IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY,	)	
	)	
	)	
Plaintiff,	)	
-vs-	)	
	)	CV-89-555-LDG (LRL)
	)	
MONSANTO COMPANY, GENERAL ELECTRIC CORPORATION, et al.,	)	
	)	
Defendants.	)	

DEPOSITION OF WILLIAM B. PAPAGEORGE

On the part of the Plaintiff

July 12, 1993

Concannon & Jaeger
General Court Reporters
705 Olive Street, Suite 604
St. Louis, Missouri 63101
(314) 421-1000

WATER_PCB-SD0000072000

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY,)
)
Plaintiff,)
-vs-) # CV-89-555-LDG (LRL)
)
MONSANTO COMPANY, GENERAL)
ELECTRIC CORPORATION, et al.,)
)
Defendants.)

* * *

I N D E X

WITNESS: Page:

WILLIAM B. PAPAGEORGE

Direct Examination by Mr. Bradley 4

E X H I B I T S

Plaintiff's Deposition Exhibit # 1 7

WATER_PCB-SD0000072001

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY,)
)
Plaintiff,)
)
-vs-) # CV-89-555-LDG (LRL)
)
)
MONSANTO COMPANY, GENERAL)
ELECTRIC CORPORATION, et al.,)
Defendants.)

TELEPHONE 30(b)(6) DEPOSITION OF WITNESS, to be used in an action pending in the District Court of the United States, for the District of Nevada, wherein NEVADA POWER COMPANY is Plaintiff, and MONSANTO COMPANY, et al. are Defendants, pursuant to Notice, under the provisions of Rule 26 of the Rules of Civil Procedure, taken on July 12, 1991, at the offices of Monsanto Company, 800 North Lindbergh Boulevard, St. Louis, Missouri, before John T. Concannon, a Notary Public within and for the State of Missouri.

A P P E A R A N C E S

The Plaintiff was represented by Mr. Ralph A. Bradley, of the law firm of Bradley & Merrell, c/o Jones, Jones, Close & Brown, 300 South Fourth Street, Ste. 700, Las Vegas, Nevada 89101.

The Defendant, Monsanto Company, was represented by Mr. Scott R. Bauer, of the law firm of Kirkland & Ellis, 1999 Broadway, Denver, Colorado 80202.

WATER_PCB-SD0000072002

The Defendant, Westinghouse Corporation, was represented by Ms. Laurie Basch, of the law firm of Weil, Gotshal & Manges, 767 Fifth Avenue, New York, New York 10153.

The Defendant, General Electric Corporation, was represented by Mr. Robert Shaughnessy, of the law firm of Williams & Connolly, 725 12th Street N.W., Washington , D.C. 20005.

WILLIAM B. PAPAGEORGE,

of lawful age, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, deposes and says on behalf of the Plaintiff, as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. BRADLEY:

Q. Mr. Papageorge, my name is Ralph Bradley. You and I have met before. Isn't that true?

A. That is true.

Q. I took your deposition, at least in part, in this case a few months ago; that's correct, isn't it?

A. That is correct. Can you hear me, sir?

MR. BRADLEY: Yes, I can.

THE WITNESS: Good.

Q. (By Mr. Bradley) And if at any time you are unable to hear me, please let me know, all right?

A. I will.

Q. All of the same rules will apply to the taking of this deposition that I set up with you last time, and those are that if you don't understand my question, I'm going to rely on you to let me know that, all right?

A. All right.

Q. And if, at any time, you want to take a break, you let me know that as well, all right?

A. I will.

Q. The rules - I assume you've been told this - don't allow you to whisper with your lawyer during the course of the examination but again, if you want to take a break, you just let us know.

A. I understand.

Q. All right. You have been identified as a 30(b)(6) witness for Monsanto relative to a Notice of Deposition that Nevada Power Company issued; is that correct?

A. That is correct.

MR. BRADLEY: And Scott, let me ask you if you have a copy of the Notice of Deposition for which Mr. Papageorge is being tendered this afternoon?

MR. BAUER: Yes. And let me answer that in two parts, unfortunately. First, I have a copy of Plaintiff, Nevada Power Company's 14th Supplemental Notice of Deposition Schedule, which is dated July 5th, 1993. Attached to that is an Exhibit A, which states a request for the person with the most knowledge regarding PCB fluids, vendors, market share, and no further description than that. I took that, in preparing Mr. Papageorge for his deposition today, based upon information provided me by others in the firm, took that to be a shorthand reference for the six topics in your February 4, 1993 Notice of taking Deposition of Monsanto Company. So it's the six

topics in the February 4, 1993 Notice that we understood provided the further explanation for the shorthand reference in the more recent Notice of Deposition.

MR. BRADLEY: Yes. And for purposes of today's deposition, I would appreciate, Scott, if you have the February 4th Notice there, that we make that an exhibit to the deposition because that is the Notice that we are using for purposes of conducting this afternoon's deposition.

MR. BAUER: Sure, we can do that and we'll mark it. I have to state with an apology, it doesn't have the cover page anymore but it's complete, other than the cover page. It has the important part.

MR. BRADLEY: I'll FAX it out there sometime this afternoon then.

MR. BAUER: Would you like us to mark what I have here an exhibit for the time being?

MR. BRADLEY: Yes, let's do that.

MR. BAUER: All right. The court reporter is going to have to stop moving his fingers now to mark the Exhibit.

(Whereupon, the reporter marked Plaintiff's Deposition Exhibit Number One, for identification.)

MR. BAUER: Mr. Shaughnessy and Ms. Basch, do you guys have copies of that Notice, or would you like us

to read the six entries?

MR. SHAUGHNESSY: We have copies. At least, I do.

MS. BASCH: I'm assuming we have one here. I personally haven't seen it.

MR. BRADLEY: I'm certain we served your offices with it, Laurie. Would you like me to go over the six areas?

MS. BASCH: If you won't mind, I'd appreciate it.

MR. BRADLEY: All right. Number one, produce the PMK to testify about the quantity of PCB fluids shipped to each vendee at any time; number two is produce the PMK to testify about the contracts, including the terms and conditions thereof, pursuant to which PCB fluids were sold to vendees at any time; three is produce the PMK to testify about any contract between Monsanto Company and any vendee pursuant to which Monsanto Company agreed at any time to supply the entire requirement of any such vendee for PCB fluid, PCB fluids of any particular type, formula or specification, or PCB fluid for any particular application; four, produce the PMK to testify about any agreements between Monsanto Company and any vendee in any way relating to any warranty, disclaimer of warranty, restrictions, use, resale, return or disposal of PCB fluids, including any

such agreement pursuant to which Monsanto Company or any vendee agreed to indemnify the other in respect of any use of any PCB fluids or for consequence of any use of any PCB fluids; number five, produce the PMK to testify about Monsanto Company's market share of all PCB fluids manufactured in the United States and any of its possessions and territories at any time; and number six is produce the PMK to testify about Monsanto Company's market share of all PCB fluids sold in the United States and any of its possessions and territories at any time. And those six follow a listing of definitions for PMK, PCB fluids, vendees, any time and contract or contracts.

MR. BAUER: Yes. And specifically - this is Scott Bauer to add to that - the Schedule One has a list of vendees which contains about ten electronic equipment manufacturers, other than GE and Westinghouse.

MS. BASCH: Not including, or including Westinghouse and GE?

MR. BRADLEY: Does not include them. It has McGraw Edison, Line Material, Ohio Brass, Sangamo, S-a-n-g-a-m-o, Standard, Packard, Allis-Chalmers, which apparently is now S-i-e-m-e-n-s; has Line Material a second time; Pennsylvania, RTE, which is apparently now is Cooper Power Systems; ITE and Bear State.

MS. BASCH: Okay.

MR. BAUER: And just for the record, the copy of the deposition notice that we marked as Exhibit One, in addition to not having the cover sheet, which I explained to you earlier, Ralph, the Schedule One was not attached, which I'm attaching it right now, with your permission.

MS. BASCH: Thank you for reading that to me.

MR. BAUER: And I think we're ready to proceed.

Q. (By Mr. Bradley) Mr. Papageorge?

A. Yes, sir.

Q. Will you please identify for me the years during which Monsanto manufactured PCB products of any kind in the United States?

A. 1935 through July of 1977.

Q. I'm going to refer to that time period you have just given me as the period of production, for future reference in my questions to you, all right?

A. Yes, sir.

Q. Was there any kind of patent protection, whether related to products or processes, that Monsanto had with respect to the PCBs it manufactured at any time during the period of production?

A. No.

Q. Did Monsanto -- Has Monsanto ever had any patent relating in any way to the PCB products it

manufactured?

A. Yes. There was a patent that related to the method in which chlorine was introduced into the reactor to form the chlorinated biphenyl.

Q. When did Monsanto seek that patent?

A. About late 1930s, early 1940.

Q. Were there any patents existing on the production of PCBs before Monsanto began producing PCBs in 1935?

A. Not to my knowledge.

Q. What are the conditions, limitations and other parts of the patent that you've referred to that Monsanto had taken out in the late 1930s or 1940s?

