. Not for that letter, no.

16 Q. Take a look at Exhibit 14. Do you have any
17 reason to believe that any representative of Pacific Power
18 saw Exhibit 14 in 1970?

19 A. Would you repeat that?

20 Q. That any representative of Pacific Power saw
21 Exhibit 14 in 1970?

22 A. Were they present is what you're asking?

23 Q. Okay, were they present?

24 A. No.

25 Q. Do you have any reason to believe they would

1 have seen a copy of this letter?

2 A. No.

3 Q. You mention that there was a congressman from
4 New York attempting to pass legislation with regard to
5 PCBs?

6 A. Yes.

7 Q. Was anything passed in 1970?

8 A. No.

9 Q. Now, for Exhibit 15, I have a copy of it.
10 Okay. Do you have any personal knowledge as to whether
11 General Electric, in fact, sent out what purports to be a
12 letter to customer hence the last two pages?

13 A. Personally, no.

14 Q. And you have no knowledge that Pacific Power
15 and Light ever received such a letter; is that right?

16 A. That is correct.

17 Q. From Exhibit 16, do you have any knowledge as
18 to whether Pacific Power and Light was provided with a
19 copy of Exhibit 16?

20 A. I do not.

21 Q. Do you have any reason to believe that a copy
22 would have been provided to Pacific Power?

23 A. I have no reason to do so.

24 Q. Now, for Exhibit 17, do you know if General
25 Electric, in fact, sent out a letter in this form to its

1 customers?

2 A. Not personally.

3 Q. If it did, you know who General Electric sent
4 it to?

5 A. I would not.

6 Q. And do you know the date when this was
7 prepared?

8 A. I do not.

9 Q. Exhibit 18 refers to an undated open letter
10 from General Electric to its electric utility companies.
11 Do you have any knowledge as to whether Pacific Power and
12 Light, in fact, got an undated open letter from General
13 Electric?

14 A. I do not.

15 Q. Exhibit 19, which is a Monsanto contract,
16 this in particular appears to be a contract with
17 Westinghouse. Would you tell me if Monsanto entered into
18 some other contracts with any other companies?

19 A. Yes.

20 Q. And what kinds of companies would those be?

21 A. Excuse me. Manufacturers of electrical
22 equipment that used PCB containing fluids.

23 Q. So this contract went between Monsanto and
24 electric utility companies?

25 A. That is correct.

1 Q. And your reason to believe that electric
2 utility companies would have been provided with a copy of
3 Exhibit 19?

4 A. No, I don't know of any.

5 Q. You testified that at that time the
6 electrical equipment manufacturer -- Exhibit 20 you
7 testified you just saw recently; is that right?

8 A. Yes.

9 Q. So you hadn't seen this until recently?

10 A. Yesterday.

11 Q. So is it accurate to say you have no idea to
12 whom, if anybody, Westinghouse sent this out to?

13 A. I'm sorry?

14 (Whereupon, the reporter read back the last question.)

15 A. That is correct.

16 Q. The ANSI committee that you discussed, who
17 was represented on that committee?

18 A. There were representatives of the electrical
19 equipment manufacturers, representatives of the utility
20 companies, TVA, EPA, transformer service companies. I
21 think that covers most of them.

22 Q. Was Pacific Power and Light on that
23 committee?

24 A. As an entity, no.

25 Q. Was there an employee or representative of

1 Pacific Power and Light on that committee?

2 A. No.

3 Q. Was the committee proceedings, were they
4 closed?

5 A. No.

6 Q. Now, is it accurate as of the time you left
7 in February of 1976 the committee was discussing what, if
8 anything, to disclose to users of dielectric fluids on
9 cross-contamination?

10 A. That is correct.

11 Q. And the disclosure that was made came
12 sometime later?

13 A. To the best of my knowledge. I personally
14 did not see it.

15 Q. Any reason for a utility not on the committee
16 to have known about cross-contamination prior to the news
17 of the committee?

18 A. It all depends.

19 Q. Did Monsanto provide its customers with
20 information as to cross-contamination of mineral oil prior
21 to February, 1976?

22 A. No.

23 MR. PECK: Just state for the record Monsanto
24 did not manufacture mineral oil so it could -- it would
25 not have customers with respect to that product.

1 Q. Do you have an understanding as to what the
2 extent of the cross-contamination turned out to be?

3 A. I do not.

4 Q. Is it accurate to say then you don't know
5 when the existence of this cross-contamination or problem
6 was made public?

