

Depo of: WILLIAM PAPAGEORGE Monsanto v Aetna January 14, 1993 CR: 54035.0

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[1] IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
 [2] IN AND FOR NEW CASTLE COUNTY
 [3]
 [4] MONSANTO COMPANY.)
 [5])
 [6] Plaintiff.)
 [7])
 [8] vs.) C.A. No. 88 CJA-118-1-CV
 [9])
 [10] AETNA CASUALTY & SURETY)
 [11] COMPANY, et al.)
 [12])
 [13] Defendants.)
 [14]
 [15] VOLUME II
 [16]
 [17] Continuation of the deposition of WILLIAM
 [18] B. PAPAGEORGE, taken on behalf of Defendants, at the Adams
 [19] Mark Hotel, in the City of St. Louis, State of Missouri,
 [20] recommencing at 9:30 a.m. on the 14th day of January, 1993,
 [21] before J. Bryan Jordan, certified shorthand reporter and
 [22] notary public.

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[1] JANUARY 14, 1993
 [2] MR. MANTA: Before we get started today, I'd like
 [3] to offer to Mr. Sarfatti standing objections on the grounds
 [4] of hypothetical questions, foundation, and vagueness. I
 [5] think continuing repeated objections in that regard are a
 [6] violation of the case management order and order of the
 [7] Special Discovery Master.
 [8] In any event -
 [9] MR. SARFATTI: Okay, I, you know, I - it's our
 [10] position that we have a right to interpose objections to
 [11] questions that are not properly framed and that we have the
 [12] right to explain the basis so that if the matter becomes an
 [13] issue, the Court will fully understand the purpose for which
 [14] we have interposed an objection. Why don't we proceed on
 [15] the basis of your proposal, that we'll have standing
 [16] objections as to lack of foundation, hypothetical, and what
 [17] was the -
 [18] MR. MANTA: Vagueness.
 [19] MR. SARFATTI: Vagueness, and if that turns out
 [20] to be workable, we can proceed on that basis.
 [21] MR. MANTA: Okay.
 [22] MR. SARFATTI: I will enter into that arrangement

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[1] with you so long as it's binding on all defendants, and if
 [2] you have the authority to make that statement, then I think
 [3] we can proceed that way, but if you can't bind all
 [4] defendants so that we're not in danger of some defendant who
 [5] is not represented here saying that there was not an
 [6] objection interposed to a question, then I don't think we
 [7] can proceed that way.
 [8] MR. MANTA: Well, I, of course, I can't bind all
 [9] defendants. You know, I can bind Liberty Mutual, but we are
 [10] a single defendant, and it just -
 [11] MR. HUGHES: Furthermore, Steve, when it
 [12] hopefully becomes my turn to ask some questions, I'd prefer
 [13] under certain circumstances to hear some of our objections,
 [14] in case they actually are well founded, and I can correct
 [15] the problem with the question.
 [16] MR. SARFATTI: Okay. All right, why don't we
 [17] proceed on the basis that I'll go ahead and interpose the
 [18] objections.
 [19] MR. MANTA: Well, okay. Well, let me ask you,

[20] then, what is the basis for objecting on the grounds of
[21] hypothetical?

[22] MR. SARFATTI: If you are trying to elicit

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[1] evidence in this case based on the witness's knowledge to
[2] ask a hypothetical question that calls for the expression of
[3] an opinion, where facts incorporated into your hypothetical
[4] are not evidence, that's objectionable.

[5] MR. MANTA: Are you aware that the Special

[6] Discovery Master has ruled, and I believe the judge -

[7] MR. HUGHES: Mark, maybe you and Steve should

[8] have this conversation not in front of the witness -

[9] MR. MANTA: Okay.

[10] MR. HUGHES: - because it's almost accomplishing

[11] what you don't want to accomplish.

[12] MR. MANTA: That's a good idea.

[13] THE WITNESS: Should I leave?

[14] MR. HUGHES: No.

[15] MR. MANTA: Just for -

[16] MR. HUGHES: Well, however you guys want to do
[17] it. You two can step out.

[18] MR. SARFATTI: Why don't you go off the record

[19] and I'll go out in the hall with Mr. Manta.

[20] MR. MANTA: Okay.

[21] (Whereupon, all counsel present left the

[22] deposition room. Upon their return, the

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[1] deposition continued as follows.)

[2] MR. MANTA: Mr. Sarfatti, we had a discussion off
[3] the record. The standing objections - we'll give you a
[4] standing objection to any hypothetical question. Is that
[5] acceptable?

[6] MR. SARFATTI: Very well.

[7] MR. OMROD: As long as it's understood that we're
[8] granting that in the context of the discovery rulings in
[9] this case where we believe that the Special Master and judge

[10] originally have ruled on the issue of the appropriateness of
[11] asking hypotheticals.

[12] MR. SARFATTI: That's understood.

[13] BY MR. MANTA:

[14] Q. Mr. Papageorge, did you discuss, have any
[15] discussions with your counsel following yesterday's
[16] deposition?

[17] A. Discussions on what?

[18] Q. Did you have any discussions?

[19] A. Any discussions? Oh, certainly.

[20] Q. Did you discuss the substance of your testimony
[21] at all?

[22] A. No, sir.

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[1] Q. Did you discuss what was going to happen at the
[2] deposition today?

[3] A. No, sir.

[4] Q. Yesterday, I had asked you some questions about
[5] groundwater reviews and presentations. Do you recall that?

[6] A. I do.

[7] Q. You recall the testimony, I take it?

[8] A. I think I do, yes.

[9] Q. For the groundwater reviews or presentations that
[10] occurred between '77 and '83, can you tell me if you were
[11] present at any of those presentations?

[12] A. I recall being present at some of them. I don't
[13] know how many I was able to attend.

[14] Q. Can you tell me what years you were present?

[15] A. Oh, no, I can't. It's in that period of time

[16] that you mentioned, but I -

[17] Q. Can you tell me specifically what happened at any
[18] of the presentations?

[19] A. Of course, all I recall is the subject, of
[20] course, was addressed. There were many individuals
[21] involved. Some of those individuals made prepared
[22] statements, others commented from around the table. I don't

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[1] at this moment recall any specific subject. I don't know
[2] what else to add to this. The subject, of course, was
[3] groundwater.

[4] Q. Would it be fair to say that you don't recall any
[5] of the specifics of a Texas City groundwater presentation?

[6] A. That's true.

[7] Q. And would it be fair to say that if I was asking

[8] you questions back in and around the time that the
[9] groundwater presentations took place, that you would likely
[10] be able to provide answers to the questions that I just
[11] asked?

[12] A. Likely, yes.

[13] Q. It is because of the passage of time, the fact
[14] that '77 through '83 is almost or over ten years ago, that
[15] you are unable to provide specifics to the questions I've
[16] asked regarding the groundwater presentations?

[17] A. That is true.

[18] Q. Following your retirement from Monsanto, what did
[19] you do?

[20] MR. SARFATTI: In what respect are you asking
[21] that question?

[22] BY MR. MANTA:

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[1] Q. Did you do any consulting or did you do any work?

[2] A. Oh, let's see. Following retirement, shortly,
[3] about several months after retirement, I entered into an
[4] agreement with a law firm to assist this law firm in
[5] situations involving the PCB environmental issue.

[6] Q. Was this law firm acting on behalf of Monsanto?

[7] A. In some of their litigation, yes.

[8] Q. Were you retained by this law firm as an expert
[9] witness or an expert to assist them in litigation on behalf
[10] of Monsanto?

[11] A. I don't know the definition of "expert" in these
[12] kinds of situations. I just saw myself as a source of
[13] experience relating to PCBs, and the representatives of the
[14] law firm felt that I could provide some information that
[15] they needed.

[16] Q. Monsanto, though, was the client that this was -
[17] that this representation, that your information was sought
[18] for?

[19] A. Yes.

[20] Q. And how long did that relationship with that law
[21] firm continue?

[22] A. It continues to this day.

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[1] Q. Okay. Presently, you are retained on behalf of
[2] the law firm to assist them in providing information to
[3] defend cases on behalf of Monsanto? Is that correct?

[4] A. That is correct.

[5] Q. Could you tell me the name of the law firm?

[6] A. Smith, Helms, Mullis & Moore, Greensboro, North
[7] Carolina.

[8] Q. And are you paid on an hourly basis?

[9] A. I'm on a retainer.

[10] Q. Can you tell me what the retainer is?

[11] A. \$8,500 a month.

[12] Q. And that is likely to continue into the future?

[13] A. I have no way of knowing that. There's still

[14] activity. I don't know when it's going to terminate.

[15] Q. Do you receive a pension from Monsanto?

[16] A. I do.

[17] Q. Do you own stock in Monsanto?

[18] A. I do.

[19] Q. Do you do any other work aside from the retainer

[20] with the, with the law firm you mentioned?

[21] A. No.

[22] Q. That's your source of income at the present time,

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[1] in addition to your pension?

[2] A. Well, I have other income from investments, and
[3] so on. Do you want to exclude those? Yes.

[4] Q. Excluding investment income.

[5] A. Yes.

[6] Q. Mr. Papageorge, if, in 1978, you wanted to find
[7] out some historical information on Texas City waste
[8] disposal, waste disposal practices or sites, who at the
[9] Texas City plant would you ask?

[10] A. Very likely, if I wanted to make an extensive a
[11] search as you indicate by your question, I would make it a
[12] point to go to the plant manager and discuss thoroughly my
[13] needs and get him to understand why I am going to tie up his
[14] people and request some of their help, and I would rely on
[15] him, then, to contact the right people on his team and give
[16] them the assignment to assist me in whatever I requested.

[17] Q. You had mentioned that Ed Hendricks, yesterday,
[18] was an old-timer and that you had significant contact with

[19] him early on in 1977 particularly. Would you ask Ed
[20] Hendricks?
[21] A. Well, certainly, I would, but for a simple
[22] question that wouldn't take an awful lot of his time, I

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[1] wouldn't hesitate doing that at all, but if it involved many
[2] hours of effort on Mr. Hendricks' part, I would make certain
[3] that his plant manager was aware that I was going to tie up
[4] Mr. Hendricks extensively and get the plant manager's
[5] support, so that Mr. Hendricks would not be in an awkward
[6] position later, not having done something else that he was
[7] asked to do.

[8] Q. Would you ask Ed Hendricks if Monsanto had used a
[9] particular waste disposal site? If he was aware?

[10] A. Well, first of all, I'd have to be aware of the
[11] site to use the name of that site, but generally, the
[12] question would be, "Can you tell me what sites were used,"
[13] and he'd rattle off some sites. That would be the typical
[14] approach.

[15] Q. That would be something that you could ask Mr.
[16] Hendricks directly without involving the plant manager?

[17] A. Yes.

[18] Q. Mr. Papageorge, can you tell me when you first
[19] learned that the government was involved with the Texas City
[20] Wye, Motco?

[21] A. I don't recall the specific date. The closest I
[22] can come up with a date is sometime in 1978.

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[1] Q. And what did you learn in 1978?

[2] A. All I recall is that the state regulatory people
[3] had expressed some interest about that site, and I don't
[4] know who they expressed this to, but somehow it became
known

[5] to Monsanto people, and that information, in turn, was
[6] relayed to me.

[7] Q. When did you first learn that the government
[8] wanted to identify people or parties that had deposited
[9] waste at the Texas City Wye?

[10] A. At about the time that I heard of the interest on
[11] the part of the regulatory people.

[12] Q. Would it be in approximately 1978?

[13] A. Yes.

[14] Q. Can you tell me when you first learned that
[15] Monsanto deposited waste at the Texas City Wye?

[16] A. At about the same time.

[17] Q. Can you tell me about when you learned that the
[18] owners of the Motco site or the Texas City Wye were
[19] insolvent?

[20] A. Again, at that time.

[21] Q. And would it be fair to say that it was at
[22] approximately that time, 1978, that you learned that there

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[1] was public awareness about the conditions at the Texas City
[2] Wye?

[3] A. If my memory serves me right, I am under the
[4] impression that that piece of information was made known to
[5] me several months later. It might have even been the
[6] following year.

[7] Q. Can you tell me what a 104 request is, an EPA 104
[8] request?

[9] A. 104; that rings a faint bell. I, I'd have to
[10] read up on that to refresh my memory. I don't remember this
[11] anymore.

[12] Q. Can you tell me when you first learned that
[13] Monsanto was negotiating with governmental agencies
[14] regarding remediation of the Texas City Wye and Motco?

[15] A. It certainly happened after 1983, when I was no
[16] longer involved. I, I knew of activity on the part of
[17] Monsanto, at least the individual located in St. Louis, in
[18] 1985. I do not know what transpired between 1983 and 1985.

[19] Q. How did you find out that Monsanto had deposited
[20] waste at the Texas City Wye?

[21] MR. SARFATTI: Objection; undefined term.

[22] A. The individual who informed me - and I have

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[1] forgotten who that person was - of the interest in the
[2] regulatory agency at - in that site, had told me that
[3] Monsanto had sold chemicals to a company that operated that
[4] site and that it appeared that some of those chemicals were
[5] alleged to have been found at that site.

[6] BY MR. MANTA:

[7] Q. Can you tell me if that person was Ed Hendricks?

[8] A. Again, if my memory is anywhere near accurate,
[9] it's - it would have been either the plant manager or his
[10] environmental superintendent, Mr. Himes, and it could well
[11] have been the plant manager's boss, Mr. Brasfield. It was
[12] not a low-level person like Mr. Hendricks.

[13] Q. But that, again, would have been in approximately
[14] 1978?

[15] A. Yes, sir.

[16] Q. Are you fairly certain it was in 1978?

[17] A. Fairly so, yes. I wish I could remember the
[18] exact date, but -

[19] Q. Can you tell me who the plant manager was in
[20] 1978?

[21] A. I've forgotten. I don't know when Mr. Tomblee
[22] took over. I just don't remember.

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[1] Q. Do you recall the conversation with the plant
[2] manager at that time?

[3] A. No, I recall a conversation with somebody, and I
[4] indicated it might have been the plant manager. I just
[5] don't recall the person, the specific person that told me
[6] this.

[7] Q. Would that conversation have been memorialized in
[8] any way? Would you have prepared a memo?

[9] A. I would doubt it.

[10] Q. You would doubt that there would be any
[11] documentation to reflect a conversation in 1978 with the
[12] plant manager concerning Monsanto transportation of
[13] chemicals or sale of chemicals to the Texas City Wye? Is
[14] that right?

[15] A. You mean as it relates to the time I was
[16] informed?

[17] Q. Right.

[18] A. That's very unlikely.

[19] Q. The existence of documents, I'm saying.

[20] A. That's true.

[21] Q. Did you provide the information that you received
[22] from the plant manager to anyone else at Monsanto, if you

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[1] recall?

[2] A. Eventually, yes.

[3] Q. When you say "eventually," what do you mean?

[4] A. Well, I didn't immediately run anywhere with the
[5] information. I made certain that, at least in my own mind,
[6] that things were being attended to appropriately, and
[7] eventually I, when I met with my supervisor, when I reviewed
[8] many matters, this was one of the items discussed, and I
[9] recall - and I don't recall the exact meeting, but at one
[10] of the environmental policy staff meetings that was
[11] regularly scheduled by Mr. Throdahl, when it was my turn to
[12] review with the group matters that were in my company or
[13] unit, this was one of the items that I shared with them.

[14] Q. Would that have occurred within the year of 1978?

[15] A. If my recollection of '78 is correct, yes, that's
[16] when it would have happened.

[17] Q. And I believe that you testified yesterday that
[18] at environmental policy staff meetings, an attorney was
[19] often present?

[20] A. Yes, sir.

[21] Q. Can you tell me if, at the environmental policy
[22] staff meeting that would have occurred in 1978, where you

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[1] raised the Texas City Wye and the information you had
[2] received from the Texas City plant, if an attorney was
[3] present?

[4] A. That, I don't recall.

[5] Q. Were there minutes of environmental policy staff
[6] meetings?

[7] A. I don't recall any. I don't think so.

[8] Q. Would you take notes?

[9] A. Oh, as appropriate. I'm not a big note taker,
[10] but if there's something that concerned me directly, I'd put
[11] a key word or something to remind me, and -

[12] Q. Are the notes, notations that you made anything
[13] that you would keep?

[14] A. No.

[15] Q. Do you think that there would be any document
[16] that would reflect the issue of the Texas City Wye and the

[17] information that you gained from the plant manager, any
[18] document that would reflect that it was raised at an
[19] environmental policy staff meeting?

[20] A. I doubt it.

[21] Q. At the time in 1978, was there any thought that
[22] the Motco or Texas City Wye would be cleaned up under

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[1] governmental authority?

[2] A. Certainly. That was always a, a likelihood that
[3] was considered, yes.

[4] Q. Was there a concern that companies such as
[5] Monsanto that had deposited waste at the site would be
[6] required to pay some money to clean up the site?

[7] MR. SARFATTI: Objection; mischaracterization of
[8] testimony and undefined term.

[9] A. When you say Monsanto deposited material there -

[10] BY MR. MANTA:

[11] Q. Okay, I'll rephrase the question.

[12] Was there any concern that companies that had
[13] wastes that were found to be at the site would have to be -
[14] would be required to pay for remediation?

[15] MR. SARFATTI: Same objection as to undefined
[16] term.

[17] A. You are characterizing the material at the site
[18] as wastes. That may or may not fit all the material there.

[19] MR. MANTA: How about about - let me have the
[20] question read back and I'll change the word.

[21] THE COURT REPORTER:

[22] "Was there any concern that companies that had

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[1] wastes that were found to be at the site would have to be -
[2] would be required to pay for remediation?"

[3] BY MR. MANTA:

[4] Q. I believe you had used the term "chemicals," and
[5] I'll use that term, as well. Was there any concern that
[6] companies whose chemicals were found to be at the site, that
[7] they would be required to pay for the cleanup at the site in
[8] 1978?

[9] A. That was a consideration.

[10] Q. Do you recall if that concern was discussed at
[11] environmental policy staff meetings?

[12] A. The thought was expressed, but I don't know that
[13] a discussion followed that, because it was presumed by the
[14] audience to be in the right hands and whatever was necessary
[15] in the way of responding to it was being handled by the, the
[16] plant and the appropriate people.

[17] Q. Would it be fair to say that it was raised in
[18] 1978 at an environmental policy staff meeting, that concern?

[19] A. Well, I hope we have the same definition of
[20] "raised." It was mentioned that we are considering that
[21] possibility.

[22] Q. When did you first learn that Monsanto had

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[1] decided to voluntarily undertake the remediation of the
[2] Texas City Wye?

[3] MR. SARFATTI: Objection; undefined term.

[4] A. The information I had, which, as best I can
[5] recall, I was aware of in about 1985, was that Monsanto was
[6] involved in a program for addressing the activity required
[7] to make that site acceptable to the regulatory agencies.
[8] The word "remediation" was not used, so - and I didn't
[9] personally get any information regarding the details of what
[10] actually was taking place.

[11] BY MR. MANTA:

[12] Q. Is it your understanding that the conditions that
[13] were being - I'm trying - strike that.

[14] I'll try to rephrase the question with your words
[15] and not use the word "remediation," but is it your
[16] understanding that the conditions that Monsanto was
[17] addressing in 1985 voluntarily had existed throughout the
[18] 1960's and '70's?

[19] MR. SARFATTI: Objection; undefined term.

[20] A. No, that's not my understanding.

[21] BY MR. MANTA:

[22] Q. Can you tell me what your understanding is?

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[1] A. Well, I have an understanding that in the earlier
[2] years, this was a, an active chemical operation, whereas in
[3] 1985, it was an abandoned site, no activity on it whatever,
[4] so I can't really conclude that the conditions in '85 were

[5] similar to those in the Sixties and '70's.

[6] Q. I take it, then, that you don't have personal
[7] knowledge and you can't say whether or not the conditions
[8] were the same throughout the Sixties and '70's.

[9] A. That is true.

[10] Q. Can you tell me what "acceptable to regulatory
[11] authorities" means?

[12] A. That, of course, varies from situation to
[13] situation and from person to person. It's been my
[14] experience that when the agencies look into a matter of this
[15] type, they eventually arrive at conditions which they
[16] believe ought to be achieved, so that the final result meets
[17] the conditions they have established, and those conditions,
[18] of course, vary.

[19] Q. Monsanto was trying to meet those conditions in
[20] connection with the voluntary -

[21] A. Well, certainly -

[22] MR. SARFATTI: Objection; undefined term.

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[1] BY MR. MANTA:

[2] Q. Let me finish my question. I'll rephrase the
[3] question.

[4] Monsanto was attempting to meet the requirements
[5] of the regulatory authorities in connection with the
[6] remediation, if you will, of the Texas City Wye in 1985; is
[7] that right?

[8] A. Well, I would suggest that it's not limited to
[9] Monsanto. The conditions they were attempting to achieve by
[10] their activities were conditions that, to my limited
[11] understanding, were agreed to by the parties conducting the
[12] activities, and the regulatory people who were involved in
[13] looking at this site, and determining when it would be
[14] acceptable, under what conditions it would be acceptable.

[15] (Papageorge Deposition Exhibit 14 marked for
[16] identification.)

