IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, Plaintiff, vs. AVX CORPORATION, et al., Defendants. COMMONWEALTH OF MASSACHUSETTS, Plaintiff, vs. AVX CORPORATION, et al., Defendants.	)	CIVIL ACTION NO. 83-3382-Y (Consolidated)
LUMBERMENS MUTUAL CASUALTY COMPANY, Plaintiff, vs. AVX CORPORATION, et al., Defendants.	)	CIVIL ACTION NO. 84-2032-Y

[Continued on Next Page]

PERRY REPORTING SERVICE
411 North 7th Street, Suite 1121
St. Louis, Missouri 63101
(314) 621-4790

REGISTERED PROFESSIONAL REPORTERS

COPY

LUMBERMENS MUTUAL CASUALTY COMPANY, et al.,	)	
Plaintiffs,	)	
vs.	)	CIVIL ACTION
CORNELL-DUBILIER ELECTRONICS COMPANY, et al.,	)	NO. 84-2044-Y
Defendants.	)	

FIREMAN'S FUND INSURANCE CO.,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION
RTE CORP. and AEROVOX, INC.,	)	NO. 85-2842-W
Defendants.	)	

CONTINUED DEPOSITION OF WILLIAM B. PAPAGEORGE, produced, sworn and examined on behalf of Plaintiff United States of America, May 6, 1986, between the hours of eight o'clock in the forenoon and five o'clock in the afternoon of that day, at the law offices of Messrs. Lewis & Rice, 611 Olive Street, St. Louis, Missouri 63101, before KATHRYN T. O'NEILL, a Registered Professional Reporter and a Notary Public within and for the State of Missouri.

A P P E A R A N C E S

The Plaintiff United States of America was represented by Ms. Karen L. Florini, Trial Attorney, U. S. Department of Justice, Environmental Enforcement Section, Land and Resources Division, Room 2630, Box 7415, Washington, D. C. 20044-7415.

The Defendant AVX Corporation was represented by Mr. Brian T. Kenner of the law firm of Messrs. Nutter, McClennen & Fish, Federal Reserve Plaza, 600 Atlantic Avenue, Boston, Massachusetts 02110.

The Plaintiffs Lumbermen's Mutual Casualty Co. and American Motors Insurance Co. was represented by Mr. Francis J. Connell, III of the law firm of Messrs. Drinker, Biddle & Reath, 1100 Philadelphia National Bank Building, Philadelphia, Pennsylvania 19107.

WATER_PCB-SD0000069280

The Plaintiff Firemen's Fund Insurance Co. was represented by Mr. Gary D. Centola of the law firm of Messrs. Rivkin, Radler, Dunne & Bayh, Eab Plaza, Uniondale, New York 11556-0111.

The Defendant Aerovox, Inc. was represented by Ms. Marjory D. Robertson of the law firm of Messrs. Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 20037.

The Defendants RTE Corporation and Aerovox, Inc. were represented by Mr. Daniel B. Winslow of the law firm of Messrs. Sherin and Lodgen, 100 Summer Street, Boston, Massachusetts 02110.

The Plaintiff Aetna Casualty & Surety Company was represented by Mr. Daniel L. FitzMaurice of the law firm of Messrs. Day, Berry & Howard, CityPlace, Hartford, Connecticut 06103-3499.

The Defendant Federal Pacific Electric Company was represented by Mr. Howard T. Weir, III of the law firm of Messrs. Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D. C. 20036.

The Defendant Belleville Industries, Inc. was represented by Mr. David A. McLaughlin of the law firm of Messrs. McLaughlin & Folan, 448 County Street, New Bedford, Massachusetts 02740.

Monsanto Company was represented by Mr. Robert C. Kirsch of the law firm of Messrs. Hale and Dorr, 60 State Street, Boston, Massachusetts 02901.

The Defendant Hartford Accident and Indemnity Company was represented by Mr. Lawrence J. Kenney, Jr. of the law firm of Messrs. Sloane and Walsh, Attorneys at Law, Ten Tremont Street, Boston, Massachusetts 02108.

I N D E X

	PAGE
Cross-Examination by Mr. Kenner	5
Cross-Examination by Mr. McLaughlin	12
Cross-Examination by Mr. Weir	57
Recross-Examination by Mr. Centola.	70
Cross-Examination by Ms. Florini.	77
Further Recross-Examination by Mr. Centola. . . .	79

E X H I B I T S

PAPAGEORGE EXHIBIT	REFERENCE NO.	PAGE
144	2/14/74 Monsanto Memo	36
145	10000162-10000163	36
146	10000082-10000083	36

WATER_PCB-SD0000069282

IT IS HEREBY STIPULATED AND AGREED by and between Counsel for the Plaintiffs and Counsel for the Defendants, that this deposition may be taken in shorthand by KATHRYN T. O'NEILL, a Registered Professional Reporter and Notary Public, and afterwards transcribed into typewriting and signed by the Witness.

o-O-o

WILLIAM B. PAPAGEORGE,

of lawful age, being produced, sworn and examined on the part of the Plaintiff United States of America, deposes and says:

CROSS-EXAMINATION

QUESTIONS BY MR. KENNER:

Q. Good morning, Mr. Papageorge. You mentioned that attorney Phoecian Park left Monsanto in December of 1985. Do you know -- well, what were the circumstances that led to Mr. Park leaving Monsanto, if you know?

A. He retired.

Q. Do you know where he currently lives?

A. In the St. Louis area.

Q. Do you know which town or city?

A. Not really; it's in western St. Louis County.

Q. You testified yesterday, Mr. Papageorge, that

WATER_PCB-SD0000069283

in order to determine PCB customers of Monsanto in the New Bedford, Massachusetts area, other than Aerovox and CDE, you would have to refer to Monsanto records to make that determination. Do you recall giving that testimony?

A. Yesterday?

Q. I believe so, sir.

A. I don't recall it, but it's accurate.

Q. Okay. What Monsanto records would permit identification of Monsanto PCB customers in the New Bedford, Massachusetts area other than Aerovox and CDE?

A. I don't claim to know all the possible sources, but I would consider accounts payable records, records that our order processing department kept, reports to the field salesmen regarding their progress of their sales efforts, how well they're meeting their targets, budgets and the like; and there is, I recall, a report by customer showing the quantities delivered by month. There may be others, but I don't recall them nor have I ever seen them.

Q. Are such records located in St. Louis?

A. I personally don't know. I would expect them to be.

Q. Do you know whether Monsanto has ever had occasion to do its own compilation of all former customers of PCBs?

WATER_PCB-SD0000069284

A. Yes.

Q. And does such a compilation exist today to your knowledge?

A. I don't know about today.

Q. When was such a compilation made?

A. Whenever a general mailing was undertaken, the list, other than the original compilation, would be checked for accuracy and currency.

Q. I believe that such a compilation would be a snapshot of customers at a particular point in time; is that correct?

A. That's right.

Q. What I meant to inquire was whether Monsanto has ever had occasion to compile a list of Monsanto PCB customers over time, that is, for the longer period of time that Monsanto was in the business of manufacturing and selling PCB-containing products?

A. Well, that snapshot you referred to included some inaccurate customers still carried on our lists. I don't know how far back that goes.

Q. Are you aware of any effort by Monsanto to compile a master list of PCB customers at any point in time?

A. I don't know what you mean by "a master list."

WATER_PCB-SD0000069285

Q. A list of companies or individuals who ever bought PCBs from Monsanto.

A. That effort was not made to my knowledge.

MR. KENNER: Off the record.

(Discussion held off the record.)

Q. (BY MR. KENNER) Mr. Papageorge, you provided us your best estimate of the number of customers you visited in 1970 as approximately 30 in number. Does that continue to be your best rough estimate of the number?

A. At the moment, yes.

Q. You also testified that you have the impression from your visit of the CDE and Aerovox facilities of an oily appearance at those facilities. Do you recall mentioning that?

A. I do, yes.

Q. Did you observe this oily appearance at other customer visits you made in 1970?

MR. WINSLOW: Objection.

MR. KENNER: Grounds?

MR. WINSLOW: Foundation. This oily appearance presumes facts not in evidence that the oily appearance of CDE was the same as the one at Aerovox.

Q. (BY MR. KENNER) Sir, did you observe an oily appearance at other customers you visited in 1970?

A. Yes.

WATER_PCB-SD0000069286

Q. Did you observe an oily appearance at all the other customers you visited in 1970?

A. I believe I recall one that didn't have that appearance. The rest varied from a little to quite a bit.

Q. You also testified that you provided individuals that you met at the Aerovox facility with some general guidance concerning practices and procedures you recommended. Do you recall that?

A. Yes.

Q. Did you provide such -- did you provide general guidance concerning practices and procedures for the handling and disposal of PCBs at the other customers you visited in 1970?

A. Yes.

Q. Was the gist of the general guidance you provided the individuals at Aerovox in 1970 similar to the general guidance you provided the other customers?

A. Yes.

Q. For the period 1965 to 1969, you were in charge of the Monsanto manufacturing plant in Anniston, Alabama; is that correct?