7 A. Yes. Would you help me with the public part?

8 Q. Well, for example, let's just strike that
9 question. That wasn't a good question. Is Exhibit 21
10 basically a follow-up to the December 15th, 1971, letter
11 advising customers that Monsanto is no longer selling
12 Therminol? Well, a part of this Exhibit is a follow-up.

13 A. Uh-huh (yes).

14 Q. And I'm referring specifically to the letter
15 of May 25th in which the terms of any freight costs and
16 incineration of disposal costs are described as being
17 changed, that's the follow-up part. Again, you don't know
18 whether Pacific Power actually used Therminol; is that
19 right?

20 A. All I know is that there was no evidence
21 found within Monsanto that Therminol was on the premises
22 and in use.

23 Q. And this was later sent to the attention of
24 plant manager, Pacific Power and Light Company. Let me
25 strike that question. Does the mailing list for Pacific

1 Power and Light, Plant Manager, Pacific Power and Light,
2 920 Southwest Sixth Avenue, Portland, Oregon?

3 A. Yes.

4 Q. And again you have no personal knowledge if
5 this letter was actually sent to every person on that
6 list; is that correct?

7 A. That is correct. Let's mark as the next
8 Exhibit 23.

9 Q. A November 21st, 1973, letter on General
10 Electric letterhead Bates stamped WLS 002896 through 2900.
11 Have you seen that before?

12 A. Yes, it seems to me I recall this back when
13 it was -- at about the time it was dated here.

14 (Reporter marked for identification Deposition
15 Exhibit No. 23.)

16 Q. Now, let me correct something, the last page
17 of the exhibit is 2901. On page 2900, item marked number
18 one states that, "Available data did not support
19 categorizing PCBs as 'highly toxic' material, nor setting
20 standards on the basis of arbitrarily assigned hazardry --
21 of this arbitrarily assigned hazard rating." Now, is it
22 your understanding in November of 1973 this was General
23 Electric's position?

24 A. Yes.

25 Q. And was it also Monsanto's position?

1 A. Yes.

2 Q. Look at number four which states that,
3 "Existing data suggest that Aroclor 1016 should not be
4 considered a toxic pollutant." Do you have an
5 understanding as to whether that was General Electric's
6 position in 1973?

7 A. Yes, that was their position.

8 Q. Was that Monsanto's position?

9 A. Yes.

10 Q. Exhibit 24 is a document provided by Monsanto
11 Bates stamped WLS 002666, and it appears to be a copy of a
12 portion of the Akron Beacon Journal, Friday, September
13 12th, 1980. Have you seen that before?

14 (Reporter marked for identification Deposition
15 Exhibit No. 24.)

16 A. I saw this yesterday for the first time.

17 Q. Now, were there still people in 1980 who
18 believed that the findings of PCBs was premature at that
19 time?

20 A. Yes.

21 Q. And in 1980 was there still a debate as to
22 the health effects of PCBs?

23 A. Yes.

24 Q. And in 1980 was there still a debate as to
25 the effect of PCBs on the environment?

1 A. Yes.

2 Q. There were reasonable people that believed in
3 1980 that the hazards of PCBs had been exaggerated?

4 A. I have a problem with reasonable. To me
5 they're reasonable and based on my definition I'd say the
6 answer is yes.

7 Q. Was it your belief in 1980 that the hazards
8 of PCBs on humans had been greatly exaggerated?

9 A. In some areas, yes.

10 (Reporter marked for identification Deposition
11 Exhibit No. 25.)

12 Q. Exhibit 25 is a document produced by
13 Monsanto, Bates stamped WLS 002186 through 2187. Have you
14 seen that before?

15 A. Yes. Now that I've read it I do recall it's
16 something that I composed myself.

17 Q. Now, was it your view in March, 1971, that
18 Aroclors are not highly toxic or hazardous materials?

19 A. Yes.

20 Q. Did our people share your views in 1971?

21 A. Yes.

22 Q. Was that view prevalent in the industry in
23 1971?

24 A. Yes.

25 Q. Now, in 1995 is there still a debate as to

1 the toxicity of the PCBs?

2 A. Yes.

3 Q. Is there still a debate as to the effect of
4 PCBs on the environment?

5 A. Yes.

6 Q. Now, to your knowledge was any information on
7 either toxicity or environmental effects of PCBs hidden
8 from the insurance industry?

9 A. No, not to my knowledge.

10 Q. Anything made available to the public they
11 would have gotten, too?

12 A. Yeah, just like the others.

13 MR. KAPLAN: Thank you. I have nothing
14 further.

15 EXAMINATION

16 QUESTIONS BY MS. LEWIS:

17 Q. I have just a couple of follow-up questions.
18 Looking back at I believe it's Exhibit 6 which would be
19 the December 15th, '71, letter.