MR. BAUER: Mr. Bradley, this is Scott Bauer. I'm going to object to the question on the ground it's outside of the scoop of the 30(b)(6) notice. We're not going to, in any way, certify that this answer is the answer from the person most knowledgeable on the topic but Mr. Papageorge is certainly welcome to answer as to his own knowledge.

MR. BRADLEY: Go ahead and answer the question, if you're able.

THE WITNESS: I am trying to remember the question, sir. Would you mind having it reread to me?

MR. BRADLEY: Yes. Let me just rephrase it

THE WITNESS: All right.

Q. (By Mr. Bradley) I want to know what you remember about the patent, what conditions there were in it and limitations and any other parts of the patent that you can recall.

A. Oh. As best as I recall, it provided for a more efficient way in which the chlorine was disbursed through the reaction mass via some, I'm going to describe them as perforated pipes, through which the chlorine gas was forced to bubble up through the mass, and the intent was to give a more intimate contact and therefore, more efficient process.

Q. And did Monsanto receive any patents outside the United States relating to the production of its, the product it manufactured that contained PCBs?

MR. BAUER: Same objection. Outside the scope of the notice. You may answer, Mr. Papageorge, if you're able.

A. Not to my knowledge.

Q. (By Mr. Bradley) During the period of production, did Monsanto have any licensees of its patents who were licensed to produce PCB dielectric fluids in the United States?

A. No.

Q. During the period of production, did Monsanto

have any licensees of its patent who had license to produce PCB dielectric fluids outside of the United States?

MR. BAUER: Same objection. You may answer, Mr. Papageorge, if you're able.

A. I don't know if the word "license" is appropriate, but there was an agreement with a Japanese firm to produce PCBs by the Monsanto method in Japan.

Q. (By Mr. Bradley) With whom did Monsanto have that agreement?

A. I --

MR. BAUER: Same objection. Go ahead and answer, Mr. Papageorge.

A. I don't know the full name but it's the Mitsubishi Company.

Q. (By Mr. Bradley) It wasn't a company owned by Monsanto, was it?

A. No. This was a joint venture, Monsanto/Mitsubishi.

Q. And as far as you know, Mitsubishi was the only company with whom Monsanto had a joint ventureship for the manufacture of PCBs outside the United States?

A. That is correct.

Q. During the period of production, did Monsanto have any foreign licensees of its patents who had license to import dielectric PCB fluids into the United States,

other than the Mitsubishi Company?

A. No.

Q. During the period of production, do you know whether Monsanto exported PCB products intended as dielectric fluids that Monsanto knew were being returned to the United States and sold to other companies?

A. Monsanto did not know, or had no way of knowing, of whether the PCBs sold outside of the United States would return to the United States as part of a finished product.

Q. During the period of production, Monsanto both sold its PCB products domestically and also sold them to other countries; is that true?

A. That is true.

Q. Would you please name for me any other company that, at any time, manufactured PCBs in the United States for use as dielectric fluids?

A. I don't propose to know all the possible manufacturers but there was reference at one time to the Dow Chemical Company attempting to enter the market with their own PCBs; there was also a reference to a company in Texas, under the name of Coastal Chemical Company, as being involved with PCBs.

Q. Do you know whether Coastal Chemical Company's involvement with PCBs was for the manufacture of dielectric

fluids?

A. I do not know that.

Q. Where did you find a reference to Coastal Chemical Company's possible manufacture of PCBs?

A. It was not a written reference. This was a point that was raised at several meetings and conferences that I attended, primarily with Federal Governmental agencies.

Q. In what town in Texas was Coastal Chemical company located?

A. Oh, I don't recall at present.

Q. Can you give my some idea of the time period in which you heard reference that Coastal Chemical Company might be involved in the manufacture of PCBs?

A. Sometime between 1970 and 1975.

Q. Do you have any personal knowledge as a Monsanto 30(b)(6) designee, that Coastal Chemical Company manufactured PCBs for use in dielectric fluid?

A. I do not.

Q. Do you have any personal knowledge as a Monsanto 30(b)(6) deponent here, today, whether Dow Chemical Company ever manufactured PCBs for use in dielectric fluids?

MR. BAUER: Well, I object to the form question, in that corporate designees do not have to

testify just as to personal knowledge but Mr. Papageorge, you can answer, if you're able.

A. Speaking for the corporation, the Dow Chemical Company at one period of time was a potential competitor in the dielectric business. Monsanto knows that they, Dow Chemical Company, approached its, Monsanto's customers, as an alternate supplier.

Q. (By Mr. Bradley) Do you know, Mr. Papageorge, whether Dow Chemical Company ever manufactured PCBs for use in dielectric fluids?

A. They manufactured enough to offer trial amounts to their potential customers.

Q. Do you know whether they ever manufactured enough to be engaged in the business of selling dielectric fluid containing PCBs?

A. Oh, I have no way of knowing what amount that would be or whether they matched it, or made it.

Q. Other than Dow Chemical Company supplying test amounts of dielectric fluid in PCBs, do you have any knowledge of Dow Chemical Company ever selling dielectric fluid containing PCBs that were used in electrical transformers or electrical capacitors?

A. I do not have that knowledge.

Q In 1935, did Monsanto acquire a company located in Anniston, Alabama that was already producing PCBs?

A. It acquired a company whose headquarters was in Birmingham, Alabama and a plant of that company was located in Anniston, Alabama.

Q. And the name of that company was Swann Chemical?

A. That is correct.

Q. Do you know if that's spelled with one or two n's?

A. Two n's.

Q. And do you know whether Swann Chemical produced PCBs in the United States prior to 1935?

A. As I recall, they started producing in 1929.

Q. Do you know whether Swann Chemical Company manufactured PCBs that were used in dielectric fluid?

A. That was the initial commercial application.

Q. And do you know whether the sole recipient of the dielectric fluid containing PCBs manufactured by Swann Chemical Company was General Electric?

MR. BAUER: You're -- Excuse me. This is Scott Bauer. You're talking about during the period 1929 to 1935, because you specified Swann?

MR. BRADLEY: Yes, that is what I'm talking about.

MR. BAUER: All right. Thank you for the clarification. Mr. Papageorge.

A. General Electric was the initial purchaser. I don't recall when Westinghouse became a purchaser. It seems to me sometime during that period Westinghouse also became a customer.

Q. (By Mr. Bradley) By "sometime in that period," do you mean between 1929 and 1935?

A. That is correct.

Q. Do you know whether, between 1929 and 1935, anyone, other than General Electric and Westinghouse, purchased PCBs in dielectric fluid from Swann Chemical?

A. Not to my knowledge.

Q. Do you know whether Coastal Chemical Company still exists?

A. I do not.

Q. When is the last time you have spoken the words "Coastal Chemical Company" before today's deposition?

A. As best I recall, it came up in a discussion in about November of '75, when I asked some representatives of the Environmental Protection Agency what the latest was regarding Coastal Chemical Company and its participation and involvement with PCBs.

Q. Do you recall which representatives of the Environmental Protection Agency you had that conversation with?

A. I don't recall all of them. I do remember a

Thomas Kopp, K-o-p-p.

Q. What was Thomas Kopp's title within EPA when you had that discussion with him?

A. Oh, I have forgotten his title, but he was the organizer of a national symposium on PCBs held in Chicago in November of 1975.

MR. BAUER: Mr. Bradley, one of the documents that you sent us, Plaintiff's Exhibit 915, lists Mr. Kopp as a representative of the Office of Toxic Substances but it does not have a title.

MR. BRADLEY: All right. Thank you.

Q. (By Mr. Bradley) Mr. Papageorge, regarding Monsanto's joint ventureship with the Mitsubishi Company. During the period of production, did Monsanto have an agreement with the Mitsubishi Company that would allow the importation into the United States of PCBs for dielectric fluids manufactured in Japan?

A. The agreement was that the PCBs produced in Japan would not be sold in the United States.

Q. Going back a moment to Coastal Chemical Company. Do you know whether that is a unit of Coastal Corporation, the natural gas production and transmission company?

A. I do not.

Q. Why did Monsanto have an agreement with the

Mitsubishi Company that they would not import PCB dielectric fluids into the United States, or I guess export it to the United States?

MR. BAUER: Objection, again on the grounds that it's not a topic for which Mr. Papageorge has been designated as the official corporate representative. Mr. Papageorge, you're free to give your understanding.

A. I don't know.

Q. (By Mr. Bradley) During the production period, what quantity of PCBs, in millions of pound or any other suitable unit of measurement, did Monsanto produce in the United States for use as dielectric fluid?

A. Oh, I don't remember the number, sir. I'd have to look at documents to refresh my memory.

Q. Which documents would you review to refresh your memory?

A. Well, there was a summary prepared of the PCBs that were used in dielectric applications by year, and this summary was sent to the Federal Government and was incorporated in their, in the document published by the Interagency Task Force on PCBs. That's the document I would look at.

Q. The summary presented in the document prepared by the Interagency Task Force did not cover production for all years during the period of production, though, does it?

A. No. The information in that tabulation, as best I remember, starts about 1958. There were no records available prior to that date.

Q. Were there ever records prior to 1958 that showed the quantity of PCBs manufactured by Monsanto for use as dielectric fluid?.