A. Yes.

Q. And during that period 1965 to 1969, some amount of PCBs were released into the environment from the Anniston, Alabama plant; isn't that your testimony?

WATER_PCB-SD0000069287

A. Yes.

Q. From 1965 to 1969, did Monsanto intend that those PCBs which were released into the environment from the Anniston, Alabama plant, did Monsanto intend that those PCBs would cause damage to the environment?

MR. FITZMAURICE: Objection.

MR. CONNELL: Object to the form of the question.

MR. KENNER: Grounds?

MR. CONNELL: That you are calling for a legal conclusion.

A. No.

Q. (BY MR. KENNER) During that period from 1965 to 1969, did Monsanto expect that those PCBs which were released into the environment from the Anniston, Alabama plant, did they expect that those PCBs would cause damage to the environment?

MR. FITZMAURICE: Objection.

MR. CONNELL: Objection to the form.

A. No.

Q. (BY MR. KENNER) Is a reason, Mr. Papageorge, why Monsanto did not expect or intend PCBs which were released from the Anniston, Alabama plant to cause damage to the environment the state of Monsanto's knowledge in those years concerning the persistency and toxicity of

WATER_PCB-SD0000069288

PCBs?

A. Yes.

MR. FITZMAURICE: Objection.

MR. KENNER: Grounds?

MR. FITZMAURICE: Right now you have undefined terms that you have incorporated in all of your questions, and I think the definitions of those terms are highly untested.

MR. CENTOLA: Same objection.

Q. (BY MR. KENNER) Is Monsanto a party to any litigation concerning PCB damage, Mr. Papageorge?

A. Would you repeat the question?

Q. (BY MR. KENNER) Is Monsanto a party to any lawsuits involving PCB damage.

MR. WEIR: Currently?

Q. (BY MR. KENNER) Yes, currently.

A. There's allegations that the damage occurred. Monsanto is a party to some. I don't know how many.

Q. Can you estimate how many lawsuits involving PCBs Monsanto is a party to?

A. That would be sheer guess on my part.

Q. What was your last best knowledge as to the number of such lawsuits?

A. Oh, I don't know that I ever heard a number. I know that I have been involved in three or four at a

WATER_PCB-SD0000069289

time.

Q. Do any such lawsuits -- withdraw that. To your knowledge, has Monsanto ever been a party to litigation with Monsanto insurors concerning PCB claims?

A. Not to my knowledge.

Q. To your knowledge, has Monsanto ever made a claim for insurance to cover the claims asserted against Monsanto in any of this litigation?

A. Not to my knowledge.

Q. Who within Monsanto would have that knowledge, the legal department?

A. Legal department.

MR. KENNER: That's all I have at this time.

MR. CENTOLA: Just one thing for the record. I didn't join in any -- I mean, I might have not gotten this yesterday, but one objection could serve for all; is that correct?

MS. FLORINI: Yes.

CROSS-EXAMINATION

QUESTIONS BY MR. McLAUGHLIN:

Q. Mr. Papageorge, my name is David McLaughlin. You were in charge of the plant, the Anniston, Alabama plant, prior to taking the job of environmental manager?

A. Yes.

WATER_PCB-SD0000069290

Q. And for how long a period of time were you in charge of that plant?

A. From 1965 through 1969.

Q. That plant would produce Aroclors which would be shipped to various customers throughout the country?

A. Yes.

Q. It shipped them in tank cars; is that correct?

A. Yes.

Q. Shipped them in tank cars to the New Bedford area?

A. Yes.

Q. As plant manager were you aware that the Cornell-Dubilier facility and the Aerovox facility were customers of Monsanto Aroclors?

A. Yes.

Q. And customers of the Aroclors produced in Alabama?

A. Yes.

Q. What information, if any, did you have in your capacity as plant manager at the Anniston, Alabama plant of allegations that there had been spills from tank cars which were delivered to the New Bedford facilities from Anniston, Alabama?

A. I don't remember. I can't recall any reports

WATER_PCB-SD0000069291

specific to the two companies you mentioned.

Q. When you were general manager or the manager of the Anniston plant, at some point you received a notification from Monsanto that they would like you to take over another job, that is, being environmental manager for Monsanto; is that correct?

A. Well, the first I knew of that opening, really, I was asked to interview for it, not to accept it.

Q. Who contacted you with respect to that?

A. My immediate supervisor, Mr. Stratmeyer.

Q. You took over this position as environmental manager when, your best estimate in terms of months?

A. January, 1970.

Q. When were you contacted to interview for this position?

A. November, 1969.

Q. And did that request come in a telephone conversation?

A. No. My supervisor made one of his periodic visits to the plant.

Q. What was told to you as the purpose of creating this position?

A. I don't recall the exact words, but the essence of it was that the PCB issue was becoming more time demanding on the part of many people, and since two

WATER_PCB-SD0000069292

business groups in Monsanto were involved serving two different markets, in essence the left hand wanted to know what the right hand was doing, and it was thought that an individual could serve a productive role coordinating, communicating within and without Monsanto on PCBs. That was my understanding of the need for the assignment.

Q. Prior to you assuming that job in January of 1970 as environmental manager, what communications, if any, did you have with respect to any potential liability of Monsanto with respect to the manufacture of Aroclors?

A. None.

Q. When you assumed the job in January, 1970, prior to assuming that job did you meet with anybody from the research department of Monsanto with respect to that job?

A. Prior to assuming the assignment?

Q. Right.

A. No.

Q. Did you meet with anybody from legal?

A. No.

Q. After assuming that position in January of 1970, did you have any communications with Monsanto attorneys with respect to potential liability of Monsanto arising out of the manufacture of Aroclors?

A. No.

WATER_PCB-SD0000069293

Q. Did you have discussion with any party at Monsanto with respect to potential liability of Monsanto arising out of the manufacture of Aroclors?

A. At what time?

Q. After you assumed that position.

A. No.

Q. At the time you assumed that position, was there any litigation in existence, any lawsuits commenced in which Monsanto was a named party and which lawsuits dealt with the manufacture and distribution of Aroclors?

A. No.

MR. CENTOLA: I'm sorry. What was the time frame of that last question?

MR. McLAUGHLIN: At the time he assumed that position.

MR. CENTOLA: At the time.

Q. (BY MR. McLAUGHLIN) Aroclors were used in the compressor fluids at or about the time that you assumed your position?

A. Some compressor fluids.

Q. Some compressor fluids. Some transformer fluids?

A. Yes.

Q. Some capacitors?

A. Yes.

WATER_PCB-SD0000069294

Q. Some maintenance fluids?

A. I don't know what you mean by "maintenance fluids."

Q. Mr. Papageorge, earlier -- this is going back sometime when we first commenced this deposition -- I believe that you indicated that you had some experience with Aroclors or other PCBs which arose out of your duties in the past that had to do with maintenance. Do you recall something like that, some testimony?

A. Yes.

Q. What type of fluids would have been in existence at that time that caused you to utilize them in your maintenance function?

A. The compressor fluids we referred to earlier, occasionally a unit has to be drained and refilled with fresh fluid. Since we had the fluids, we also used them in our elevator, hydraulic lift elevator systems. We used them in our forklift trucks. That's what I meant by maintenance. This is when we worked on that equipment and the fluid had to be replaced.

Q. What application, if any, was there prior to 1970 for the use of Aroclors in automotive products?

A. I understand that some of the additive fluids that are added to transmission systems to swell the seals to prevent leakage of transmission fluid contained PCBs.

WATER_PCB-SD0000069295

Q. Any other applications of which you are aware?

A. That's the only automotive application I am aware of.

Q. Do you know what manufacturers of transmission fluids utilized Aroclors?

A. I don't at the moment, no.

Q. When you use the word "compressor fluids," do you know what manufacturer of compressor fluids used Aroclors in those fluids?

A. Well, it was Monsanto's fluids.

Q. Can you tell us what trade names?

A. Monsanto sold it under the name Pydraul, P-y-d-r-a-u-l.

Q. And what was the product into which those compressor fluids were intended to be utilized, the types of products?

A. Oh, any hydraulically-operated lifts, hydraulically-operated factory equipment conveying systems, hoists, elevators. Also, they were used in electromagnetic systems and some switch gear, electrical switch gear to turn off and on power. I can't recall any other examples at the moment.

Q. Was it in 1971 that Monsanto ceased the sale of Aroclors to all industries except the capacitor and

WATER_PCB-SD0000069296

transformer manufacturing industry?

A. Yes. The decision was made late in 1971.

Q. At or about that time did you determine what percentage of the Aroclors manufactured by Monsanto were distributed to those two industries, i.e. the capacitor and transformer industry?

MR. CONNELL: I object to the form of the question. Object to the form of the question.

A. I didn't determine it, no.

Q. (BY MR. McLAUGHLIN) Did you at at some time obtain knowledge as to what percentage of the Aroclors manufactured in 1971 were distributed to the capacitor or transformer industry?