[17] BY MR. MANTA:

[18] Q. Mr. Papageorge, looking at what has been marked
[19] for identification as Exhibit 14, which is an April 24,
[20] 1980, memorandum, topic is "CMA Study Group Meetings On
[21] Texas City Wye," and there's a "cc" reference to
[22] W. B. Papageorge.

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[1] A. Mm-hmm.

[2] Q. Would that be you, sir?

[3] A. That's my name, yes, sir.

[4] Q. And can you tell me where G4WA is?

[5] A. It's the offices of Monsanto in St. Louis, G
[6] Building, fourth floor, west wing, mail zone A.

[7] Q. That's your mailing address, I take it?

[8] A. Yes.

[9] Q. I'd like you to take a moment, if you would, and
[10] read through the document, and then I want to ask you a
[11] question.

[12] A. I just - okay, I appreciate that, because I
[13] don't remember this at all.

[14] (Witness peruses said document.)

[15] A. (Continuing) I've finished reading it.

[16] BY MR. MANTA:

[17] Q. Can you tell me if this refreshes your
[18] recollection as to when Monsanto began addressing
[19] alternatives for addressing the conditions at the Texas City
[20] Wye?

[21] A. No, this document tells me that the participation
[22] by Monsanto in matters relating to this site continued on

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[1] into 1980 and had reached a point where other industry
[2] representatives were being involved. This doesn't tell me
[3] just when did Monsanto address the Texas City Wye situation.

[4] Q. Does it indicate to you that Monsanto was playing
[5] a role in addressing alternatives to address the situation
[6] at the Texas City Wye?

[7] A. It was playing a role, yes, sir.

[8] Q. Can you tell me who Mr. Gordon Lunsford is?

[9] A. I don't recall Mr. Lunsford's exact title at the
[10] time, but he was, as best I remember, one of Mr. Tromblee's
[11] superintendents at the Texas City plant.

[12] Q. He was a Monsanto employee?

[13] A. Yes.

[14] Q. How about Mr. Daues?

[15] A. I remember the name, Daues. I, I just can't

[16] place him at the moment. I don't know. I don't remember.
 [17] Q. Was he a Monsanto employee?
 [18] A. A Monsanto employee, yes, sir.
 [19] Q. And Mr. Lunsford participated in the CMA study
 [20] group on behalf of Monsanto? Is that right?
 [21] A. That's what this memorandum indicates. I don't
 [22] remember that personally.

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[1] (Papageorge Deposition Exhibit 15 marked for
 [2] identification.)
 [3] BY MR. MANTA:
 [4] Q. I'd like you to take a moment and look through
 [5] Exhibit 15, which is a, an April 6, 1981, memorandum bearing
 [6] Bates number STG 3414607 through STG 3414611.
 [7] (Witness peruses said document.)
 [8] A. I have glanced at the document. I don't recall
 [9] it, but -
 [10] Q. Looking up in the right-hand corner, there's some
 [11] handwritten names. One of them appears to be "Papageorge."
 [12] A. I see that.
 [13] Q. Beneath that, there is, and off to the left, an
 [14] "XC." Does that mean cross-copy?
 [15] A. I don't know. It could mean that. It depends on
 [16] the person that put it in there. I don't know what he
 [17] means, extra carbons, or cross-copies, or -
 [18] Q. Does it indicate to you that a copy was intended
 [19] for you?
 [20] A. Yes.
 [21] Q. Now, beneath that is "FYI Gene." Would that be
 [22] Gene Tromblee?

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[1] A. Your guess is as good as mine, sir.
 [2] Q. You don't recognize the handwriting?
 [3] A. No, I don't.
 [4] Q. Does this refresh your recollection as to when
 [5] remediation alternatives began to be considered for the
 [6] Texas City Wye site?
 [7] A. By your question, I am led to believe that we had
 [8] previously discussed when the remediation occurred. I -
 [9] there's a difference in my mind between the actual
 [10] remediation activity and the thought process that occurred
 [11] many years before the activity actually was accomplished or
 [12] instituted.
 [13] Q. I understand that, and my question goes to the,
 [14] to the thought process, to the considerations and
 [15] evaluations of alternatives.
 [16] A. Oh, those thought processes began from the minute
 [17] we were aware that the state authority was interested, and
 [18] it evolved into many, many different approaches that could
 [19] be taken and finally boiled down to one.
 [20] Q. So Monsanto's evaluations for consideration of
 [21] remediation of alternatives would have begun in 1978 and
 [22] continued through the time that the site was actually -

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[1] where remediation actually began?
 [2] A. Yes. The thoughts ranged all over the map as to
 [3] what should and could be done.
 [4] Q. And in connection with that evaluation process,
 [5] cleanup costs were addressed and considered, were they not?
 [6] A. Yes.
 [7] Q. And the cleanup costs were addressed and
 [8] considered in connection with what Monsanto might have to
 [9] pay to properly remediate the site; is that right?
 [10] A. Not to my understanding.
 [11] Q. Okay, what was your understanding?
 [12] A. I would suggest that these estimates - and I
 [13] don't know who prepared them - refer to the costs
 [14] associated with bringing the site up to some acceptable
 [15] level. It does not say that it's all Monsanto or to be
 [16] shared by many.
 [17] Q. I'm not - I didn't want to suggest that it was
 [18] all Monsanto, but the fact that Monsanto was voluntarily
 [19] participating in the evaluation of alternatives, that the
 [20] costs associated with those alternatives were addressed
 [21] because Monsanto would have to pay a portion of those costs;
 [22] is that right?

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[1] MR. SARFATTI: Objection; undefined term.
 [2] A. Well, Monsanto's representatives involved with
 [3] this matter certainly knew that there would be costs

[4] associated with this activity. Their intent was to quantify
 [5] to the degree where it was as realistic as they could get
 [6] it, depending on the information they had, and that piece of
 [7] information was then used and further deliberations
 [8] regarding who is to do it and when to do it, and I don't
 [9] know what else to add to that. It's certainly an important
 [10] piece of information when you are addressing a situation
 [11] like this.
 [12] BY MR. MANTA:
 [13] Q. And it would have been information addressed to
 [14] Monsanto, as well as with other parties and the governmental
 [15] agencies?
 [16] A. Well, certainly with other parties involved in
 [17] the remediation effort. I personally do not know - you'd
 [18] have to ask someone closer to this - how much and when the
 [19] information relating to type of activity and expected costs
 [20] was relayed to the state representatives, regulatory
 [21] representatives.
 [22] BY MR. MANTA:

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[1] Q. In and about 1981, was there not a concern of -
 [2] let me strike that.
 [3] In 1981, wasn't there, in fact, concern that
 [4] Monsanto may ultimately end up paying for the entire cost of
 [5] cleaning up the Texas City Wye?
 [6] A. That concern was considered by Monsanto. I can't
 [7] recall that '81 was the year in which it was first
 [8] addressed. I don't know how else to answer that. It was a
 [9] thought.
 [10] MR. OMROD: Could you read back the answer?
 [11] THE COURT REPORTER:
 [12] "A. That concern was considered by Monsanto. I
 [13] can't recall that '81 was the year in which it was first
 [14] addressed. I don't know how else to answer that. It was a
 [15] thought."
 [16] (Papageorge Deposition Exhibit 16 marked for
 [17] identification.)
 [18] BY MR. MANTA:
 [19] Q. Mr. Papageorge, looking at what has been marked
 [20] for identification as Papageorge 16, the first page of the
 [21] document has a little notation, "From the Desk of
 [22] W. B. Papageorge." Does that indicate to you, sir, that

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[1] this was a document that you sent to Mr. Park and Mr. Spano?
 [2] A. That's what it would imply, yes.
 [3] Q. The notation on there is, "TCY." Is that your
 [4] handwriting?
 [5] A. That is not.
 [6] Q. The date is January 9, 1981. The attachment to
 [7] that document is a copy of a newspaper article, and I can
 [8] appreciate that the type, here, is extremely difficult to
 [9] read, but what I'd like to direct your attention to is the
 [10] fourth paragraph of the article, and the last sentence, and
 [11] I'll read it. It says, "EPA officials say most or all of
 [12] the styrene tar originated at Monsanto Chemical Company."
 [13] Do you see that, sir?
 [14] A. I do see it, yes. I found it, mm-hmm.
 [15] Q. Does that refresh your recollection as to when
 [16] the concern about Monsanto being, Monsanto being the only
 [17] party to pay for the cleanup was raised?
 [18] A. No. It does not.
 [19] Q. Can you tell me why you would have sent that
 [20] article to Mr. Park and Mr. Spano?
 [21] A. Well, Mr. Park and Mr. Spano were involved in
 [22] environmental matters for MCI unit, and certainly, I hoped

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[1] to keep them tuned in with developments, and that's the
 [2] reason I sent it to them.
 [3] Q. Mr. Park was an attorney, wasn't he?
 [4] A. Yes.
 [5] Q. Was he the attorney within Monsanto who was
 [6] responsible for environmental issues with regard to MCI
 [7] plants?
 [8] A. That was one of his assignments, yes.
 [9] Q. What was Mr. Spano's job?
 [10] A. He is a member of Monsanto's Corporate Public
 [11] Relations Department.
 [12] Q. And why would it be important that Mr. Spano
 [13] receive that article?
 [14] A. Well, it certainly appeared in the news media,

[15] which is his field or his area of interest. It's
[16] conceivable that he might get calls either from this
[17] newspaper or others, and I felt that, that he ought to be
[18] aware of what was in this article.

[19] THE WITNESS: Is this a good time for - I'd like
[20] to take a break.

[21] MR. MANTA: Can I, I just want to get one more
[22] question and maybe we can move along.

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[1] THE WITNESS: All right.

[2] BY MR. MANTA:

[3] Q. Mr. Papageorge, could you tell me how you would
[4] have come across an article from the Houston "Chronicle"?

[5] A. There are many ways, really. Some of it arrives
[6] at my desk unsolicited from somebody who thought I might be
[7] interested. There was a period of time - and I'm trying to
[8] remember if this, this period we're discussing was part of
[9] that - where I was, had subscribed to a clipping service,
[10] to get articles that related to the environment. It could
[11] have come from the plant, itself, from any employee there,
[12] or I could have received it from one of my staff members who
[13] happened to be at the plant, got a copy and dropped it off
[14] on my desk. There are many possible sources of this kind of
[15] information.

[16] Q. Could you tell me the name of the clipping
[17] service?

[18] A. Oh, no, I couldn't. I don't know anything about
[19] them.

[20] Q. Was it a service that provided you clippings
[21] from - in a weekly publication?

[22] A. Yes, weekly publications were, were amongst the

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[1] sources, yes.

[2] Q. Well, I'm asking specifically about the, how the
[3] clipping service provided you the clippings. Was it in a
[4] weekly publication from the clipping service?

[5] A. No, no, no, they would have a service whereby
[6] people in their organization cut out articles from
[7] newspapers, weekly magazines, and the like, and would send
[8] me a, an envelope full on some periodic basis; a week, ten
[9] days, maybe a month would go by, and it covered subjects
[10] that I had designated at that time, primarily PCB matters.

[11] Q. Did you also designate environmental matters?

[12] A. The broad field "environment" and then specific,
[13] Monsanto, and specific, PCBs, and then so on, so -

[14] Q. Was that clipping service a St. Louis company?

[15] A. Oh, I don't know. The Public Relations
[16] Department arranged that for me.

[17] Q. You didn't deal directly with the clipping
[18] service?

[19] A. No.

[20] Q. Do you know who at the Public Relations
[21] Department handled that for you?

[22] A. I don't remember anymore.

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[1] Q. Did you keep the clippings that were provided to
[2] you, via the -

[3] A. Normally? No.

[4] Q. Do you know if anyone in St. Louis kept the
[5] clippings?

[6] A. Oh, I can't speak for others. I don't know what
[7] they kept in their files.

[8] Q. But you don't know if there was a central place
[9] where all the clippings were kept?

[10] A. I was never aware of such a place, no.

[11] Q. Was the subject of environmental that you
[12] indicated you wished to receive clippings on specific to any
[13] sites?

[14] MR. SARFATTI: Objection; mischaracterization of
[15] his prior testimony.

[16] A. No. I don't remember, no. I was interested in
[17] the broad subject, throughout the world, really, not just
[18] Monsanto plants.

[19] MR. SARFATTI: I think the witness has requested
[20] an opportunity to take a break.

[21] MR. MANTA: Oh, I'm sorry.

[22] MR. SARFATTI: And you said you would ask one

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[1] question, and I think you've asked a series of questions.

[2] Do you mind if he takes a break?

[3] MR. MANTA: No, I don't mind if you take a break.
[4] Go ahead.

[5] THE WITNESS: Appreciate it.

[6] MR. MANTA: I'm sorry, I had forgotten.

[7] (Recess)

[8] (Papageorge Deposition Exhibit 17 marked for
[9] identification.)

[10] (Recess from 11:00 o'clock to 11:09.)

[11] BY MR. MANTA:

[12] Q. Mr. Papageorge, you had mentioned that in 1978,
[13] the Texas City Wye situation had been raised at an
[14] environmental policy meeting. My question is, can you tell
[15] me what was said?

[16] MR. SARFATTI: Objection; mischaracterization of
[17] the testimony.

[18] A. Well, as I remember, my previous comments said
[19] that it was at about that period of time that I became aware
[20] of the Texas City Wye situation and the involvement of the
[21] regulatory agency. I also recall you asking was this
[22] information shared within Monsanto in other ways, and I

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[1] indicated that I recall that the situation at the Texas City
[2] Wye was raised at one of the environmental policy staff
[3] meetings. I don't remember just what particular meeting,
[4] what month, and so on. It was mentioned, really, as a piece
[5] of information, rather than a topic to be discussed and
[6] resolved by that group.

[7] BY MR. MANTA:

[8] Q. Can you tell me who mentioned it?

[9] A. I'm not certain.

[10] I - there are about three people that could have
[11] mentioned it. I could have brought it up as an item, since
[12] it relates to the unit that I was assigned to. The attorney
[13] could have raised it because regulatory people were
[14] involved, and he sometimes is in a position to comment, or
[15] the individual on Mr. Throdahl's staff assigned to solid
[16] waste issues could have mentioned it because he would have
[17] been tuned in, also.

[18] Depending on where you are sitting around the
[19] table, the first one that is approached to make comments is
[20] the likely one to mention it first, so there is no priority
[21] as to who says what when.

[22] Q. The attorney at that time - and that time being

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[1] 1978 - would that be Foshun (Phonetic) Park?

[2] A. It would be Mr. Park or one of his staff. I
[3] don't recall if Mr. Park was in town or occupied elsewhere.

[4] Q. And would the solid waste person have been Mr.
[5] Pierle?

[6] A. In '78? Hmm. It could have been Mr. Pierle, it
[7] could have been Mr. Jessee.

[8] Q. Now, I take it that part of the difficulty you
[9] are having is merely because it is so long ago that this
[10] meeting took place and that it's very difficult today, in
[11] 1992, to remember the specifics of an environmental policy
[12] meeting that occurred in 1978; is that right?

[13] A. That is correct, yes.

[14] Q. And that if I were asking you the questions in
[15] 1978 about the specifics of what was said and who said it,
[16] you would likely be able to tell me; is that right?

[17] A. Likely, yes. Mm-hmm.

[18] Q. You would be far more likely to be able to tell
[19] me in 1978 than you are today, in 1992; is that right?

[20] A. I would hope so, yes, sir.

[21] Q. I said '92. I'm sorry, we're in '93. We're 13
[22] days, 14 days into '93 and I'm not - I haven't recognized

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[1] that fact. See what happens when you don't celebrate New
[2] Year's?

[3] Can you tell me what you knew about the
[4] conditions of the Texas City Wye in 1978?

[5] A. I will try. It was abandoned, in a sense. There
[6] were no caretakers. Some of it had the remnants of a fence,
[7] but the fence was not completely surrounding the property.
[8] There were storage tanks on the site. As I remember, there
[9] was a building of some sort, a shed or a storage area-type
[10] building. There were weeds, waist-high weeds on it. There
[11] were some spots between the weed growth that looked like
[12] blacktop from a roadway. That's the physical condition, as
[13] I remember it, about that time.

- [14] Q. Did you visit the site in 1978?
 [15] A. Yes, sir, sometimes, sometime in there in '78.
 [16] yes.
 [17] Q. Did you visit the site on more than one occasion?
 [18] A. I believe I did, yes, sir.
 [19] Q. Can you tell me approximately how many times you
 [20] visited the site?
 [21] A. A couple of times.
 [22] Q. Perhaps two or three?

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- [1] A. As best I remember, there was one what I would
 [2] call a rather extensive walk-through, and at least one sort
 [3] of a quick look. We happened to be driving by; we stopped
 [4] and walked around a little bit to see if things had changed.
 [5] There could well have been a third quickie
 [6] inspection or look-see. I just, I just can't place it
 [7] specifically.
 [8] Q. Can you tell me what the purpose of your
 [9] inspections or visits to the site were?
 [10] A. Selfishly, it was to satisfy my personal
 [11] curiosity as to what is this and what are we talking about,
 [12] where is it located, and the like. I just, I personally
 [13] like to see these sites, rather than talk about it in the
 [14] abstract.
 [15] Q. In addition to the Motco site, what other sites
 [16] had you visited in that time?
 [17] A. By 1978, of course, I visited Monsanto sites.
 [18] Q. The plant sites.
 [19] A. The Monsanto owned and operated on Monsanto
 [20] property, yes, I visited some of those by that time.
 [21] Q. Were they in connection with - were there any
 [22] non-owned sites that you went to in that time other than

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- [1] Motco?
 [2] A. No.
 [3] Q. And you went to Motco three times?
 [4] A. Let me correct myself. Let me think. I did see
 [5] some non-owned Monsanto sites, sites not used by Monsanto,
 [6] incidentally.
 [7] Q. Do you know what those sites were?
 [8] A. I recall a site in, along the Hudson River used
 [9] by the General Electric Company, and I recall a site up in
 [10] Iowa - I forget the name of the city - used by one of
 [11] Monsanto's customers.
 [12] Q. Did you visit either of those two sites three
 [13] times?
 [14] A. No; once each.
 [15] Q. Motco is the only non-owned site that you visited
 [16] in and about 1978 through the time you left MCI in 1983? Is
 [17] that right? Three times?
 [18] A. Yes.
 [19] Q. Now, can you tell me a little bit more about the
 [20] conditions existing at the site, in terms of what the
 [21] conditions were that the government was concerned about?
 [22] A. I'll have to confess, I don't remember the

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- [1] specifics of the government's concern. I'd have to review
 [2] their documents again to refresh my memory, but in making
 [3] my
 [4] inspection, I, of course, didn't drill any holes, or take
 [5] any water samples, or anything of the sort. This was just a
 [6] walking over the premises and making a visual inspection.
 [7] Q. Did you, did any government officials accompany
 [8] you on any of the visits that -
 [9] A. No.
 [10] Q. Did you notice any pits, waste pits?
 [11] A. I didn't see - if by "pit" you mean a depression
 [12] in the surface of the land -
 [13] Q. Did you see pits where styrene tars had been
 [14] deposited?
 [15] A. Well, as I mentioned earlier, I saw mounds of
 [16] black material that resembled road asphalt, with weeds
 [17] growing around some of these mounds. I did not see a,
 [18] hole in the ground that one would look down into and
 [19] describe as a pit.
 [20] Q. If I were to ask you at about the time you
 [21] visited these sites, would you be able to tell me what the
 [22] conditions were that the governmental agencies were
 concerned with?

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- [1] A. Well, as I indicated earlier, I'd have to see the
 [2] government inspection report. I knew or - yeah, I knew
 [3] then that the government was concerned. Today, I forget the
 [4] details of that concern.
 [5] Q. And my question is simply, were you aware of what
 [6] the government concerns were at the time you visited the
 [7] site in 1978?
 [8] A. I very likely was, certainly, but I've forgotten
 [9] what they were today.
 [10] Q. And it's because, again, of the passage of time
 [11] and fading memories that you are unable to tell me what
 [12] those concerns were from your memory?
 [13] A. That is right.
 [14] Q. Can you tell me, on the first visit that you went
 [15] to the Texas Wye, who went with you?
 [16] A. I don't recall the specific individuals, but I,
 [17] if my memory again serves me right, they were the upper
 [18] managers of the plant, as distinguished from the
 [19] environmental engineering staff.
 [20] Q. Would that include the plant manager?
 [21] A. It would include the plant manager and his
 [22] immediate general superintendents in my thinking, here.

