Depo of William B. Papageorge Monsanto v Aetna 3/29/93 Cr.54945.0

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
MONSANTO COMPANY,)
)
Plaintiff,)
)
vs.) C.A. No. 88 CJA-118-1-CV
)
AETNA CASUALTY & SURETY)
COMPANY, et al,)
)
Defendants.)

VOLUME VI

Continuation of the deposition of WILLIAM B. PAPAGEORGE, taken on behalf of Defendant Travelers Indemnity Company, at the Ritz Carlton Hotel, in the County of St. Louis, State of Missouri, recommencing at 9:00 a.m. on the 10th day of February, 1993, before J. Bryan Jordan, certified shorthand reporter and notary public.

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MARCH 29, 1993

MS. SANDBECK:

Q. Mr. Papageorge, you understand that you are still under oath?

A. I do.

Q. Since your last meeting, the last stage of deposition, which was on February 10th, 1993, have you had any discussions with your counsel regarding your testimony this deposition?

A. I have not.

Q. I'd like to ask you to do one thing for me, please. If you do not understand any of my questions or if you want any clarification, will you please tell me?

A. I'll do that.

Q. Okay, great. And let's try and both let each other finish speaking before the next one starts, too, so he won't have a hard time recording this. All right?

A. That's good.

Q. Okay, and then one last thing, if you can try to respond verbally instead of with a nod of the head, again so that he can accurately record your response.

A. I'll try to remember that.

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Q. That's the hardest thing to remember. And finally, let me know if you would like to take a break at any time.

A. I will.

Q. Okay. My name is Marilyn Sandbeck. I represent the Travelers Indemnity Company in this action, and I have mainly just some follow-up questions, so I'll be starting in the early part of your testimony and trying to keep pretty much in order, but we will be jumping around a little bit: okay? So I'll try to give you enough background so you know what we're talking about.

In your first day of testimony, Mr. Manta went through your general background at Monsanto and the various positions you held, and I believe you said that in around 1963, or I'm sorry, 1964, you became General Superintendent of Manufacturing at the Krummrich Plant?

A. I did.

Q. Okay. Would you just describe briefly what your duties were in that position?

A. I was assigned the overall responsibility for the management of a given group of products manufactured at that plant, and by "management," I'm referring to those

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activities that involve making certain that the operations were properly supervised, properly manned, that the activities of the employees regarding safety and health were appropriate, that the quantity of product produced was as scheduled or better, that the quality of the product was maintained, and that it was done at at least standard, what we call standard costs or better.

Q. And what group of products were those that you were in charge of?

A. I don't propose to recall them, all but I'll try to remember some of them. There were the group associated with the manufacture of phenol, which included sulphur dioxide, and sodium sulphite, as well as phenol, there was another operation that involved the manufacture of wood treating chemicals, pentachlorophenol, and sodium pentachlorophenate, there was another operation that manufactured a rubber additive, which we referred to by the acronym 4-NDPA; I have forgotten the chemical name for it.

Q. That's, I think that's good enough unless you recall any other major areas.

A. I would have difficulty recalling the others, but there were some more.

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Q. Okay, I was just trying to get a feeling for what you did in that job.

A. Okay.

Q. In that position, did you also have responsibility for the disposal of any waste products?

A. Not the final disposal, but we had the responsibility for properly accumulating it and putting it in the right places for pickup and disposal.

Q. But it was not your decision as to what to do with that waste?

A. That is correct.

Q. Okay, then in 1965, I believe you became the

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plant manager of Anniston?
A. I did.
Q. And then you were in that position for approximately five years?
A. Yes.
Q. As plant manager at Anniston, did you have any routine communications with anyone at St. Louis headquarters?
MR. SARFATTI: Objection; vague.
A. I don't know what you mean by routine. It would