A. Yes.

Q. And when did you obtain that information?

A. When the production and use numbers were put together for the Government, which was submitted to the Government either late '71 or early '72, that's when a calculation could have been made as to what percent went to the electrical applications.

Q. When you use the term "electrical applications," you mean -- oh, you mean the transformer and capacitor industries?

A. Yes.

Q. And what percentage was so determined?

WATER_PCB-SD0000069297

A. As I recall, it was between 40 and 50 percent.

Q. Prior to -- prior to the day in which you began your testimony in this deposition, did you review any documents other than those which have been produced in evidence at your deposition?

A. No.

Q. Other than communications with Mr. Oleskey and the other attorney from Hale and Dorr, did you discuss this deposition with any other person?

A. No. Oh, my supervisor.

Q. What is your supervisor's name?

A. Michael Pierle, P-i-e-r-l-e.

Q. And how many communications did you have with him regarding this deposition?

A. A couple, three.

Q. And with respect to the first communication, what did Mr. Pierle say to you?

A. Something like, "Okay." I was telling him I would not be in the office, not to expect me, and he said, "Okay."

Q. Did you have any discussion of any nature whatsoever with Mr. Pierle regarding the substance of your testimony at this deposition?

A. Not other than to mention PCBs were involved.

WATER_PCB-SD0000069298

Q. That's the only communication that you had?
A. Yes.
Q. You have testified at other depositions in other cases; is that correct?
A. Yes.
Q. And in other cases involving Aroclors?
A. Yes.
Q. Or the alleged use of Aroclors?
A. Yes.
Q. On how many occasions have you testified at depositions, your best estimate?
A. About a dozen.
Q. Have you testified in court?
A. Yes.
Q. Have you testified in court with respect to the alleged use of Aroclors?
A. I don't quite understand your question.
Q. You have testified in court?
A. Yes.
Q. Have you testified in court in matters which arise out of your employment by Monsanto?
A. Yes.
Q. On how many occasions have you so testified, your best estimate?
A. Twice.

WATER_PCB-SD0000069299

Q. Did either of those cases relate in any way to Aroclors?

A. Yes.

Q. Did both of them so relate? Did both of those cases relate to Aroclors?

A. Yes.

Q. What were the names of those cases?

A. Well, I use my own terminology. The Bethlehem-Mink case up in New Hampshire, and then there was the transformer case in Tennessee.

Q. And in what year did you testify in the Bethlehem-Mink case?

A. 1974, I believe.

Q. Was that a case in the State Court of New Hampshire, or was it in Federal Court?

A. I really don't know.

Q. Do you recall that Monsanto was a named defendant in that case?

A. Yes.

Q. Do you recall the names of any other parties?

A. There were other parties, yes.

Q. Do you have any present memory of the names of any of those other parties?

A. I don't recall their names. There was an individual that supplied ingredients to animal feed

WATER_PCB-SD0000069300

companies. There was an animal feed company involved, and there were some Long Island duck farmers involved.

Q. In the same case?

A. Yes.

Q. It all took place in New Hampshire?

A. I'm sorry?

Q. It all took place in New Hampshire?

A. Yes.

Q. Did that case go to a verdict?

A. Yes.

Q. And it was in 1974?

A. As best I recall.

Q. Do you recall in what city or town you testified?

A. Concord, New Hampshire.

Q. Do you recall what counsel represented Monsanto in that, not by name, by law firm?

A. No, I don't. I'd have to look it up.

Q. With respect to the Tennessee case, Monsanto was a named party?

A. Yes.

Q. Were there in addition to the plaintiff, were there other defendants?

A. Yes.

Q. Who were those other defendants, to the best

WATER_PCB-SD0000069301

of your general knowledge?

A. General Electric Company.

Q. Anyone else?

A. That's all.

Q. Just the two?

A. As I recall.

Q. Do you know, was it in State Court or Federal Court?

A. I don't know.

Q. You testified in the case?

A. Yes.

Q. In what city or town in Tennessee?

A. Knoxville.

Q. And what year was that testimony?

A. '75; 1975.

Q. What law firm represented Monsanto?

A. I don't remember. Let me think. No, I don't remember.

Q. In either of those cases were you deposed prior to trial?

A. Yes.

Q. And were you deposed in the case that was tried in New Hampshire?

A. Yes.

Q. Were you also deposed in the case that was

WATER_PCB-SD0000069302

tried in Tennessee?

A. Yes.

Q. When you assumed the duty of environmental manager, would it be fair to say that one of your purposes was to preserve the use of PCBs in the manufacturing process by greater care and control of those Aroclors by the users of them?

A. Yes, but not for all users of all PCBs.

Q. In January of 1970, had you made a determination that would be best for the Aroclor industry that the end uses of Aroclors be restricted to certain fields?

A. Yes.

Q. Had that decision been made prior to the time that you assumed the position of environmental manager for Monsanto in January, 1970?

A. No.

Q. Had that position been communicated to you by anyone who was a Monsanto employee at or prior to the time you assumed that job of environmental manager?

A. No.

Q. Is this a position which you developed through examination and inquiry and communicated to others at Monsanto?

A. Oh, I can't claim total authorship of that.

WATER_PCB-SD0000069303

It was a consensus opinion.

Q. When was that consensus arrived at?

A. About March of 1970, we had pretty well decided that was our plan.

Q. When you say "we," what individuals constitute the term "we"?

A. Dr. Richard, Dr. Keller, Mr. Wheeler, Dr. Kelly, Mr. Benignus, Mr. Bergen, Mr. Springate. I don't think I left anyone out.

Q. When that consensus was achieved, to whom was it communicated?

A. It was eventually communicated -- it was communicated to the general manager of the operating unit of Monsanto, Mr. Howard Minckler, and eventually it was communicated to a committee of top officials of Monsanto at that time referred to, as I remember, the -- I believe it was the Corporate Administration Committee or some such acronym, CAC or CMC.

Q. At some point the decision was made to implement that consensus, that is, to restrict the sale of Aroclors --

A. Yes.

Q. -- to the transformer and capacitor industry; is that correct?

A. Yes.

WATER_PCB-SD0000069304

Q. When was that decision made?

A. Early May, 1970.

Q. And you were given the responsibility of implementing that decision in part?

A. In part, yes.

Q. Did you have the duty to communicate with purchasers of Aroclors who were not in the capacitor and transformer industry to assist them in obtaining other materials?

A. I personally didn't have the duty to inform. This was implemented by the marketing department, which is the normal function within Monsanto to communicate to customers.

Q. With respect to assisting those customers in obtaining alternate materials to utilize in their end product, did you have any role whatsoever?

A. No.

Q. Did anybody under your supervision have such a duty?

A. Well, no one was under my supervision.

Q. When you say no one was under your supervision, from 1970 to, say, 1976, did you have any non-secretarial employees under your supervision?

A. No.

Q. Is it fair to say that in the same period,

WATER_PCB-SD0000069305

say, 1970 through January 1st, 1977, Monsanto gave assistance and advice to the Electronics Industry Association with respect to the use of Aroclors?

A. Yes.

Q. And they gave assistance and advice with respect to the disposal of Aroclors?

A. Yes.

Q. And in part, Monsanto gave this assistance and advice through an ad hoc committee on PCBs created by the Electronics Industry Association?

A. Yes.

Q. When, to the best of your present memory, did you first have any communication of any nature whatsoever with the ad hoc committee on PCBs of the Electronics Industry Association?

A. As best as I can recall, it was about 1972.

Q. And with whom did you communicate on that occasion?

A. Mr. Clifford Tuttle.

Q. And what was his capacity with respect to the ad hoc committee on PCBs?

A. Eventually, he was chairman of that committee. When we first talked about it, I don't know what role he was assigned.

Q. When you had -- with respect to that first

WATER_PCB-SD0000069306

communication you had with the ad hoc committee which was also communicated through Mr. Tuttle, in what manner was that communication made?

A. As I recall, the first contact was over the telephone, which was a review of previous information that I had shared with Mr. Tuttle in his role as an official of the Aerovox unit.

Q. When was the first time you met with Mr. Tuttle?

A. When I visited his plant there in the summer of 1970.

Q. When you visited the plant in the summer of 1970, what was his position at that plant?

A. I don't know his title. I got the understanding he was the top man.

Q. When you first met Mr. Tuttle, it was your belief that he was the chief executive officer of the facility?

MR. WINSLOW: Object to the form.

A. Yes. That's appropriate, I suppose.

Q. (BY MR. McLAUGHLIN) When you met with Mr. Tuttle, you met him at the Aerovox facility in New Bedford?

A. As best as I recall, yes.

Q. Do you have any present memory of where in

WATER_PCB-SD0000069307

that facility you met Mr. Tuttle?

A. No, I don't.

Q. Do you have any present memory which would allow you to describe the surroundings, the physical surroundings of the place in which you met Mr. Tuttle?