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- [1] Whoever accompanied me came from that group.
 [2] Q. Were there any other people from St. Louis that
 [3] came with you?
 [4] A. I don't remember anybody else from St. Louis.
 [5] Q. How about on your second visit? Can you tell me
 [6] who went with you?
 [7] A. The second visit, as I recall, was somebody from
 [8] the plant environmental team, but there again, I'm not
 [9] certain just specifically which of those individuals was
 [10] with me.
 [11] Q. Would it have been Mr. Hendricks or Ms. Reid?
 [12] A. It certainly wouldn't have been Miss Reid. It
 [13] could have been Mr. Hendricks or his supervisor.
 [14] Q. Can you tell me who his supervisor was?
 [15] A. At that time, I think it was Mr. Himes.
 [16] Q. How about your third visit? Can you tell me who
 [17] accompanied you?
 [18] A. The third visit? There again, it was a member of
 [19] the plant's environmental staff. The specific person, I
 [20] just cannot recall.
 [21] Q. Would it refresh your recollection if I suggested
 [22] that Gordon Lunsford went with you on some, or one, or all

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- [1] of the visits? Would that help you?
 [2] A. Well, Mr. Lunsford certainly was interested and
 [3] active, but I just don't remember that. It could have been
 [4] but I don't remember.
 [5] Q. You believe your first walk-through or look at
 [6] the site was in 1978; is that correct?
 [7] A. That's the best to my recollection, yes, sir.
 [8] Q. Can you tell me how soon after that your second
 [9] visit would have been?
 [10] A. Oh, a matter of - this is not specific, of
 [11] course - three, four months, something like that.
 [12] Q. So perhaps sometime in 1978 or 1979?
 [13] A. It was more likely still in '78.
 [14] Q. How about your third visit?
 [15] A. There it would have to be the latter part of '78
 [16] or early '79.
 [17] Q. Do you recall attending a press tour of the Motco
 [18] site?
 [19] A. A press tour? No, I don't remember any press
 [20] contacts in Texas.
 [21] Q. By "press contacts in Texas," you are, I assume,
 [22] excluding articles written on the Texas Wye.

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- [1] A. I'm talking about individuals representing the
 [2] media. I had no tour with any of them.
 [3] Q. Was any information given to you prior to your
 [4] visits to the sites, to the Motco site, in 1978?
 [5] A. I'm confused. I thought we established that I
 [6] was aware of the interest of the State authorities and the
 [7] fact that Monsanto had shipped chemicals to that site. I
 [8] was - that kind of information I was aware of.
 [9] Q. Maybe specific, either oral presentation or
 [10] written material prior to the visit.
 [11] A. I don't recall anything that formal, no.

[12] Q. Can you tell me when you first learned there was
[13] seepage from - of waste at the North 80 site?
[14] MR. SARFATTI: Objection; no foundation.
[15] A. I just don't have a date in mind. It would have
[16] to be after 1977, when I was assigned my new job. I just
[17] don't remember when that information was available to me.
[18] Late '70's, early '80's is as close as I can come.
[19] MR. MANTA: Incidentally, I thought we had a
[20] standing, or maybe I'm wrong -
[21] MR. SARFATTI: I think you are mistaken, because
[22] you couldn't act for the defense group as a whole with

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[1] regard to those matters.
[2] MR. MANTA: Okay. Well, I wouldn't stipulate for
[3] the defense group for the -
[4] MR. SARFATTI: Same impact.
[5] MR. MANTA: - for this deposition.
[6] BY MR. MANTA:
[7] Q. Incidentally, Mr. Papageorge, are you being paid
[8] for your time today and yesterday?
[9] A. No, sir.
[10] Q. When did you first learn that a governmental
[11] agency was going to require Monsanto to take some action
[12] with regard to the North 80?
[13] A. There again, I have trouble remembering the
[14] dates, and my answer would be similar to the one, the
[15] previous one. Somewhere in the late '70's, early '80's.
[16] Q. How about when you first learned of publicity
[17] surrounding the conditions of the North 80?
[18] MR. SARFATTI: Objection as to form.
[19] A. Again, it doesn't stand out in my mind. It's
[20] again late '70's, early '80's.
[21] BY MR. MANTA:
[22] Q. Would the same be true, that is, the late '70's,

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[1] early 1980's, for when you first learned that Monsanto was
[2] negotiating with governmental agencies concerning the
[3] addressing the conditions at the North 80 site?
[4] A. I don't know if the word "negotiating" exactly
[5] fits, but there were discussions between the regulatory
[6] representatives and Monsanto representatives regarding that
[7] site, and at about that period of time, late '70's, early
[8] '80's.
[9] Q. Were you aware that these discussions centered
[10] around seepage that was occurring and the governmental
[11] agencies concerned with that seepage?
[12] A. There was - yes, I was aware of an allegation by
[13] the agencies that they had determined some seepage was
[14] taking place.
[15] Q. When did you first learn that Monsanto had agreed
[16] to pay for the costs of addressing the problems at North 80?
[17] A. Oh, boy, I just don't remember dates. I recall
[18] that Monsanto hired a company that's in this kind of
[19] remedial business, to help with that site.
[20] Q. Do you recall the company's name?
[21] A. No, I don't.
[22] Q. Were the conditions that you became aware of at

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[1] the North 80 in the late '70's or early 1980's, were they
[2] raised at any environmental policy meeting?
[3] A. I don't recall, but that doesn't mean they were
[4] not raised or that they were raised. I just don't recall.
[5] Q. They could have been raised, but because of the
[6] passage of time, you simply don't recall whether or not they
[7] were raised?
[8] A. That's true.
[9] Q. And if I was to ask you these questions
[10] concerning whether the Environmental Policy Committee was
[11] made aware of the conditions at the North 80, if I was
[12] asking you these questions in the late '70's or early
[13] 1980's, you would be much more likely to be able to give an
[14] answer to my question; is that right?
[15] A. That's a realistic appraisal of what would likely
[16] happen, yes.
[17] Q. Can you tell me what conditions you were aware of
[18] in the late '70's or early 1980's that - other than the
[19] seepage that the government was concerned with?
[20] A. With regard to -
[21] Q. To the North 80.
[22] A. That's all I recall. I don't recall any other

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[1] situation or condition.
[2] Q. Can you tell me what you know about the
[3] conditions that existed at the North 80 in the late '70's,
[4] early 1980's?
[5] A. Just that the regulatory people said there was
[6] seepage. That's all I remember.
[7] Q. Did you ever visit the North 80?
[8] A. Yes.
[9] Q. Can you tell me approximately when you visited
[10] the North 80?
[11] A. Sometime in that time frame we've discussed.
[12] Q. Can you tell me approximately how many times you
[13] visited the North 80 in that time period?
[14] A. A couple of times, I would say.
[15] Q. And what did you see when you went there, to the
[16] North 80?
[17] A. To the North 80? I saw a flat, grassy field.
[18] Q. Did you - were you shown the seepage, the area
[19] of seepage that was alleged to take place?
[20] A. I didn't see - I don't recall anybody pointing
[21] out any seepage. I didn't see any personally.
[22] Q. What were you shown?

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[1] A. The field, when we walked all over, and I was
[2] looking for visual evidence of something abnormal. I didn't
[3] see any.
[4] Q. Did anyone from the agency accompany you on your
[5] visit?
[6] A. No.
[7] Q. Can you tell me who did?
[8] A. Somebody from the plant. I don't know who that
[9] somebody was.
[10] Q. Do you think it would have been the plant manager
[11] or someone from the Environmental Department?
[12] A. It could have been any of those people.
[13] Q. Were you told anything during the visit other
[14] than the seepage problem? Told about anything else other
[15] than the seepage problem?
[16] MR. SARFATTI: Objection; mischaracterization of
[17] prior testimony.
[18] MR. MANTA: Let me back up.
[19] BY MR. MANTA:
[20] Q. Did you have any discussions with the people
[21] while you were on the tour of the North 80 site?
[22] A. We certainly talked to each other. Before we

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[1] went on, I double-checked to see that - my information that
[2] the state regulatory people had shown an interest in this
[3] site and indicated that they suspected seepage, and I
[4] requested that the, where it was possible, I could be shown
[5] the site, and that was quickly taken care of, and we walked
[6] around, I looked to see what the eye can pick up and I
[7] didn't see anything, and that was the extent of the
[8] discussion, really.
[9] Q. What were you told about the site?
[10] A. That it was an old disposal site, dating back
[11] decades, and it was inactive at the time I was there, and
[12] that it contained materials that had been generated in the
[13] plant through those many years. That's, in essence, what I
[14] understood.
[15] Q. Can you tell me who at the plant would have told
[16] you that information?
[17] A. Oh, it's either the plant manager or one of his
[18] superintendents, or a member of his environmental team.
[19] Q. Did they tell you specifically what chemicals
[20] were deposited at the North 80 site?
[21] A. I don't recall any specific chemicals mentioned,
[22] no.

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[1] Q. Were you told that there was seepage at the North
[2] 80 site?
[3] A. No, I was told that the State people had alleged
[4] there was seepage.
[5] (Papageorge Deposition Exhibit 18 marked for
[6] identification.)
[7] (Discussion off the record.)
[8] BY MR. MANTA:
[9] Q. Jumping back to the Texas Wye for a moment, we're
[10] looking at Exhibit 17, which is a November 23rd, 1981,

[11] letter with Bates number MCO 6054467 through MCO 6054470.
 [12] I'd like you to take a moment just to look at it.
 [13] (Witness peruses said document.)
 [14] A. I have quickly reviewed this.
 [15] BY MR. MANTA:
 [16] Q. I'd like to direct your attention to the second
 [17] page and ask you if you can tell me whether this refreshes
 [18] your recollection as to when Monsanto received a 104 request
 [19] from the EPA.
 [20] A. Your reference to 104, this is the first time
 [21] you've come up with that.
 [22] Q. I thought earlier you had testified that you

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[1] didn't recall what a 104 request was -
 [2] A. That's -
 [3] Q. Or whether -
 [4] A. I remember that answer, yes, but I didn't realize
 [5] it was associated with this particular site.
 [6] Q. My question is, does that refresh your
 [7] recollection as to when Monsanto received a 104 request?
 [8] A. Not really.
 [9] Q. Does it refresh your recollection as to what a
 [10] 104 request is?
 [11] A. Yes.
 [12] Q. And what's your understanding of a 104 request?
 [13] A. Well, it, of course, comes under one of the
 [14] federal acts that has to do with waste disposal, and it's,
 [15] in substance, it's an information-gathering request.
 [16] Q. Okay. That's all I have.
 [17] What type of information is sought under a 104
 [18] request?
 [19] A. What kind? Oh, golly, it's a long laundry list
 [20] of the, what types of materials are present, what tests had
 [21] been made, what are the results of the tests, over what
 [22] period of time was it in use, who was involved -

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[1] Q. In essence, isn't it seeking to identify those
 [2] parties that may be potentially responsible parties under
 [3] the Superfund law?
 [4] A. Well, that's one of the objectives, yes, sir.
 [5] MR. MANTA: Okay, now we were on 18.
 [6] BY MR. MANTA:
 [7] Q. Looking at Exhibit 18, it is an April 19, 1982,
 [8] memorandum. The subject is governmental correspondence on
 [9] North 80. The Bates number is MCO 6550926 through MCO
 [10] 6550933. There's a "cc" reference to Mr. W. B. Papageorge.
 [11] Would that be you, sir?
 [12] A. Yes, sir.
 [13] Q. Can you tell me what G4WA means?
 [14] A. That's the mailing zone, the location of my
 [15] office.
 [16] Q. Could you tell me specifically what it is?
 [17] A. Well, the "G" is the G Building in Monsanto's
 [18] offices in St. Louis. The "3" is the third floor -
 [19] Q. Is it "3" or "4"? I have "4."
 [20] A. I'm sorry, I'm looking at the wrong - fourth
 [21] floor, G4. "W" is for the west wing, and "A" is the mailing
 [22] zone in that wing.

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[1] Q. I'd like to direct your attention to the second
 [2] page, the entry 9/21/72, and ask you to read that paragraph.
 [3] A. I have read it.
 [4] Q. Does that refresh your recollection at all as to
 [5] when someone from Monsanto told you that there was seepage
 [6] at the North 80?
 [7] A. No, because - are you implying that in 1972,
 [8] they told me?
 [9] Q. No, I'm not implying that at all. I'm just using
 [10] that to see if I can jog your memory.
 [11] A. My information regarding seepage was received
 [12] from the plant in the late '70's, early '80's. This
 [13] sentence doesn't refresh my memory as to exactly what month,
 [14] or day, or period within that multi-year span I was informed
 [15] of this.
 [16] Q. Did anyone tell you what the disposal methods
 [17] that were used at the North 80? Did anyone tell you what
 [18] the disposal methods that were used in the Fifties and
 [19] Sixties, what they were at the North 80?
 [20] A. No.
 [21] Q. Were you ever told that styrene tars were

[22] deposited into unlined pits at the North 80?

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[1] MR. SARFATTI: Objection; undefined terms.
 [2] A. No.
 [3] BY MR. MANTA:
 [4] Q. Were you ever told that the pits at the North 80
 [5] were lined?
 [6] A. No.
 [7] Q. Did you ever inquire as to the disposal methods
 [8] that were used at the North 80?
 [9] A. I don't recall getting into that kind of detail,
 [10] no.
 [11] Q. Would you be interested in historical information
 [12] on the North 80?
 [13] A. Well, it depends on what kind of information
 [14] would be helpful from my vantage point, and the position I
 [15] held, I didn't require, really, an awful lot of detail. I
 [16] just had to have the general description of the situation.
 [17] Q. Why wouldn't you need to know the detail of the
 [18] methods of disposal and the conditions at the North 80 site?
 [19] A. Well, that kind of information, one would need to
 [20] design a, a test program or to design a remediation program,
 [21] and I was not involved in that type of activity.
 [22] Q. Did you specifically request to see

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[1] correspondence that had been gathered on the governmental
 [2] agencies regarding the North 80?
 [3] A. No.
 [4] Q. Do you recall reviewing this document?
 [5] A. No.
 [6] Q. Do you recall ever seeing it before today?
 [7] A. I do not remember it, no.
 [8] Q. Would the nature and extent of governmental
 [9] correspondence, or correspondence with the government
 [10] agencies have concerned you in or about 1982?
 [11] A. Well, the essence of the government's findings,
 [12] and statements, and positions would have been of interest to
 [13] me, certainly, but the details that might appear in the
 [14] correspondence, although interesting, would not necessarily
 [15] be helpful, so I didn't really need it for my job.
 [16] Q. Do you know why it would be sent to you?
 [17] MR. SARFATTI: Objection; undefined term, "it."
 [18] A. We're talking about this document and why it
 [19] would be sent to me.
 [20] BY MR. MANTA:
 [21] Q. Yes, why that document would be sent to me (sic),
 [22] Exhibit 18.

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[1] A. Exhibit 18. Again, I can't put myself in the
 [2] shoes of the two authors. They just felt that I might be
 [3] interested, and here it is; you can read it or pitch it.
 [4] Q. Was it part of your job as Director of
 [5] Environmental Operations to follow the progress of any
 [6] investigations that were taking place regarding the North
 [7] 80?
 [8] A. Yes, sir.
 [9] Q. Could this have been sent to you with regard to
 [10] that responsibility, "this" being Exhibit 18?
 [11] A. Well, it could be, but I don't know that these
 [12] environmental engineers were aware of what my responsibility
 [13] was and what would motivate them to put me on that list. I
 [14] can get that information from my own staff member who
 [15] followed this kind of work.
 [16] Q. But you would view it as part of your job to
 [17] follow the investigation of the North 80: is that right?
 [18] A. Yes, primarily through my staff people.
 [19] (Papageorge Deposition Exhibit 19 marked for
 [20] identification.)
 [21] BY MR. MANTA:
 [22] Q. Looking at what has been marked for

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[1] identification as Exhibit 19, Papageorge Exhibit 19, it is
 [2] an April 20, 1982, memorandum. The subject is "MCI Site
 [3] Rankings - Groundwater Vulnerability." There is a "cc"
 [4] reference to Mr. W. B. Papageorge. Is that you, sir?
 [5] A. Yes.
 [6] Q. And the indication to the right, G4WA, is your
 [7] office address?
 [8] A. Yes. Yes.
 [9] Q. Can you tell me if you've ever seen this document

[10] before?
 [11] A. I don't remember it, but -
 [12] Q. Do you recall meetings or discussions regarding
 [13] groundwater vulnerability at the North 80?
 [14] MR. SARFATTI: Objection; undefined term.
 [15] A. I don't recall meetings with the subject
 [16] vulnerability at North 80. I recall discussions of the
 [17] North 80, and the State's interest in the site, and the
 [18] activities taken to alleviate those situations.
 [19] Q. Can you tell me when those discussions took
 [20] place?
 [21] A. Through this period we've talked about, latter
 [22] part of the '70's, early '80's.

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[1] Q. And can you tell me at what meetings it would
 [2] have been discussed at?
 [3] A. I didn't say they were meetings; I would say
 [4] discussions were held. There might have been two or three
 [5] people sitting around a table, talking about it, or talking
 [6] about it as we walked the plant streets or as we walked on
 [7] the site.
 [8] Q. Can you tell me anything about the discussions?
 [9] A. I thought we reviewed that.
 [10] Q. I'm asking specifically about the - what was
 [11] said.
 [12] A. What was said. Well, I can review them. It's an
 [13] old site; there are wastes under is the surface; it was
 [14] inactive; the State people had expressed an interest in it
 [15] because they claimed they saw some seepage. This is the
 [16] kind of discussion that was held.
 [17] Q. But you, I think, had said that you didn't recall
 [18] any - anyone from Monsanto telling you that there was
 [19] seepage at the North 80. Is that right?
 [20] A. I said Monsanto people informed me of the State's
 [21] contention that there was seepage. I don't recall in that
 [22] period of time that Monsanto had conducted any kind of

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[1] studies to determine whether or not seepage was really
 [2] occurring.
 [3] Q. Could you turn the page, and looking at the
 [4] fourth paragraph, the third under the heading "Texas City,"
 [5] it says, "After the discovery of a relatively small area of
 [6] seeps on the east bank of the lagoon, a larger area of
 [7] seepage has been observed on the west bank of the lagoon.
 [8] The exact location of all waste disposal pits is not known.
 [9] Varied wastes are known to exist on both the landward and
 [10] seaward side of the seawall," and then the next paragraph
 [11] says, "The lagoon into which the observed seeps are
 [12] discharging is classified as a recreational body of water,
 [13] used for water contact sports and fishing."
 [14] My question is, does that refresh your
 [15] recollection as to whether or not you were told that the
 [16] North 80 was, in fact, seeping?
 [17] A. This fits the report I got regarding the State's
 [18] description of the situation.
 [19] Q. Did you have any reason to - did Monsanto have
 [20] any reason to dispute the State's description?
 [21] MR. SARFATTI: Objection; lack of foundation.
 [22] A. There's no reason to dispute it or to agree with

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[1] it. They just were in no position, had no additional
 [2] information to help them. This is why you see the last
 [3] sentence, "Current situation is under evaluation."
 [4] BY MR. MANTA:
 [5] Q. Did you, in any of the discussions regarding the
 [6] North 80, discuss Monsanto's potential liability for the
 [7] site?
 [8] MR. SARFATTI: You are making that question
 [9] unlimited as to time?
 [10] MR. MANTA: Well, limit it to the period '77 to
 [11] '83.
 [12] A. Well, the possibility that Monsanto may have to
 [13] be involved with some expenditures to do whatever was
 [14] necessary to correct a situation was certainly discussed.
 [15] That's it. That's the only type of liability I was aware
 [16] of. There was another, there was I, I believe I'm
 [17] correct - yes, my memory is coming back. There was a, an
 [18] operator of a bait shop involved. I don't recall the
 [19] details, but as I remember, he was contending that his
 [20] business was suffering because of this situation.

[21] BY MR. MANTA:
 [22] Q. And there was a concern for potential liability

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[1] for this bait shop claim?
 [2] A. There was this consideration, yes; are we, are we
 [3] really affecting this person's livelihood, so on.
 [4] Q. And the claim by the person in the bait shop was
 [5] that the North 80 was somehow affecting his operation of the
 [6] bait shop?
 [7] MR. SARFATTI: Objection; undefined term,
 [8] "claim."
 [9] A. I don't know that this individual was
 [10] specifically mentioning the North 80 as distinguished from
 [11] the South 20. I just don't remember the details. All I
 [12] recall is that he was alleging that his business was not as
 [13] good as it used to be because of all the publicity regarding
 [14] that area.
 [15] BY MR. MANTA:
 [16] Q. Getting back to the first question of liability,
 [17] that liability, the concern for liability that was discussed
 [18] was a possibility that the State was going to require
 [19] Monsanto to do some remediation at the North 80? Is that
 [20] right?
 [21] MR. SARFATTI: Objection; mischaracterization of
 [22] the testimony.

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[1] A. There was a consideration given that if, in
 [2] truth, there was this situation that the State people
 [3] claimed, that eventually, some corrective action would have
 [4] to take place, and that would certainly involve Monsanto,
 [5] and that, of course, results in costs as a result of the
 [6] corrective action that would have to take place, so there
 [7] was this consideration.
 [8] BY MR. MANTA:
 [9] Q. Wasn't it, indeed, much more than a possibility?
 [10] In fact, it was a likelihood that Monsanto was going to have
 [11] to do some remediation at the North 80 and that you were
 [12] aware of this during the period 1977 through '83?
 [13] A. I, I have a - it's difficult to, to measure the
 [14] degree of interest the State was having in pursuing this
 [15] matter, but Monsanto, in its evaluation of the situation,
 [16] took the approach that it was inevitable, it's coming; if we
 [17] don't do it fairly quickly and efficiently, it's going to
 [18] cost much more in the long run; we're better off grabbing
 [19] the bull by the horns and doing something. That's the
 [20] thought process that was followed then.
 [21] Q. And that thought process was during the time 1977
 [22] to '83? Is that right?