MR. BAUER: Again, objection. Outside the scope of the designation. You specifically asked about only certain vendees in the 30(b)(6) designation, and I'm specifying that here because we're talking about a time period when Mr. Papageorge could not have personal knowledge, based upon what I know about his positions, but Mr. Papageorge, you're welcome to answer the question.

A. I don't know -- The lack of records does not necessarily mean no records were ever kept. I cannot speak as to the actual existence of those records and what happened to them.

Q. (By Mr. Bradley) All right. We provided you with a list of companies that we believe Monsanto sold PCBs to and you provided us with a document entitled "PCB Dielectric Fluid Sales, Summaries." The businesses listed are Allis-Chalmers; Bear State; Federal Pacific; ITE; Line Material; McGraw Edison; Ohio Brass Company; Pennsylvania Transformer; Sangamo and Standard Transformer; is that correct?

A. That is correct.

Q. Did you participate in the development of that summary?

A. I did not.

Q. Are you familiar with the summary?

A. Yes, I am.

Q. Did Monsanto sell dielectric fluid during the period of production to manufacturers that are not listed on that PCB dielectric fluid sales summary?

A. Yes.

Q. Okay. Other than GE and Westinghouse, who else did Monsanto sell PCB dielectric fluid to?

MR. BAUER: In --

MR. BRADLEY: In the United States.

MR. BAUER: When you say - did you say -- This is Scott Bauer. Did you specify manufacturers in your question, as opposed to any user?

MR. BRADLEY: I believe I did.

MR. BAUER: All right. Again, it's outside the scope of the designation but go ahead and answer, Mr. Papageorge.

A. I don't propose to recall all of them but I do recall a few.

Q. (By Mr. Bradley) Would you list them for me, please?

A. I will try. Maloney Electric; Electric Utilities; GARV, G-A-R-V, all capitals; Cornell DuBilier.

MR. BAUER: Do you know how to spell that?

A. I'll try. C-o-r-n-e-l-l, D-u-B-i-l-i-e-r.

Q. (By Mr. Bradley) Do you recall any others?

A. P.R. Mallory; I believe Federal Pacific. I'm trying to recall. There were some more, of course. I don't recall all of them right offhand.

Q. Do you recall whether there were any other companies, other than the ones you've just listed, to whom Monsanto sold PCB dielectric fluids for use as dielectric fluid, as opposed to any manufacturers?

MR. BAUER: I'm going to object to that. That question is vague. Are we now talking about anyone who may have purchased fluid to operate a repair shop, top off their own equipment? Any of those kind of uses?

MR. BRADLEY: Any use for PCB fluid within the United States.

MR. BAUER: Well, I'm not sure that's even knowable and it's certainly beyond the scope of the designation, but go ahead if you're able, Mr. Papageorge.

A. I will try again. To go back to the previous question, I should have mentioned the obvious, General Electric and Westinghouse, that are not listed on this document I'm looking at.

MR. BAUER: His question said other than GE and Westinghouse.

A. Oh. All right. Now, in terms of sales of PCB dielectric fluids to other than those who used it in the manufacture of electrical equipment. Of course, there were sales made to many utilities throughout the country. Consolidated Edison; the West Coast Pacific light and Power. I can't recall all of the utilities that were involved. There were, of course, many industries that have units that they serviced themselves - the automotive manufacturers represent that type of sale; and of course, there were service companies that were in the business of providing a service to owners of transformers. I can't remember all their names anymore. There's Transformer Services Company out of Akron; there's -- I forget the other companies at the moment.

Q. (By Mr. Bradley) During the period of production, what quantity of PCB dielectric fluid did Monsanto sell to General Electric?

A. Oh, I don't know that number anymore, sir.

Q. Do you know whether General Electric purchased any PCB dielectric fluids from anyone, other than Monsanto?

A. I --

MR. BAUER: Let me object to the question. You say PCB dielectric fluids. Are you referring to only

fully blended dielectric fluids, including Aroclor and all constituents, or are you talking about purchasing constituents from companies other than Monsanto?

MR. BRADLEY: I'm sorry, Scott. If I were a witness, I'd say I don't understand your question. I'm talking about what quantity of PCB dielectric fluids Monsanto sold to General Electric.

MR. BAUER: The question you just asked was whether General Electric received any PCB dielectric fluids from anyone other than Monsanto, and I asked you what you meant by PCB dielectric fluid because as you know, the dielectric fluid sold and/or received by General Electric contained Aroclor and other materials. I'm asking you whether you're talking about whether Mr. Papageorge knows whether General Electric purchased any blended dielectric fluids from other companies, or whether he understands that General Electric purchased constituents from other companies, because the answer could very well be different.

MR. BRADLEY: Is the answer different, Mr. Papageorge?

A. Yes, sir.

Q. (By Mr. Bradley) All right. Then how about fully blended? Let's start with that.

A. I have no information regarding General Electric purchasing fully blended ready-to-use dielectric

fluids from anyone other than Monsanto?

Q. How about the constituent parts?

A. At a period of time it's my definite understanding that General Electric did purchase some components that were part of the final fluid used in the equipment that they manufactured.

Q. Which parts are you referring to?

A. Examples include the mixture of tri and tetrachlorobenzine. They also include a chemical, and the title escapes me at the moment, a chemical that was a scavenger to pick up free chlorine that might be generated in the fluid, to preserve its performance, so that the chlorine did not damage the equipment. Those are two examples that come to mind of materials purchased by General Electric to add to their finished fluid product.

Q. What was their finished fluid product called?

A. They used the trademark name of Pyranol, P-y-r-a-n-o-l, followed by a number, or a combination of letters and numbers, to designate the specific recipe used to make that blend.

Q. But as far as you know, all of the Pyranol that was blended by General Electric contained PCBs that General Electric purchased from Monsanto; is that true?

A. To the best of my knowledge, yes.

Q. And how about Westinghouse? Did Westinghouse

purchase all of its PCBs for dielectric fluid from Monsanto, either as fully blended or as constituent parts?

MS. BASCH: I'm going to object to that. I don't know that Mr. Papageorge is qualified to speak about what Westinghouse, who Westinghouse purchased their dielectric fluid from, outside of Monsanto.

MR. BAUER: And I would add that it is also beyond the scope of the 30(b)(6) designation. Mr. Papageorge is here today only as a corporate representative on six topics, but I'm not going to instruct you not to answer either, Mr. Papageorge. Go ahead and answer, if you're able.

A. I cannot speak for all the sources possible that Westinghouse might have gotten materials from. There's no way for me to personally know that.

Q. (By Mr. Bradley) As you're here today, though, as a representative of Monsanto Company, is it Monsanto Company's understanding that Westinghouse purchased all of its PCBs for use in dielectric fluid from Monsanto?

MR. BAUER: Mr. Bradley, Mr. Papageorge is not here as a corporate representative today for any topic you want to ask him about. He has not been designated the corporate representative of Monsanto on the question you just asked. He's the corporate representative on six

topics. He will not give the corporate position on that question, but he's certainly welcome to give his own understanding.

MR. BRADLEY: Go ahead, Mr. Papageorge.

A. The understanding I have is that a high percentage of the PCBs involved in Westinghouse dielectric fluids originated with Monsanto. There is no way for me to know where else PCBs could have been obtained. Therefore, I have no way, I cannot say that all of it came from Monsanto.

Q. (By Mr. Bradley) Have you ever heard that Monsanto - excuse me - that Westinghouse purchased PCBs intended for use in dielectric fluid from anyone, other than Monsanto?

MR. BAUER: Same objection. Outside the scope of the designation and also objection, vague, because Westinghouse Electric Corporation, like Monsanto, has sales worldwide and we've already talked about other producers overseas.

A. I have not heard any references to Westinghouse's purchasing activities involving procurement of PCBs for all of their operations.

Q. (By Mr. Bradley) I take it during the period of production, it was of some interest to Monsanto who, if anyone, was purchasing PCB fluid intended for dielectric

fluid - excuse me - PCBs for dielectric fluids, other than through Monsanto; is that true?

MR. BAUER: Same objection. Outside the scope of the designation. Mr. Papageorge, you can answer if you're able as to your own knowledge and not as to a corporate representative as to that question.

MR. BRADLEY: Scott, just for the record, I am certainly not agreeing with the characterization you're giving as testimony, but you're allowing him to answer.

MR. BAUER: Which of the six topics that he has been -- Mr. Bradley, if you ask us to provide a corporate representative on these questions, we'd be happy to, and we'd be happy to prepare a witness if there is not a person who has the knowledge, just like we've done by giving you a whole box of documents that has sales to the particular companies that you asked about, and giving you a summary of those documents, but if you don't tell us in advance what you're going to ask the questions about, we can't provide a person with knowledge on those topics, and we are not going to certify that Mr. Papageorge is the cooperate representative on any topic you want to ask about. If you tell me which of the six topics that question goes to, then perhaps I will withdraw my objection.

MR. BRADLEY: I'm not interested in arguing

the objection now, just in having the witness answer the question. If you're able to answer the question, Mr. Papageorge, please do so.