A. Not really, no.

Q. You arrived on that occasion with another employee of Monsanto?

A. Yes.

Q. And that employee was whom?

A. Randall Graham.

Q. When you and Mr. Graham arrived, who did you ask to speak to?

A. I don't remember. Mr. Graham did all the escorting and made all the arrangements.

Q. During that conversation with Mr. Tuttle on that first occasion that you met with him, it's your testimony that there was some discussion regarding the ad hoc committee of the Electronics Industry Association that dealt with PCBs?

A. No, I didn't say that.

MR. CONNELL: Object to the form of that question.

MR. CENTOLA: Object.

Q. (BY MR. McLAUGHLIN) Okay. When you first

WATER_PCB-SD0000069308

met with Mr. Tuttle, for how long were the two of you in each other's presence?

A. I don't recall how long we stayed at the plant. Mr. Tuttle was one of many in the conference room.

Q. I'm asking for your present best estimate of the time that you two were in each other's presence.

A. A matter of minutes.

Q. And at that first meeting between you and Mr. Tuttle, did you have any direct communications with each other?

A. I don't remember the details. I just don't recall.

Q. At any time did you go into a private office with Mr. Tuttle with just you and Mr. Graham and Mr. Tuttle present?

A. I don't recall. It could have happened.

Q. You addressed a group of people at that meeting?

A. Yes.

Q. And for how long a period of time did you address them?

A. Half an hour to an hour.

Q. Prior to arriving at the plant, did Mr. Graham give you any information regarding the Aerovox facility?

WATER_PCB-SD0000069309

A. I don't recall any.

Q. Prior to that first visit in -- was it June of 1970?

A. Yes.

Q. Were you advised as to who was the chief executive officer of that facility?

A. Yes.

Q. What was the source of that information?

A. Mr. Graham.

Q. And who did he so advise you?

A. As I remember, it was Mr. Tuttle.

Q. Now, subsequent to that meeting you had a conversation with Mr. Tuttle regarding the ad hoc committee of the EIA which dealt with PCBs?

A. Yes.

Q. What is your best estimate of when that conversation took place?

A. As I said earlier, about early 1972 or thereabouts.

Q. And when was the next time you met with Mr. Tuttle or you had communication with Mr. Tuttle to the best of your present memory?

A. I don't recall any specific date in time. We met with Mr. Tuttle several times, primarily when he would invite me to attend his committee meetings.

WATER_PCB-SD0000069310

Q. What was the first time that you, not meaning Monsanto, but when was the first time that you attended a meeting of the EIA ad hoc committee on PCBs?

A. Sometime in early '72, as best I can recall.

Q. And Mr. Tuttle was in attendance?

A. Yes.

Q. Who else do you presently recall was in attendance?

A. I don't recall.

Q. Do you know who the chairman of the committee was at that time?

A. I thought it was Mr. Tuttle.

Q. When is the next time to the best of your present memory that you remember?

A. I really don't recall. It's roughly every six to eight months for several years.

Q. Did you become aware of the goals of the ad hoc committee of the EIA on PCBs?

A. I recall at one time there was an -- I thought it was one of the documents that was offered in the exhibits here, the written goals of the committee, the two-page document.

Q. Did you become aware at any time that one of the goals of the ad hoc committee was to input into the Government decisions that were being made regarding

WATER_PCB-SD0000069311

effluent discharge levels?

A. Yes.

Q. Did you in your capacity as a Monsanto employee attempt to assist the EIA with respect to inputting into the Government decisions with regard to effluent discharge levels?

A. Yes.

Q. What assistance did you provide?

A. Well, we provided assistance that led to analytical methodology and capabilities of those methods to measure PCBs. We were sharing any toxicity information we were getting from our studies, and I was attempting to keep the committee informed of where the FDA might be headed regarding tolerance levels in food and animal feed, and we tried to convey to them our understanding of PCBs and their survival in the environment. It's that kind of information.

Q. Did you ever become a member of the ad hoc committee?

A. No.

Q. Do you know if any other Monsanto employee became a member of the ad hoc committee?

A. I don't think so. No.

Q. You don't know one way or the other?

A. I don't know, no.

WATER_PCB-SD0000069312

Q. Did you know that one of the goals of the ad hoc committee on PCBs or the EIA was to have the Government obtain a discharge or decree a discharge on effluents which would allow the continued use of PCBs in selective manufacturing processes?

A. Yes.

Q. And you attempted to assist the ad hoc committee in obtaining that goal?

A. Yes.

Q. And that continued into 1976?

A. Yes.

Q. What was Mr. Benignus' position on or about February of 1974?

A. I've forgotten his exact title, but he was the manager in charge of marketing of dielectric fluids.

Q. And in the period of 1970, say, to '75, his duties in part required him to advise you of certain matters that were communicated by the marketing department to certain customers of Aroclors?

A. Well, let me correct that. First of all, he was not there in 1975. He retired, as I recall, in 1974. His obligation to keep me informed was based on a judgment call on his part as to what he felt was appropriate depending on how new the information might be and how relevant it might be.

WATER_PCB-SD0000069313

MR. McLAUGHLIN: I'd like to have these three documents marked sequentially as the next exhibits.

[Papageorge Deposition Exhibit Nos. 144, 145 and 145 marked for identification.]

MR. McLAUGHLIN: The reporter has marked as Exhibit 144 a document which bears on the upper left-hand corner of the first page, "Monsanto." The next line is, "From, name and location." There's the typed information "B2SC P. G. Benignus," B-e-n-i-g-n-u-s. I repeat for the record that the notations on the upper right-hand corner were not there when the documents were received. The Exhibit 144 consist of six pages.

Exhibit 145 is a two-page document which bears on the lower right-hand corner an eight-digit Bates stamp number of 10000162 and 10000163.

Exhibit 146 is three-page document. On the top line it says, "Monsanto." On the lower right-hand corner there is an eight-digit Bates stamp number, 10000082. The following page is 10000083, and the third page of Exhibit 146 is 10000084.

Mr. Papageorge, I'd like to refer to these documents by chronological order and ask you to examine those exhibits. I direct your attention first to the document dated August 6, 1970, Exhibit 145. Mr. Papageorge, have you seen this document before?

WATER_PCB-SD0000069314

A. Yes.

Q. When is the first time you saw it?

A. On or about the date of its issue back in August, 1970.

Q. And when you say "issue," do you mean at or about the time it was sent to customers of Monsanto?

A. Yes.

Q. Did you determine whether or not communications substantially in the form of Exhibit 145 were sent to the Aerovox facility?

A. That was my understanding, yes.

Q. And also with respect to the Cornell-Dubilier facility?

A. Yes.

Q. Referring to Exhibit, I believe it's 146, that's a document which bears in the upper right-hand corner, "January 15, 1974." I'll ask you to look at that, Mr. Papageorge.

A. I have reviewed it.

Q. Mr. Papageorge, have you seen Exhibit 146 prior to today?

A. Yes.

Q. When did you first see that, sir?

A. In January, 1974.

Q. Under what circumstances did you see it?

WATER_PCB-SD0000069315

A. I reviewed drafts of the document and the final document before Mr. Gossage mailed it.

Q. And to whom was it mailed?

A. This was mailed to dielectric fluid customers on record with Monsanto.

Q. Was this mailed to the customer at the Aerovox facility in New Bedford?

A. That is my understanding.

Q. Was it mailed to the customer at the Cornell-Dubilier facility?

A. That is my understanding.

Q. It was mailed at or about the time from the date which is set forth on the upper right-hand corner, January 15th, 1974?

A. Yes.

Q. Sir, I direct your attention to Exhibit 144. Would you please review that, sir?

A. I have reviewed it.

Q. Mr. Papageorge, did you see Exhibit 146 prior to today?

A. Yes.

Q. Exhibit 144. Sorry. I apologize. I'll ask the question all over again. Sir, did you see Exhibit 144 prior to today?

A. Yes.

WATER_PCB-SD0000069316

Q. When did you first see that, sir?
A. On or about the date February 14th, 1974.
Q. Did you receive a copy of Exhibit 144 at or about that time?
A. I did.
Q. Where did you say Mr. Benignus is presently located?
A. Recently --
MR. CONNELL: Can you repeat the question?
Q. (BY MR. McLAUGHLIN) Where is Mr. Benignus presently located?
A. He's in the greater St. Louis area to my understanding.
Q. Is he presently an employee of Monsanto?
A. No.
Q. He's retired?
A. Yes.
Q. Do you know where in the greater St. Louis area he resides?
A. The last I knew, he lived over on the Illinois side, Belleville, Illinois.
Q. Touche. Mr. Papageorge, did you at any point discuss the subject matter of Exhibit 146 with Mr. Benignus -- 144, excuse me.
A. I don't recall a meeting just to discuss

WATER_PCB-SD0000069317

this, no.

Q. I direct your attention to the last paragraph on page 1 of Exhibit 144. In there it relates, "It was my purpose to outline as briefly as possible (but granted this was repetitious to some): 1) Industry use of PCBs; 2), The important steps taken to minimize pollution; 3), Cooperative work with industry and Government agencies allowing selective use to continue in the USA and elsewhere except in Japan."