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[1] A. In that period of time when I was close to it,
 [2] yes, uh-huh.
 [3] Q. Why did Monsanto want to act quickly with regard
 [4] to the North 80?
 [5] A. Well, it's, it's the considered opinion of those
 [6] that were managing this, this situation that delay really
 [7] doesn't make the matter any easier. If we, Monsanto, didn't
 [8] do something, it's likely or quite possible that the State
 [9] would feel they had to do something, which means hiring
 [10] someone to do it and that someone really doesn't know as
 [11] much about the materials that are there as Monsanto does and
 [12] Monsanto can certainly benefit from its own experience in
 [13] terms of alleviating the problem, to taking whatever is
 [14] proper.
 [15] Q. It would be fair to say, would it not, that in
 [16] the period 1977 through 1983, sometime during that period,
 [17] that Monsanto agreed to voluntarily clean up the North 80
 [18] site to the acceptability, or to the standards that the
 [19] State was requiring?
 [20] MR. SARFATTI: Objection; undefined term,
 [21] "voluntarily."
 [22] A. Well, Monsanto did take, offer to take and did

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[1] take action. It was voluntary in the sense that there was
 [2] no official piece of paper, so to speak, that said, "You
 [3] must do it or else" kind of thing. On the other hand, there
 [4] was a perception, which was quite realistic, that that piece
 [5] of paper would have come if Monsanto hadn't agreed to go
 [6] ahead and correct the situation, or if they didn't, someone
 [7] else would do it at, at a higher cost. There's no question

[8] that it would have been much more costly with a stranger
 [9] coming in trying to cope with the problem.
 [10] BY MR. MANTA:
 [11] Q. Was it your perception that Monsanto was
 [12] complying with regulatory requirements set by the government
 [13] and that they hadn't been sued by the government? That
 [14] piece of paper hadn't come? Is that right?
 [15] MR. SARFATTI: Objection; vague.
 [16] A. I, I am confused by your question, in that you
 [17] are implying that Monsanto was not abiding by regulatory
 [18] requirements. Monsanto's actions always attempted to follow
 [19] the regulations that existed at the time the actions were
 [20] taken. I don't think I understand your question.
 [21] MR. MANTA: I'm going to drop my question.
 [22] MR. HUGHES: Mark, when it's a good time, I'm

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[1] going to require a break, too.
 [2] MR. MANTA: Okay, you want to take it now?
 [3] MR. HUGHES: That would make me happy.
 [4] MR. SARFATTI: Why don't we go off the record for
 [5] a second.
 [6] (Discussion off the record.)
 [7] BY MR. MANTA:
 [8] Q. As I understand what you are saying, Mr.
 [9] Papageorge, there was no question in anyone's mind at that
 [10] time that Monsanto was going to have to do some remediation
 [11] to comply with governmental requirements; is that right -
 [12] MR. SARFATTI: Objection.
 [13] MR. MANTA: - during the period 1977 to 1983?
 [14] MR. SARFATTI: Objection; lack of foundation.
 [15] A. It's my recollection that the situation as it
 [16] related to this site was such that Monsanto felt that it was
 [17] appropriate for them to take the corrective actions required
 [18] to meet the understood State conditions that they would
 [19] settle for and that by doing it at that time, it not only
 [20] would correct the problem as defined by the State, but would
 [21] be done in a more economical fashion.
 [22] Q. Can you tell me, looking at the first page of

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[1] this Exhibit 19, the rankings, there, what a public
 [2] relations ranking of "1" means?
 [3] A. You are going to have to ask the authors, here.
 [4] This is a two-man opinion kind of ranking. It does not
 [5] reflect a Monsanto or a bigger group.
 [6] Q. It represents, though, does it not, the
 [7] assessment by Monsanto employees of public relations
 [8] vulnerability or issues regarding the North 80?
 [9] A. It represents the opinion of two environmental
 [10] engineers addressing issues and attempting to wear a public
 [11] relations hat. I don't know how good those are, but that's
 [12] their personal opinion, mm-hmm.
 [13] Q. Did they - do you know if they got any input
 [14] from public relations people at Monsanto?
 [15] A. I do not know.
 [16] Q. The title of this chart, the heading above the
 [17] chart is, "MCI Site Ranking - Groundwater Vulnerability."
 [18] Does that give you any indication as to what the
 [19] public relations concerns were that would result in a number
 [20] 1 ranking for the North 80 site?
 [21] MR. SARFATTI: Objection; lack of foundation.
 [22] A. It does not.

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[1] BY MR. MANTA:
 [2] Q. Now, I believe you said you don't specifically
 [3] recall any meetings or discussions regarding these rankings
 [4] of groundwater vulnerability. Is that correct?
 [5] A. I don't know that - I don't recall any meetings.
 [6] I do not.
 [7] Q. How about discussions regarding this, this
 [8] ranking of groundwater vulnerability?
 [9] A. There was, to my knowledge or to my recollection,
 [10] there were no meetings that further discussed these
 [11] rankings.
 [12] Q. Do you recall whether or not you had participated
 [13] in any way with regard to the assessment or assignment of
 [14] rankings to the North 80 site?
 [15] A. My only participation was to assign the task to
 [16] the two people who reported to me.
 [17] Q. What task did you assign to them?
 [18] A. I told them to prepare a list, just as the first

[19] paragraph indicates, because Mr. Throdahl asked for it, and
 [20] you will note the parenthetical, "Based on our best
 [21] judgment." It's a personal kind of evaluation, which is
 [22] really all I expected. It was a quick look, "How does it

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[1] appear to you? Please let us know." That was the request.
 [2] Q. Did you find what was provided to you responsive
 [3] to your request?
 [4] A. Yes. It fit pretty well.
 [5] Q. Did you use this information in the regular
 [6] course of your business at Monsanto?
 [7] A. Yes.
 [8] Q. Would you agree that the information there would
 [9] be considered generally reliable by you?
 [10] MR. SARFATTI: Objection; lack of foundation.
 [11] A. When you say "generally," I would suggest that
 [12] instead of generally reliable, was reliable enough for the
 [13] activity which followed this particular request.
 [14] BY MR. MANTA:
 [15] Q. Okay, what activity followed this request?
 [16] A. It was to inform Mr. Throdahl of what the
 [17] situation was like throughout the company, and it was
 [18] subsequently followed regarding all these sites, confirmed
 [19] that this was adequate.
 [20] Q. It was of sufficient reliability for Mr. Throdahl
 [21] to rely on in the course of his job; is that right?
 [22] A. Yes, because he had to look at the broad picture

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[1] and make a quick evaluation of the situation,
 [2] corporate-wide.
 [3] MR. MANTA: Okay, we can take lunch.
 [4] (Luncheon recess from 12:27 to 1:35.)
 [5] AFTERNOON SESSION
 [6] MR. MANTA: First, I'd like to address objections
 [7] that occurred throughout the morning session, which I think
 [8] are even more in the way of coaching objections than
 [9] objections that occurred previously. The objections I'm
 [10] referring to are objections on the defined term, undefined
 [11] term.
 [12] Now, I'm willing to offer you a standing
 [13] objection to all questions where you object on the grounds
 [14] that there is an undefined term. Are you willing to accept
 [15] that?
 [16] MR. SARFATTI: Well, since you can't bind other
 [17] defense counsel to the case -
 [18] MR. MANTA: Why do I have to bind other defense
 [19] counsel? Why can't I ask you during my questioning of the
 [20] witness, so that I can question the witness the way I want
 [21] to question the witness for Liberty Mutual, that you
 [22] stipulate for my part of the questioning, and anybody else

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[1] can question the witness in the manner that they wish, but I
 [2] wish to conduct the examination consistent with the
 [3] discovery orders in this case.
 [4] MR. SARFATTI: Well, I think we all have that as
 [5] our objective. The problem that you raise is that other
 [6] defense counsel may very well rely on the record that's
 [7] being compiled during your examination, and if they're not
 [8] bound by a standing objection, then they will have an
 [9] opportunity to use that testimony as they see fit, without
 [10] regard to the objection.
 [11] MR. MANTA: Well, regardless of that fact, I
 [12] think that the objection -
 [13] MR. HUGHES: Should we talk again, just briefly?
 [14] MR. MANTA: Okay.
 [15] MR. HUGHES: If you don't mind, Steve. You do
 [16] mind.
 [17] MR. SARFATTI: I'd rather just get on with it,
 [18] because we're not going to -
 [19] MR. MANTA: Well, let's talk for two minutes
 [20] outside.
 [21] (Whereupon Mr. Sarfatti, Mr. Manta and Mr.
 [22] Hughes left the deposition room briefly and

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[1] returned.)
 [2] BY MR. MANTA:
 [3] Q. Okay. Mr. Papageorge, I'd like to ask you when
 [4] you first became aware of groundwater contamination at the
 [5] North 80.
 [6] MR. SARFATTI: Objection; no foundation.

[7] A. When did I?

[8] BY MR. MANTA:

[9] Q. Mm-hmm.

[10] A. I thought we covered this. It was sometime in

[11] the period - let me think a bit, now. '78 is as close as

[12] my recollection can help me recall.

[13] Q. Can you tell me what the source of the

[14] information was that the Texas City North 80 site had

[15] contaminated groundwater?

[16] A. The source of the information to me?

[17] Q. To you.

[18] A. I don't recall the individual that informed me of

[19] this at all.

[20] Q. Can you tell me why you think it was 1978 for the

[21] North 80?

[22] A. I relate that to the fact that I was assigned as

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[1] Director, Environmental Operations in late '77, and as best

[2] I recall, within about a six-month period, I was in the job

[3] long enough to have made some initial contacts with the

[4] Texas City plant and its people, and it's at about that

[5] time, as best I recall, that the North 80 and South 20 sites

[6] were brought to my attention.

[7] Q. You say brought to your attention; do you mean

[8] the situation of groundwater contamination was brought to

[9] your attention at about that time?

[10] A. That was part of the discussion, yes, sir.

[11] Q. And when you say "discussion," in what context

[12] did that discussion take place?

[13] A. I don't, of course, recall all of the details,

[14] but the discussion included the reference and the

[15] terminology North 80 and South 20, and what that terminology

[16] described, and where was it located, and what was it, what

[17] service did it perform in the past, was it active currently,

[18] that type of discussion, and along with that was the fact

[19] that the information was given me that the State had

[20] indicated that there was some seepage.

[21] Q. Was the seepage, to your knowledge, related to

[22] the groundwater contamination?

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[1] A. At this point in time, I don't recall that the

[2] correct terminology for that seepage would have been related

[3] to groundwater. It could have, it could have been a seepage

[4] without involving groundwater.

[5] Q. Getting back to my earlier question about when

[6] you first became aware of groundwater contamination at the

[7] North 80, you had indicated that it was in about 1978, you

[8] believe. Do you recall whether it was through information

[9] obtained through a groundwater study by one of Monsanto's

[10] consultants that you learned that there was groundwater

[11] contamination at the North 80, in and about 1978?

[12] A. I hope - I didn't intend to mislead. In '78, I

[13] was not aware of groundwater associated with the seepage. I

[14] didn't mean to imply that. I do recall that later on, some

[15] studies were made, but today, I don't recall the details of

[16] those studies.

[17] Q. My question is, how did you learn in 1978 that

[18] there was groundwater contamination at the North 80? And

[19] maybe it would help you to understand that - well -

[20] MR. SARFATTI: Objection. That's not a question.

[21] MR. MANTA: Let me have it read back to me.

[22] THE COURT REPORTER:

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[1] "Q. My question is, how did you learn in 1978

[2] that there was groundwater contamination at the North 80?

[3] And maybe it would help you to understand that -"

[4] BY MR. MANTA:

[5] Q. Okay, you said earlier that the seepage, you did

[6] not mean to equate the seepage with the groundwater

[7] contamination; is that right?

[8] A. I didn't intend to do that equation, no.

[9] Q. Okay, and my initial question was when you had

[10] learned about groundwater contamination, I had asked you

[11] about seepage earlier today. My question now is

[12] specifically directed to groundwater contamination and when

[13] you first became aware of groundwater contamination at the

[14] North 80.

[15] A. Oh.

[16] MR. SARFATTI: Objection; lack of foundation.

[17] BY MR. MANTA:

[18] Q. And as I understood your answer previously, you

[19] said 1978, and what I'm looking for is what information was

[20] provided to you to tell you there was groundwater

[21] contamination at the North 80 in 1978.

[22] A. Okay, I tried to respond earlier and I perhaps

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[1] didn't make it clear. When I refer to the 1978 date, I

[2] didn't mean to confuse my awareness or information that I

[3] had received about seepage and associate that with

[4] groundwater. I didn't intend to do that. If I did, it was

[5] wrong.

[6] In '78, I was made aware of, really, alleged

[7] seepage problems, alleged by State representatives. The

[8] groundwater information that I eventually received is more

[9] likely to have been brought to my attention in the early

[10] '80's, two to three years later.

[11] Q. Now, how did you find out in the early 1980's

[12] about the groundwater contamination at the North 80?

[13] A. Well, as best I remember, there was a, a

[14] consulting company requested by Monsanto to make a study,

[15] and in their evaluation, they came up with some information

[16] that led us to believe that waters quite a distance below

[17] the surface did contain some chemicals. I don't remember

[18] which chemicals, I don't remember the depth of the test

[19] wells.

[20] Q. It was more than information which led you to

[21] believe the fact of groundwater contamination. Was it not

[22] studies that had determined that there was, in fact,

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[1] groundwater contamination?

[2] A. Well, that's what I thought this study was about.

[3] Q. I understand, but your answer said that they had

[4] provided you some information which led you to believe that

[5] waters quite a distance below the surface had some chemicals

[6] in them, and what I would like to know is, isn't it true

[7] that the study that was done did, in fact, determine that

[8] there was groundwater contamination?

[9] MR. SARFATTI: Objection; vague.

[10] A. Isn't that what I said? Maybe not in those

[11] words, but -

[12] BY MR. MANTA:

[13] Q. Is that what you meant?

[14] A. I indicated that samples were taken at some depth

[15] below the surface which would define that water as a

[16] groundwater as distinguished from puddles of rainwater

[17] collected at or near the surface.

[18] The fact that I mentioned that chemicals were

[19] found in samples of water taken from these drilled holes

[20] into the formation would indicate that that water at that

[21] level, defined as groundwater, did contain chemicals.

[22] Q. Let me ask this, and I'm just going to ask if you

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[1] could answer it yes or no, if you know, to this question.

[2] In the early 1980's, did a consulting firm determine that

[3] there was groundwater contamination at the North 80 site?

[4] A. Yes.

[5] Q. Can you tell me who that groundwater consultant

[6] was?

[7] A. I just don't remember the specific company, no.

[8] Q. Okay. Can you tell me when Monsanto acknowledged

[9] that there was seepage at the North 80?

[10] A. I don't remember the date, but it was really

[11] based on the report received from this consulting firm, so

[12] I'd have to see a copy of that report to establish the time.

[13] Q. Had Monsanto looked into the allegations of the

[14] State that were made in the late '70's, approximately 1978,

[15] concerning seepage, at the time that the allegations were

[16] made?

[17] MR. SARFATTI: Objection; lack of foundation.

[18] A. Well, from Monsanto's viewpoint, the fact that

[19] arrangements were made for a contractor to come to the scene

[20] and do this is the follow-up to confirm or determine whether

[21] or not the allegations were accurate, appropriate.

[22] BY MR. MANTA:

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[1] Q. You don't know whether or not prior to your

[2] assuming the position of Director of Environmental

[3] Operations in 1977, whether Monsanto had acknowledged that

[4] there was some seepage at the North 80; is that right?

[5] A. That is true.

[6] Q. Are you aware of any other investigation into the
[7] seepage at the North 80 other than the consultant
[8] investigation that you had mentioned which had discovered
[9] the groundwater contamination?

[10] A. I am not.

[11] Q. Was the North 80 remediation program that
[12] Monsanto embarked on part of Monsanto's greater effort in
[13] accordance with Monsanto's worldwide policy guidelines, to
[14] be a good corporate citizen and first address the issue of
[15] getting these sites cleaned up?

[16] MR. SARFATTI: Is that the end of your question?

[17] MR. MANTA: Yes.

[18] MR. SARFATTI: Objection; lack of foundation.

[19] A. Well, certainly -- well, like many actions, there
[20] are more than one objective. Certainly, the objective to be
[21] a good corporate citizen was involved and part of the
[22] consideration --

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[1] BY MR. MANTA:

[2] Q. My question --

[3] MR. SARFATTI: Wait. I don't think the witness
[4] is finished with the response.

[5] MR. MANTA: But I'd like to clarify my question,
[6] if I could.

[7] MR. SARFATTI: Well, let him finish with his
[8] response, and then you can clarify the question if you need
[9] to, but I don't think he's finished with the response, and I
[10] don't think it's courteous to cut him off.

[11] MR. MANTA: I understand what he's saying, and
[12] I'm going to reask the question so that --

[13] MR. SARFATTI: You want to withdraw the question?

[14] MR. MANTA: Yes, I'm going to reask the question.

[15] That's what I'm going to do. I don't think there's anything --

[16] MR. SARFATTI: Well, please wait until after he
[17] completes his response to the question that you've asked.

[18] MR. MANTA: I don't think it is in anyone's

[19] interest to have the witness answer a question that I think

[20] he's misunderstood, and I don't think that it is anyone's

[21] interest to have him go on at length about that, so --

[22] MR. SARFATTI: I think it's in everybody's

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[1] interest for the witness to respond to your questions as
[2] best he can.

[3] MR. MANTA: Okay.

[4] MR. SARFATTI: And if you don't like his response
[5] or you don't think it's responsive, you can either move to
[6] strike or reformulate a question, but please let him finish
[7] his responses.

[8] MR. MANTA: I wasn't attempting to cut you off,
[9] Mr. Papageorge. I sensed that my question was not precise
[10] enough, and I wanted to reformulate it.

[11] BY MR. MANTA:

[12] Q. And what I'd like to ask is, Monsanto had a very
[13] specific guideline, as part of its Worldwide Environmental
[14] Protection Guidelines, that dealt with the cleanup of
[15] hazardous waste sites. Is that correct?

[16] A. Yes, sir.

[17] Q. Okay, and that guideline was designed -- Well,
[18] strike that.

[19] Monsanto, as part of that guideline, had decided
[20] that it wanted to be a good corporate citizen and
[21] voluntarily clean up some hazardous waste sites or certain
[22] hazardous waste sites; is that right?

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[1] MR. SARFATTI: Objection; lack of foundation,
[2] vague.

[3] A. I have a problem with our mutual understanding of
[4] the expression "good corporate citizen."

[5] BY MR. MANTA:

[6] Q. Okay.

[7] A. I don't know what is meant by that in your
[8] question.

[9] Q. Well, I'm taking it from the guidelines,
[10] themselves. I recall that phrase being, being used in them,
[11] and what I'm asking is, simply, was the remediation program
[12] at North 80 part of Monsanto's more general worldwide policy
[13] guideline to voluntarily clean up certain hazardous waste
[14] sites?

[15] MR. SARFATTI: Objection; lack of foundation and
[16] vague.

[17] A. Defining "voluntarily" as being a situation where
[18] Monsanto makes the decision to take action without the, the
[19] usual legal types of pressures that can be instituted under
[20] many conditions, this does not mean that these potential
[21] pressures weren't being perceived at the time that decision
[22] was made to voluntarily do something. These guidelines you

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[1] referred to did acknowledge that some activity would take
[2] place along the lines you just described.

[3] Go ahead.

[4] BY MR. MANTA:

[5] Q. And would those lines that I described be the
[6] remediation of North 80?

[7] A. One of the objectives of the activity that was
[8] implemented at North 80 did include that, yes, sir. The
[9] others, of course, were economic, because it's a very strong
[10] opinion amongst Monsanto management that corrective actions
[11] of this type performed by the industries that know about
[12] those chemicals can be considerably more economically done
[13] than having strangers called in from remote locations to
[14] bring in their bulldozers, and what have you, and start
[15] mucking around and creating costs that are really
[16] unnecessary.

[17] Q. Was the issue of cost part of Monsanto's
[18] worldwide guideline on the issue of voluntary cleanup?

[19] A. It's -- economics is always a part of any
[20] business decision, yes, sir.

[21] Q. Do you recall if it was implicit in the
[22] guidelines, or was it explicit, that the reason for

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[1] voluntary cleanup was to avoid larger costs down the road?

[2] A. Well, it was implicit in that those words were
[3] not typed up on a piece of paper when the guidelines were
[4] put together.

[5] Q. It wouldn't have been good public relations,
[6] would it, to say that the reason Monsanto had decided to
[7] voluntarily clean up sites is to avoid greater costs down
[8] the road? Is that right?

[9] MR. SARFATTI: Objection; lack of foundation.

[10] A. Well, I think you'd have to ask a public
[11] relations expert, but I could see a statement like that as
[12] being positive.