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help me if you defined that for me.
BY MS. SANDBECK:
Q. Anything that was scheduled on a routine basis: For example, weekly memoranda, perhaps, or scheduled telephone conference, anything that was done on a routine scheduled basis.
MR. SARFATTI: Do you mean regularly scheduled, by routine? Is that what you are trying to get at?
BY MS. SANDBECK:
Q. Do you understand my question?
A. I think I do.
Q. Okay, then can you answer.
A. As I understand it, these are any form of communications with the St. Louis office regarding activities at the plant. There were established routines regarding sending to St. Louis reports on personnel matters, number of employees' overtime worked, that kind of thing. There was also monthly reports regarding, I'm going to call it accounting situations, costs and expenditures, and the like. There were also reports each month regarding the amount of material produced versus the target for the month, there were reports each month regarding the number of

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injuries, the types of injuries, against, again, a target, those kinds of reports were generated on a monthly basis.
Q. Was that your personal decision as plant manager, to report these things on a monthly basis?
A. No, this was a, a practice established by the St. Louis office, requesting the plants to report on a monthly basis.
Q. Did any of these reports include spills?
A. Yes. When they were ready, yes.
Q. That was something that was routinely reported?
A. Yes.
Q. Were other accidents –
A. Let me, let me try to amplify.
Q. Sure.
A. A very minor kind of spill, like a cupful, would not be reported, but a major, say, something over a 55-gallon drum, would be covered, and a 55-gallon drum is roughly the amount.
Q. And were there set guidelines as to what amount required reporting to St. Louis, or was that just a matter of discretion?
A. It was a matter of a judgment call on the part of

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the management at the plant as to whether it was of significant amount, and it depended quite a bit on the type of material.
Q. A 55-gallon drum in the amount that you would think of as being –
A. That's a rough measure of the amount, and again it depends on the type of material.
Q. Okay, and by that, do you mean whether it was hazardous or not?
A. Well, I don't know the definition of hazardous that you are using, but if it were just a, let's say a water solution of salt, that wouldn't be reported unless quite a bit of it was involved, and unless someone felt that the ramifications of that spill could be extensive.
Q. Okay.
A. If it were, as an example, if it were a bucketful of cyanide, we'd report that bucketful. We wouldn't wait for a drumful. So it's a judgment call based on the knowledge of the material.
Q. Okay, and then is that – I said whether it was hazardous, and then you went on to use the distinction between a salt solution and cyanide. Is it a hazard to the

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employees, that's the primary consideration there, or –
MR. SARFATTI: Objection; hypothetical.
A. Again, that calls for a knowledgeable person to, to consider the ramifications.
BY MS. SANDBECK:
Q. Was it any ramification that would lead you to decide to report it?
A. Well, I'm trying to think of a plausible example. I mentioned saltwater. Saltwater, in itself, isn't considered necessarily harmful, but if it's enough, for example, that it gets into a situation where that saltwater is corrosive to a pipeline that contains another material that, in turn, could cause problems, fumes, or kill the vegetation, or contaminate a creek, then you would say that saltwater leak could lead to problems, we better report it. So I find it hard, sitting here, to try to think of all the possible scenarios that could take place. You can't just look at the material, per se; you have to look at the whole situation.
Q. Okay. If anything occurred that you thought might have a negative impact on the environment, would that be something you would report to St. Louis?

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A. Yes.
Q. And again, would that decision be a matter of discretion, or is that part of the directive you got from St. Louis?
A. The direction from St. Louis was something like "Report these." The discretion entered regarding the type of material, and the amount, and the locale in which it occurred.
Q. Okay, but reporting things to St. Louis that might have a negative environmental impact was not discretionary?
A. Well, the discretion entered in the judgment of the individual regarding that negative impact and whether it would occur or not.
Q. Okay, and once that discretion was exercised and a decision was made that there might be such an impact, then a report to St. Louis would be required?
A. Yes.
Q. Okay. As plant manager of Anniston, did you play any role in obtaining insurance coverage for Monsanto at that plant?
A. I did not.