With respect to paragraph 3, was it Monsanto's position at or about February of 1974, that Aroclors should be selectively used in the manufacturing processes in this country?

A. Yes.

Q. And obviously, that important steps must be taken to minimize pollution, if any?

A. Yes.

Q. Was it also Monsanto's position, referring to paragraph 4, that there was a need for the EPA and the Government to establish a legal effluent limit?

A. Yes.

Q. And had that been communicated to customers of Aroclor in the capacitor and transformer industries?

A. Yes.

Q. And had Monsanto at or about that time

WATER_PCB-SD0000069318

communicated to those customers in the capacitor and transformer industries that the effluent limit that should be adopted by the EPA and our Government should be such that would allow them to continue in the utilizing of Aroclors in the capacitor and transformer business?

A. Yes.

MR. CENTOLA: Can I have that read back, please?

(Reporter propounded previous question and answer.)

MR. CENTOLA: Off the record.

(Discussion held off the record.)

Q. (BY MR. McLAUGHLIN) Would it be fair to say, Mr. Papageorge, at or about the time of this document, which is February of 1974, you had had communications with the ad hoc committee of the EIA regarding PCBs with respect to the effluent discharge limits being considered by the EPA in the Federal Government?

MR. CONNELL: I object to the form of that question in that it assumes in the context of this questioning that this document is referring to the EIA ad hoc committee.

MR. McLAUGHLIN: I'm not asking the question with reference to the document.

Would you please answer my question, sir?

WATER_PCB-SD0000069319

A. Yes.

Q. Sir, at some point as part of your duties with Monsanto, you took a visit to Europe to examine the state of knowledge with respect to the presence of -- the alleged presence of Aroclors or other PCBs in the environment; is that correct?

A. Yes.

Q. And you visited with a Stockholm professor with respect to this issue?

A. Yes.

Q. And he was a supervisor of the professor who had made some initial PCB studies?

A. Yes.

Q. And is it fair to say that during that visit you discussed the protocols utilized in those studies?

A. Yes.

Q. And you also discussed the analytic methods involved by the people under that professor's supervision?

A. Yes.

Q. Is it fair to say that there was some question as to whether the protocols were proper for those studies?

A. Initially, back in the beginning of their study there was some question, but by the time we got to visit with Professor Widmark in 1970, the methodologies

WATER_PCB-SD0000069320

had been modified, and they were appropriate.

Q. When you met him in --

A. 1970.

Q. -- 1970, but they had been modified from the time of the earlier study?

A. Yes.

Q. And that was also true of the analytic methods that were initially utilized in those studies; is that correct?

A. Yes.

Q. And he had informed you that they had been required to change the method of analysis?

A. Oh, I don't know about the requirement part. It's just part of their scientific study to improve it.

Q. Correct. But the analytic methods utilized to study the presence of PCBs in the environment in 1970 were different than they had been in 1968?

A. Yes.

Q. And he so informed you of that?

A. Yes.

Q. And you communicated those facts to the people at Monsanto?

A. Dr. Keller, who was the supervisor of the analytical function, was in the audience. So, he was able to take it back to his laboratory personally rather than

WATER_PCB-SD0000069321

have me communicate it to him.

Q. At any time did you communicate that information to any parties who had purchased Aroclors from Monsanto?

A. This was done via the copies of Monsanto's analytical methodology that were available.

Q. Well, to your present knowledge, do you know if those copies were sent to all of purchasers of Aroclors from Monsanto?

A. No, I don't.

Q. Do you know of any product to whom those documents were sent?

A. Do I know of any customers, did you say?

Q. Right.

A. Yes.

Q. To whom were they sent?

A. It was generally those customers that had the sophisticated equipment available to them such as General Electric and Westinghouse.

Q. Do you know of any other customer to whom it was sent?

A. I don't recall any other at that time having the capability available to them.

Q. You subsequently -- was it subsequently that you were in Utrecht?

WATER_PCB-SD0000069322

A. Yes.

Q. And again, that dealt with the studies regarding PCBs in the environment?

A. Yes.

Q. And that dealt with the evolving nature of the analytic methods used to examine that phenomenon?

A. Yes.

Q. And did you receive information at that location that there had been a change in the methodology utilized to determine whether or not PCBs were in the environment?

A. Yes.

Q. And did you receive information that the methodology utilized in the '60s was now opposed to them being used in Utrecht in 1970?

A. Yes.

Q. Did you communicate that to anyone else?

A. Not personally, no.

Q. Did you ever communicate the information you received in London and Utrecht to any members of the ad hoc committee on PCBs?

A. Yes.

Q. When was that done? Your best estimate, sir. I know it's been a few years.

A. I think I became involved with that committee

WATER_PCB-SD0000069323

in 1972. That would have been my earliest opportunity to give them the background.

Q. Did you communicate to them at or about that time that the scientific methods of analysis were continuing to evolve with respect to the investigation of PCBs in the environment?

A. By 1972, they had pretty well evolved to their present state of -- I guess it's called science.

Q. Did you communicate that fact to the people who were in attendance at this meeting of the ad hoc committee?

A. Yes.

MR. CENTOLA: Off the record.

(Discussion held off the record.)

Q. (BY MR. McLAUGHLIN) The first document is Exhibit 34. Mr. Papageorge, take a look at Exhibit 34.

A. I have reviewed it.

Q. Mr. Papageorge, with respect to Exhibit 34, it was not your function, was it, at or about the time of the date contained thereon, to ensure that that document was sent to customers of Monsanto, was it?

A. That is correct.

Q. That was in a separate department; is that correct?

A. That is correct.

WATER_PCB-SD0000069324

Q. And you had nothing to do with establishing any procedures to provide that information to customers, did you?

A. That is correct.

Q. And you did not establish the mailing system, if any, that would have been utilized to provide that information for customers, did you?

A. That is correct.

Q. Is it fair to say that you have no specific knowledge of the mailing system, if any, that was utilized to provide that information to customers?

MR. CENTOLA: Objection.

MR. McLAUGHLIN: Can I have the basis?

MR. CENTOLA: "Specific knowledge" seems vague to me. I mean, what knowledge? I mean, did he have any knowledge?

Q. (BY MR. McLAUGHLIN) At or about the time, Mr. Papageorge, of the date shown in that exhibit, did you know the identity of any supervisor who would have been responsible for ensuring that that communication was mailed to any customers?

A. Yes.

Q. That was the marketing department; is that correct?

A. I would suggest that the supervisor of the

WATER_PCB-SD0000069325

marketing function implemented, whereas his supervisor was responsible for communicating to customers.

Q. But it's not your testimony that that individual would have done the actual mailing?

A. That is correct.

Q. It would have gone to a separate area within the marketing department?

A. Yes.

Q. And do you have any present knowledge of how that separate area was organized at or about the date set forth on that exhibit?

A. I know some of the specifics.

Q. Some personal knowledge?

A. Yes.

Q. What are those specifics?

A. I know the individuals who were responsible for the different kinds of markets that PCBs were sold to, and I also know that they marshaled the necessary secretarial help, depending on the volume to be handled, and I have seen samples of some of the work that was done.

Q. Did you see any samples that relate specifically to that exhibit?

A. Yes.

Q. And what did you see?

A. I saw the documents themselves. I saw some

WATER_PCB-SD0000069326

of the mailing lists that were compiled.

Q. Who compiled those?

A. That, I don't know.

Q. I'm going to ask you to examine Deposition Exhibit 37.

A. I have reviewed it.

Q. Mr. Papageorge, you saw Exhibit 37 at or about June 1st, 1970?

A. Yes.

Q. Sir, with respect to paragraph A on the bottom of the first page of Exhibit 37, what word or words were before the word "up" in the first line of paragraph A?

MR. KIRSCH: I think the redactions that were made on this document were information that is not relevant to this litigation and which is considered confidential by Monsanto. Mr. Papageorge is not going to be filling in any of the holes on the document right now. Upon some kind of -- upon a showing that you do need this information or that it is material to the litigation, Monsanto will reconsider its position.

MR. McLAUGHLIN: Is there any outstanding protective order of which we should be aware?

MR. KIRSCH: Not that I'm aware of.

MR. McLAUGHLIN: I suggest that the

WATER_PCB-SD0000069327

information contained in Exhibit 37, which was originally contained in Exhibit 37, is relevant to the communications which were allegedly made by Mr. Benignus or other Monsanto employees allegedly to all customers. I would press the question, but I don't want to delay this deposition too long.

MR. KIRSCH: I'll let the witness answer your question. As a rule, we are not going to fill in the blanks in these documents.

Q. (BY MR. McLAUGHLIN) With respect to paragraph A, do you know -- first of all, do you know what words were before the words "up to"?

A. The words referred to customers by name. I do not recall who they were.

Q. You would not know then what word or words follow the term "plant manager" at the end of line two of paragraph A?

A. That is correct.

Q. With respect to paragraph B on the second page of Exhibit 37, first of all, do you know what was contained in the first line of paragraph B before the words "who lost their"?