MR. BAUER: In addition to my prior objection, I'm going to object as to the lack of foundation of this witness knowing what Monsanto desired from 1935 until 1977. You may answer, Mr. Papageorge.

A. I don't have any personal background to help me provide you with an answer.

Q. (By Mr. Bradley) Mr. Papageorge, let's explore that for a moment. During the period 1968 to 1972, what was your title at Monsanto?

A. During that period, as best I recall, I may have had at least three titles. In 1968 through 1969, I was Plant Manager at the Anniston, Alabama plant of Monsanto; in 1970, I had the title of Manager, Environmental Control; and about 1971 or '2, it was Manager, Environmental Protection.

Q. Did your title change following the Manager for Environmental Protection?

A. Yes, there were changes after that.

Q. What changes were those?

A. I subsequently was entitled Manager, Product Acceptability, and then I became Director, Environmental Operations and finally, Manager, Occupational Health.

Q. During the period 1968 to 1977, were you working on products manufactured by Monsanto that contained PCBs?

A. From 1968 through February, 1976, I was involved with PCBs and the products in which it was incorporated.

Q. During that period of time, Monsanto had a business group, did it not, that was responsible, in part, for selling PCB products for use as dielectric fluids?

A. There was a business group in existence at all times. There were some organizational changes during that period of time but there was always a group identified with PCBs and their products.

Q. One of the purposes of the business group was to insure that Monsanto continued to sell PCBs during that period of time, during the period of production; is that true?

MR. BAUER: Objection. Vague.

MR. BRADLEY: Let me rephrase it. I didn't like the question either.

Q. (By Mr. Bradley) During the time that Monsanto had a business group working with products it manufactured that contained PCBs, was one of the purposes of the business group to insure that Monsanto had a ready market for its PCB dielectric fluid?

MR. BAUER: Objection. Lacks foundation and outside the scope of the designation. but you can answer if you're able, Mr. Papageorge.

A. I don't know what you mean by the expression "ready market." The group was responsible for the sale and distribution of PCBs governed by what was perceived to be responsible use, transportation and disposal.

Q. (By Mr. Bradley) Were you ever part of the business group relating to PCBs at Monsanto?

A. Yes, sir.

Q. During the time that you were part of the business group, was the business group aware of other companies that manufactured PCBs throughout the world?

A. Yes, sir.

Q. Why did the business group collect that information?

A. Well, that's typical of any product, sir. One must know the competition, so to speak, and one has to learn what the market is like and aggressively go out and beat the competition. That is not unique to PCBs.

Q. What year were you part of the business group at Monsanto relating to PCBs?

A. From 1970 through about September, October of 1975.

Q. Did the business group collect information on

which American manufacturers were purchasing PCBs intended for dielectric fluids from any source, other than Monsanto?

MR. BAUER: Again, Mr. Papageorge, it's outside the scope but you're welcome to give him your personal knowledge.

A I don't have any information to help me there.

Q. (By Mr. Bradley) Didn't the business group want -- Let me rephrase the question. Would it have been of interest to the business group while you were a member to know that some American companies were importing PCBs for use in dielectric fluids?

A. Well, certainly would have been of interest.

Q. In fact, that's the sort of information the business group was probably created to learn; isn't that true?

MR. BAUER: Object to the form.

A. Well, the business group was not created for that purpose.

Q. (By Mr. Bradley) Well, in order to know your competition, you'd certainly have to no know whether any American companies were purchasing PCBs intended for dielectric fluids from anyone, other than Monsanto; isn't that true?

A. That sounds reasonable, yes, sir.

Q. In fact, that's what the business group did;

isn't that true?

THE WITNESS: Are you implying that was the only thing they did?

MR. BRADLEY: No. I'm implying that among its many responsibilities, that that was included.

Q. (By Mr. Bradley) Isn't that fair to say?

A. If that information were available, it certainly would be pursued and appropriate action taken.

Q. Isn't it also fair to say that the business group was interested in knowing -- Let me withdraw that question. During the period of time that you were a member of the business group, did you ever learn that any company listed on the document entitled - excuse me a moment - located on Schedule One of the Notice of Deposition for today's deposition, and including General Electric and Westinghouse, whether any of those companies ever purchased any PCBs intended for dielectric fluids from anyone, other than Monsanto?

MS. BASCH: Can you repeat the question, please?

MR. BRADLEY: Did you understand the question, Mr. Papageorge?

A. I believe I did.

MR. BRADLEY: Go ahead and answer it, then.

MR. BAUER: Well, if Ms. Basch didn't hear it

or understand it, I think we should have the court reporter read it back so that all concerned know what the question was.

MR. BRADLEY: That's fine with me. Go ahead.

(Whereupon, the reporter propounded the previous question.)

A. That kind of information was not made available to me.

Q. (By Mr. Bradley) Is that the sort of information that if the business group had learned -- Let me rephrase it. Is that the sort of information the business group would have discussed among itself, if it had learned that any other company was using PCBs in the United States intended for dielectric fluids that were not manufactured by Monsanto?

MR. BAUER: Object to the form. Calls for speculation. You may answer, Mr. Papageorge.

A. That kind of information would, no doubt, have been discussed, if known and confirmed.

Q. (By Mr. Bradley) And as I understand your testimony, it never was discussed; is that true?

MR. BAUER: Now, we're specifying the period during which he was in the business group?

MR. BRADLEY: That's correct.

MR. BAUER: Okay.

A. It was never discussed in my presence.

Q. (By Mr. Papageorge) And Mr. Papageorge, when you became a member of the business group, were there documents maintained by the business group relating to the charges that the business group had relating to PCBs?

A. I don't think I understand your reference to "charges."

Q. All right. I'm interesting in knowing when you became a member of the business group, whether the business group maintained a set of records?

A. Certainly.

Q. And did you review those records when you became a member of the business group?

A. Well, there were certainly many, many types of records. I reviewed those documents that I felt might have relevance to my particular assigned responsibilities.

Q. Mr. Papageorge, do you know whether the business group for PCBs at Monsanto maintained any documents that ever suggested that any company in the United States was receiving PCBs intended for dielectric fluids from anyone, other than Monsanto?

A. I have never seen those.

Q. Mr. Papageorge, have you reviewed a document entitled, "PCBs in the United States, Industrial Use and Environmental Distribution, Task One, February 25, 1976. Final Report of the U.S. Environmental Protection Agency,

Office of Toxic Substances," which the Plaintiff identified as Exhibit Number 1757?

A. I recall the document.

Q. I'm going to represent to you that in that document, the EPA estimated that from 1930 to 1975, PCB production in the United States totaled 1.4 billion pounds. Do you have any knowledge that leads you to believe that that number is correct or incorrect?

MR. BAUER: Object, again, on the grounds it's outside the scope of the Notice but Mr. Papageorge, you're free to answer.

A. I have no knowledge to help me determine the correctness of that number at all. Whether it's accurate or not.

MR. BAUER: Mr. Bradley, that exhibit that you're referencing is not in the pile of documents we have here, to the best of our knowledge. I'm not saying that's a basis for an objection. I want to make sure you're aware we don't have the document in front of the witness.

MR. BRADLEY: I understand that. That's why I'm not asking him specific questions about it.

MR. BAUER: All right.

Q. (By Mr. Bradley) Mr. Papageorge, do you have any way of knowing what the EPA estimated as the amount of PCBs that have been imported to the United States between

1930 and 1975?

A. I do not.

Q. Have you ever seen any document, whether it's a Government document, a private company document, whether it's Monsanto or Versar Corporation or any other corporation, that indicates PCBs were imported into the United States for use as dielectric fluids?

MR. BAUER: Let me object as vague, to the vagueness of the question. Mr. Bradley, are you talking about imported into the United States in already existing electrical equipment or imported as pure fluid and put in equipment once it got here, or both?

MR. BRADLEY: Both.

MR. BAUER: Okay. You may answer, Mr. Papageorge.

A. I am aware of studies that have been conducted to determine the amount of dielectric fluid containing PCBs that probably arrived in this country, either as fluid alone or as part of a finished piece of electrical equipment. You mentioned Versar. As I remember, that's an environmental consulting company that was hired by EPA to conduct the study. I personally don't recall the details of their report. I do recall the difficulty in establishing the exact numbers because the materials that arrived in this country were not defined or designated as

containing PCBs. Therefore, the study became extremely difficult to conduct with any assurance that the data was accurate.

Q. (By Mr. Bradley) Are you referring to the Versar study, Mr. Papageorge?

A. That's one study that comes to mind. It's been awhile since I've refreshed my memory on them.

MR. BRADLEY: Well, Mr. Papageorge, counsel has been generous in indicating to me that I can review some questions on this topic when we visit with you next week, and one of my questions to you will address what studies you're aware of regarding that topic. So I would appreciate it if there is a way for you to refresh your memory, for you to do that.

THE WITNESS: I will try.

MR. BAUER: Mr. Bradley, do you have a reference for the Versar report, because -- And Mr. Shaughnessy and Ms. --

MR. BRADLEY: I do. I have several here. Let me give them to you.