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Q. Did you have any dealings with representatives from insurance companies?
A. I did not.
Q. And did you have any dealings with brokers of insurance?
A. I did not.
Q. As plant manager, was it your responsibility to report incidents to the Insurance Department in St. Louis that might be covered by insurance?
A. No.
Q. Whose responsibility would that be?
A. I don't know.
Q. As plant manager, you didn't know whose responsibility it was?
A. That is correct.
Q. I imagine – please correct me if I'm wrong – that in a chemical manufacturing situation, there would be routine situations that might require contact with either the Insurance Department or an insurance company directly, such as worker injury. Is that accurate?
A. Yes, but I don't know who made that contact.
Q. As plant manager, did you make any attempt to

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ensure that these matters were being handled properly?
A. Certainly.
Q. How did you do that if you didn't know who was

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doing it?
A. Well, I knew who at the plant was reporting to St. Louis, to their counterpart in St. Louis, this type of information. You mentioned worker injuries. They would be reported by the Personnel Superintendent, to his Personnel Department contact in St. Louis. Now, what happened in St. Louis, I do not know.
Q. Okay. Okay, so it was the Personnel Superintendent at the plant who would report worker injuries to his counterpart in St. Louis?
A. Correct.
Q. What about other events that might involve insurance coverage? For example, damage to equipment?
A. The Safety Supervisor at the plant would act as the plant's representative regarding assembling all the information and forwarding it to his counterpart in St. Louis again.
Q. Okay, and then what about claims by outside people against the plant: Who would handle those

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situations?
MR. SARFATTI: Objection; vague.
A. Well, depending on the claim, that would go to our Personnel Superintendent, who would forward it to his counterpart in St. Louis.
BY MS. SANDBECK:
Q. Do you recall such instances when a third party or an outside person made a claim against the plant for some sort of damage?
A. At what time?
Q. At any time that you were plant manager.
A. I do not.
Q. Okay. Do you recall any instances where people's, the paint on people's cars were damaged?
A. At the Anniston plant? I don't remember any at the Anniston plant.
Q. Do you remember some somewhere else?
A. I do.
Q. Okay, where?
A. Krummrich Plant and the Queeny Plant.
Q. Do you know, at Krummrich and at Queeny, who those complaints were directed to?

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A. At the plant?
Q. Yes.
A. Again, to – well, it would end up with the Personnel Superintendent.
Q. Even though it was a form of property damage?
A. That's right, yes.
Q. Were there any people other than the Personnel Superintendent and the Safety Supervisor who would handle insurance matters at the plant?
A. I don't know of any others.
Q. Were – well, let me back up a minute. When you were describing to me the types of routine communications that you had with St. Louis, you mentioned among those the number of injuries during a certain period?
A. I did.
Q. Did you also report to St. Louis the number or amount of insurance claims?
A. When any occurred, yes.
Q. And that's how they were reported when they occurred, not as a monthly report?
A. The formal report was on a monthly basis. This does not mean that a telephone call might not have been made

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during the month.
Q. Okay. Also during your first day of testimony, when you were going through your basic list of positions at Monsanto, I believe you testified that in 1977, you became Director of Environmental Operations for Monsanto Chemical Intermediates? Is that accurate?
A. I did.
Q. You described your duties in that position to be kept informed of developments regarding environmental matters and about the impact that Monsanto's products might have on the environment, of employee exposure potential, and also to share and coordinate information that was passed on to plants and to keep your bosses informed of developments in this entire area.
Is that – I've taken this as a quote, but if that – I don't want to mischaracterize it. Are you offering it as quotation? I see you're reading from some notes and not the transcript.
MS. SANDBECK: Yeah, I don't have this copy of the transcript with me.
MR. SARFATTI: So what are you asking him: If he remembers giving that testimony?

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MS. SANDBECK: Well, I have a question to follow up, but I want to make sure that I'm not mischaracterizing your testimony when I start.
MR. SARFATTI: So you are asking him if he remembers testifying to that.
MS. SANDBECK: Would you – well, actually, I never got to my question. If you would quit interrupting me, it would be easier for me to ask my question.
MR. SARFATTI: I thought you came to the end. You seemed to stop.
BY MS. SANDBECK:
Q. I asked you in the beginning if you did not understand any of my questions, to let me know, and I think you are capable of doing that. Is that right?
A. I believe so. I may have an understanding that may be inaccurate, but I never know that.
Q. Okay.
MR. SARFATTI: If the questions are vague and unclear, irrespective of what the witness may believe, I intend to state my objections.
MS. SANDBECK: You are welcome to state them. I will ignore them.