20 A. I have it.

21 Q. Okay. In the last paragraph on the first
22 page of that letter states, "Our action in discontinuing
23 sales for use in heat transfer systems has been taken
24 because of the problems which may arise should there occur
25 accidental leakage of PCBs from such systems"; do you see

1 that?

2 A. I do.

3 Q. Would that concern be equally applicable for
4 PCBs from closed systems?

5 A. Well, there wasn't concern as leakage from a
6 closed system as it might enter the environment. In other
7 words, it was perceived that a leakage from a closed
8 system is more manageable in terms of scooping up the
9 soil, the ground, and so on as distinguished from a PCB
10 getting into a product and unbeknownst to the manufacture
11 ships the product out with that material PCBs in it
12 whether it be a food or industrial product, what have you.

13 Q. Would it be fair to say it's still the
14 concern about the PCBs entering the environment whether it
15 be from a closed or open system?

16 A. The concern as it relates to the environment
17 is identical. The additional concern with the heat
18 transfer system is getting into a product which is another
19 concern.

20 Q. In the second paragraph of the same letter,
21 third sentence, there it states that, "In some instances,
22 PCBs have been found in food or in the food chain." Would
23 you agree that's a fair statement at that time?

24 A. Yes.

25 Q. And then attached to this letter is an

1 article entitled "PCBs -- prevalent and persistent."

2 A. I see it.

3 Q. Would you agree that this article generally
4 raises concerns about the existence of PCBs in the
5 environment regardless of the source of their presence?

6 A. It does.

7 Q. Would it be fair to say that during this
8 period of time in the early '70's, Monsanto was taking
9 steps to inform its customers of the dangers of PCBs in
10 its PCB product whether it be in heat transfer fluid such
11 as Therminol or dielectric fluid?

12 MR. KAPLAN: Objection, that misstated the
13 testimony. No foundation.

14 A. I would say that Monsanto increased its
15 concern relating to PCB in these situations where we
16 didn't believe it belonged anticipating that there might
17 be further problems because of it.

18 Q. I'd also like to look at the April, 1972,
19 letter. I'm not sure which number that would be. This
20 one.

21 A. Correct, that's it.

22 Q. If you wouldn't mind looking at the second
23 page of that letter dated April, 1972, last paragraph.
24 Would it be fair to say that part of the purpose of this
25 letter is to impress upon the customers the fact that they

1 need to handle PCB materials with particular care in their
2 handling, use, storage and disposal?

3 A. Yes.

4 Q. And can you explain why that was disseminated
5 to the customers?

6 A. Well, that ties in with our concern with
7 escape into the environment without knowing the
8 consequences.

9 Q. Would it be fair to say the concern was that
10 it could have a negative effect on the environment and
11 wildlife?

12 A. It's possible.

13 Q. Would it also be fair to say that Monsanto
14 took every measure to make sure it passed on information
15 regarding PCBs to its customers and what the customers did
16 with that information was their own responsibility at that
17 point?

18 A. That's true.

19 MR. KAPLAN: That calls for a legal
20 conclusion.

21 A. It's true we were passing on information. We
22 were very hopeful that the customer would listen carefully
23 and do the right thing. We had no regulatory authority to
24 enforce anything. It was just we hoped that the wisdom of
25 what we were saying made some sense that they would pay

1 attention.

2 MS. LEWIS: Okay. Thank you. That's all the
3 questions I have.

4 EXAMINATION

5 QUESTIONS BY MR. KAPLAN:

6 Q. I have a couple follow-ups. Is it fair to
7 say that Monsanto took the effort to inform its customers
8 about the effect of PCBs on the environment was unknown?

9 A. That's true.

10 MS. LEWIS: During what period of time,
11 Scott?

12 Q. Throughout the 1970's was the effect of PCBs
13 on the environment unknown?

14 A. There were some indication of an
15 undesirability effect. The conditions under which these
16 effects were noted was not established, the extent was not
17 established, the type of creature and a what was affected
18 was not really pinned down because we had conflicting
19 information.

20 Q. Exhibit 11 -- Alright, does it adequately
21 summarize your testimony to say that Monsanto took the
22 steps reflected in Exhibit No. 11 to limit the number of
23 purchasers of PCB product -- Let's strike that. Forget
24 that question. You testified earlier that Monsanto made
25 efforts to limit the number of people who they would sell

1 PCB product to because they were concerned that certain
2 people might not understand the need for keeping PCBs out
3 of the environment.

4 A. There was a concern at that time, yes.

5 Q. Was it fair to say that in February, 1972,
6 people commonly did not understand the need to keep PCBs
7 out of the environment?