[13] MR. MANTA: The next party favor.
[14] (Papageorge Deposition Exhibit 20 marked for
[15] identification.)

[16] BY MR. MANTA:

[17] Q. Looking at what has been marked for
[18] identification as Papageorge Exhibit 20, it is a November
[19] 30, 1982, memorandum entitled, or subject, "Texas City
[20] North-80 Status," bearing Bates number CBY 1900756 through
[21] CBY 1900772.

[22] There's a reference to Mr. W. B. Papageorge.

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[1] Would that be you, sir?

[2] A. I am listed as an addressee, yes, sir.

[3] Q. And the G4WA indication is your mailing address
[4] in St. Louis?

[5] A. It does.

[6] Q. Was that a "Yes"? Is that "Yes"?

[7] A. I said "It does."

[8] Q. Oh, it does indicate that?

[9] A. Yes.

[10] Q. I'd like you to read that first paragraph and
[11] then I'd like to ask you a question, if I could.

[12] (Witness peruses said document.)

[13] A. I have read the paragraph just above the author's
[14] signature.

[15] BY MR. MANTA:

[16] Q. The reference in the paragraph is to a
[17] presentation that was going to occur in St. Louis on
[18] Tuesday, December 14th, starting at 2:00 p.m., and given the
[19] date of the memorandum, I would assume that it was Tuesday,
[20] December 14th, 1982. Did you attend this presentation?

[21] A. I do not clearly recall attending. That doesn't
[22] mean that I attended or did not attend.

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[1] Q. If I were to ask you in December of 1982 whether
[2] you attended this presentation, would you likely be able to
[3] give me an answer?

[4] MR. SARFATTI: It depends whether you ask the

[5] question before the 14th of December.
 [6] BY MR. MANTA:
 [7] *Q. Assuming I asked the question after the 14th of*
 [8] *December.*
 [9] A. Under those conditions, I should be in a position
 [10] to likely respond, yes.
 [11] *Q. Would you also likely be able to tell me who*
 [12] *attended?*
 [13] A. If I attended the meeting, I would - yes, I
 [14] would be in a position to.
 [15] *Q. And you would also be in a position to tell me,*
 [16] *wouldn't you, what had transpired during the meeting?*
 [17] A. Yeah. This is all hypothetical, as you know.
 [18] *Q. Yes, if you had -*
 [19] A. Creating a scenario, yes.
 [20] *Q. But at the present time, as we sit here today, in*
 [21] *1993, you can't tell me whether or not you attended this*
 [22] *meeting on December 14th, 1982, assuming that it occurred?*

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[1] A. I cannot. I don't know if I was even in the, in
 [2] the office then.
 [3] *Q. I'd like you to turn to the second-to-last page,*
 [4] *and this looks like possibly an overhead projection type of*
 [5] *slide or outline that may have been handed out at the*
 [6] *meeting.*
 [7] Do you recall ever seeing this outline before?
 [8] A. I do not.
 [9] *Q. Underneath the heading "Woodward-Clyde*
 [10] *Significant Findings" are the items there consistent with*
 [11] *your recollection of what the consultants had discovered with*
 [12] *regard to the North 80 site in the early 1980s?*
 [13] A. These items are a bit more specific than my
 [14] recollection will help me recall, really. I do recall a
 [15] reference to chemicals in water samples taken from test
 [16] wells, indicating that water below the surface -
 [17] groundwater, in other words - did contain chemicals. I do
 [18] not - I'm in no position today to say that these statements
 [19] are exactly what I remember about it because I really don't
 [20] remember.
 [21] *Q. When you say chemicals in the groundwater, do you*
 [22] *mean contamination?*

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[1] A. Well, I want to be sure that we exclude the
 [2] chemicals normally associated with that bed of water that's
 [3] down there, so when the analysis is made, those chemicals
 [4] and others are reported by the chemist.
 [5] *Q. Okay. Was it your understanding that the*
 [6] *contamination of the groundwater had occurred as a result of*
 [7] *the wastes that were deposited at the North 80 site?*
 [8] A. No, my understanding was that the water was taken
 [9] in the vicinity of the site. Chemicals not normally
 [10] associated with groundwater at that level were detected.
 [11] At this point in time, one could only speculate
 [12] where those chemicals may have come from, and -
 [13] *Q. Is -*
 [14] MR. SARFATTI: Wait a minute. I don't believe
 [15] he's finished.
 [16] MR. MANTA: I'm sorry.
 [17] A. (Continuing) It could have come from the site,
 [18] itself, or it could have come from a distant location and
 [19] the groundwater worked its way through the site, so that
 [20] question had yet to be answered.
 [21] BY MR. MANTA:
 [22] *Q. In 1982, what other sources of groundwater*

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[1] *contamination at the North 80 were considered, other than*
 [2] *contamination resulting from the wastes that were deposited*
 [3] *at the site?*
 [4] A. Again, I'd like to remind you, I'm not a
 [5] hydrogeologist, but knowing that that total area is a, an
 [6] industrial area, there are sites nearby other than
 [7] Monsanto's plant. There are refineries, and so on, up and
 [8] down that area. Finding a chemical in groundwater doesn't
 [9] necessarily indicate with a high degree of confidence that
 [10] that chemical came from that specific site. It could have
 [11] come from miles away, so a good evaluation of the total
 [12] system has to include consideration of sources other than
 [13] that immediate site.
 [14] MR. MANTA: Could I have my question read back?
 [15] THE COURT REPORTER:

[16] "Q. In 1982, what other sources of groundwater
 [17] contamination at the North 80 were considered, other than
 [18] contamination resulting from the wastes that were deposited
 [19] at the site?"
 [20] BY MR. MANTA:
 [21] *Q. My question was what other sources. Can you*
 [22] *identify the other sources specifically, other than to say*

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[1] *just industry was in the area?*
 [2] MR. SARFATTI: Objection; lack of foundation.
 [3] A. In 1982, that information was not available. The
 [4] consideration was given to the possibility that these
 [5] materials found in the water which were not considered
 [6] naturally-occurring ingredients, could have come from
 [7] sources other than the landfill, itself, and that would call
 [8] for further study.
 [9] BY MR. MANTA:
 [10] *Q. I would like you to look through this outline and*
 [11] *tell me if there's any indication that there was any other*
 [12] *source for groundwater contamination at the North 80 other*
 [13] *than the wastes deposited at the North 80.*
 [14] (Witness peruses said document.)
 [15] A. Unless I missed it somewhere, the only reference
 [16] I see to groundwater is on the page entitled "Woodward-Clyde
 [17] Study Significant Findings." There is a dot followed by the
 [18] word "groundwater" and "soil contamination." That's the
 [19] topic. There's nothing in this document that helps me
 [20] determine what was said under that particular dot.
 [21] I don't see anywhere in the report that the
 [22] chemicals analyzed in that water came from the site or

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[1] elsewhere. There is nothing, unless I'm not reading
 [2] carefully, that specifically identifies the source of those
 [3] chemicals.
 [4] Can you help me find that?
 [5] MR. MANTA: I'd like to have my question read
 [6] back.
 [7] THE COURT REPORTER:
 [8] "Q. I would like you to look through this
 [9] outline and tell me if there's any indication that there was
 [10] any other source for groundwater contamination at the North
 [11] 80 other than the wastes deposited at the North 80."
 [12] (Witness peruses said document.)
 [13] MR. SARFATTI: I'm not sure who is waiting for
 [14] who. Are you waiting for another question or are you
 [15] waiting for Mr. Papageorge to -
 [16] MR. MANTA: Oh, I thought my -
 [17] THE WITNESS: He read you the question.
 [18] MR. SARFATTI: The question was read back. You
 [19] have been flipping through the document.
 [20] BY MR. MANTA:
 [21] *Q. I guess I don't precisely understand your answer,*
 [22] *and I would like you to listen to my question again and tell*

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[1] *me what your answer is.*
 [2] THE COURT REPORTER:
 [3] "Q. I would like you to look through this
 [4] outline and tell me if there's any indication that there was
 [5] any other source for groundwater contamination at the North
 [6] 80 other than the wastes deposited at the North 80."
 [7] MR. SARFATTI: Asked and answered.
 [8] BY MR. MANTA:
 [9] *Q. You can answer.*
 [10] A. I thought I answered. I have looked through the
 [11] document. I find, first of all, there is no reference to
 [12] groundwater associated with the site, the words contained in
 [13] your question, because you said "other than those found with
 [14] the site." This report doesn't say that; at least, I don't
 [15] see it, and I could be corrected on that.
 [16] There is a reference on one of the pages
 [17] referring to the topic of groundwater contamination. This
 [18] document does not tell me anything regarding what was
 [19] covered under that topic. There is no reference to
 [20] contaminated groundwater that refers it as being associated
 [21] with any site, whether it be the site designated at North 80
 [22] or some other site at some distance from the North 80

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[1] position.
 [2] BY MR. MANTA:
 [3] *Q. Well, if we assume - look at the title page; it*

[4] says, "North 80 Site Presentation" - that this document is
 [5] what it refers to be, that it is authentic, that all the
 [6] pages are here, that it is a, it is an outline of sorts on
 [7] the North 80, the presentation that was made on the North
 [8] 80, from this outline, is there any indication to you that
 [9] any discussion took place regarding sources of contamination
 [10] other than the North 80, itself?

[11] A. Of what? Contamination of what?

[12] Q. Contamination of the groundwater.

[13] A. Groundwater. I don't see anything here - and I
 [14] think I read it fairly carefully - that specifically says,
 [15] "We have found a material we are going to define as a
 [16] contaminant, it's not groundwater, found at this level, and
 [17] is definitely associated with the North 80," I don't see
 [18] anything in here that, that leads me to that.

[19] Q. Can you tell me if any specific alternate sources
 [20] of groundwater contamination for the North 80 were
 [21] identified in approximately 1982?

[22] A. I don't recall any. That doesn't mean it

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[1] happened or didn't happen.

[2] Q. As we sit here today, are you aware of any other
 [3] sources of contamination of the North 80 groundwater and
 [4] soil other than the wastes deposited at the North 80 site?

[5] A. I'm not aware of either source you just
 [6] described. I'm sorry, I'm not - I don't recall information
 [7] that helps me remember contamination of groundwater from the
 [8] site, itself, or other sources.

[9] Q. My question is only slightly different, and that
 [10] is, as we sit here today, can you tell me if you are aware
 [11] of any other source of groundwater contamination and soil
 [12] contamination at the North 80 other than the wastes
 [13] deposited at the North 80?

[14] MR. SARFATTI: Objection; asked and answered.

[15] A. I indicated I don't remember the other sources,
 [16] nor do I remember the contamination from the site, itself.

[17] BY MR. MANTA:

[18] Q. What - is there anything that I could show you,
 [19] any document that would help refresh your recollection as to
 [20] the existence of any sources other than the North 80,
 [21] itself, for soil and groundwater contamination?

[22] A. Sir, I can't describe a document unless I know

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[1] one exists. If there is one prepared by some reputable
 [2] group, I would be happy to look it over and give you my, my
 [3] understanding after I've read it. I don't know of any
 [4] document that exists that I could identify for you and have
 [5] you find it for me. This is no different than many, many
 [6] other reports.

[7] Q. Am I correct in saying that as we sit here today,
 [8] you are not aware of any document that identifies any other
 [9] source of contamination other than the wastes that were
 [10] deposited at the North 80?

[11] MR. SARFATTI: Objection; mischaracterization of
 [12] the testimony and irrelevant.

[13] A. You used the word "unaware." I do not recall any
 [14] such document.

[15] BY MR. MANTA:

[16] Q. Is there any person that I could speak with that
 [17] would be able to tell me if there is any other source of
 [18] contamination at the North 80, groundwater or soil
 [19] contamination?

[20] A. I don't know of any specific person. I would be
 [21] tempted to go back to the individuals that, that were
 [22] involved personally with that activity, as shown on all

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[1] these documents that we've been looking at; the plant
 [2] manager, his staff, his consultants, and I don't know which
 [3] of those, maybe a hundred people may have that piece of
 [4] information.

[5] Q. Isn't it true that any discussions that concerned
 [6] alternate sources of contamination other than the wastes -
 [7] other alternate sources of soil and groundwater
 [8] contamination at the North 80 other than the wastes
 [9] deposited at the North 80 were in the abstract and not
 [10] related to any specific source that had been identified?

[11] A. Oh, I can't speak to that; don't know. I don't
 [12] know what the individuals who raised that possibility had in
 [13] mind regarding other potential sources.

[14] Q. What individuals raised that possibility?

[15] A. Again, it's a roomful of people that are all
 [16] adding their comments, and plant people, of course, knew all
 [17] their neighbors, they knew all the tank farms, the petroleum
 [18] refineries, the trucking firms, the spills that have
 [19] occurred on roadways, everything that took place in that
 [20] area through the years, decades, could be sources.

[21] Q. Am I correct -

[22] A. Go ahead.

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[1] Q. Am I correct in saying that you cannot identify a
 [2] single person, document that identifies any source of
 [3] contamination at the North 80, groundwater and soil, other
 [4] than the wastes deposited at the North 80?

[5] MR. SARFATTI: Objection; lack of foundation.

[6] A. I don't know that I said that. All I said is
 [7] that -

[8] Q. I'm not saying you said that; I'm just asking the
 [9] question.

[10] A. Chemicals were found in groundwater. The source
 [11] of those chemicals - and by chemicals, I'm now referring to
 [12] those that were not believed to be naturally occurring in
 [13] that groundwater - one likely source would be that site,
 [14] the North 80 site. There are other potential sources. I
 [15] indicated that I didn't recall who raised that point at the
 [16] meeting, but it was a consideration that was, to the best of
 [17] my knowledge, pursued by either the plant people, or their
 [18] consultants, or jointly.

[19] Q. The consideration that was raised, was that a
 [20] consideration that was raised as a possibility in the
 [21] abstract, we should look to see if there's other possible
 [22] sources?

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[1] A. I don't know - excuse me, I don't know what you
 [2] mean by "the abstract." Eventually, the intent was to come
 [3] up with corrective action. The type of action taken depends
 [4] on how good the information you have is. If that source of
 [5] contamination is coming from three miles upstream of
 [6] something, it could be that the corrective action being
 [7] considered wouldn't solve the problem, so in order to come
 [8] up with the best solution, you have to have as much
 [9] information if you can as to where the contamination is
 [10] coming from, and this is why that thought was raised and was
 [11] pursued.

[12] Q. The thought being we should identify and see if
 [13] there are sources of contamination other than the site?

[14] A. Certainly.

[15] MR. SARFATTI: Objection; mischaracterization of
 [16] his testimony.

[17] BY MR. MANTA:

[18] Q. Ultimately, no other sources of contamination for
 [19] the North 80 groundwater and soil were ever discovered. Is
 [20] that correct?

[21] A. I don't know. I don't remember.

[22] BY MR. MANTA:

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[1] Q. Are you aware of any corrective action that
 [2] addressed any sources of contamination other than the wastes
 [3] deposited at the North 80 site, itself?

[4] A. I'm at a disadvantage because I don't remember
 [5] what corrective action was taken. Therefore, I don't recall
 [6] if that corrective action was such that it took care of any
 [7] chemicals coming out of the North 80 site, itself, and/or
 [8] neighboring sources other than the site. Not knowing the
 [9] corrective action taken or not remembering, I really cannot
 [10] answer your question.

[11] Q. Did you or were you ever aware of the specific
 [12] corrective action that was taken at North 80?

[13] A. Oh, yes. I remember the activity, but I really
 [14] don't remember what was done.

[15] Q. As best you can, could you tell me what you
 [16] recall about the corrective action that was taken at the
 [17] North 80?

[18] A. All I know is bulldozers, and shovels, and
 [19] trucks, and that sort of activity, but I don't, I really
 [20] don't know what they accomplished.

[21] Q. If I, again, were to be asking these questions in
 [22] and about the time that the corrective action took place,

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[1] would you be able to provide me answers to that question?

[2] A. I'd like to think I could, yes, sir.
 [3] Q. Isn't it true that if I was asking you these
 [4] questions at the time the remediation took place, that you
 [5] would be able to tell me whether the corrective action did,
 [6] in fact, address any source of contamination other than the
 [7] wastes deposited at the site, itself?
 [8] A. Yeah, this assumes that other sources were
 [9] identified and the action taken to stop that, yes, I could
 [10] answer that, but if no such information was available and no
 [11] action was taken because it didn't need to, then of course,
 [12] I couldn't tell you.
 [13] Q. But it is the passage of time and the fading of
 [14] memories over that time is the reason that you can't tell me
 [15] whether or not corrective action addressed any other source
 [16] other than the North 80 site, itself; is that right?
 [17] A. That is correct.
 [18] (Papageorge Deposition Exhibit 21 marked for
 [19] identification.)
 [20] (Witness peruses said document.)
 [21] BY MR. MANTA:
 [22] Q. Mr. Papageorge, looking at what has been marked

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[1] for identification as Papageorge Exhibit 21, it is a
 [2] December 10, 1982, memorandum. The subject is "Anticipated
 [3] Litigation." Reference is to North 80 site, bears Bates
 [4] number MCO 0345526 - MCO 00345527.
 [5] MR. SARFATTI: Before you start asking questions
 [6] about this document and the subject matter of it, can I ask
 [7] for a standing objection to documents such as this and to
 [8] any questions about documents like this on the basis of the
 [9] attorney-client and work product privileges? Recognizing
 [10] that to the extent that information otherwise privileged
 [11] under the attorney-client work product privileges, by virtue
 [12] of the in-issue ruling in this case is properly the subject
 [13] of discovery, I wish to avoid any waiver of the privilege as
 [14] to the outside world, so that if I can have a standing
 [15] objection as to documents like this and questions that would
 [16] otherwise lead to responses containing privileged
 [17] information, I need not each time raise the objection
 [18] without waiver of the privilege as to non-parties to this
 [19] litigation.
 [20] MR. MANTA: I will grant you a standing
 [21] objection.
 [22] MR. JOHNSON: Can I just ask what you mean by

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[1] "documents like this?"
 [2] MR. SARFATTI: Well, this is clearly a document
 [3] that refers to anticipated litigation. It's drafted by
 [4] someone - I think everybody here at the table
 [5] understands - is a Monsanto attorney. If you want me to
 [6] identify each document where I feel that the standing
 [7] objection would apply, I'll be glad to, but this seems to be
 [8] a classic one. I don't think there's any mystery about it.
 [9] MR. JOHNSON: Yeah, I'm not suggesting that this
 [10] isn't a classic one, I'm just concerned about a standing
 [11] objection. You are asking for all documents that - I think
 [12] the words you used were "looked like this one," and I don't
 [13] quite know what you mean by that.
 [14] MR. SARFATTI: Okay.
 [15] MR. HUGHES: Why don't you just identify -
 [16] MR. SARFATTI: I could do that or I could do it
 [17] by category, any document generated by an attorney to
 [18] Monsanto officials, any document generated by Monsanto
 [19] officials to an attorney -
 [20] MR. HUGHES: Why don't you just say if you see
 [21] one that you consider this one of the in-issue documents and
 [22] your prior statement concerning having a standing objection

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[1] as to the outside world and we'll all agree to that, I
 [2] think.
 [3] MR. SARFATTI: As long as it's understood that
 [4] when I make that designation, the standing objection
 [5] applies, I have no problem with applying the particular -
 [6] MR. OMRD: I think that's been the practice to
 [7] date. That's agreeable with me.
 [8] MR. MANTA: I don't have a problem with that.
 [9] BY MR. MANTA:
 [10] Q. Looking at the - Well, first I'd like to ask you
 [11] to take a look at it and tell me if you've ever seen this
 [12] document before.