A. That's a customer name. I do not remember who.

Q. With respect to paragraph C on the same page,

WATER_PCB-SD0000069328

with respect to the omission before the words "are expanding out of"?

A. That's another customer of Monsanto's at that time.

Q. Do you know who that was?

A. I do not know.

Q. Referring to the third page, V and VI, beside which especially are Aevorox Corporation and Cornell-Dubilier, do you know what was on the original of Exhibit 37 between the word "of" at the end of the third line at the top part of the page and the V in Exhibit 37's original form?

A. Other customer names; again, I do not remember who.

Q. I direct your attention to Exhibit 49. other exhibits I'm going to just briefly touch on here is Exhibits 63. The question is going to be, Mr. Papageorge -- it relates to the second page. I'm going to ask if there was any other information contained on that second page in its original form?

A. I personally don't know.

Q. Do you know whether or not this page has been redacted from the original?

A. No, I don't.

Q. I'm going to page 2, and I'm going to ask

WATER_PCB-SD0000069329

similar questions on Exhibit 63. Page 2 is the one that has at the top left-hand corner "Aerovox Industries, Inc., November 1st, 1974" on it, after the P.S., the postscript.

A. Okay.

Q. There is some language which appears to have omissions. Do you know presently the information which appears to have been deleted?

A. It's a customer name of dielectric PCBs, but I don't know who.

Q. Sir, when did you first become aware that the United States Government was considering effluent discharge limits on Aroclors?

A. Late 1971, early 1972.

Q. And you provided assistance to the Electronics Industry Association transformer members of that association with respect to the establishment of effluent discharge limits up until 1975?

A. Yes.

Q. At that time, sir, is it your testimony the issue became emotional in 1975?

A. I believe I used those words in the document, yes.

Q. Did you intend to signify by the use of those terms that scientific findings and analysis were not a major part in the decision making process thereafter?

WATER_PCB-SD0000069330

MR. CONNELL: Object to the form.

A. That was my understanding, yes.

Q. (BY MR. McLAUGHLIN) Did you communicate that understanding to any customers of Monsanto?

A. Yes, I did.

Q. And in substance advise them that further efforts to obtain an effluent discharge limit which would allow the utilization of Aroclors in selected manufacturing processes would be unavailing?

A. Yes.

Q. Sir, when was the first time that you heard that there was to be a total ban on the use of Aroclors in the manufacturing industries?

MR. CONNELL: I object to the form of that question.

MR. McLAUGHLIN: Correction, please? I'm not crazy about it, either. What do you want me to add or omit?

MR. CONNELL: Well, I think the question assumes that there was a total ban of use of Aroclor in industrial production imposed by someone other than Monsanto. I don't think that fact is in evidence or, in fact, I don't think it's true.

Q. (BY MR. McLAUGHLIN) At some point was there a ban on the use of Aroclors to manufacturers in the

WATER_PCB-SD0000069331

United States?

A. Yes.

Q. And when was that ban to be effective?

A. As I remember, the Environmental Protection Agency through the Toxic Substances Control Act had some dates for the total banning of the use and manufacture and transport of PCBs, and I believe the date was 1979.

Q. When did you first become aware of that ban?

A. Of course, the ban itself I became aware of when the Toxic Substance Control Act was passed in 1977 -- '76.

Q. Is it fair to say that up until 1975 -- strike that question. Mr. Papageorge, at some point in this deposition at the prior meetings, you indicated that there was a communication from Monsanto to Aerovox Industries, Inc. with respect to the transfer for incineration of scrap liquid Aroclor by Aerovox Industries to Monsanto. Do you recall that testimony?

A. I do.

Q. Mr. Papageorge, did you ever see any shipping documents which would indicate that such a transfer had occurred?

A. No.

Q. Did you ever speak to anyone from Aerovox Industries, Inc. who said that such a transfer had been

WATER_PCB-SD0000069332

made?

A. No.

Q. What amount of liquid waste Aroclor was shipped by Aerovox Industries, Inc. to Monsanto?

A. I don't recall.

Q. When were they shipped?

A. I don't recall.

Q. Mr. Papageorge, is it fair to say that you have no personal knowledge that such a transfer ever occurred?

A. Would you help me with "personal knowledge"?

Q. You have no personal knowledge that such a transfer ever occurred?

MR. CENTOLA: Object to the form.

MR. McLAUGHLIN: On what grounds?

MR. CENTOLA: "Personal knowledge," he obviously has a problem with that term.

Q. (BY MR. McLAUGHLIN) Mr. Papageorge, did you ever see any waste Aroclor shipped from Aerovox Industries, Inc. to Monsanto?

A. No.

Q. Did you see any documents originated by Aerovox Industries, Inc. which relate to the shipping by Aerovox Industries, Inc. to Monsanto of waste Aroclor?

A. No.

WATER_PCB-SD0000069333

Q. Did you ever speak to anyone who ever saw any waste Aroclors shipped by Aerovox Industries, Inc. to Monsanto?

A. Yes.

Q. Who was that person?

A. It was an employee of the Sauget, Illinois plant of Monsanto's, but I forget the specific individual.

Q. And is it your testimony under oath that this person told you that Aerovox Industries, Inc. sent waste Aroclor to Monsanto?

A. Not only did he tell me, but he showed me a log sheet that he had kept.

Q. When did he show you that?

A. I would say about 1973.

Q. Can you be more specific?

A. No, I can't.

Q. Where were you when you were shown that log?

A. In St. Louis, in my office area.

Q. What amount was sent?

A. I don't recall.

Q. With respect to any shipment of waste Aroclor shipped by Aerovox Industries, Inc. to Monsanto that allegedly was improperly packaged, did you ever see such a shipment yourself in person?

A. No.

WATER_PCB-SD0000069334

Q. Did you yourself ever see any documents originated by Aerovox Industries, Inc. reflecting such a shipment?

A. No.

Q. Did you ever see any documents of any party other than Monsanto which reflected such a shipment?

A. No.

Q. When did such a shipment occur?

A. I don't really recall the dates. It would have to be '72, '73, '74, somewhere in that time frame.

Q. And is the basis for your assertion that such a shipment occurred the log data which you saw in your office?

A. Yes.

Q. Any other basis for that?

A. No.

MR. CENTOLA: Well, objection. Other than the conversation he had with an unidentified individual, too.

MR. McLAUGHLIN: I have no further questions.

CROSS-EXAMINATION

QUESTIONS BY MR. WEIR:

Q. Mr. Papageorge, for the record my name is Howard Weir, and I'm representing Federal Pacific Electric

WATER_PCB-SD0000069335

Company.

Off the record.

(Discussion held off the record.)

Q. (BY MR. WEIR) Mr. Papageorge, is my understanding correct that from 1975 until January of 1970, you were the manager of Monsanto's Anniston, Alabama facility? Excuse me, 1965 through 1970?

A. Yes.

Q. Is that correct? And you left that position to take the position of manager of environmental control in January of 1970; is that correct?

A. That is correct.

Q. And is my understanding correct that the Anniston, Alabama facility produced Aroclors?

A. Yes.

Q. Was that product delivered to customers in railroad tank cars?

A. Yes.

Q. Was that product delivered to customers in metal containers?

A. Yes.

Q. What type of metal containers?

A. The 55-gallon steel drum, and a 30- or 32-gallon drum, and a five-gallon pail.

Q. Was the Aroclor produced at Monsanto's

WATER_PCB-SD0000069336

Anniston facility while you were manager there delivered to customers in any other manner?

A. No.

Q. While you were manager of that facility, were you aware of any incidents of tanks, railroad tank cars of Aroclor being delivered to customers in a condition where the cars were leaking or overflowing?

A. Yes.

Q. How many such incidents are you aware of?

A. Oh, I did not keep count. I don't remember.

Q. Are you aware of any such cars delivered to Cornell-Dubilier in a leaking or overflowing condition?

A. I do not remember the specifics, no.

Q. Do you remember in any general way reports of such tank cars?

A. Yes. In a general way reports of leaking cars were received by the plant, and it involved many customers.

Q. In regard to the metal drums containing Aroclor that were shipped to customers of Monsanto, are you aware that those drums were shipped to customers in a leaking condition?

A. I don't recall any leaking drum incidents.

Q. After you left the Monsanto facility and obtained the position of manager of environmental

WATER_PCB-SD0000069337

protection -- I think that was your first job; is that correct?

A. Yes.

Q. And then it became manager of environmental control?

A. Correct.

Q. Were you aware of any --

MR. FITZMAURICE: Excuse me. I think you have that backwards.

MR. WEIR: No, I think he was first manager of environmental protection.

A. It was the other way around.

Q. (BY MR. WEIR) Control and then --

A. And then protection.

Q. Because you can't control the environment. Thank you.

MS. ROBERTSON: Is there a question pending?

Q. (BY MR. WEIR) Strike all of that. After you became manager of environmental control and/or environmental protection, were you aware of any railroad tank cars delivered to Monsanto customers in an overfilled or leaking condition?