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MR. SARFATTI: You are welcome to do that.
BY MS. SANDBECK:
Q. Going back to the question I tried to formulate, were the duties that I just read off in your position as Director of Environmental Operations, is that accurate?
A. It's accurate to the degree they cover the job. I don't say that it covers the entire job.
Q. Are there major aspects of that position that weren't included in that description?
A. I don't recall any now, no.
Q. Okay. With respect to the duty to share and coordinate information that was passed to plants and keeping your bosses informed, does that suggest that it was a two-way communication both going up to your boss and down to the plant level?
A. Yes.
Q. And who are these bosses that you referred to?
A. Well, I used the plural. I have one formally-assigned boss.
Q. And that was?
A. At that time, it was Dr. Myron Dmytryszyn. This did not prevent me from talking to Dr.

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Dmytryszyn's counterparts at – in the organization, such as the Director of, General Manager of Manufacturing, and Marketing, and so on. I had free access to anybody, even to Dr. Dmytryszyn's boss.
Q. Now, when you use the plural and say "bosses," who are you including in addition to Mr. Dmytryszyn?
A. Well, I mentioned the General Manufacturer – General Manager of Manufacturing, there is the Vice-President and Director of Monsanto Chemical Intermediates Company, there was the General Manager of – I'm not certain at the moment of his title. I'm going to call him Administration. He had personnel and associated functions. The General Manager of Marketing –
Q. The person that you referred to in the administration – in the administrative function, are you thinking of an individual's name?
A. I'm trying to recall it. That's why I hesitated;

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his name doesn't come to mind at the moment. I just can't remember.
Q. Okay, that's fine. And these are all people that you were referring to as your bosses?
A. Yes.

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Q. Anyone else you can think of?
A. No.
Q. And then with respect to the type of information that you were communicating both upward to these bosses as you've referred to them and to the people at the plant level, you said developments in this entire area. Could you describe for me a little bit more specifically what you mean by that?
MR. SARFATTI: Are you referring to a specific conversations in reports or just generally about that subject?
BY MS. SANDBECK:
Q. Do you understand my question?
MR. SARFATTI: Well, I don't understand your question. Do you want to clarify it or just want to keep it as is?
BY MS. SANDBECK:
Q. Do you understand my question?
A. I think I do.
Q. Okay.
MR. SARFATTI: I object on the grounds it's vague and lacking specificity.

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A. You asked me what kinds of developments. I would discuss with the individuals we just described, those matters that, in my opinion, were of significant or major importance, rather than the more or less routine developments. I'm searching for some examples that would describe that what I would call a major development. I would suggest that a change in a federal statute or an enactment of a, of a major statute or regulation that resulted from a statute, I would make it a point to let them know that this has happened. I would also at the time try to, depending on how much time I had between the awareness of the development and the communications of it, I would try to establish some sort of idea as to the impact on the operating unit, such as will it need more people, will it need significant skills to learn on board, should we hire contractors to help us, and how much it might cost.
BY MS. SANDBECK:
Q. So you would consider the cost that was associated with these new developments?
A. Certainly.
Q. In terms of your communication up the ladder, would the type – would that type of information include

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potential claims against Monsanto at the plant level?
MR. SARFATTI: Objection; vague, undefined term.
A. If I was made aware of the possibility of claims, I would make certain that that information reached the upper management of the operating unit. If, in my opinion, it may not have, I would make it a point to personally communicate, but that was a rarity, really.
BY MR. SANDBECK:
Q. Okay. With respect to potential liability that Monsanto might face, is that something that you would address upward and downward?
MR. SARFATTI: Objection; vague, undefined term.
A. If appropriate, certainly, yes.
BY MS. SANDBECK:
Q. And what would constitute something being appropriate?
MR. SARFATTI: Same objections, and hypothetical.
A. If, for example, the plant manager at one of the sites would inform me that the State authorities were looking at a situation and it could result in some impact on that plant, if that plant manager had already communicated this to the General Manager of Manufacturing, there was no