MR. BAUER: Before you do, Mr. Bradley, for Mr. Shaughnessy and Ms. Basch, Mr. Bradley is correct. Because we said we were going to do this by telephone today in order to accommodate everyone's travel schedule, we did state that, since Mr. Papageorge will be testifying again

next week, if there were follow-up questions he wanted to ask, particularly with respect to documents we did not have, that we did not object to that. Go ahead, Mr. Bradley, if you'd give us the reference now.

MR. BRADLEY: One is to Plaintiff's Exhibit 1184, a second is to Plaintiff's Exhibit 1958.

MR. BAUER: Okay.

MR. BRADLEY: Just a moment. Those are the ones that I'm finding now. If I locate any others, I will let your attorney know.

MR. BAUER: Thank you.

MR. BRADLEY: And I also have been referring to Plaintiff's Exhibit 1757, which is not a Versar report but that is the Plaintiff's exhibit that was, had the title "PCBs in the United States, Industrial Use and Environmental Distribution," which may or may not have been one of the studies that you were referring to, Mr. Papageorge. I'll find that out, I guess, next week.

MR. BAUER: Mr. Bradley, did you say 1759?

MR. BRADLEY: No. 1757.

MR. BAUER: 1757. Thank you.

MR. BRADLEY: You're welcome.

Q. (By Mr. Bradley) During the time you were part of the business group, did the business group generate any documents that showed the percentage of PCB dielectric

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fluids manufactured by Monsanto that were used in the United States? Mr. Papageorge I'm going to rephrase the question.

A. All right.

Q. During the time you were part of the business group, did the business group generate any document indicating that Monsanto was the sole supplier of PCB dielectric fluid within the United States?

A. I don't know of any document that would demonstrate that description.

Q. During the time you were a part of the business group, did the business group generate any documents that indicated it's belief that Monsanto was the sole supplier of PCB dielectric fluid within the United States?

A. I hesitate because there were some individuals within Monsanto that used that expression.

Q. Which individuals were those, Mr. Papageorge?

A. Oh, gosh. I don't remember their names at the moment. I would have to refresh my memory by reading some of those documents.

Q. Do you recall whether those documents you've just referred to still exist?

A. Well, I thought I saw something this morning.

Q. Did you review documents to prepare for

today's deposition?

A. I reviewed some of them, yes, sir.

Q. And which documents did you review?

A. Oh, I don't know how to describe them.

MR. BAUER: We reviewed a lot of documents today, Mr. Bradley, most of which came from you.

Q. (By Mr. Bradley) Other than the documents that came from me, Mr. Papageorge, do you recall what documents you reviewed to prepare for today's deposition?

A. Oh, I didn't review any other documents but those that -- Wait. Yes. I reviewed the documents that came from your office, plus files on each of the vendees that you described.

MR. BAUER: Those are the documents that we provided to you, Mr. Bradley. The box of documents related to the specific vendees on your list.

Q. (By Mr. Bradley) What other documents did you review, if any, Mr. Papageorge?

A. I don't think I reviewed any other. I don't recall any other.

Q. Do you recall reviewing a document, though, that indicated a Monsanto business group person's belief that Monsanto was the sole supplier of PCB dielectric fluid within the United States?

A. I thought I saw a document describing a

meeting. I just don't recall that -- As best I recall at the moment, this person that was described in that document was not a member of the business group but is a Monsanto employee.

Q. All right. Do you recall the employee's name, Mr. Papageorge?

A. Buckley, Clarance Buckley.

Q. And Mr. Buckley was never a member of the PCB business group at Monsanto?

A. No, sir.

Q. Do you know whether he was a member of the business group with PCBs at Monsanto during a period when you were not a member of that group?

A. No, sir, he was never a member of the group at any time, to my knowledge.

Q. Do you have any knowledge of whether he was a member of that group before you became a member?

THE WITNESS: Of which group, the business group?

MR. BRADLEY: Yes.

A. Oh, there have been hundreds of people.

Q. (By Mr. Bradley) So you wouldn't know whether Mr. Buckley had ever been a member; is that correct?

A. I am certain he wasn't. He was a plant person, a production person.

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MR. BRADLEY: I'm going to take thirty seconds here. So you'll know that there's going to be some silence.

Q. (By Mr. Bradley) Mr. Papageorge?

A. Yes, sir.

Q. I wasn't certain about one of your answers and so I'm just going to explore the topic again and you can clarify things for me. Have you ever reviewed a document generated by a member of the business group relating to PCBs at Monsanto that indicated the business group's, belief as expressed by that person that Monsanto was the sole supplier of PCB dielectric fluids within the United States?

A. At the moment, I cannot recall one. This does not mean that such a document doesn't exist. There were several people that had the impression that Monsanto was the sole manufacturer of PCBs.

Q. And as of today, you don't recall who those two people, or those few people are; is that correct?

A. That is correct.

Q. What type of contract, if any, did Monsanto enter into with General Electric, Westinghouse and those companies listed on Schedule One of the Deposition Notice set for today regarding the sale and purchase of PCBs as dielectric fluids?

A. The only document that I recall relating to PCBs sale and purchase was an agreement in 1972 in which the need for careful use and control of PCBs was described and the purchaser agreed to indemnify the supplier, Monsanto, in the event any problems environmentally occurred with PCBs. That's the only document that I, as a laymen, I would call a contractual arrangement.

Q. Mr. Papageorge, I'm now looking at Plaintiff's Exhibit 331, which I do not believe was supplied to you especially for today's deposition.

MR. BAUER: It was.

MR. BRADLEY: It has been supplied to Monsanto through its attorneys.

MR. BAUER: It was supplied to us, Mr. Bradley. We have it here, in our pile.

MR. BRADLEY: All right.

Q. (By Mr. Bradley) I'm looking at page two, at the top of that document. Do you have that now in front of you, Mr. Papageorge?

A. I do.

Q. At the top of the -- First of all, is this the Special Undertaking by Purchaser of Polychlorinated Biphenyls that you just referred to?

A. That is it.

Q. And at page two at the top it says, "All

existing contracts for the sale of PCB by Monsanto to buyer are hereby amended to contain the provision set forth above." That's what it says, isn't it?

A. It does say that.

Q. What were the existing contracts for the sale of PCBs by Monsanto to buyer that were amended by that special undertaking?

A. I don't know.

Q. During your preparation for today's deposition as the Monsanto designee on this 30(b)(6) deposition, did you review, or attempt to review, any contracts for the sale of PCBs by Monsanto to any buyer?

MR. BAUER: Mr. Bradley, can we go off the record just a second. I may be able to help clarify something there.

MR. BRADLEY: That's fine.

(Whereupon, a discussion was held between Counsel, off the record.)

Q. (By Mr. Bradley) Mr. Papageorge, in preparing for today's deposition as Monsanto's 30(b)(6) designee, did you make an effort to search out any contracts that may have existed between Monsanto and General Electric or Westinghouse, or any of the other companies listed on Schedule 1 for today's deposition, regarding the purchase and sale of PCB dielectric fluid?

MR. BAUER: I'll object to that because the designation for today specifically excludes GE and Westinghouse, but you can answer the question, Mr. Papageorge.

A. My effort was limited to the wording as described by Mr. Bauer, that appears on the backside of invoices.

Q. (By Mr. Bradley) And those were provided to you? Those are not documents that you went out and obtained yourself; is that correct?

A. That is correct.

Q. And did you make an effort to determine whether there are other buy and sell contracts existing, or that ever existed, between Monsanto and any company that purchased PCB dielectric fluids from Monsanto?

A. I personally did not make any effort. I have no resources to do that with.

Q. Mr. Papageorge, have you ever reviewed a document that referenced itself as being a requirement contract, wherein Monsanto agreed to be the sole supplier of PCB dielectric fluid to a particular company?

A. Never. No.

Q. Mr. Papageorge, do you have Plaintiff's Exhibit 1118 there?

A. I have it.

Q. All right. As a preliminary matter before I ask you my specific question, on the front page of that, it says, "On October..." Excuse me. "On 15 October, the Ad Hoc Committee, consisting of Messrs. M. Farrar, P. Hodges, E. John, W. Richard and E. Wheeler issued a report summarizing the polychlorinated biphenyl (PCB) pollution problems from the known available information to date." That's what it says, doesn't it?

A. It does.

Q. Are you aware what year in October the Ad Hoc Committee consisted of those particular individuals?

A. Yes.

Q. What year would that be?

A. 1969.

Q. Have you seen -- Excuse me. Let me ask this over again. Is this the first time you've seen Plaintiff's Exhibit 1118?

A. No, sir.

Q. Do you know who the author of this exhibit is?

A. Yes, sir.

Q. Who is the author?

A. Mr. Wheeler.

Q. And how do you know that Mr. Wheeler is the author?

A. He told me.

Q. When did Mr. Wheeler indicate to you that he was the author of this exhibit?

A. In about January, 1970.

Q. What were the circumstances under which he told you he authored this document?

A. In January, I was assigned the job of Environmental -- Manager, Environmental Control relating to PCBs in the environment. As part of my background training, I made it a point to sit down with individuals such as Mr. Wheeler and he gave me a multiday tutorial on the status of the PCBs and their presence in the environment, and during that discussion, he showed me a copy of this document and indicated that he had put it together quickly in an attempt to summarize the state of the knowledge of the problem, the issue, at the time.