A. No.

Q. What about the same question for metal drums of Aroclor?

WATER_PCB-SD0000069338

A. No.

Q. I believe you testified, and correct me if I'm wrong, that while you were manager of Monsanto's Anniston facility, that the method used by Monsanto to clean up Aroclor spills was to use some type of absorbent material, take the material, place it in a container, and then send it to a proper waste site; is that correct?

A. That is correct.

Q. And am I also correct that not until sometime in 1970 at the Anniston facility did Monsanto install curbing and catch basins around its Aroclor-producing equipment?

A. That is correct.

Q. Do you know what time in 1970 that such engineering additions were installed?

A. As I recall, the work started about early summer of 1970, and was completed early part of 1971.

Q. My question had referred -- it referred you to the Anniston facility. Did you understand that when you so answered?

A. Yes.

Q. What about the same question for the Sauget, Illinois facility?

A. The timing was approximately the same.

Q. Summer of '70?

WATER_PCB-SD0000069339

A. '70, yes, sir.

Q. As I understand it, the additions that we spoke of, the curbing and the catch basins, were not installed in the Anniston facility at the time you were managing that facility; is that correct?

A. That is correct.

Q. Can you explain for me why they were not so installed at that time?

A. The state of the knowledge was such that we didn't perceive it as being necessary.

Q. The state of Monsanto's knowledge you're referring to?

A. Yes.

Q. Do you know while you were manager of Monsanto's Anniston facilities who provided insurance for those facilities?

A. I don't know.

Q. Did you have an employee of Monsanto at the Anniston facility who handled insurance matters?

A. No.

Q. Where were such matters handled?

A. The St. Louis general offices of Monsanto.

Q. At the time you were manager of the Anniston facility, do you know what individual in St. Louis handled insurance matters for Monsanto?

WATER_PCB-SD0000069340

A. No.

Q. Is there -- was there, excuse me, in 1970, a title for the individual who handled insurance matters for Monsanto?

A. There very likely was, but I was not aware of it. I had nothing to do with it.

Q. Are you aware while you were manager of the Anniston facility of any visits by insurance companies to the Anniston facility?

A. No.

Q. Mr. Papageorge, I have noted, and I'll direct you to Exhibits 35 and 36, that Monsanto appeared to use the terms, at least these documents reflect they used the terms "potential problems of environmental contamination," or perhaps I'm paraphrasing, "to the environment in connection with the Aroclors." Do you know at that time why the threat or problem was described as potential?

A. It's because we lacked any evidence that it was a real effect, was having a real effect.

Q. Was this information communicated to Monsanto's customers of Aroclor?

A. Yes.

Q. Was it communicated to Cornell-Dubilier?

A. It's my understanding it was, yes.

Q. Was it communicated to Federal Pacific

WATER_PCB-SD0000069341

Electric Company?

A. It's my understanding it was.

Q. Mr. Papageorge, I'd like to refer you to your testimony of some weeks, I guess, earlier when Mr. -- excuse me, Miss Mahan, I believe, was examining you, and I'll paraphrase this to some extent.

MR. CONNELL: Well, which page of the transcript?

Q. (BY MR. WEIR) I'm sorry. It's page 102, and I won't paraphrase this. I'll just read this. "QUESTION: What properties were you looking for?"

Excuse me. Does everybody have the page?

"QUESTION: What properties were you looking for in 1016 that didn't exist in 1242? ANSWER: The only properties that didn't exist in 1016 that did in 1242 were the presence of higher chlorinated biphenyls, PCBs. QUESTION: And does that effect the biodegradability of 1242? ANSWER: Yes, it does. QUESTION: In what way? ANSWER: The PCBs that were present in 1016 were demonstrated in laboratory studies to degrade rather rapidly."

13

Now, my question, Mr. Papageorge, is: Did Monsanto tell its customers that the PCBs present in Aroclor 1016 degraded, according to the studies at least, rather rapidly?

WATER_PCB-SD0000069342

A. Yes.

Q. Did those customers include Cornell-Dubilier?

A. Yes.

Q. Did those customers include Federal Pacific Electric?

A. Yes.

Q. Did those customers include Aerovox Industries?

A. Yes.

Q. Did those customers include Aevorox Corporation?

A. Yes.

Q. Let me again refer you to page 178 of your testimony, and going back to 177, do you remember testifying to a conversation with a Mr. Bergen at Monsanto regarding the notion of discontinuing PCB manufacture and sales?

A. Yes, I do.

Q. And I believe you testified, and I'll paraphrase, that Mr. Bergen felt that it was irresponsible to withdraw products exhibiting benefits that it did, the Aroclor did, with the speculative risks that were identified with it. Do you know what he meant by "speculative risks"?

A. He was referring to the potential harm to the

WATER_PCB-SD0000069343

environment and to health that the PCBs were alleged to have, and since no evidence was brought forward to support that, he believed that they were still speculative.

Q. Do you remember testifying earlier that you made a visit to the Cornell-Dubilier facility sometime in 1970?

A. Yes.

Q. Is that the only visit you have ever made to the Cornell-Dubilier facility?

A. Yes.

Q. I believe you testified that while on a tour of that facility, you observed an oily substance in the plant; is that correct?

A. I think I described it as an oily appearance.

Q. Oily appearance. Did you or -- strike that. Was Mr. Graham on that tour with you?

A. Yes.

Q. Did you or Mr. Graham take any samples of any substances present in the facility?

A. No.

Q. So you have no -- you had no knowledge at that time, no personal knowledge, and by personal knowledge I mean your personal investigation of any such substance, that that substance was an Aroclor?

MR. CONNELL: Object to the form of the

WATER_PCB-SD0000069344

question.

A. That is true.

Q. (BY MR. WEIR) I'd like to refer you if I might to what has been marked as Papageorge Exhibit 108, and if you would, please, look at the page numbered 7, which is the last page of that exhibit. Do you have that exhibit, Mr. Papageorge?

A. I have page 7. I have the exhibit.

Q. You have the exhibit?

A. Yes.

Q. I'd like you to look --

Off the record.

(Discussion held off the record.)

Q. (BY MR. WEIR) Back on the record. Mr. Papageorge, would you please look at the penultimate paragraph of that page, second from the bottom for those of you that are not fans of that term. It states that, "Secondly, we are concerned that the criteria for the toxic pollutant lists are too general and susceptible to afor 'fishing expedition' (excuse the pun.)" The next sentence is, "Whether PCBs should be on that list at all is questionable." At the time this statement was made, was that an accurate statement?

A. Yes.

Q. Why do you say that was accurate?

WATER_PCB-SD0000069345

A. There was no evidence available to Monsanto and others, the Government included, that would support the contention that levels of PCBs above a proposed standard would cause any harm.

Q. I also refer you back to what has been marked Papageorge Exhibit 36. Let me just read the last paragraph of that page. "PCBs with a chlorine content of less than 54 percent have not been found in the environment and appear to present no potential problems to the environment." At the time this statement was written, is that an accurate statement?

A. Yes.

Q. Was that statement communicated to Monsanto's Aroclor customers?

A. Yes.

Q. Was that statement communicated, to the best of your knowledge, to Cornell-Dubilier?

A. Yes.

Q. Was that statement communicated to Federal Pacific Electric Company?

A. Yes.

Q. Was that statement communicated to any of the Aerovox companies?

A. Yes.

Q. Mr. Papageorge, while you were manager of

WATER_PCB-SD0000069346

environmental protection or environmental control at Monsanto, did you make any presentations to any members of the insurance industry regarding PCBs?

A. Not knowingly.

Q. Well, what do you mean by "not knowingly"?

A. There could have been individuals in the audiences that represented the industry that I was not aware of.

Q. Mr. Papageorge, if you know, did Monsanto -- strike that. If you know, was there a difference in the price charged Monsanto's customers for MCS 1016 and Aroclor 1242?

A. As I recall, there was a difference, yes.

Q. Was the difference in increase in the price of the MCS 1016 over the Aroclor 1242?

A. Yes.

14

Q. Do you know what that increase was?

A. No, I don't.

Q. Directing your attention to a conversation, I believe you testified, with a Michael -- is it Pierle, P-i-e-r-l-e --

A. Yes, sir, Pierle.

Q. -- Pierle regarding your deposition, and I believe you testified that you mentioned to Mr. Pierle that PCBs were the subject matter or a subject matter of

WATER_PCB-SD0000069347

the deposition; is that correct?

A. That is correct.

Q. What, if anything, did he say in response to this information?

A. Only acknowledging that he understood I would not be in the office and wished me luck.

MR. WEIR: I don't think I have anything else.

MS. ROBERTSON: Off the record.

(Discussion held off the record.)

RECROSS-EXAMINATION

QUESTIONS BY MR. CENTOLA:

Q. Mr. Papageorge, would you please look at Exhibit 36 again?

A. I have it.

Q. And to the third paragraph I'm referring you on the first page where in part it reads, "We wish to alert you to the potential problem of environmental contamination." Do you see where I'm referring to, sir?