[13] A. I don't recall seeing the first page and I don't
 [14] recall receiving the second one.
 [15] BY MR. MANTA:
 [16] Q. Looking at the second page, there's a reference
 [17] to W. B. Papageorge. Would that be you?
 [18] A. Yes, sir, I'm listed as an addressee.
 [19] Q. And is the address G4WA your office mailing
 [20] address at Monsanto St. Louis?
 [21] A. It is.
 [22] Q. Looking at the second paragraph, the first

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[1] sentence of that paragraph reads, "Because of the technical
 [2] natures of the issues in this matter, I am relying on you to
 [3] gather and analyze information and to consider, formulate
 [4] and supervise any contracts or arrangements with outside
 [5] consultants in North 80 matters."
 [6] Can you tell me what your role was in gathering,
 [7] analyzing, considering, and formulating, and supervising any
 [8] contracts or arrangements with outside consultants on North
 [9] 80 matters?
 [10] A. My role through my staff was to monitor the
 [11] activity, to keep abreast of any developments, so that we
 [12] could assure ourselves that things were moving along as
 [13] expeditiously as they could, and to also be in a position to
 [14] comment as we saw fit and to communicate to our bosses the
 [15] level of activity we observed, and the caliber of the
 [16] activity and the, and the quality of the work that was being
 [17] done, that we served sort of as eyes and ears for the, the
 [18] bosses in St. Louis.
 [19] Q. Did you have any specific assignment in
 [20] connection with the anticipated litigation?
 [21] A. No.
 [22] Q. Mr. Gilhausen did not give you a specific task

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[1] with regard to any anticipated litigation; is that correct?
 [2] A. That is correct.
 [3] Q. The information you gathered, analyzed,
 [4] considered, formulated, and the supervision of any contracts
 [5] or arrangements with outside consultants would have been
 [6] something that was done in the usual course of your job as
 [7] Director of Environmental Operations for Monsanto in 1982;
 [8] is that right?
 [9] A. No.
 [10] Q. Okay.
 [11] A. Those tasks you just described are the
 [12] responsibility of the plant manager.
 [13] Q. You didn't have any responsibility for those
 [14] items that I've just described?
 [15] A. That is true.
 [16] Q. They were - did anyone else in addition to the
 [17] plant manager have the information - or, responsibilities
 [18] insofar as that information that I described was concerned?
 [19] A. Well, the plant manager, Mr. Tromblee, had the
 [20] ultimate responsibility. He could assign tasks and
 [21] responsibility to his team, members of whom were included on
 [22] that addressee list. He could hold them responsible for the

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[1] parts of the assignment that he delegated, but the ultimate
 [2] responsibility for that whole activity rests with Mr.
 [3] Tromblee, the plant manager.
 [4] Q. If the ultimate responsibility rested with the
 [5] plant manager for the items discussed in Paragraph 2 that
 [6] I've mentioned, why would Mr. Gilhausen send you a copy of
 [7] this memorandum?
 [8] MR. SARFATTI: Objection; lack of foundation.
 [9] A. Of course, you'd have to ask Mr. Gilhausen to
 [10] really know what went on in his thinking, but as I had
 [11] indicated earlier, we were expected to serve as the eyes and
 [12] ears of the St. Louis office, and if we felt that something
 [13] could be done in a better fashion, whether in quality, or
 [14] timing, what have you, we would, of course, work with Mr.
 [15] Tromblee and his team to help them do this. In the
 [16] meantime, a person like Mr. Gilhausen would touch base with
 [17] us to get our reaction to the things we observed and
 [18] monitored.
 [19] So that's the role he expected us to play.
 [20] BY MR. MANTA:
 [21] Q. Would Mr. Tromblee have communicated information
 [22] that we have identified in paragraph 2 through you in

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[1] connection with this anticipated litigation?
 [2] A. Whew. He could do so if he wished. It was his
 [3] option as to how he communicated.
 [4] Q. Do you recall whether Mr. Tromblee provided you
 [5] with the information set forth in the second paragraph or -
 [6] A. I do not.
 [7] Q. Oh - I'm sorry, or did he provide it directly to
 [8] Mr. Gilhausen?
 [9] A. I do not recall his providing information to me
 [10] directly. I do not know how the information was conveyed to
 [11] Mr. Gilhausen.
 [12] Q. I believe you had testified yesterday that part
 [13] of your responsibilities as Director of Environmental
 [14] Operations for Monsanto was to keep others informed. As
 [15] part of your job, then, wouldn't you be gathering
 [16] information on the North 80 site?
 [17] A. Yes, sir.
 [18] Q. And to the extent that you gathered information
 [19] in order to pass it along to others, wouldn't you, in the
 [20] normal course of your job, have passed the information along
 [21] to Mr. Gilhausen in response to his request?
 [22] A. No, not in matters like this. Mr. Gilhausen

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[1] would be working with the plant; I would try to stay tuned
 [2] in without inhibiting progress, if you will. I relied on
 [3] Mr. Weishaar, who was also on the list, who was my team
 [4] member, to be closer to this activity and getting more
 [5] details. He would be the one to stop by my office and bring
 [6] me up to speed, and if appropriate, he and I might go in and
 [7] see my boss, or I would send him in alone. We had a lot of
 [8] flexibility, and it was my duty to see that the
 [9] communication took place. It didn't mean that I had to
 [10] personally do it. I had to be reassured that the
 [11] information was flowing in the right direction.
 [12] Q. Would it also be part of your responsibility to
 [13] assure that the information was flowing to Mr. Gilhausen
 [14] pursuant to his request?
 [15] A. Well, one of my first questions would be to Mr.
 [16] Weishaar, "Is Brent in on this?"
 [17] "Oh, yeah, just left his office. We were
 [18] together at a meeting in Texas City," that kind of - these
 [19] are a little hypothetical, in a sense, but that's the way of
 [20] life; that's the way these things are handled.
 [21] Q. You don't recall specifically, I take it, whether
 [22] or not you actually provided Mr. Gilhausen with any

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[1] information pursuant to this request. Is that right?
 [2] A. At this point in time, the details escape me. I
 [3] just do not remember it.
 [4] Q. However, again, if I was asking you in September
 [5] of 1982 or following whether or not you had given
 [6] information to Mr. Gilhausen pursuant to this request, you
 [7] would likely be able to tell me; is that right?
 [8] A. My recollection would, hopefully, be better then
 [9] than it is now.
 [10] Q. All right, and can you tell me what a Managing
 [11] Director's Review is?
 [12] A. Oh, it's been awhile since I've heard that
 [13] expression. That is the terminology that is used to
 [14] describe a discussion session with the Managing Director of
 [15] the operating unit. These are reviews conducted on any
 [16] subject that someone in the Managing Director's organization
 [17] feels that it's important enough to take the Managing
 [18] Director's time to listen, to become better informed and to,
 [19] if necessary, give his support or his comments regarding any
 [20] changes that he thinks ought to be made.
 [21] Q. Did Monsanto have an office manual that
 [22] identified situations which a Managing Director's Review

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[1] would be suggested, or required, or anything like that?
 [2] A. I know of no such manual.
 [3] Q. It was up to the individual director, then, to
 [4] determine whether he or she felt that an issue was of
 [5] significant importance to have a Managing Director's Review?
 [6] Is that right?
 [7] A. In a sense, that's what it would amount to when
 [8] the man or woman would agree to setting aside time to
 [9] participate in such a discussion.
 [10] Q. Can you tell me approximately how many times you
 [11] held Managing Director Reviews within a year, say? Within

[12] any given year.
 [13] A. How many I held? There were very few.
 [14] MR. SARFATTI: Do you have any particular year in
 [15] mind?
 [16] MR. MANTA: I'm just asking in general.
 [17] A. (Continuing) The best of my recollection, the
 [18] Managing Director's reviews that I was personally involved
 [19] with were held only when a new Managing Director was
 [20] appointed.
 [21] BY MR. MANTA:
 [22] Q. Can you think -

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[1] A. I may have been invited as a, I'm going to call
 [2] it as a guest at a meeting called for and arranged for by
 [3] others, but at the moment, I'm, I'm groping to recall a
 [4] specific, and I find I can't remember any.
 [5] Q. If I understand you correctly, the only situation
 [6] which you recall a Managing Director Review is when a new
 [7] director was appointed? Is that right?
 [8] A. Those are the reviews that I initiated or he may
 [9] have asked for to cover my area of involvement.
 [10] Q. Can you tell me, getting back to my earlier
 [11] question, approximately how many Managing Director Reviews
 [12] you would conduct in a year?
 [13] A. That I would conduct?
 [14] Q. (Nods head in affirmative manner).
 [15] A. I've never kept score, but I would suggest that
 [16] it was very likely one a year, or even slightly less than
 [17] that.
 [18] Q. Who would be in attendance at a Managing
 [19] Director's Review?
 [20] A. Oh, again, I can only speak for those that I
 [21] asked for. Of course, it would be the Managing Director,
 [22] and of course, I would be there. There would be, when

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[1] available, my immediate supervisor, and on occasion - and
 [2] this didn't happen often - the member of the Managing
 [3] Director's staff who might be closely involved to the issue
 [4] being discussed, generally this individual was the
 [5] manufacturing general manager, and that's that about it.
 [6] Q. Do you recall any situations where attorneys were
 [7] present during Managing Director Reviews?
 [8] A. No.
 [9] Q. Can I infer from your testimony that since
 [10] Managing Director Reviews that you conducted were held
 [11] approximately one time of the year and that the one type of
 [12] review that you recall is a review that took place where a
 [13] new Managing Director had been appointed, that Managing
 [14] Director Reviews, as far as you were concerned, were
 [15] reserved for issues of importance to Monsanto?
 [16] MR. SARFATTI: Objection: vague, lack of
 [17] foundation.
 [18] A. Well, certainly, if they were important to the
 [19] Managing Director to have him agree to spend a half a day or
 [20] so on it, it must have been important to Monsanto. I don't
 [21] know how else to describe it. It would not have been a
 [22] frivolous matter.

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[1] BY MR. MANTA:
 [2] Q. Managing Director Reviews that you conducted were
 [3] reserved for important issues; is that correct?
 [4] A. Well, in my opinion, I thought they were
 [5] important issues. Generally, it was an opportunity for me
 [6] to conduct a tutorial, to bring a new management director up
 [7] to speed on the kinds of things that I and my group were
 [8] involved in and were working on. That's it.
 [9] (Papageorge Deposition Exhibit 22 marked for
 [10] identification.)
 [11] MR. SARFATTI: Before we get into questioning on
 [12] what's been marked as Papageorge Exhibit 22, this would be
 [13] another one of the documents covered by the stipulation
 [14] concerning attorney-client work product privileged
 [15] information.
 [16] (Witness peruses said document.)
 [17] MR. MANTA: By agreeing to the stipulation, we
 [18] are not agreeing to any - or I'm not agreeing to any
 [19] characterization of the document that you may have.
 [20] MR. SARFATTI: The stipulation only goes to our
 [21] agreement that I need not interpose a specific objection on
 [22] the grounds of the attorney-client or work product

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- [1] privileges to avoid waving the privilege.
 [2] MR. HUGHES: As to the rest of the world.
 [3] MR. SARFATTI: Yes, as to the rest of the world.
 [4] BY MR. MANTA:
 [5] *Q. Looking at what has been marked for*
 [6] *identification as -*
 [7] MR. SARFATTI: Beyond the parties to this
 [8] litigation.
 [9] MR. HUGHES: Yes, to be more precise.
 [10] BY MR. MANTA:
 [11] *Q. Looking at what has been marked for*
 [12] *identification as Papageorge Exhibit 22, appears to be a May*
 [13] *24, 1982, memorandum. Subject is the Texas City North 80.*
 [14] *Bates number is MCO 6552447.*
 [15] *Mr. Papageorge, is that your signature?*
 [16] A. That's my signature, yes, sir.
 [17] *Q. Okay. Do you have any reason to think that you*
 [18] *didn't prepare this memorandum?*
 [19] A. No, I had forgotten it, but now that I see it, I
 [20] believe I recall it.
 [21] *Q. At the - in the bottom right-hand corner, there*
 [22] *is a "WBP:pb." Can you tell me what "pb" stands for?*

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- [1] A. The bottom right-hand -
 [2] *Q. I'm sorry, bottom left. I'm sorry.*
 [3] A. Bottom left? Oh. Oh. The initials, of course,
 [4] are mine, designating the originator of that. The "pb" is a
 [5] secretary's initials.
 [6] *Q. Okay, can you tell me what those initials*
 [7] *represent?*
 [8] A. I forgot her name. Peggy something. I've
 [9] forgotten the last name.
 [10] MR. OMROD: Don't worry. There's a protective
 [11] order in this case.
 [12] MR. SARFATTI: Do you want to know if she's still
 [13] living?
 [14] MR. MANTA: We'll see.
 [15] BY MR. MANTA:
 [16] *Q. Was this the same secretary that you had*
 [17] *mentioned yesterday? I don't recall.*
 [18] A. No, this - there were times when Miss Audrain
 [19] was away from the office, either vacationing or what have
 [20] you, and other secretaries would do the typing and filing
 [21] for us.
 [22] *Q. Does this document refresh your recollection as*

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- [1] *to a management director review that you conducted regarding*
 [2] *the North 80?*
 [3] A. It refreshes my recollection that such a meeting
 [4] was held. I would not describe it as a session that I
 [5] conducted. There were others who were designated as
 [6] spokesmen for different portions of the presentation.
 [7] Today, I don't recall the exact agenda as to what was
 [8] covered, and by whom, and how much time was allocated.
 [9] *Q. I'm not sure if I understood you correctly. Did*
 [10] *you call this Managing Director's Review?*
 [11] A. I was the one that was asked to gather the
 [12] presentors, find out what each of the presentors was
 [13] prepared to discuss. I was assigned the task of informing
 [14] them as to the meeting room and times, and of course, make
 [15] our appointments, if you will, with the Managing Director's
 [16] secretary so that he knew that that particular time period
 [17] was set aside for us.
 [18] *Q. Who was the Managing Director?*
 [19] A. As I recall, in 1982, to the best of my
 [20] recollection, it was Frank Reese. I could be wrong on that,
 [21] but Frank Reese, R-double-e-s-e.
 [22] *Q. Who asked you to call the Managing Director's*

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- [1] *Review?*
 [2] A. My boss, Myron Dmytryszyn.
 [3] *Q. Do you recall what Mr. Dmytryszyn told you was*
 [4] *the reason for calling the meeting?*
 [5] A. Not the exact words. I recall that he came back
 [6] from a meeting with Mr. Reese and said, "Frank is interested
 [7] in that subject. Why don't you set up a group and let's
 [8] discuss it in a little more detail," and that's what I did.
 [9] *Q. What was Frank Reese's title?*
 [10] A. Vice-President and Managing Director -

- [11] Vice-President of Monsanto and Managing Director of
 [12] Intermediate Chemicals Company.
 [13] *Q. In the hierarchy of things at Monsanto, was Mr.*
 [14] *Reese above Mr. Dmytryszyn, as well?*
 [15] A. Yes. Yes.
 [16] *Q. And as well as above you?*
 [17] A. Yes. I reported to Mr. - Dr. Dmytryszyn, Dr.
 [18] Dmytryszyn reported to Mr. Reese.
 [19] *Q. Mr. Reese was high up in Monsanto's corporate*
 [20] *structure. Is that fair?*
 [21] MR. SARFATTI: Objection; vague.
 [22] A. Well, he was a vice-president of the corporation.

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- [1] I personally don't have any way of determining the - how
 [2] high up, to use your expression, this means in the
 [3] hierarchy.
 [4] BY MR. MANTA:
 [5] *Q. Can you recall any other occasions where Mr.*
 [6] *Reese asked you to call a Managing Director's Review to*
 [7] *discuss a hazardous waste site?*
 [8] MR. SARFATTI: Objection. Mischaracterization of
 [9] the testimony.
 [10] A. Well, Mr. Reese's request for an in-depth study
 [11] came to me through my boss, Dr. Dmytryszyn.
 [12] You asked me if I recall other Managing Director
 [13] Reviews similar to this. At the moment, I just don't
 [14] remember - I do recall meetings with Mr. Reese, but the
 [15] subjects and timing, I just cannot remember.
 [16] BY MR. MANTA:
 [17] *Q. Would it be fair to say that since Mr. Reese, the*
 [18] *Managing Director, had called a meeting regarding Texas City*
 [19] *North 80, that it was a very important subject as far as*
 [20] *Monsanto was concerned?*
 [21] MR. SARFATTI: Objection; vague.
 [22] A. I, I cannot, of course, put myself in Mr. Reese's

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- [1] shoes. He was informed of the North 80 situation. Why he
 [2] asked for a, a lengthier meeting with more people
 [3] involvement, I do not know. I cannot guess.
 [4] BY MR. MANTA:
 [5] *Q. Getting back to the nature of Managing Director*
 [6] *Reviews, it's my understanding from what you said that they*
 [7] *were not very frequent; at least, the ones you called.*
 [8] A. That's correct.
 [9] *Q. They were limited to situations where someone, a*
 [10] *new Managing Director was taking over.*
 [11] A. Not limited. Those that I was generally involved
 [12] with were of that type.
 [13] *Q. Was Mr. Reese a new Managing Director at this*
 [14] *time?*
 [15] A. Yes.
 [16] *Q. He had just - he was new to the job?*
 [17] A. Well, he was - he followed a previous Managing
 [18] Director. I, I just don't remember how many months or weeks
 [19] later this meeting was held.
 [20] *Q. Could you tell me who came up with the agenda for*
 [21] *this meeting, the Managing Director's Review?*
 [22] A. By "agenda," are you talking about the subject

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- [1] matter, itself, or the breakdown of the presentations?
 [2] *Q. Why don't we take the subject matter first.*
 [3] A. The subject matter? This was at the request of
 [4] Mr. Reese after having a one-on-one sort of review with Dr.
 [5] Dmytryszyn.
 [6] *Q. Mr. Reese had a one-on-one review with Dr.*
 [7] *Dmytryszyn? Is that right?*
 [8] A. Yes, sir.
 [9] *Q. And as a result of that review with Dr.*
 [10] *Dmytryszyn, Mr. Reese found it necessary to hold a Managing*
 [11] *Director's Review? Is that right?*
 [12] A. I don't know what happened in the room, but as a
 [13] result of that meeting, Dr. Dmytryszyn came to my office and
 [14] said, "Let's pull together a review for Mr. Reese on this
 [15] subject." Now, whether Dr. Dmytryszyn offered to have such
 [16] a review or whether Mr. Reese asked for it, I do not know.
 [17] *Q. Can you identify - and I believe you already*
 [18] *have - some of the people, but just for the record, run*
 [19] *through the people who the memorandum is addressed to and*
 [20] *tell me what their title was at that time with Monsanto -*

[21] A. I'll try. Mr. Brasfield was the General Manager
[22] of Manufacturing for Monsanto Chemical Intermediates. Dr.

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[1] Myron Dmytryszyn was the General Manager of Technology
for
[2] that operating unit. Brent Gilhousen was a Monsanto
[3] attorney in the Corporate Law Department. Glenn McKee was

[4] general superintendent working at the Texas City plant.
[5] Robert Potter was the - at that time, I believe he was
[6] the - I'm not certain of his title. He had - I believe he
[7] was Director of Administration, but I'm not certain of that
[8] title, for Monsanto Chemical Intermediates.

[9] And Gene Tromblee was the plant manager at Texas
[10] City.

[11] Q. Was the memo sent to them because they were to
[12] attend the meeting?

[13] A. Yes, that was the intent.

[14] Q. Do you recall specifically who was at that
[15] meeting, as we sit here today?

[16] A. I just don't recall the meeting at all.

[17] Q. Again, if I was asking you back in May of 1982,
[18] or, I'm sorry -

[19] MR. SARFATTI: We'll stipulate that memory
[20] doesn't improve over time, if it would dispense with your
[21] having to ask this question time and time again.

[22] MR. MANTA: I would prefer to ask it, but -

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[1] well, strike that.

[2] BY MR. MANTA:

[3] Q. Would there be any notes or memorandum taken at
[4] these meetings?

[5] A. Don't remember. Could be, or they may not have.

[6] I don't know.

[7] Q. You don't know whether there would be any
[8] document that would reflect who was in attendance at the
[9] meeting, other than this document here?

[10] A. I really don't remember.

[11] MR. MANTA: You want to take a break?

[12] THE WITNESS: Yes.

[13] MR. MANTA: Okay.

[14] (Recess from 3:30 to 3:42.)

[15] BY MR. MANTA:

[16] Q. Before we broke, we were talking about the
[17] Managing Director's Review, and I'm not sure whether I've
[18] asked you, but I'll ask you now, can you tell me what you
[19] recall was discussed at the review?

[20] A. I don't recall the specifics. We covered the
[21] subject to the satisfaction of the Managing Director. I
[22] don't know the details anymore.

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[1] Q. Do you recall the topics, independent of what's
[2] set forth here?

[3] A. No. I don't.

[4] Q. Do you know if Mr. Reese was ever employed at the
[5] Texas City plant?

[6] A. Yes.

[7] Q. Do you know in what capacity he worked at the
[8] Texas City plant?

[9] A. No, I don't.

[10] Q. Do you know if he worked in the VCM unit?

[11] A. I don't know.

[12] Q. Do you know what his degree was, whether he was a
[13] chemical engineer, or -

[14] A. I don't know.

[15] Q. Could you tell me if contamination was discussed
[16] at the Managing Director's Review of the North 80?

[17] A. Like I indicated, I don't remember the specific
[18] subjects, but the general - I don't know if I should use
[19] the word "general." All of the information that we had
[20] accumulated on the North 80, up to the date of this meeting,
[21] was summarized for Mr. Reese's benefit, and although I
[22] cannot say for sure that that contamination, per se, was

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[1] covered, that doesn't mean it wasn't covered. I just don't
[2] remember that specific item.

[3] Q. Would it naturally be the type of topic that
[4] would have been covered at the Managing Director's meeting?

[5] MR. SARFATTI: Objection as to form.

[6] A. I don't know about the natural - keep in mind,

[7] this site was a disposal site. There was evidence of a
[8] sheen, and that sheen did contain chemicals. Now, if
[9] that's, if, if that's what is meant by contamination, I
[10] would be very surprised if that wasn't mentioned.

[11] BY MR. MANTA:

[12] Q. How about groundwater contamination?

[13] A. Groundwater, the groundwater would have been
[14] discussed in terms of what the contractor's consultants had
[15] done and what they had found. That would have been shared
[16] with Mr. Reese.