Q. When he showed you this document, what title did he have at Monsanto?

A. He was the Manager -- His title was Manager, Industrial Health. He was the assistant director of Monsanto's medical department.

Q. Was he a doctor?

A. No.

Q. Is he now deceased?

A. Yes.

Q. Did Mr. Wheeler indicate to you whether

someone else participated in the development of this document?

A. Well, certainly, all of the members listed as belonging to this Ad Hoc Committee.

Q. Did Mr. Wheeler indicate to you that anyone else participated in the writing of this document?

THE WITNESS: Other than those listed as members of the committee?

MR. BRADLEY: Yes.

A. No.

Q. (By Mr. Bradley) Let me ask it this way. I'm interested in knowing whether the committee, including Mr. Wheeler, prepared this exhibit or whether Mr. Wheeler alone wrote this exhibit. Do you know the answer to that?

A. As I understood Mr. Wheeler, he was the - I'm going to refer to him as the editor of the document, in that others in the group submitted parts and pieces of the information and he scissors and pasted, put it together.

Q. Do you know whether the parts and pieces that were submitted to Mr. Wheeler still exist?

A. I do not.

Q. Did Mr. Wheeler die while still a Monsanto employee?

A. No.

Q. He had retired?

A. He retired and died after retirement.

Q. Do you know whether any of the people listed on the front page of this exhibit are still living?

A. To the best of my knowledge, Dr. Farrar, Mr. Hodges and Mr. John are still alive.

Q. Do you know whether any of them reside in the St. Louis, Missouri area?

A. I do not.

Q. Do you know whether any of them are still Monsanto employees?

A. They have all -- Dr. Farrar and Mr. Hodges retired. Mr. John joined some other company.

Q. Do you recall the name of the company Mr. John joined?

A. No, I do not.

Q. When is the last time you knew the residences of each of those individuals?

A. Oh, about 1980.

Q. And in 1980, where were the residences for those three people?

A. In the St. Louis Metropolitan area.

Q. And what does the "M" stand for in M. Farrar?

A. Martin.

Q. And do you know Mr. Farrar's middle name or initial?

A. I do not know.

Q. And what does the "P" refer to in P. Hodges?

A. Paul.

Q. Do you know if Paul Hodges has a middle name or initial?

A. He has one but I don't recall it.

Q. And what does the "E" in E. John refer to?

A. Edward.

Q. And does -- Do you Mr. John's middle name or initial?

A. I do not.

Q. In October of 1969, was the Ad Hoc Committee the same as the business group?

A. No.

Q. What was the Ad Hoc Committee in October of 1969 that's referenced in this exhibit?

MR. BAUER: Objection, vague. Do you mean what was its purpose or what was its -- I think he already described the people. Are you talking about what the purpose of the committee was? You said what is it.

MR. BRADLEY: Well, he can answer it however he wants to, I don't care. I'll follow up if he doesn't cover the topics I want covered.

MR. BAUER: All right. Objection, vague. Go ahead, Mr. Papageorge.

A. This is a group composed of individuals. Two of them are members of business groups and one of them is a member of the manufacturing department and the other two are members of corporate groups that were asked to address the PCB environmental issue and present their consolidated thoughts and recommendations to the directors or managers of the two business groups involved.

Q. (By Mr. Bradley) What were the two business groups involved?

A. There was -- At that time, the Functional Fluids Group and the second one was the group called the Plasticizers Group.

Q. Which of these people were members of the business group?

A. Dr. Farrar and Dr. Richard.

Q. Which of those gentlemen belonged to the Functional Fluid Business Group?

A. Dr. Richard.

Q. And Dr. Farrar belonged to the Plasticizers Business Group?

A. That is correct.

Q. Which members -- Excuse me. Which of these people was a member of the manufacturing department?

A. Mr. Paul Hodges.

Q. And which two corporation groups were

represented by the remaining two people?

A. Mr. John represented the Public Relations Group, Mr. Wheeler represented the Medical Group.

Q. Do you know whether any Monsanto action was taken as a result of the development of this exhibit?

A. Yes.

Q. What action was taken?

A. There was a presentation prepared by the directors of the two business groups, plus the corporate medical director, and that presentation was made to a top Monsanto corporate committee in which recommendations for addressing the environmental issues relating to PCBs were made.

Q. Which recommendations were made?

A. I don't recall all of them. It seems to me there were almost a dozen recommendations made.

Q. Was a document prepared that you reviewed that listed the recommendations?

THE WITNESS: I'm sorry?

Q. (By Mr. Bradley) Was a document prepared that you reviewed that listed recommendations?

A. Yes. I recall minutes of that meeting listing recommendations.

Q. When is the last time you saw the minutes of those meetings that contained recommendations?

A. Within the past year.

Q. Did somebody show them to you?

A. Yes.

Q. Who showed them to you?

A. One of Monsanto's attorneys.

Q. Do you know who authored the recommendations that were made to the top Monsanto corporation committee?

A. The medical portion was authored - well, it was co-authored, really - by Dr. Kelly and Mr. Wheeler of Monsanto's medical department; the non-medical parts were co-authored by the two directors of the business groups.

Q. And who were those people?

A. Mr. Howard Bergen, B-e-r-g-e-n, and Mr. James Springgate, S-p-r-i-n-g-g-a-t-e.

Q. Was there an editor that put together that recommendation based upon those four authors' submissions?

A. I don't know that he really played the role of editor. I think Mr. Bergen is the individual who articulated these eight or twelve recommendations which were being proposed to this committee.

Q. Were you present when Mr. Bergen presented those recommendations?

A. I was not.

Q. What was the title of the document that was prepared that had those eight to twelve recommendations?

A. Oh, I don't -- I just don't remember the title.

Q. Do you recall whether they were minutes of a meeting or a separate document?

A. There was a document containing the text of the information that was relayed to the committee and following that, there were minutes of the meeting published by the secretary of the committee.

Q. Were the written recommendations distributed outside of the top corporate committee within Monsanto?

A. Well, copies were available. I don't recall any formal distribution being made.

Q. What was the title of the top corporate committee at Monsanto that listened to the recommendations?

THE WITNESS: What was the title of the committee?

MR. BRADLEY: Yes.

A. Oh, it was either -- They kept changing the title. It was either the Corporate Administration Committee, CAC, or the CDC, Corporate Development Committee.

Q. (By Mr. Bradley) What was the function of that committee, whether it was referred to as CAC or CDC?

A. It's function was to advise the top officials within Monsanto and it's board of directors regarding the

appropriate activities and actions it should be involved with relating to important matters that were brought to their attention.

Q. Who were the top corporate committee members that listened to those eight to twelve recommendations?

A. Oh, I don't propose to recall all of them, but I do remember there was a, the president and chairman of the board, a Mr. Edward Bok; there was a vice-president in charge of marketing, Mr. John Gillis; the corporate general counsel, Mr. Ed Putzell, P-u-t-z-e-l-l. I've forgotten all their names. There was a vice-president in charge of manufacturing, I've forgotten his name. I'm sure there were others but I just can't recall them at the moment.

Q. Was Mr. Gillis also a member of the board of directors when he was a member of this corporation - or excuse me - when he was also a member of the CAC or CDC?

A. I don't recall.

Q. I'm sorry. I couldn't hear your answer.

A. I don't recall. I don't remember at the moment.

Q. Do you know whether Ed Putzell, the corporation general counsel, was also a member of Monsanto's board of directors when he was part of the CAC or CDC that listened to these eight to twelve recommendations?

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A. I do not recall.

Q. Do you recall whether the vice-president for manufacturing was also a member of Monsanto's board of directors when that person was a member of the CAC or CDC that listened to the eight to twelve recommendations?

A. I do not.

MR. BRADLEY: I'm sorry to do this, but I am in need of a comfort break. Can we take five minutes?

MR. BAUER: Sure.

MR. BRADLEY: I propose we stay on the line.

MR. BAUER: I agree.

(Whereupon, a fifteen minute recess was taken.)

Q. (By Mr. Bradley) Mr. Papageorge --

MS. BASCH: Scott's back, right? We're still waiting. We don't have Bob, right?

MR. BRADLEY: I'm sorry.

MR. BAUER: Bob, are you there?

MS. BASCH: He said he would be in and out and to tell you the truth, I wasn't clear. He didn't indicate whether he wanted us to wait for him to start.

MR. BRADLEY: Let's wait.

MS. BASCH: I got the impression he was saying he would be in and out and we shouldn't worry about it. I can't say for sure. I wasn't clear about that.

MR. BAUER: Ralph, why don't we wait another

one or two minutes and proceed?

MR. BRADLEY: I'm a little worried about doing that, thinking Bob might file some sort of objections on it.

MR. BAUER: Okay. We'll wait as long as you want.

MR. BRADLEY: If he doesn't come on, one of us gives him a phone call and tells him to get back on his phone. Does anyone know his phone number?

MS. BASCH: I'm sure I can get it.

MR. BAUER: Off the record.

(Whereupon, a discussion was held between Counsel, off the record.)