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need for me to do that also, but it would be appropriate for me to inform my boss, Dr. Dymytryszyn, so it varied from situation to situation.
Q. In that type of situation, is there anyone else that you would inform other than Dr. Dmytryszyn?
MR. SARFATTI: Same objections, and hypothetical.
A. Eventually, when more information was available or when an opportunity came to share generally with a larger group the status of the environmental issues in the operating unit which I represented, I would share that with the audience at a particular meeting.
BY MS. SANDBECK:
Q. Would that, for example, be at environmental policy staff meetings?
A. That would be a good example, yes.
Q. Jump ahead a little bit, since we're on the subject of environmental policy staff meetings. In the last most recent date of your testimony, February 10th, 1993, Mr. Omrod was asking you some questions about these environmental policy staff meetings, and you mentioned that they were sometimes attended by either Mr. Chapman, Miss Grimm or Mr. Toth and were regularly attended by the Legal

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Department or someone from the Legal Department, and then Mr. Omrod asked you about a report that you gave to the environmental policy staff concerning the Texas City Wye, and your response was that you shared the information when you first became aware of it and as new information developed, you would share it with the group up through 1983, and my question is, when you said you shared it with the group, were you referring to the people who attended the environmental policy staff meetings?
A. Yes.
MR. SARFATTI: Objection; vague.
BY MS. SANDBECK:
Q. Your answer was "Yes"?
A. Yes.
Q. Okay, going back, again – I apologize for the bouncing around, but I'll try to keep this in the order of topics discussed, anyway – back to your first day of testimony, Mr. Manta was asking you about the closure of inactive facilities which were closed prior, or a decision was made to close them prior to RCRA promulgation? Do you recall that area of testimony?
A. Not specifically, but it'll come to me.

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Q. Okay. You said that the true intent was to close it, that is, referring to these inactive facilities, with – to close it responsibly and without excessive costs that were perceived to be associated with RCRA requirements. Does that refresh your memory at all with respect to this?
A. It's coming back to me.
Q. Okay.
Which inactive facilities in the Texas City area did Monsanto want to close prior to RCRA promulgation?
A. I don't know of any. I don't recall of any.
Q. Let's see; jumping somewhat ahead, here, to your third day of testimony, January 15th, 1993, I believe it was Mr. Hughes who was questioning you about some meetings with Ralph Lowe and Paul Malone, and you expressed that there was a clear distinction in your mind between these two individuals and explained that that distinction was based on the fact that your communications with Mr. Lowe were with regard to remediation, whereas the conversations with Mr. Malone were with regard to past experience. My question is, what past experience did Mr. Malone have with respect to the Texas City Wye site?
A. He provided a service, transferring material from

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the Texas City plant, Monsanto, to outside processors.
Q. And is that the subject matter of the conversation that you had with Mr. Malone?
A. As best I recall, yes. Mm-hmm.
Q. Do you remember the reason for discussing this with Mr. Malone?
A. Well, certainly, it was tied in to the Texas City Wye site, and it was part of the plant representatives'

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attempt to – I'm going to use the word tutor me as to what happened in the past, and they felt a meeting with Mr. Malone might be of interest to me.

Q. And why was it important that you be tutored as to what happened in the past at Motco?

A. Well, you'll have to ask the people who felt it was important. I can only guess that they wanted to meet or hear from the individual who had the hauling service tell me yes, he had trucks, and they haul material, this is what happened.

Q. Would you have spent time talking to people about these things if you, yourself, did not consider it important that you understand? The reason I ask that is, you said, "I'd have to ask them why they thought you should know," and

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I'm suggesting that you probably thought it was important, as well, or you wouldn't have wasted your time on it.

A. Well, not knowing what the specifics of the conversation were going to be, I was in no position to judge, before the meeting, whether it was of significance for me to spend my personal time on.

