

100
April 2, 1971

Mr. Ralph Elliott
Elliott and Nall, Attorneys at Law
213 North Travis Street
Sherman, Texas 75090

Dear Mr. Elliott:

In accordance with your expressed wish, I send you, herewith, my expense account and my bill for services rendered, in terms of the days taken out of my time in this Laboratory.

Let me say that I was pleased to be of some service to your clients; I talked at some length to two of the people in responsible positions about their "in-plant" hygienic problems. It is up to them, of course, as to whether they take any action in that regard, and while I am entirely willing to give them any further advice which they may wish to have, I shall not follow up on conversations in any way.

I find myself regretting that you and I were not operating entirely or precisely on the same wave-length, as questioner and expert witness. However, in view of the brevity of the time we spent together, this is not too surprising. This was a complex situation from the point of view of scientific fact, on one hand, and legal evidence, on the other, so that we started out on different quests, and we didn't quite come together. I trust, however, that the outcome was satisfactory.

The facts which I would have liked to make clear, but was unable to do so, were two in number, in relation to the issue of damage to the land. (1) The one fact is that the source of the lead which fell out of the air upon some of this land could not be established by the evidence made available to me, so that I could not fix the responsibility. (There is no doubt in my mind that this land was contaminated with lead which "fell out," precipitated because of its particulate size or was washed out by rainfall, in part, from some source, which had not, so far as I am aware, been proved to be the defendant's plant.) (2) The second fact is that the land, itself, was not hurt. Evidently, some vegetation was contaminated, not by growing out of contaminated soil, but by "fall out" on the surface of the leaves. Plants take up only very little lead from the soil, and the additional amount taken up from the soil by the plants, because of this degree of contamination, was too small to be of any consequence. Moreover, the lead on the top soil not only washed out in time, but also disappears from the surface with time and is greatly hastened by plowing, or any other type of disturbance, so that it is greatly reduced in a comparatively short period of time.

Sincerely yours,

Robert A. Kehoe, M.D.
Professor Emeritus of
Occupational Medicine

RAK:wb
enclosure as stated