MR. BRADLEY: I just spoke with Bob Shaughnessy's secretary and asked her to ask Bob whether the message he left with Laurie meant that we could go forward without him and the secretary left and came back and said that Bob had requested that we proceed without him. So I'm ready to do that, and here we go.

MR. BAUER: Okay.

Q. (By Mr. Bradley) Mr. Papageorge, how do you spell Edward Bok's last name?

A. B-o-k.

Q. And do you know if Mr. Bok is living?

A. I do not.

Q. When is the last time you saw Mr. Bok?
A. About 1970.
Q. When is the last time he was a Monsanto employee?
A. I'm going -- As best I recall, it's about 1973 or '4.
Q. During what period of time was Mr. Bok president of the board?
A. Chairman of the board, yes, sir.
Q. During what period time was Mr. Bok chairman of the board for Monsanto?
MR. BAUER: Objection. Lack of foundation. Go ahead, Mr. Papageorge.
A. I just don't remember the dates. I can't help there.
Q. (By Mr. Bradley) When is the last time you knew that Mr. Bok was living?
A. About 1980.
Q. And at that time, do you know where he was living?
MR. BAUER: Mr. Bradley, to avoid taking up too much of Mr. Papageorge's time. I think we've been pretty cooperative about locating Monsanto witnesses, if you want us to find out the answer to some of these questions.

MR. BRADLEY: All right. If it's all right with you, then, Scott, maybe Wednesday when we're all in St. Louis, you can inform me whether Mr. Bok is living and if so, where. Would that be satisfactory?

MR. BAUER: I don't know that I'll be able to find out the information nearly that quickly, but --

MR. BRADLEY: You'll make the effort? I'm sorry? You'll make an effort?

MR. BAUER: Yes, I'll make an effort.

MR. BRADLEY: Thank you, very much.

Q. (By Mr. Bradley) Mr. Papageorge, do you know, in addition to the other document that was prepared that had the eight to twelve recommendations, do you know whether Plaintiff's Exhibit 1118 was also submitted to the top corporate committee?

MR. BAUER: I'm going to object to that on the grounds it lacks foundation. He already testified he wasn't at the meeting, and because it's clear from its face that 1118 is not nearly a finished document, it's a draft in progress, but you may answer if you're able, Mr. Papageorge. It's also clear it's outside the scope of the 30(b)(6) Notice. Go ahead and answer, Mr. Papageorge.

A. My understanding, this document was a working document to be used by those making the presentation to the committee. It was never intended and was not submitted to

this corporate committee.

Q. (By Mr. Bradley) All right. And do you see the graphs that are handwritten at the back of the exhibit?

A. I do.

Q. Do you know whether those graphs, either in a handwritten form or in something presented a little more professionally, were given to that top corporate committee along with the eight to twelve recommendations?

MR. BAUER: Object to the form, and it is outside the scope of the 30(b)(6) Notice for which this witness is being put forward as a corporate representative but Mr. Papageorge, you may answer.

A. These graphs were not submitted to the committee.

Q. (By Mr. Bradley) Were graphs containing the information present in these graphs submitted to the top corporate committee?

MR. BAUER: Same objections.

A. I'm not aware of any grafts being submitted --

Q. (By Mr. Bradley) The document that you reviewed that had the eight the twelve recommendations --

MR. BAUER: Mr. Bradley, he had not finished his answer.

MR. BRADLEY: I'm sorry. I can't tell that since we're on the phone, and I apologize. Go ahead, Mr.

Papageorge.

A. I was attempting to denote, or point out that these graphs were not submitted to the corporate committee. The different approaches that are designated along with these graphs were discussed with the committee but not - the graphs were not presented to the committee.

Q. (By Mr. Bradley) And Mr. Papageorge, how is it that you know that when you weren't present?

MR. BAUER: Same objections. Specifically, it's outside the scope of the 30(b)(6) Notice on the topics for today that we are putting Mr. Papageorge forward as a corporate representative, but go ahead and answer, Mr. Papageorge.

A. As I indicated earlier, when Mr. Wheeler was conducting his tutorial for me, one of the points he covered was that this was a very rough draft of the thoughts of the committee, was never intended to be a polished, finished document, and that these graphs were just a very top-of-the-head kind of estimate on the part of some of the members of the committee. They had no real basis for depicting the situation as indicated by the charts. So he had told me personally that he had, they did not redraw these graphs and submit them.

Q. (By Mr. Bradley) What else did Mr. Wheeler tell you about the contents of this exhibit?

MR. BAUER: Mr. Bradley, is it or is it not correct that you have submitted a 30(b)(6) notice with a specific request to this document? Mr. Papageorge is here today on the six topics that you sent in your deposition notice to us. You have separately, I have now just been told - and frankly, am surprised you haven't told me this already - I have just been told that this, you have submitted a separate 30(b)(6) notice with respect to this document in particular, that Mr. Papageorge has not been tendered today on this document; is that true?

MR. BRADLEY: One of the difficulties I'm having is that I try to cooperate in the taking of depositions, but it's really my deposition, and we're really not here to have you question me. I have had private conversations with Bruce Featherstone regarding his difficulty in locating who authored this document. He's indicated a belief, as of three or four days ago, that it was one of two people and he still wasn't certain who it was. I'd asked him for that information three or four months ago. And these questions are preliminary to my going into a portion of this exhibit which bears directly on the 30(b)(6) scheduled for today. That's how I am viewing them. That's the reason I'm going in to these questions. If and when I ever get a 30(b)(6) deponent on this particular document, I'll have other questions.

MR. FEATHERSTONE: Let me say something. Ralph. This the Bruce Featherstone.

MR. BRADLEY: Hi, Bruce.

MR FEATHERSTONE: I don't mean to interrupt the deposition. It was my understanding that you needed a 30(b)(6) today of Mr. Papageorge on this, in the sales and volumes matter, to just give a very general statement so that you could decide what other discovery you may need to take. Frankly, we have not prepared Mr. Papageorge, as we're entitled to, on broader issues than that, and Mr. Papageorge is going to be tendered next Monday and Tuesday, as you know, both individually and as a 30(b)(6) witness, in an order that you and I will discuss presumably, on a variety of issues - perhaps it may include this very document, Plaintiff's Exhibit 1128. I won't know that though until I complete my investigation on that document. So I have asked Scott - and I'm about to leave the room - I have asked Scott to make sure that, with those statements in mind, that Mr. Papageorge's testimony today is confined to sales and volumes and the other matters in that particular 30(b)(6) Deposition Notice. Obviously, you're going to have an opportunity to examine Mr. Papageorge at length regarding anything you want to in his personal deposition that seems appropriate and relevant. Goodby, Ralph.

MR. BRADLEY: See you, Bruce.

MR. BRADLEY: Mr. Court reporter, would you read back my last question?

(Whereupon, the reporter propounded the previous question.)

Q. (By Mr. Bradley) Let me ask a different question, Mr. Papageorge. Could you turn to page six of the Exhibit, please, and locate the Roman Numeral Seven?

A. I have it.

Q. All right. The statement made next to Roman Numeral Seven, which says "Involvement with other producers..." It says, "Although..." and I'm only reading the first sentence. The document will speak for itself if anybody else wants to use it for any other purpose, but the first sentence indicates "Although Monsanto is probably responsible for the U.S. contamination and jointly responsible with MCL for the United Kingdom problem, we cannot accept responsibility for the world." That's what it says; is that correct?

A. That is correct.

Q. And what does "MCL" refer to?

A. Monsanto Company, Limited.

Q. What is Monsanto Company, Limited?

A. That is a unit of Monsanto that operated in the United Kingdom.

Q. And it operated there in 1969?

A. Yes.

Q. All right. And did -- What does Monsanto mean when it indicates that it is most probably responsible for the U.S. contamination?

MR. BAUER: Objection. Lacks personal knowledge, outside the scope of the 30(b)(6) Notice. Mr. Papageorge, as a corporate representative on the topics designated today, I would ask you to limit your answers to the six topics identified in the 30(b)(6) Notice. To the extent you can answer that question and maintain your answer within the six topics, you're free to.

MR. BRADLEY: Well, you can't instruct a change in my question, so I'd appreciate you making your objection and Mr. Papageorge, now that the attorneys have done what they're paid to do, would you please answer my question?

MR. BAUER: Mr. Bradley, you know he's not the author of the document, you know he's not the corporate designee and you're asking him what someone else thought when they wrote something. Is that what you're asking?

MR. BRADLEY: What Monsanto's position was when it -- What Monsanto meant when it indicated that Monsanto was most probably responsible for the U.S. contamination.

MR. BAUER: Well, Mr. Papageorge, I don't know

how you can possibly be in a position to know what Mr. Wheeler thought when he wrote that but if you do, you may answer.

MR. BRADLEY: I object to that, since he already indicated that Mr. Wheeler didn't write it.

Q. (By Mr. Bradley) If you know an answer to my question, Mr. Papageorge, please give it.

A. I don't really have an answer. I would be speculating, sir.

MR. BAUER: I instruct you not to speculate, Mr. Papageorge.

Q. (By Mr. Bradley) And that statement is made, Mr. Papageorge, isn't it, because Monsanto knew it was not only the sole producer of PCBs in the United States, but it was also the sole supplier of PCB dielectric fluid in the United States? That's why Monsanto was probably responsible for the U.S. contamination; isn't that correct?