Q. Did you consider it important at the time that you understand what had happened at Motco?

A. Certainly.

Q. And why was that?

A. Well, this was a site that the State authorities had shown some interest in. We, from what information we had hat that time, it looked as though some remedial action was very likely to take place, and it appeared that we would certainly be playing a role in that" – by "we," I'm saying Monsanto, and it appeared it would behoove me to get familiar with and catch up, if you will, with what the plant people knew, and I had asked for this kind of tutorial.

Q. This was around '77 or '78?

A. Correct.

Q. Did you play any role in the attempt to identify other potentially responsible parties?

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MR. SARFATTI: Objection; undefined term.

A. I played a, what I'm going to call a very minor role in that at that point in time. We suspected others were involved; Monsanto did not know specifically who, and I worked with the plant manager in attempting to identify other sources of material at that site.

Q. What specifically did you do to try to identify other sources?

A. I personally got involved only in attending meetings meetings of the Texas Chemical Council in Houston at which this subject was discussed. That is the only activity I would call involved me personally.

Q. And did that assist you in identifying other sources of the material?

A. It's hard for me to evaluate that because the view regarding the Texas City Wye was assigned to another individual eventually, and I have personally no way of knowing whether my appearance before the Texas Chemical Council helped identifying others. I can't evaluate that.

Q. You said your appearance before the council. Did you make a presentation?

A. I spoke before them, yes.

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Q. What was the subject matter?

A. The subject matter was the State interest in the site referred to as the Texas City Wye, and it was a request, really, that the council consider participating in terms of canvasing its membership to determine who participated or who was involved in the Texas City Wye.

Q. Did the council eventually canvas its membership for this information?

A. I don't know.

Q. Do you remember when you first became aware of Monsanto's potential liability for the cleanup of the Texas City Wye?

MR. SARFATTI: Objection; undefined term.

A. I don't recall a specific incident or the timing. The best I can recall is about 1985, '86, somewhere in there.

BY MS. SANDBECK:

Q. You were first aware of the situation at Motco when; in the late '70's?

A. Yes.

Q. Now, during this time period. '77-'78, when you were trying to find out what actually happened there, did

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you not think that Monsanto might be responsibe for the cost of cleaning it up?

MR. SARFATTI: Objection; lack of foundation.

A. I thought personally that Monsanto would be involved. What I didn't know was the degree of involvement. This is why we were attempting to find other parties that might also participate. That was really the state of awareness and knowledge that existed for many years.

BY MS. SANDBECK:

Q. What? I'm sorry, I'm not sure what you are referring to when you say the state of knowledge that existed.

A. There's a site known as Texas City Wye; it appears to be contaminated; there are chemicals involved; some of those came from Monsanto, the rest came from else where. It eventually has to be cleaned up. How will it be cleaned up and who will participate were open questions, and that's a situation that existed for several years, there.

Q. So you knew to some degree in the late '70's that Monsanto would be liable for cleaning it up?

MR. SARFATTI: Objection, lack of foundation and calls for a legal conclusion.

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A. I don't know how you use the word "liable." I knew that I strongly suspected Monsanto would be involved.

BY MS. SANDBECK:

Q. In the cleanup?

A. Either economically, or directly, or as the party that's going to manage the cleanup. We didn't know which way it was going to go to.

Q. Okay, but you knew that Monsanto would take part either in the actual cleanup efforts or the financial support for it?

MR. SARFATTI: Objection; mischaracterized his testimony.

A. I don't know that I knew it. I strongly suspected.

BY MS. SANDBECK:

Q. Okay, and that's why you were looking for other parties who might assist Monsanto in that cleanup effort?

A. That's one reason, yes.

MS. SANDBECK: I have nothing further.

MR. SARFATTI: Could we take our morning break at this point? I want to make a telephone call.

MS. SANDBECK: We can go off the record.

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(Recess from 10:10 to 10:30.)

MR. SARFATTI: Let's go back on the record. During the break, Ms. Sandbeck contacted Robert Omrod, who was present during earlier sessions of –

MS. SANDBECK: Attempted to contact.