8 A. People commonly -- I guess that's true, yes.

9 Q. And at about this time Monsanto stopped
10 selling PCB products to customers -- directly to customers
11 including electric utilities; is that right?

12 A. We did have some customers we were selling
13 to. We didn't stop all sales, but we were still selling
14 to manufacturers of electrical equipment that incorporated
15 PCBs.

16 Q. But you were not selling directly to the end
17 users, for example, electric utilities?

18 A. That's correct.

19 Q. And that was because Monsanto believed that
20 the end users might not understand how Monsanto believed
21 PCBs ought to be handled?

22 A. I don't know if it's a matter of not
23 understanding. It's a matter of the ease of communicating
24 information and it's much more difficult for Monsanto to
25 go looking for all of these transformers like a Holiday

Inn here and a public utility here, it's much easier for the manufacturer of that equipment to keep track of all that and to communicate depending on the circumstances.

MR. KAPLAN: Thank you. Nothing further.

MS. LEWIS: I have nothing further.

MR. KAPLAN: We are done.

MR. PECK: We are done. Why don't you just send it to me, and I'll coordinate having you review.

WILLIAM B. PAPAGEORGE

Subscribed and sworn before me this ____ day of
_____, 1995.

My commission expires: _____

JAS

WALLIS vs. PacifiCorp

5-25-95

NOTARIAL CERTIFICATE

I, JULIE A. SEKETA, a Certified Shorthand Reporter and a duly commissioned Notary Public, do hereby certify that there came before me at the offices of Husch & Eppenberger, 200 North Broadway, St. Louis, MO 63102,

WILLIAM B. PAPAGEORGE,

who was by me first duly sworn to testify to the truth and nothing but the truth of all knowledge touching and concerning the matters in controversy in this cause; that the witness was thereupon carefully examined under oath and said examination was reduced to writing by me; that the signature of the witness was not waived by agreement of all parties; and that this deposition is a true and correct record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this deposition is taken; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this June 3, 1995.

My commission expires May 30, 1998.

[Notary Public]

Inn here and a public utility here, it's much easier for the manufacturer of that equipment to keep track of all that and to communicate depending on the circumstances.

MR. KAPLAN: Thank you. Nothing further.

MS. LEWIS: I have nothing further.

MR. KAPLAN: We are done.

MR. PECK: We are done. Why don't you just send it to me, and I'll coordinate having you review.

William B Papageorge

WILLIAM B. PAPAGEORGE

Subscribed and sworn before me this 14th day of

June, 1995.

Josephine S. Niblock

My commission expires: _____
JOSEPHINE S. NIBLOCK
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. JAN. 15, 1999

ORIGINAL

JAS

WALLIS vs. PacifiCorp

5-25-95

PAGE 1 OF 10

William B Papageorge
NAME OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon reading the deposition and before
subscribing thereto, the deponent indicated the
following changes should be made:

Page	Line	Should read:
17	12	-- of the Krummrich --

Reason for change:
Spelling

Page	Line	Should read:
17	13	Krummrich is the --

Reason for change:
Spelling

Page	Line	Should read:
19	14	-- to use a phrase I often --

Reason for change:
Transcription error

Page	Line	Should read:
19	21	-- there were slight --

Reason for change:
Transcription error

Page	Line	Should read:
20	18	products within Monsanto.

Reason for change:
Transcription error

William B Papageorge
SIGNATURE OF WITNESS

PAGE 2 OF 10

William B. PapaGeorge

NAME OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon reading the deposition and before
subscribing thereto, the deponent indicated the
following changes should be made:

Page Line Should read:
22 8 ---, feathers from a stuffed

Reason for change:

Transcription error

Page Line Should read:
23 7 --- in peregrine

Reason for change:

Transcription error

Page Line Should read:
28 1 with six to eight months ---

Reason for change:

Transcription error

Page Line Should read:
30 10 authored by ---

Reason for change:

Transcription error

Page Line Should read:
35 3 direct request we received either ---

Reason for change:

Transcription error

William B. PapaGeorge

SIGNATURE OF WITNESS

PAGE 3 OF 10

William B Papageorge
NAME OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon~~s~~ reading the deposition and before
subscribing thereto, the deponent indicated the
following changes should be made:

Page	Line	Should read:
35	20	--- it in their possession

Reason for change:
Transcription error

Page	Line	Should read:
38	10	---, authored by ---

Reason for change:
Transcription error

Page	Line	Should read:
38	16	authored by ---

Reason for change:
Transcription error

Page	Line	Should read:
39	9	--- contribute and comment ---

Reason for change:
Transcription error

Page	Line	Should read:
39	16	his idea ---

Reason for change:
Transcription error

William B Papageorge
SIGNATURE OF WITNESS

PAGE 4 OF 10

William B Papageorge
NAME OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon reading the deposition and before
subscribing thereto, the deponent indicated the
following changes should be made:

Page Line Should read:
46 1 --- most are by state, ---

Reason for change:
Transcription error

Page Line Should read:
46 19 --- St Louis weren't able to do it all alone.