[17] Q. If the consultants or contractors had found
[18] contamination, that would have been discussed? Groundwater
[19] contamination?

[20] A. Well, again, at this point in time, I don't know
[21] if it was at, in '82, determined to be contamination in the
[22] general understanding of the word or a finding of these

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[1] chemicals in this water from this well at this point and
[2] then in the ground.

[3] MR. MANTA: Let's go back to an exhibit that was
[4] marked -

[5] Let me go off the record.

[6] (Discussion off the record.)

[7] BY MR. MANTA:

[8] Q. Do you know when the consultant provided their
[9] initial report concerning the North 80?

[10] A. No, I don't. I don't remember.

[11] Q. How about Monsanto's potential liability for the
[12] site: Would that have been discussed at the meeting?

[13] A. Certainly, yes.

[14] Q. Do you recall those discussions?

[15] A. I don't remember vividly the situation where Mr.
[16] X stood up with charts and had something to say. I don't
[17] remember it in that fashion at all. I don't remember the
[18] room, I don't remember who was there.

[19] Q. But you feel certain that the topic of Monsanto's
[20] liability for the North 80 would have been raised or
[21] discussed?

[22] A. Let me couch it in a little different words. I

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[1] would be very surprised if the Managing Director was not
[2] brought up-to-date on that matter.

[3] Q. You would be surprised if the Managing Director
[4] wasn't brought up-to-date on the matter of Monsanto's
[5] potential liability for the North 80?

[6] A. That's right.

[7] Q. Could you tell me why a lawyer would attend the
[8] meeting?

[9] A. I'm trying to remember why - he was certainly
[10] invited because he, I felt that he had a contribution to
[11] make. He was obviously there in the event that the Managing
[12] Director wanted a legal opinion on something, and I
[13] certainly couldn't provide it, so I had Mr. Gilhousen
[14] present.

[15] Q. Mr. Gilhousen at that time was the Monsanto
[16] in-house counsel responsible for environmental legal issues
[17] regarding MCI at the time; is that right?

[18] A. No, he was responsible for legal matters relating
[19] to water issues, groundwater, surface water, treating
[20] waters, and so on, for the whole corporation.

[21] Q. Beyond MCI?

[22] A. Correct.

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[1] Q. Can you tell me whether the topic of providing
[2] notice to insurance companies was discussed at the meeting,
[3] at the Managing Director's Review meeting on June 9, 1982?

[4] A. Again, I don't remember, but I'd be very
[5] surprised if it was. I just personally was never involved
[6] in a discussion where insurance matters were brought up.

[7] Q. Why would you be surprised if it was discussed?

[8] A. It's just not the kind of group that talks about
[9] insurance. This particular panel of speakers are not versed
[10] in insurance matters at all.

[11] Q. Can you say that's true - I mean, certainly,
[12] each one of them would know something about insurance, I
[13] would think.

[14] MR. SARFATTI: Objection; lack of foundation.

[15] A. Well, certainly, all of us have a layman's
[16] understanding of insurance, but none of the responsibilities
[17] represented by these individuals are in any way connected

[18] with insurance and Monsanto matters.
 [19] BY MR. MANTA:
 [20] *Q. These individuals would be aware, nonetheless,*
 [21] *that Monsanto had liability policies; is that right?*
 [22] MR. SARFATTI: Objection; lack of foundation.

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[1] A. Well, I can only speak for myself, that somehow,
 [2] I have jumped into a conclusion that a company like Monsanto
 [3] does not operate without insurance support. They must have
 [4] some kinds of insurance out there for various types of
 [5] activities they get involved with, but at no time was my job
 [6] such that I had to consider insurance in my deliberations at
 [7] all. That was not assigned to me at all.

[8] BY MR. MANTA:
 [9] *Q. But you were, nonetheless, aware that Monsanto*
 [10] *had insurance for liability; is that right?*

[11] MR. SARFATTI: Objection; vague.
 [12] A. Sure, just like I'm aware Monsanto has bank
 [13] accounts. It's an interesting piece of information, but not
 [14] related to what I was expected to do.

[15] BY MR. MANTA:
 [16] *Q. And if I wanted to know the nature and extent of*
 [17] *each of these persons' awareness of matters of insurance, I*
 [18] *would, naturally, speak to them; is that right?*

[19] A. Oh, certainly.
 [20] *Q. Your statements as to what they would have known*
 [21] *or been aware regarding matters of insurance are based upon*
 [22] *what you've heard from others? Is that right?*

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[1] A. My understanding of what these individuals know
 [2] about insurance? I don't know that it's so much I heard of
 [3] others, except that in my many years of dealing with folks
 [4] of that type within Monsanto, we never talked insurance for
 [5] any subject.

[6] *Q. So that the basis for your statement about what*
 [7] *these individuals' awareness or knowledge may have been with*
 [8] *regard to insurance is based upon communications that you've*
 [9] *had with them?*

[10] A. Yes, sir.
 [11] *Q. And the extent of those communications?*

[12] A. Correct.
 [13] (Papageorge Deposition Exhibit 23 marked for
 [14] identification.)

[15] (Witness peruses said document.)
 [16] THE WITNESS: This is another one I don't
 [17] remember.

[18] BY MR. MANTA:
 [19] *Q. Before we get to that question, I just would like*
 [20] *to ask you one more question about the Managing Director*
 [21] *Review, and that is, did it ever occur to you personally,*
 [22] *since the issue of liability was probably discussed, to*

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[1] *raise the issue of the possibility of insurance?*

[2] MR. SARFATTI: Objection; mischaracterization of
 [3] testimony.

[4] A. No, it was not for me to raise that. It's
 [5] huddled somewhere other in a way that I was never made
 [6] familiar with, so I made an assumption someone would take
 [7] care of that matter if it's appropriate to do so.

[8] BY MR. MANTA:
 [9] *Q. You never considered - could you tell me why*
 [10] *insurance coverage wasn't discussed at this meeting?*
 [11] A. Gee, the only answer I could give you is that
 [12] insurance coverage was never discussed at any meeting that I
 [13] ever attended.

[14] *Q. Looking at what has been marked for*
 [15] *identification as Exhibit 23, I'd like you to take a look at*
 [16] *it and tell me if you've ever seen it before.*

[17] A. I don't recall it.
 [18] *Q. Okay, and again, you don't know what that little*
 [19] *squiggly line through your name means?*

[20] A. I don't see a squiggly line.
 [21] *Q. Maybe your copy doesn't -*
 [22] MR. HUGHES: Do we have the same Bates numbers?

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[1] MR. OMROD: I bet it's not the same document.
 [2] MR. MANTA: No, it's not.
 [3] MR. SARFATTI: That's a clever trick.
 [4] MR. MANTA: It has the same date.
 [5] MR. OMROD: Not the same Bates numbers?

[6] MR. MANTA: No.
 [7] MR. MANTA: Let's go off the record for a second.
 [8] (Discussion off the record.)
 [9] MR. MANTA: Why don't - on the record, I don't
 [10] know whether I had read the Bates numbers -
 [11] MR. HUGHES: No, read the Bates numbers and I'll
 [12] write them down.
 [13] MR. OMROD: Have that one stamped 23 and I'll
 [14] destroy this.
 [15] MR. MANTA: We're going to substitute Exhibit 23.
 [16] Exhibit 23 now is a June 14, 1982, memorandum. Subject is
 [17] North 80 site Q and A. Bates numbers are CBY 1643687
 [18] through CBY 1643690.
 [19] BY MR. MANTA:
 [20] *Q. Mr. Papageorge, looking at what has been marked*
 [21] *for identification as Exhibit 23, can you tell me whether*
 [22] *you've ever seen this document before?*

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[1] A. I don't recall the document, but I see some
 [2] handwriting that I would identify as mine.

[3] *Q. Let's first - Let me ask you, is that your name*
 [4] *referenced there in the "To:" section of the memorandum?*

[5] A. It is.
 [6] *Q. Is that your mailing address to the right, G4WA?*
 [7] A. Yes.

[8] *Q. Now, can you tell me what handwriting on the*
 [9] *document is yours?*

[10] A. I identify the writing just below the typed name
 [11] "F. C. Himes," the date and comments in red with a "P," that
 [12] is my handwriting.

[13] *Q. Comments in red with the "P," does the "P"*
 [14] *indicate -*

[15] A. That's me, my last name, initial, and the circle
 [16] around Mr. Himes' name and the arrow indicates these
 [17] comments are just to be sent back to Mr. Himes, the author.

[18] *Q. How about the handwriting above the first*
 [19] *paragraph?*

[20] A. I don't recognize that.
 [21] *Q. Did you, or is it your understanding from looking*
 [22] *at this document that you made comments in red and sent them*

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[1] *back to Mr. Himes?*

[2] A. Yes, sir.
 [3] *Q. Do you, or is it part of your job to make*
 [4] *comments on Q and A's?*

[5] A. As appropriate, yes, sir.
 [6] *Q. Can we turn the page to the next page? And I'm*
 [7] *going to ask if you can tell me whether those handwritten*
 [8] *notations there are yours.*

[9] A. The writing on that page is not mine.
 [10] *Q. Unfortunately, we do not have a color copy of*
 [11] *this, so we can't tell what comments are in red. Can you*
 [12] *tell me whether any of the cross-out lines would reflect, be*
 [13] *reflective of your comments?*

[14] A. They are not mine.
 [15] *Q. Turning to the next page, can you identify if any*
 [16] *of these comments on this page are yours?*

[17] A. The writing that appears below item numbered "8"
 [18] at the top of that page is my writing.

[19] *Q. Anything else on that page?*
 [20] A. Nothing else on that page is mine.
 [21] *Q. How about on the last page?*

[22] A. Nothing on the last page is mine.

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[1] *Q. Turning back to the first page, the cover page,*
 [2] *there appears to be initials "MFW" on this page, and beneath*
 [3] *that are the words "Comments noted." Can you tell me if the*
 [4] *initials "MFW" stand for Mr. Weishaar?*

[5] A. Those are his initials, yes, sir.
 [6] *Q. Do you recognize that handwriting, "Comments*
 [7] *noted" and the initials as being Mr. Weishaar's handwriting?*
 [8] A. I don't remember Mr. Weishaar's handwriting.

[9] *Q. How about above that: Can you make out what*
 [10] *initials they are?*

[11] A. Looks like it's addressed to me, WBP.
 [12] *Q. What was the purpose of the North 80 site*
 [13] *Q and A?*

[14] A. The primary purpose was to prepare the
 [15] appropriate response to potential questions that might be
 [16] asked of Monsanto by the media. As I recall, this was in

[17] response to a - some local newspaper coverage, and the
[18] intent was to get the answers so that if the media would
[19] call someone at Monsanto, whether he be in New York, or
[20] Washington, or St. Louis, that they would know how to
[21] answer, because the people in those locations wouldn't even
[22] know what the subject was all about unless someone could

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[1] provide them with this kind of data sheet.
[2] Q. This data sheet wasn't circulated to everybody in
[3] the company, was it?

[4] A. No, it was circulated to those individuals - the
[5] final draft. This is not a final draft. The final draft
[6] typically - and I can't vouch for this particular - the
[7] intent was to have a final draft prepared, it would be sent
[8] to the PR Department in St. Louis, and that department, in
[9] turn, would send it out to its people located elsewhere in
[10] the country so that no matter where in the U.S. or even the
[11] world, if necessary, the media inquiry was addressed, so
[12] they would have the answers to the question.

[13] MR. MANTA: Could you read Mr. Papageorge's
[14] previous answer?

[15] THE COURT REPORTER:

[16] "A. The primary purpose was to prepare the
[17] appropriate response to potential questions that might be
[18] asked of Monsanto by the media. As I recall, this was in
[19] response to a - some local newspaper coverage, and the
[20] intent was to get the answers so that if the media would
[21] call someone at Monsanto, whether he be in New York, or
[22] Washington, or St. Louis, that they would know how to

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[1] answer, because the people in those locations wouldn't even
[2] know what the subject was all about unless someone could
[3] provide them with this kind of data sheet."

[4] BY MR. MANTA:

[5] Q. By "appropriate response," is it correct to say
[6] that's the response that Monsanto wanted to provide?

[7] A. Well, that's, that's one definition. The other
[8] one, it's a lot better to be able to say "Yes, I'm aware of
[9] it. What would you like to know," rather than say, "I'll
[10] call you back or I'll have somebody else call you," and
[11] sound like you want to delay something.

[12] Q. My question is just slightly different, I think.
[13] In your answer to a question a couple of questions ago, you
[14] had indicated that the purpose of this was to come up with
[15] an appropriate response, and my question to you is, isn't
[16] the appropriate response that you are referring to, in fact,
[17] the response that Monsanto wanted its employees to give?

[18] A. Oh, I don't know who else would want Monsanto
[19] employees to give a response. It would have to be
[20] Monsanto's - I don't quite understand the question. I
[21] certainly wouldn't expect duPont to answer Monsanto's
[22] question.

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[1] MR. SARFATTI: How about Dow?
[2] MR. MANTA: That's not precisely my question.

[3] MR. SARFATTI: Pretty darn close.

[4] BY MR. MANTA:

[5] Q. My question is, the response is appropriate
[6] according to Monsanto; is that right?

[7] A. Maybe my use of the word "appropriate" is causing
[8] the confusion. When I used the word "appropriate," it has
[9] to be responsive, it has to be truthful, it shouldn't be
[10] evasive, it shouldn't be stalling, it should be - maybe a
[11] better word would be a responsible answer be given.

[12] Q. It is what Monsanto had determined to be a
[13] responsible answer; is that right?

[14] A. Yes, a professional, responsible answer.

[15] Q. Turning to page 2, number 8, the comment that you
[16] had indicated you had placed there, why did you write in,
[17] after "Yes," "to the best of our knowledge"?

[18] A. There existed at that time in my own mind some
[19] serious doubts that Monsanto was the only source of
[20] material. I had no evidence one way or the other, so I felt
[21] that the word "Yes," standing alone, was indicative of
[22] information based on extremely unquestionable (sic)

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[1] information, and I didn't feel comfortable with that and I
[2] did feel comfortable with the fact that as best as we know,
[3] to the best of our knowledge, the answer is yes, but
[4] something could come up and make it a "Maybe" or a "No."

[5] That's why I suggested those words.

[6] Q. Did you have any information at that time which
[7] indicated that there was any other company besides Monsanto
[8] that had deposited material at the site?

[9] A. I had no information. I had some questions
[10] raised regarding were we certain, wasn't there any, anyone
[11] else dropping something in, either with Monsanto's
[12] permission or without Monsanto's permission, was something
[13] done there when the levee was built, did the builders of the
[14] levee bring something in; those questions, we had no answers
[15] to, but they were enough to cause, in my mind, some doubts.

[16] Q. If I understand you correctly, you had no
[17] specific information that any other company other than
[18] Monsanto had deposited material at the site; is that right?

[19] A. That is true.

[20] Q. Now I'd like to ask you something about the
[21] second part of your answer. In addition to - let me ask
[22] this. Can you identify what other possible sources of

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[1] material that you were aware of that may have deposited
[2] material at the site?

[3] A. You mean positively identify? No.

[4] Q. No, I realize that you hadn't, and what my
[5] question is, this was something that you had raised as a
[6] possibility; is that right?

[7] A. This was - these were points raised during
[8] discussions about the site by those who worked at the plant
[9] and were familiar with the, some of the history and were
[10] familiar with the, the neighborhood, if you will, of what
[11] was going on in that area. At the time, none of them had
[12] any specifics; all they had were questions that were to be
[13] looked into.

[14] Q. Can you tell me who raised those questions?

[15] A. Gosh, I don't remember any specific individual
[16] that - it could have been any and all of them at the plant
[17] that were involved with this site.

[18] Q. Can you recall the specific questions that they
[19] raised?

[20] A. Well, I recall some of the thoughts. The
[21] questions were raised regarding what were our relationships
[22] with some of the trucking firms we dealt with and did

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[1] anybody permit them to wash their vehicles here. Nobody
[2] could answer that, and that was raised as, hey, let's look
[3] into that. There were questions raised of - I forget who
[4] built that levee - where did they get some of the soil that
[5] they built this levee with? Did any of it have materials in
[6] it that could result in contamination? Did they dig up
[7] somebody else's deposit and bring it over and build a levee
[8] with it? These were, frankly, thoughts that were meant to
[9] probe any and all sources of chemical pollution, and I
[10] remembered some of those questions, and this is why I
[11] thought it would be still truthful to say "to the best of
[12] our knowledge" added onto the "Yes."

[13] Q. At the time this was prepared and at the time you
[14] made your comments, Monsanto knew that it was the only
[15] company that had used the site as a waste disposal site; is
[16] that correct?

[17] MR. SARFATTI: Objection; lack of foundation.

[18] A. Yes, that's a correct statement, but at the time,
[19] we didn't know who else was permitted by Monsanto to deposit

[20] anything at that site.

[21] Q. Can you tell me if any other source for material
[22] deposited at the site was ever identified?

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[1] A. I don't remember any.

[2] Q. You don't remember any other source?

[3] A. I just don't remember.

[4] Q. As we sit here today, you don't remember any
[5] other source other than Monsanto being identified for the
[6] wastes or the materials that were deposited at the site?

[7] A. That is correct.

[8] Q. Is there any - do you have any reason to believe
[9] that any party or person - well, strike that.

[10] MR. MANTA: Could you have the last question and
[11] answer read back?

[12] THE COURT REPORTER:

[13] "Q. As we sit here today, you don't remember any
[14] other source other than Monsanto being identified for the

[15] wastes or the materials that were deposited at the site?
 [16] "A. That is correct."
 [17] (Papageorge Deposition Exhibit 24 marked for
 [18] identification.)
 [19] (Witness peruses said document.)
 [20] BY MR. MANTA:
 [21] Q. Looking at what has been marked for
 [22] identification as Exhibit 24, it is a copy of a clipping

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[1] entitled "Pumps pulsing out pollution," Bates number CBY
 [2] 1737309.
 [3] Can you tell me if this is one of the clippings
 [4] that would have been provided to you in connection with the
 [5] clipping service that you subscribed to?
 [6] A. No.
 [7] Q. You can't tell me whether or not it was; is that
 [8] right?
 [9] A. It does not have the appearance of documents or
 [10] clippings that I received from the service.
 [11] Q. Can you tell me what is missing or what is the
 [12] difference between this?
 [13] A. Well, for one thing, the clippings that I would
 [14] receive from the service would not have the handwritten
 [15] notes on it and a list of people who apparently got copies
 [16] of this, and the clipping service item that I would get
 [17] would have attached to it a note in a way advertising the
 [18] clipping service.
 [19] Q. Can you tell me from looking at this document or
 [20] based upon your memory who - well, first, let's go back up.
 [21] There's a handwritten "cc:" notation on the side and there's
 [22] "Papageorge" written. Does that indicate that this copy was

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[1] intended for you?
 [2] A. That's what it would indicate.
 [3] Q. Now, can you tell me looking at this or based
 [4] upon your memory who would have sent this to you?
 [5] A. I just have no way of knowing. The writing above
 [6] that date is - I can't read it. I don't know who it is.
 [7] Q. Can you read that handwritten paragraph or note?
 [8] A. I believe I can, yes.
 [9] Q. Could you read that paragraph to yourself, and
 [10] I'll ask you a question about it.
 [11] (Witness peruses said document.)
 [12] A. I have read the paragraph. I have difficulty
 [13] with at least one of the words there.
 [14] Q. Can you tell me what word, just identify where it
 [15] is?
 [16] A. It's the third line after the word "toward."
 [17] Q. It may be "solving."
 [18] MR. HUGHES: That's what it is.
 [19] A. It could be, yes, sir.
 [20] BY MR. MANTA:
 [21] Q. Can you tell me what they're talking about,
 [22] there?