MR. SARFATTI: Attempted to contact him, spoke with his officer, and he's been notified that this deposition will be concluded shortly and hopefully, he'll call soon, and with my permission and, I assume, the permission of others here, he can participate by telephone call if he contacts us before the deposition is concluded.

EXAMINATION

BY MR. SARFATTI:

Q. Mr. Papageorge, I'm going to ask you a few questions, with your permission. You testified earlier today, in response to some questions from Ms. Sandbeck, that it was about 1985 and 1986 when you became aware of Monsanto's potential liability for Motco. Do you recall that?

A. I do.

Q. What was the event, if there was an event, that triggered this knowledge, this awareness on your part?

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A. It was, I wouldn't call it an event, the individual assigned to monitor these activities had his office right down the hall from mine, and –

Q. Was it at that time that he informed you?

A. At that time, he said, "It looks like we're going to get involved in an expensive project at the Texas City Wye," and that's all, that's what happened.

Q. Now, as a DEO in St. Louis and as a general superintendent at Krummrich and a plant manager in Anniston, did you have occasion to become aware of Monsanto's procedure for the approval of capital projects?

A. Certainly.

Q. Would you describe that procedure?

A. I don't recall all of the details, but it amounted to a situation where the individual who perceived a need for funding for a specific activity would arrange with the appropriate people to draw up what was called at Monsanto a project which described the objectives and the steps taken to achieve that objective and the estimated costs. Depending on the level of funding required, there were individuals in Monsanto that had authority to sign off or approve these projects. I have forgotten today the

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levels, but the general superintendent had a level that he could approve, and the plant manager had a level, and then his boss, the Director of Manufacturing, on up the hierarchy.

Q. During the period when you were DEO and continuing until you retired from Monsanto, do you recall whether approval beyond the plant level was required for expenditures in excess of one million dollars?

A. Yes.

Q. Now, with that background, I want to turn to some testimony that you gave at an earlier session concerning remediation efforts. Could remediation efforts begin requiring expenditures in excess of one million dollars at the Texas Wye site, or the Brio site, the North 80 site, the South 20 site, or the Texas City site without the requisite approval of the capital expense?

MS. SANDBECK: Object to the form.

A. No.

BY MR. SARFATTI:

Q. Do you recall that during the period while you were DEO and continuing to the point when you retired from Monsanto, that such requests for remediation at any of those

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five sites had been approved?

MS. SANDBECK: Object to the form.

A. I just don't remember that detail.

BY MR. SARFATTI:

Q. Would you have been involved as DEO?

A. In the approval process? No.

Q. Would you have been notified?

A. Yes.

Q. Do you recall being notified during your tenure as DEO that such capital projects involving remediation at the five sites had been approved, had been given?

A. I just don't recall being informed of that. I don't think I was involved when the approvals were given.

Q. Whether you were involved or not, to what extent was approval of the capital project necessary for remediation work to go forward?

MS. SANDBECK: Object; asked and answered.

A. To what extent? It had to be approved by the proper individual in the organization, so it was a very, very important step that must be taken before the work can be taken on by Monsanto.

BY MR. SARFATTI:

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Q. At the time that you were having suspicions that Monsanto might become involved in an eventual action taken at Motco or the other sites, were you aware that the approval required for remediation had been given by Monsanto officials?

MS. SANDBECK: Object to the form.

A. I'm not aware of any approval given while I was involved personally, no.

BY MR. SARFATTI:

Q. Mr. Papageorge, do you have any training in hydrogeology, taken courses or have any degrees in hydrogeology?

A. No.

Q. Do you have a scientific definition for the term "groundwater"?

A. I don't know that I'd call it definition, or scientific definition.

Q. Is there an official Monsanto definition that you were familiar with during the period you were a Monsanto DEO for the term "groundwater"?

A. Official Monsanto definition? I'm not aware of any.

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Q. As you've used the term "groundwater" in your testimony, what do you mean by it?

A. I, in my, in my understanding, I use the expression "groundwater" to describe bodies of water that are below the surface, underground.