A. Yes, I do.

Q. Sir, was it Monsanto's opinion that in spite of unconclusive tests that there was, in fact, a potential problem of environmental contamination due to Aroclors?

A. Yes.

WATER_PCB-SD0000069348

Q. And did you communicate that to your customers, sir?

A. Yes.

Q. And, sir, was it not a point of this letter to inform your customers of potential risk involved in letting Aroclors into the environment?

MR. McLAUGHLIN: Objection.

MR. WINSLOW: Objection.

A. I don't know that we sensed a risk so much as a presence.

Q. (BY MR. CENTOLA) Okay. Sir, was it not the point of the -- strike that. Sir, did Monsanto ever sell Aroclors to RTE Corporation?

MR. WINSLOW: Objection.

MR. CENTOLA: What's the basis?

MR. WINSLOW: It's just the relevance. It's beyond the scope.

Q. (BY MR. CENTOLA) You can answer the question.

A. It's my understanding they did.

Q. Do you know when the earliest date was they sold Aroclors to RTE?

A. I'm sorry?

Q. Do you know the earliest date on which they sold Aroclors to RTE?

WATER_PCB-SD0000069349

A. No, I do not.

Q. Do you know if you sold Aroclors to RTE in 1972?

A. No, I do not.

Q. Would you pleases refer to Exhibit 116, sir? Do you know if, in fact, RTE purchased askeral for use in a low-voltage switch?

A. No, I do not.

Q. Sir, are you aware if -- strike that. Do you know who Mr. Link is?

A. No.

Q. Did you ever have any conversations with personnel from RTE Corporation?

A. Not that I recall.

Q. Sir, earlier you referred to customers that were on a list that you sent information to concerning PCBs and the developments in that area. Do you recall that testimony?

A. Yes.

Q. Was RTE Corporation on that list?

A. Yes.

Q. So when that information was sent to customers, was it also sent to RTE Corporation?

A. It's my understanding that it was.

Q. Is it your understanding that Monsanto

WATER_PCB-SD0000069350

informed RTE of the potential environmental problem of Aroclors?

A. Yes.

Q. Sir, do you know who would have the information as to when the earliest time that Aroclors were sold to RTE Corporation?

A. No, I do not.

Q. Well, do you have -- you had a marketing group back in Monsanto; is that correct, sir?

A. Yes.

Q. Would that information be held by them?

A. Not for a discontinued product.

Q. Do you know what type of Aroclors RTE bought from Monsanto?

A. No.

Q. Sir, earlier today you testified that Monsanto also manufactured a product called Pydraul; is that correct, sir?

A. Yes, sir.

Q. And that that product was used to operate lifts, conveyor systems, hoist elevators and the like?

A. Yes.

Q. Do you know, sir, if that product was ever sold to Aerovox?

A. I do not.

WATER_PCB-SD0000069351

Q. Do you know if it was ever sold to CDE?
A. I do not.
Q. Sir, was it possible to use the Aroclors that were used for the capacitors for the same purposes as the Pydraul was used?
MR. WINSLOW: Objection.
A. It's possible, yes.
Q. (BY MR. CENTOLA) Do you know if Aerovox used Aroclors for those purposes?
MR. WINSLOW: Objection.
A. I do not.
Q. (BY MR. CENTOLA) Had Monsanto ever used Aroclors for those purposes?
A. No.
Q. Sir, was it your testimony that in approximately 1972, tests had come out with respect to effects of PCBs on chicken eggs?
A. Yes.
Q. And that information was communicated to your customers; is that not right, sir?
A. Yes.
Q. Do you know who performed those tests?
A. Yes.
Q. Who was that?
A. Industrial Biotest Laboratories.

WATER_PCB-SD0000069352

Q. Did you have any reason to believe that those tests were inaccurate, sir?

A. No, sir.

Q. In fact, Monsanto considered those tests to be valid accurate tests?

A. Yes.

MR. WEIR: Objection.

Q. (BY MR. CENTOLA) So is it fair to say then, sir, that after 1972, your customers were given knowledge of the fact that not only were Aroclors present in the environment, but that they, in fact, could have toxic effects on fowl?

MR. WINSLOW: Objection.

MR. WEIR: Objection.

MR. McLAUGHLIN: Objection.

A. That one of the Aroclors was found to have a toxic effect on chickens, not all of the Arcclors.

Q. (BY MR. CENTOLA) Okay. Do you recall which Aroclor that was?

A. Aroclor 1242.

Q. Do you know if from that test conclusions were made -- strike that. Do you know if more expansive conclusions were made as a result of that test concerning the effects on the environment?

MR. WINSLOW: Objection.

WATER_PCB-SD0000069353

MR. McLAUGHLIN: Objection.

MR. WEIR: Objection to the form.

A. I have difficulty with the word "expansive conclusions."

Q. (BY MR. CENTOLA) In other words, sir, other than the fact that now they knew that -- strike it.

Give me a moment. Off the record.

(Brief recess held.)

Q. (BY MR. CENTOLA) Sir, is Mr. Bergen still working for Monsanto?

A. No.

Q. Did he retire?

A. No.

Q. Okay. Can you tell me what happened to Mr. Bergen? Let's do it that way.

A. He had left Monsanto and joined another company, and since then he's associated with still another company.

Q. Do you know the name of the company?

A. The last I heard, he was with Georgia Pacific Company. I don't know if he's still with them or not.

Q. Where is that located?

A. I believe the offices are in Atlanta, Georgia.

Q. Makes sense.

WATER_PCB-SD0000069354

I have no further questions.

MR. FITZMAURICE: I don't have any questions.

CROSS-EXAMINATION

QUESTIONS BY MS. FLORINI:

Q. I have only one question, Mr. Papageorge, or one series of questions. Mr. Papageorge, when you were at the Anniston facility, did you have occasion to become acquainted with the smell of PCBs?

A. Yes.

Q. Do they have a smell that you could characterize as distinctive?

MR. WEIR: Objection.

MR. WINSLOW: Objection.

A. Yes.

Q. (BY MS. FLORINI) Would you characterize that as a unique smell?

MR. WEIR: objection.

MR. WINSLOW: Objection.

A. That's so subjective.

Q. (BY MS. FLORINI) In your subjective viewpoint.

A. To me they were unique, yes.

MS. FLORINI: Nothing further.

MR. CENTOLA: I'm sorry. I said no more

WATER_PCB-SD0000069355

questions, but just one thing I wanted to ask.

MR. WINSLOW: Well, wait your turn.

MR. CENTOLA: Okay. I'm sorry.

MR. WINSLOW: Off the record.

(Discussion held off the record.)

MR. WINSLOW: Mr. Kirsch, I just wanted to inquire of you on the record as to the status of the documents that we had requested be produced by Monsanto at the last session of this deposition, specifically with regard to the request that I made, reflected on pages 396, 410 and 415 of the deposition transcript, records of customers returning PCBs waste products to Monsanto in unsuitable condition, other reports by Monsanto regarding the biodegradation of PCBs, and the final draft of the document which is attached to Exhibit 10. Do you know whether or could you represent to us the status of the document search, Monsanto's position regarding these documents?

MR. KIRSCH: A search is under way. I believe that they have located some documents relating to the shipment, return shipments of askerals, and if I can confirm that, we'll make them available to you. I believe we have additional documents regarding biodegradability or advancements and acknowledgements relating to PCBs. Those also will be made available.

WATER_PCB-SD0000069356

MR. WINSLOW: In that case I have no further questions, observing my right to re-question the witness providing documents are produced by Monsanto.

MR. FITZMAURICE: I think we should all observe that right given that these documents are going to be produced pursuant to the notice of the deposition. Fair enough.

MR. CENTOLA: Right. I did want to ask one more question.

FURTHER RECROSS-EXAMINATION

QUESTIONS BY MR. CENTOLA:

Q. After Monsanto discontinued its sale of Aroclors, did Monsanto continue with any of its customers in helping to take samples and do testing on their plants?

A. Since I was not involved with the PCB issue at that time, I don't know.

Q. Do you know who would?

A. Not for sure. I would see Dr. Craddock.

Q. How do you spell his last name, sir?

A. C-r-a-d-d-o-c-k.

Q. Thank you.

I have no further questions subject to the production of documents.

MR. WEIR: Thank you, Mr. Papageorge.

WATER_PCB-SD0000069357

_____

WILLIAM B. PAPAGEORGE

Subscribed and sworn to before me this _____ day of _____, 1986.

My Commission Expires:_____.

_____

[Notary Public]

WATER_PCB-SD0000069358

NOTARIAL CERTIFICATE

STATE OF MISSOURI)
)
CITY OF ST. LOUIS)

I, KATHRYN T. O'NEILL, a Registered Professional Reporter and a duly commissioned Notary Public within and for the State of Missouri, do hereby certify that pursuant to notice there came before me at the law offices of Messrs. Lewis & Rice, 611 Olive Street, St. Louis, Missouri 63101,

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; 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 8th day of May, 1986.

My commission expires June 3rd, 1986.

_____
[Notary Public]

WATER_PCB-SD0000069359