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[1] MR. SARFATTI: Are you asking him to read what's
 [2] been written above, which appears to be an attempt to
 [3] recreate something that's illegible in the article?
 [4] MR. MANTA: No, I'm asking him if he could tell
 [5] me, based upon his knowledge of the North 80, what they're
 [6] talking about or what this handwritten notation that appears
 [7] to be an attempt to reconstruct what is, what is partially
 [8] legible.
 [9] MR. SARFATTI: Object as to form; vague.
 [10] A. Well, I'll need more time to read the whole
 [11] article to see what preceded that paragraph, because just
 [12] reading it out of, out of context, I don't - I have no idea
 [13] what the, the reporter of this is referring to.
 [14] BY MR. MANTA:
 [15] Q. Well, maybe, let me ask this. Can you tell me
 [16] what you know about the relationship between pumping and
 [17] seepage, if there is any? Independent of this article.
 [18] MR. SARFATTI: Objection; lack of foundation, and
 [19] opinion.
 [20] A. I just don't recall the details of that whole
 [21] system. I'd have to know where the water being pumped is
 [22] coming from, and which direction the seepage is entering, or

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[1] going or leaving that water source, I have to know what
 [2] pumps are they talking about, are they talking about

[3] temporary pumps they installed, are they talking about the
 [4] pumps already there at the sea wall. It's much more complex
 [5] than it appears to be here.
 [6] BY MR. MANTA:
 [7] Q. Is it fair to say you don't recall or you don't
 [8] know - let me ask this. Do you think you ever knew what
 [9] the relationship was, if any, of the pumping to the seepage?
 [10] A. I wish I could remember more of the details; I
 [11] could answer that better, but I just don't remember enough
 [12] about that whole setup to give you a meaningful answer. I
 [13] just don't know.
 [14] MR. MANTA: Okay, do you want to take a break?
 [15] MR. SARFATTI: No.
 [16] MR. MANTA: No? Do you want to take a break, Mr.
 [17] Papageorge?
 [18] THE WITNESS: No.
 [19] MR. MANTA: We'll go to 5:30?
 [20] MR. SARFATTI: Is that acceptable?
 [21] THE WITNESS: Yes.
 [22] BY MR. MANTA:

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[1] Q. Looking back on Exhibit 24, can you tell me who
 [2] Sarah Collins is?
 [3] A. As best I remember, Sarah Collins was a member of
 [4] Public Relations Department.
 [5] Q. And can you -
 [6] A. I just don't remember where she was located.
 [7] Q. How about Mr. - and I can't read the name above
 [8] that, it looks like -
 [9] A. I believe that's Thurott, John Thurott. He was
 [10] the top personnel man in Monsanto Chemical Intermediates.
 [11] Q. What does a personnel man do?
 [12] A. Your guess is - What does he do? He worries
 [13] about matters relating to personnel administration.
 [14] Q. Can you think of why a personnel administration
 [15] person would receive a copy of this?
 [16] A. I cannot.
 [17] Q. Can you tell me when you first learned that the
 [18] groundwater at the South 20 site was contaminated?
 [19] MR. SARFATTI: Objection.
 [20] A. Again, my memory is similar to that I had for the
 [21] North 80. It would have to be the same period of time, late
 [22] '70's, early '80's. I cannot come any closer than that.

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[1] BY MR. MANTA:
 [2] Q. Can you tell me when it first came to your
 [3] attention that governmental agencies were interested in the
 [4] South 20 site?
 [5] A. About 1978 is the best I can recall.
 [6] Q. And approximately when did you become aware that
 [7] the governmental agencies were negotiating - or that
 [8] Monsanto was negotiating with the governmental agencies
 [9] concerning addressing the contamination problems at the
 [10] South 20 site?
 [11] MR. SARFATTI: Objection; lack of foundation.
 [12] A. I don't know that I would define it as
 [13] negotiating. I would suggest that I was made aware of
 [14] Monsanto's dialogue with representatives of the State
 [15] regulatory agencies regarding the condition of the site, the
 [16] findings, their ideas of what might be causing it, and in
 [17] other words, getting all the background data, in about 1978
 [18] or so.
 [19] BY MR. MANTA:
 [20] Q. How about specifically regarding a dialogue, if
 [21] you will, with the agencies regarding means of addressing or
 [22] remediating the contamination?

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[1] MR. SARFATTI: Objection; vague, lack of
 [2] foundation.
 [3] A. I think the discussions that you are asking about
 [4] were the ones held after the outside consulting firm hired
 [5] by Monsanto had made some studies in an attempt to help
 [6] define the scope of the situation, and that would have to
 [7] have been in the early '80's.
 [8] BY MR. MANTA:
 [9] Q. When did you first learn that Monsanto had agreed
 [10] to voluntarily pay for remediation at the South 20 site?
 [11] MR. SARFATTI: Objection; lack of foundation,
 [12] vague.
 [13] A. The closest I could come, again, is the early

[14] '80's.
 [15] BY MR. MANTA:
 [16] Q. Can you tell me what you learned in the late
 [17] 1970's or early 1980's regarding the contamination problem
 [18] at the South 20?
 [19] A. I don't remember the details at all.
 [20] Q. Do you remember who provided you the information
 [21] about the contamination at the South 20 in the late '70's or
 [22] early 1980's?

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[1] A. Not a specific person, no.
 [2] Q. Do you think it would have been someone on your
 [3] staff?
 [4] A. It could have been. It could have been someone
 [5] from corporate staff, it could have been someone from the
 [6] plant.
 [7] Q. Did you participate at all in the dialogue with
 [8] the government regarding the conditions at the South 20
 [9] site?
 [10] A. I had no personal participation, no.
 [11] Q. Can you tell me the name of the outside
 [12] consulting firm that had been retained by Monsanto to look
 [13] into the South 20 site?
 [14] A. We saw the name on some of the documents:
 [15] Woodward-Clyde.
 [16] Q. It was the same consultant that was used for the
 [17] North 80?
 [18] A. Yes, sir.
 [19] (Discussion off the record.)
 [20] BY MR. MANTA:
 [21] Q. Can you tell me what you know about the suit by
 [22] the Attorney General against Monsanto regarding the South 20

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[1] site?
 [2] A. I know nothing.
 [3] (Papageorge Deposition Exhibit 25 marked for
 [4] identification.)
 [5] BY MR. MANTA:
 [6] Q. Looking at what has been marked for
 [7] identification as Papageorge Exhibit 25, it is an April 10,
 [8] 1979, memorandum. The subject is "Final Proposed Q&A,
 [9] Hazardous Waste Disposal, Texas City."
 [10] In the right-hand column, there's an
 [11] indication - there's a name "W. B. Papageorge." Does that
 [12] indicate that a copy was intended for you, Mr. Papageorge?
 [13] A. It does.
 [14] Q. And is "G4WA" your mailing address?
 [15] A. It is or was.
 [16] Q. Was; yes.
 [17] Do you recall making any comments on this Q and A
 [18] proposal?
 [19] MR. SARFATTI: Objection; no foundation.
 [20] A. I have been involved in many Q and A's, so this
 [21] one doesn't stand out uniquely in any way. I just don't
 [22] remember anything specific about it.

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[1] BY MR. MANTA:
 [2] Q. Turning to page 2 of the Q and A and Page 3 of
 [3] the document, I'll ask you to take a look and read question,
 [4] Q. 9, and the answer.
 [5] (Witness peruses said document.)
 [6] A. I've read it.
 [7] Q. Does that refresh your recollection as to the
 [8] suit filed against Monsanto by the State Attorney General?
 [9] A. It does not.
 [10] Q. The middle sentence of that paragraph says, "In
 [11] early 1975, the Texas Water Quality Board questioned certain
 [12] disposal practices at the site."
 [13] Do you know what disposal practices were
 [14] questioned by the Texas Water Quality Board?
 [15] A. I do not.
 [16] Q. Do you know what the nature of the problem was at
 [17] the South 20?
 [18] A. I think I had an understanding. It was the
 [19] seepage problem we've been discussing all day.
 [20] Q. Do you think there was a seepage problem at the
 [21] South 20, as well as the North 80? Is that -
 [22] A. That's my understanding.

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[1] Q. Do you recall discussions of compliance problems

[2] at the South 20?
 [3] A. No, I don't.
 [4] (Pause)
 [5] MR. MANTA: I'm going to ask you a couple of more
 [6] questions about that. I just wanted to get up and stretch
 [7] my legs.
 [8] BY MR. MANTA:
 [9] Q. Looking at the Q and A, I'd like you to take a
 [10] look at Question 2 and the answer.
 [11] (Witness peruses said document.)
 [12] A. I have read it.
 [13] Q. At the time that this Q and A was prepared April
 [14] 10, 1979, weren't there already known problems at the, or
 [15] related problems regarding seepage at the North 80?
 [16] A. Yes, but this is - this document refers, as I
 [17] read it, to current disposal practices.
 [18] Q. Well, let me ask this. Can you explain why the
 [19] answer to this question wouldn't mention problems that were
 [20] known to exist at the Texas Wye, North 80 and South 20?
 [21] MR. SARFATTI: Objection; lack of foundation.
 [22] A. No, you'll have to ask Mr. Neunreiter about that.

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[1] BY MR. MANTA:
 [2] Q. But can you tell me why, if this document was
 [3] sent to you for comments, you wouldn't have added that
 [4] information to that answer?
 [5] A. You are asking me these many years later? I
 [6] don't recall the thought process that I followed when I saw
 [7] this, but I would suggest that the emphasis was on current
 [8] practices. I just don't remember.
 [9] Q. Can you say why the question wouldn't be posed in
 [10] such a way as to make it clear that it was addressing
 [11] Monsanto's current practices, as opposed to sites that
 [12] Monsanto had used in the past?
 [13] MR. SARFATTI: Objection; lack of foundation,
 [14] vague.
 [15] A. I, I am not in a position to respond to that.
 [16] I'd go back to Mr. Neunreiter. It seems, it seems a
 [17] previous Q and A, we had responded to the situations of
 [18] past - resulting from past practices.
 [19] BY MR. MANTA:
 [20] Q. But this question, itself, does not - the
 [21] question, itself, in number 2 doesn't limit it to current
 [22] practices; is that right?

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[1] A. You mean question number 2?
 [2] Q. Right.
 [3] A. It depends how you, what you read into that. The
 [4] response is in the present tense, "Disposal of solid waste
 [5] is handled in an environmentally acceptable manner and in
 [6] accord with state laws."
 [7] So the emphasis, to me, appears to be on current
 [8] issues.
 [9] Q. Would you agree that the question as posed could
 [10] encompass problems that were known to exist at the Texas
 [11] Wye, North 80 and South 20? Is that right?
 [12] MR. SARFATTI: Objection; opinion.
 [13] A. I don't feel that I'm qualified to answer that,
 [14] since I didn't come up with that question, so I - again,
 [15] Bob Neunreiter is the one that would help us there, really.
 [16] BY MR. MANTA:
 [17] Q. I'm just asking not for you to stand in the shoes
 [18] of Mr. Neunreiter or try to get in his mind, but just as
 [19] someone reading the question. In reading that question, and
 [20] the question is, "What kind of problems do you have at Texas
 [21] City regarding hazardous waste," isn't it possible to read
 [22] that question as encompassing known problems at waste sites

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[1] at the Texas Wye, North 80 and South 20?
 [2] MR. SARFATTI: Objection; relevance and
 [3] argumentative.
 [4] A. Anything is possible, as you know, and I don't
 [5] know that the Texas City Wye would enter into Monsanto
 [6] personnel's mind as a Monsanto issue and as a Monsanto
 [7] waste
 [8] site regarding Monsanto's hazardous waste, using the words
 [9] of that question.
 [10] BY MR. MANTA:
 [11] Q. Looking at question 3, "Where are your hazardous
 [12] waste disposal sites located?"

[12] "A. Monsanto has two company-owned hazardous
[13] solid waste disposal sites. One is located approximately
[14] two miles north of the plant and referred to as the North
[15] 80. The second is located approximately four miles from the
[16] plant and designated the South 20 disposal site." Doesn't
[17] that indicate to you that the question was broader than
[18] current waste disposal sites? That question 2 was broader
[19] than current waste disposal sites?
[20] MR. SARFATTI: Objection; opinion and
[21] argumentative.

[22] A. Well, as a Monsanto employee, knowing that the

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[1] two sites described were inactive, I don't know how I can
[2] arrive in my own thinking that these are my current disposal
[3] sites. They're not.

[4] BY MR. MANTA:

[5] Q. Were they inactive as of April 10, 1979, as far
[6] as you know?

[7] A. To the best of my knowledge, yes. Mm-hmm.

[8] Q. Isn't the answer to Question 2 misleading, in
[9] that it doesn't identify the fact that it's referring to
[10] only current problems and doesn't identify the Texas Wye,
[11] North 80, and South 20 as having problems?

[12] MR. SARFATTI: Objection. Opinion, vague, lack
[13] of foundation.

[14] A. I don't know that the Texas Wye fits into this
[15] category of hazardous waste disposal sites.

[16] BY MR. MANTA:

[17] Q. Looking at Question 4, "What chemicals are
[18] disposed of at these sites?" The answer is, "On the North
[19] 80 site, we routinely dispose of catalyst waste from two of
[20] our chemical processes, which involve plasticizer products.
[21] We also use the site for disposing Brazos River sludge from
[22] our acetylene ponds which supply water to our operations.

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[1] At the South 20 site, be dispose of another chemical which
[2] results from our acrylonitrile manufacturing process."

[3] A. Yeah, I read that. It does not match my
[4] understanding at all of what I saw with my own eyes.

[5] Q. Does what is indicated there in response to
[6] Question 4 match what you saw at the North 80 and South 20?

[7] A. It does not at all.

[8] (Discussion off the record.)

[9] MR. MANTA: I'd like to take five minutes and
[10] then we'll try to wind up for today. Is that all right?

[11] MR. HUGHES: If you have to take a break, you
[12] have to take a break.

[13] (Recess from 5:03 to 5:15.)

[14] BY MR. MANTA:

[15] Q. Mr. Papageorge, could you tell me if you've ever
[16] visited the South 20 site?

[17] A. Yes, sir.

[18] Q. Can you tell me approximately how many times you
[19] visited the South 20 site?

[20] A. A couple or three times.

[21] Q. And can you tell me approximately when those
[22] visits took place, what years?

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[1] A. Oh, '78, and probably '79, and maybe again in
[2] '80. Those are not exact times, but it's roughly that
[3] pattern.

[4] Q. Could you tell me who accompanied you on the site
[5] visits?

[6] A. Somebody from the plant. Again, it could be any
[7] one of several people; a plant manager or any one of his
[8] superintendents or his environmental staff members. I don't
[9] recall any one individual at any one time.

[10] Q. And were you told any information prior to the
[11] visit about the condition of the South 20 site?

[12] A. Well, certainly I was told enough by the person
[13] that accompanied me to give me a little background. The
[14] information would have, of course, after the first visit,
[15] would be a form of updates, rather than going all the way
[16] back to the, the origins and the years of use, and all.

[17] Q. What did you see when you went to the South 20
[18] site the first time in 1978, approximately?

[19] A. Oh, as I remember, it looks like a fairly
[20] attractive site, frankly. It looked like a good fishing
[21] spot. It was a pool of fairly clear water. There was some
[22] greenery there; I think it was grass growing. I'm not sure

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[1] at the moment. Some solid dry land; in other words, that we
[2] could walk on.

[3] Somehow associated with that visit, I recall a
[4] sort of a, I'm going to call it a dam with some vertical
[5] pumps, big helical impellers, big screws that I was told
[6] were used to move the water over the levee. I do remember
[7] that levee and the road on top of that levee. In fact, we
[8] drove over that road to get to the site. That's about it.
[9] I mentioned the bait shop nearby.

[10] Q. I think in connection with North 80 but not in
[11] connection with the South 20.

[12] A. I should have said I - my directions are all
[13] turned around. Maybe I'm designating them wrongfully.
Hmmm.

[14] Well -

[15] Q. Were you told at any time that wastes had been
[16] deposited into a sand pit at the South 20?

[17] A. I was told that waste had been deposited. I
[18] don't remember the reference to sand pits. That doesn't
[19] ring a bell at all.

[20] Q. Were you ever told that the problem at South 20
[21] was seepage from the sand pits into the groundwater?

[22] A. No, I don't remember any discussion in which the

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[1] word "sand pits" was used or "sand."

[2] Q. You do recall, though, that seepage was discussed
[3] in connection with South 20?

[4] A. Yes, I remember that.

[5] Q. And was that seepage from a pit?

[6] A. Hmmm. Seepage from the contents. The word "pit,"
[7] I don't recall that being used.

[8] Q. And was it seepage into the groundwater?

[9] A. No, it was really into the water and formed a
[10] rainbow sheen, as best I recall this. It's really surface
[11] water observation.

[12] Q. Do you recall what the wastes were that were
[13] deposited at the South 20?

[14] A. No, I don't. I can't remember.

[15] Q. Do you recall what the problem was, specifically,
[16] that the government was interested in with regard to the
[17] South 20?

[18] A. Not very clearly, but I'm under an understanding
[19] that there was some observable sheen and it seemed to be on
[20] the, I'm going to call it the saltwater side of the sea
[21] levee, on the other side.

[22] Q. If I'm not mistaken, what you seem to be

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[1] describing to me is what I understand the North 80, as the
[2] North 80.

[3] A. Well, like I said earlier, I may be confusing the
[4] two sites. One site had no visible big body of water during
[5] dry weather. The other one always had a pool of water which
[6] looked like a fishing pond to me, and I'm not a fishing man,
[7] but it looked like the type that you see in a photograph.

[8] Q. Could you tell me about the site that was always
[9] dry?

[10] A. That's the one I, in my own mind, thought was the
[11] 80.

[12] Q. And the South 20 is the one you thought -

[13] A. Was the one with water present. Now, I'm willing
[14] to be called wrong on that. I just, it's been a dozen years
[15] or more.

[16] Q. I realize that.

[17] MR. SARFATTI: You know, you can ask your
[18] questions about memory fading. We're prepared to stipulate
[19] again that memory doesn't improve with age.

[20] MR. MANTA: No, I wouldn't stipulate to that,
[21] because I think it's the passage of time, and not age.

[22] (Papageorge Deposition Exhibit 26 marked for

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[1] identification.)

[2] BY MR. MANTA:

[3] Q. Looking at what has been marked as Papageorge
[4] Exhibit 26, the July 29, 1981 memorandum, subject, "Outline
[5] of Strategy For August 6 Meeting with TDWR Concerning the
[6] Texas City South 20 Disposal Site."

[7] MR. SARFATTI: This would be one of the documents
[8] where our stipulation would apply regarding nonwaiver of the
[9] attorney-client work product privileges. I want to make

[10] that clear, and any testimony regarding the contents.
[11] subjects matters in the document would also be covered.
[12] BY MR. MANTA:
[13] Q. I'd like you to read the background paragraph and
[14] tell me if that refreshes your recollection as to the nature
[15] of the problem at the South 20 site.
[16] (Witness peruses said document.)
[17] A. No, I read that and it doesn't help me at all in
[18] recalling.
[19] Q. Do you recall any discussions about strategy for
[20] the South 20 site, the approach that Monsanto was going to
[21] take with the agency?
[22] A. I don't remember today, no.

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[1] Q. Does it refresh your recollection that the South
[2] 20 was at least a distinct site from the North 80 with a
[3] separate set of problems?
[4] A. Oh, I didn't have any difficulty keeping the two
[5] as distinct in identity. My difficulty is one of applying
[6] the terminology, south and north, to the right area.
[7] Q. Okay.
[8] A. I'd have to see a map or something to help me
[9] orient myself.
[10] Q. The seepage discussion that we had when we were
[11] talking about the North 80, it's your recollection that that
[12] was taking place with respect to the North 80; is that
[13] right?
[14] MR. SARFATTI: Objection; mischaracterization of
[15] his testimony and vague.
[16] A. What was the word you used? The "seascape," you
[17] say?
[18] BY MR. MANTA:
[19] Q. Seepage. I'm sorry.
[20] A. The seepage. It had to do with that tract of
[21] land on which visible water was still present, to a fairly
[22] measurable depth as distinguished from rain puddles. That's

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[1] the one that I've been calling the South 20, and it could
[2] well be the North 20 is the proper designation.
[3] Q. Well, we've talked about what your understanding
[4] was with regard to the problems of the North 80 earlier
[5] today.
[6] A. The North 80, yes, sir.
[7] Q. Now, what I'd like to ask you is what your
[8] understanding is of the problems of the South 20, if you
[9] have any recollection.
[10] A. The South 20 is, my best recollection was
[11] associated with visible sheen on the water surface on a pool
[12] of water that was present on that site.
[13] Now, this is the site that I have been calling
[14] the South 20, with the ponds on it, or the - yeah, ponds.
[15] MR. MANTA: It's 5:30. I'd like to call it quits
[16] for today, and I don't think I'll have much more in the
[17] morning at all and then it'll be turned over to Mr. Hughes.
[18] I thank you for your time.
[19] MR. SARFATTI: Is that a promise or a threat?
[20] MR. MANTA: It's both. Mr. Papageorge - and I
[21] guess we'll reconvene at 9:30 tomorrow morning? Is that all
[22] right?

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[1] THE WITNESS: Whatever the group wants.
[2] MR. MANTA: Okay, thanks.
[3] (Whereupon, at 5:30 p.m., the deposition was
[4] recessed to the following day.)
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Look-See Concordance
Report

2,104 UNIQUE WORDS
386 NOISE WORDS
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Page	Line	Correction:
47	12	Initially it consisted of two individuals, Harry
50	1	Talking with customers' people and talking with
61	14	Well, for me and my team, really, not to me
91	1	don't know what conditions must exist underneath that plant
151	11	monitored activities, I served as a prod where necessary
154	10	Papageorge. And the next name would have been squiggled to
158	19	a situation where I might say I better look for this
163	6	spilling all over the place. These were not the big spills
163	7	that would be the result of a catastrophic failure or a fire or
241	13	old site; there are wastes under its surface; it was
277	13	You used the word 'aware'. I do not recall any
319	22	information base on questionable
328	12	Your question is -- What does he do? He worries
346	2	well be the North 80 is the proper designation
370	9	but either one of those would have been a likely source of
444	18	That's what I understood, yes, sir.
476	15	suffers from -- and I hope I say this, pronounce it
476	16	correctly -- blepharospasms, b-L-E-P-H-A-R-O-S-P-A-S-M-S. Thi
477	11	trips of an emergency nature, unpredictable, and she's got