Q. At any particular depth?

A. No. I don't have a document in mind.

Q. Do you mean by groundwater potable water?

A. It could be, depending on its, I'm going to call it purity, whether it had bacteria in it or other materials that might not make it palatable.

Q. Are you aware of any instance when groundwater at either the North 80 site, the South 20 site, the Texas Wye site, the Brio Site or the Texas City plant site had – that was a source of a supply of drinking water for residents had become contaminated by any Monsanto chemical?

MS. SANDBECK: Object to the form.

A. I'm not aware of that.

BY MR. SARFATTI:

Q. In your capacity as a DEO for Monsanto and continuing through your, the date of your retirement from Monsanto, did you ever approve any action to be taken by

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Monsanto with knowledge on your part or with an expectation on your part that the action that you approved would cause any injury to either the environment or human health?

MS. SANDBECK: Object to the form.

MR. WHITTAKER: Object on vagueness.

A. Certainly not, no.

BY MR. SARFATTI:

Q. Are you aware of any other Monsanto employees who so approved or initiated such an action?

MS. SANDBECK: Object to the form.

A. No.

MR. SARFATTI: No further questions.

MS. SANDBECK: Off the record.

(Discussion off the record and short break.)

MR. SARFATTI: You have some questions?

MR. WHITTAKER: No.

MS. SANDBECK: I do.

MR. SARFATTI: Okay.

FURTHER EXAMINATION

BY MS. SANDBECK:

Q. Mr. Papageorge, what is a capital expenditure?

A. A capital expenditure are the funds that are used

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to finance an activity that results in an asset of some value that is used by the entity that expended those funds to either conduct its business or to produce a product. I can't think of any other thoughts to offer.

Q. That's helpful. Would all aspects of remediation project necessarily be considered a capital expenditure?

A. I don't know that I'm qualified to answer the "all" part of that. You'd have to ask people who have more expertise in accounting practices and what is appropriately entitled a capital versus an expense.

Q. Okay, so you don't know for sure one way or the other whether it would be considered a capital expenditure?

A. No, I don't.

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MS. SANDBECK: I have nothing further.
MR. SARFATTI: Thank you, very much.
(Whereupon, at 10:58 a.m., the deposition was concluded.)

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COMES NOW THE WITNESS, WILLIAM B. PAPAGEORGE, and having read the foregoing transcript of the deposition taken on the 29th day of March, 1993, acknowledges by signature hereto that it is a true and accurate transcript of the testimony given on the date hereinabove mentioned.

WILLIAM B. PAPAGEORGE
Subscribed and sworn to before me this day of , 1992.
My Commission expires:

Notary Public

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STATE OF MISSOURI)
SS:)
CITY OF ST. LOUIS)

I J. Bryan Jordan, notary public in and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to certify depositions, do hereby certify that pursuant to agreement in the civil cause now pending and undetermined in the Superior Court of the State of Delaware, in and for New Castle County, I was attended at the offices of Kohn, Shands, Gianoulakis & Giljum, in the City of St. Louis, State of Missouri, by the aforesaid witness and by the aforesaid attorneys, on the 29th day of March, 1993.

The said witness, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the case aforesaid, thereupon testified as is shown in the foregoing transcript, said testimony being by me reported in shorthand and caused to be transcribed into typewriting, and that the foregoing pages correctly set forth the testimony of the aforementioned witness, together with the questions propounded by counsel and remarks and

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objections thereto, and is in all respects a full, true, correct and complete transcript of the questions propounded to and the answers given by said witness; that signature of the deponent was not waived by agreement of counsel.

I further certify that I am not of counsel or attorney for either of the parties to said suit, not related to nor interested in any of the parties or their attorneys.

Witness my hand and notarial seal at St. Louis, Missouri, this day of , 1992.

My commission expires July 20, 1994.

J. Bryan Jordan
Notary Public in and for the
State of Missouri

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Look-See Concordance Report

- - -

1,002 UNIQUE WORDS
386 NOISE WORDS
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