Reason for change:
Transcription error

Page Line Should read:
47 22 --- distinctive from electrical ---

Reason for change:
Transcription error

Page Line Should read:
48 11 --- authored by ---

Reason for change:
Transcription error

Page Line Should read:
48 14 --- copy to a ---

Reason for change:
Transcription error

William B Papageorge
SIGNATURE OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon reading the deposition and before
subscribing thereto, the deponent indicated the
following changes should be made:

Page	Line	Should read:
48	17	--- Monsanto, by the owner ---
		Reason for change:
		Transcription error

Page	Line	Should read:
49	4	--- by the manufacturer of ---
		Reason for change:
		Transcription error

Page	Line	Should read:
49	7	the manufacturer of ---
		Reason for change:
		Transcription error

Page	Line	Should read:
50	15	--- understanding of the need ---
		Reason for change:
		Transcription error

Page	Line	Should read:
54	10	--- you author ---
		Reason for change:
		Transcription error

William B. Papageorge
SIGNATURE OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page	Line	Should read:
54	18	--- that the FDA was ---

Reason for change:
Transcription error

Page	Line	Should read:
60	1	--- by Randal Graham

Reason for change:
Transcription error

Page	Line	Should read:
60	24	transformers manufactured by General

Reason for change:
Transcription error

Page	Line	Should read:
64	10	--- copy on Westinghouse Electric

Reason for change:
Transcription error

Page	Line	Should read:
64	11	--- of an agreement between

Reason for change:
Transcription error

William B Papagorge

SIGNATURE OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon² reading the deposition and before
subscribing thereto, the deponent indicated the
following changes should be made:

Page	Line	Should read:
64	18	-- again emphasize a need --

Reason for change:

Transcription error

Page	Line	Should read:
64	19	from exposure to PCBs --

Reason for change:

Transcription error

Page	Line	Should read:
64	23	--- PCBs held be in a ---

Reason for change:

Transcription error

Page	Line	Should read:
65	17	--- quite adamant about

Reason for change:

spelling

Page	Line	Should read:
66	20	--- PCBs in mineral oil units ---

Reason for change:

Transcription error

William B Papageorge
SIGNATURE OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon⁴ reading the deposition and before
subscribing thereto, the deponent indicated the
following changes should be made:

Page Line Should read:
67 20 --- letter refers to NEMA ---

Reason for change:
Transcription error

Page Line Should read:
69 16 --- at updated to the ---

Reason for change:
Transcription error

Page Line Should read:
70 19 mean it didn't take place. ---

Reason for change:
Transcription error

Page Line Should read:
78 5 --- Known as an MSDS, ---

Reason for change:
Transcription error

Page Line Should read:
79 7 Is Pyranol A13B3B a different ---

Reason for change:
Transcription error

William B Papageorge
SIGNATURE OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page	Line	Should read:
79	8	After Aroclor 1221? Insert "A: Yes" "Q:" Remainder of line should be preceded by "Q:"
	Reason for change:	

Transcription error

Page	Line	Should read:
79	24	material like gasoline for - - -

Reason for change:

Transcription error

Page	Line	Should read:
80	4	operation that's - - -

Reason for change:

Transcription error

Page	Line	Should read:
80	25	- - that it didn't have - - -

Reason for change:

Transcription error

Page	Line	Should read:
91	23	- - - contract was not between - - -

Reason for change:

Transcription error

William B Papageorge
SIGNATURE OF WITNESS

DEPOSITION CORRECTION SHEET

In Re: Upon^g reading the deposition and before
subscribing thereto, the deponent indicated the
following changes should be made:

Page	Line	Should read:
92	1	And you have no reason - - -

Reason for change:

Transcription error

Page	Line	Should read:
95	7 & 8	"Lets mark as the next Exhibit 23" Should be the beginning of line 9

Reason for change:

Transcription error

Page	Line	Should read:
97	20	Did other people - - -

Reason for change:

Transcription error

Page	Line	Should read:
102	15	undesirable effect. - - -

Reason for change:

Transcription error

Page	Line	Should read:
102	17	- - creature and at what level it was affected

Reason for change:

Transcription error

William B PapaGeorge
SIGNATURE OF WITNESS