A. No, I can't agree with that fully. I would suggest that a more realistic understanding is Monsanto was likely the key producer, the highest volume producer. Therefore, one could use the words "probably responsible."

Q. Mr. Papageorge, are you speculating again when you're giving that answer?

A. Well, I don't know where the speculation would come in. There was an understanding that we were the

principle producer of PCBs.

Q. Was it also your understanding that - the business group's understanding, Monsanto's understanding - that you were the sole supplier of PCB dielectric fluid to companies within the United States?

A. No. There was always a, I'm going to call it a suspicion, that there were other sources, although they were minor.

Q. And as I understand it, none of the suspicions were ever borne out; is that true?

A. That is true, because the record keeping of the Tariff Commission and the proper authorities was such that PCBs were never identified as being PCBs. They were always referred to as NOI, Not Otherwise Identified, materials.

Q. You weren't a member of the Tariff Committee, were you, Mr. Papageorge?

A. I was not, no.

Q. So are you speculating now when you're indicating what the Tariff Committee was doing?

A. I don't know that I'd call it speculation. This is the information I got talking to representatives of the Federal Government who were looking into this.

MR. BRADLEY: Then I'll move to strike the answer as based on hearsay.

Q. (By Mr. Bradley) Mr. Papageorge, do you have Plaintiff's Exhibit 1409 there with you?

MR. BAUER: No. Mr. Bradley, let me add one caveat to that. There is one document that arrived today by FAX that the Plaintiff's exhibit number is cut off on.

MR. BRADLEY: All right. I'm referring to the, I think we talked about it before the deposition began. It's May 19, 1970, Mr. Don McClain, Capacitor Unit Engineering Manager, signed by John J. Westland, Capacitor Sales, and has the Bates Number NPC00009348. Do you have that document there, Scott? It was the document, the one page letter that covered the open letter to industrial customers authored by General Electric Company that we had spoken about.

MR. BAUER: I'm sorry. I have found it. The Exhibit 1409 got somehow stapled behind the open letter. It's now back in its proper order.

MR. BRADLEY: Okay. Good.

Q. (By Mr. Bradley) Mr. Papageorge, I want you to turn to the second page of that exhibit, which is the open letter to industrial customers from General Electric. Have you seen that document before?

A. It appears familiar but my memory is a little bit fuzzy.

Q. All right. Turn to the second full paragraph

if you would, please.

A. I have it.

Q. And go down one, two, three, four, five, six, seven, eight lines and I'm going to read it, and it says, "Monsanto Chemical Company is the sole supplier to the industry of various grades of chlorinated biphenyls for use as a liquid dielectric in electrical apparatus." That's what that sentence says; isn't that true?

MR. BAUER: I object on hearsay grounds. This is a General Electric document but Mr. Papageorge, you may answer the question.

Q. (By Mr. Bradley) That is what the document, that one sentence says; isn't that true, Mr. Papageorge?

A. That is true.

Q. And did Monsanto ever write to General Electric saying, "Hey, you've indicated to your industrial customers that we're the sole supplier when, in fact, we have this sneaking suspicion that we may not be?"

MR. BAUER: Object to the form of the question. It lacks foundation. Also, the 30(b)(6) Notice specifically excludes General Electric and Westinghouse, and you are now asking him questions particularly about a letter from General Electric to its customers, which is outside the scope of today's deposition. Mr. Papageorge --

MR. BRADLEY: You may answer, Mr. Papageorge.

MR. BAUER: Mr. Papageorge, I am telling you that you are not testifying as the corporation's corporate representative with respect to this question, but you are welcome to give your own understanding.

MR. BRADLEY: And for the record, I don't chose to live by the instruction, but now that the attorneys have their record, go ahead and give your answer, please.

MR. BAUER: Mr. Bradley, this witness is no longer employed by Monsanto Company. He is a corporate representative when we designate him, and only when we designate him currently, to be a corporate representative, in my view.

MR. BRADLEY: Go ahead and respond now, Mr. Papageorge, if you can recall the question.

THE WITNESS: I'm trying. If I recall your question, you asked if Monsanto ever wrote to General Electric to correct the impression that it, Monsanto, was the sole supplier of the various grades of chlorinated biphenyls?

MR. BRADLEY: That's correct.

A. I cannot respond to that because I don't know that Monsanto ever knew that this letter ever went out with that statement.

Q. (By Mr. Bradley) Well, let me ask you this

question then, Mr. Papageorge. Did you ever see any letter authored by Monsanto to anyone that indicated that it was not the sole supplier to the industry of various grades of chlorinated biphenyls for use as a liquid dielectric in electrical apparatus?

A. I don't recall any.

Q. Mr. Papageorge, do you have Plaintiff's Exhibit 1550 in front of you?

A. I have it.

MR. BRADLEY: All right.

Q. (By Mr. Bradley) Have you seen this document before today?

A. I have glanced at this document earlier and now, and I just am having difficulty recalling having seen it in the past.

Q. All right. Do you know what the USDA Ad Hoc Group on PCBs was in March of 1972?

A. I don't know, except that it's listed on the second sheet of the document.

Q. Do you know whether, in March of 1972, the USDA had an ad hoc group on PCBs?

A. I don't recall such a group.

Q. Have you ever heard of a gentleman named Dr. Robert Riley?

A. I don't remember him.

Q. Dr. Gerald Combs?
A. I vaguely remember the name but I can't place the person.
Q. Dr. Theodore Byerly?
A. I don't remember him at all.
Q. Dr. Fred Dunn?
A. I don't remember him.
Q. Dr. Calvin Columbio?
A. I don't remember him.
Q. Dr. Harry Hays?
A. I recall that name.
Q. Dr. George Mountney?
A. I don't know him.
Q. Dr. John E. Spaulding?
A. I don't recall him.
Q. Dr. Fred Tschirley?
A. Fred Tschirley? I recall him. Not too clearly, but I remember the name.
Q. Dr. Bill Tweedy?
A. I don't remember him.
Q. What does "USDA" stand for?
MR. BAUER: Objection. Lacks foundation.
A. United States Department of Agriculture.
Q. (By Mr. Bradley) In March of 1972, was the United States Department of -- Excuse me. In March of

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1972, did the United States Department of Agriculture undertake a review of PCBs and their potential toxicity?

MR. BAUER: Objection. Outside the scope of the 30(b)(6) notice.

A. I don't remember such an activity.

Q. (By Mr. Bradley) In March of 1972, was there some concern that PCBs might be entering the human food chain?

MR. BAUER: Objection. Outside the scope of the 30(b)(6) notice.

A. Yes.

Q. (By Mr. Bradley) And do you know, in March of 1972, what the USDA was responsible for?

THE WITNESS: What they were responsible for?

MR. BRADLEY: Yes. What was its mission.

MR. BAUER: Objection. Lacks foundation, outside the scope of the 30(b)(6) notice.

A. I don't suppose to know all of the responsibilities assigned to the Department of Agriculture. They were, and still are, concerned with, as I understand it, with the safety regarding some of our food supplies.

Q. (By Mr. Bradley) And in March of 1972, the safety of our food supply was brought into question, was it not, because it was believed that PCBs might be entering the human food chain?

MR. BAUER: Same objections.

A. Well, that was the concern as it related to PCBs, yes, sir.

Q. (By Mr. Bradley) Now, is it true that the business group on PCBs at Monsanto would have followed whatever agency action that the United States Government would have taken regarding PCBs?

MR. BAUER: Mr. Bradley, that question has absolutely nothing to do with the topics that you've designated for today. This witness has been --

MR. BRADLEY: For the record, I'm trying to establish a background to ask him a specific question about the document, and I believe I'm entitled to do it.

MR. BAUER: You're entitled to do it when you're examining him in his individual capacity. You're not entitled to do it when you are designating him on six specific topics, for which that question has absolutely nothing to do with.

MR. BRADLEY: For your benefit, I'm going into these background questions because I intend to ask him a very specific question that will deal directly with one of the six topics for today's deposition.

MR. BAUER: That is not a background question.

MR. BRADLEY: To established a context for what I intend to pursue. So go ahead and answer, Mr.

Papageorge, if you are able to.

MR. BAUER: It's not a background question. I would like to have it read back, please.

(Whereupon, the reporter propounded the previous question.)

MR. BRADLEY: I'll withdraw the question. Let me ask you this question directly, Mr. Papageorge.

Q. (By Mr. Bradley) Isn't it true that the business group at Monsanto would have collected whatever documents that were written by the USDA regarding the subject matter of PCBs in March of 1972?

MR. BAUER: Objection. Lacks foundation. You said collected the documents? Is that what you said, Mr. Bradley?

MR. BRADLEY: That is -- Well, I said whatever I said. Is that you asking, John? John, would you mind reading my question back?

(Whereupon, the reporter propounded the previous question.)

MR. BRADLEY: All right. Go ahead and answer the question, Mr. Papageorge.

A. We made -- Monsanto, through its representatives, made every effort to keep abreast of the publications, including Government documents, relating to PCBs. This attempt was made to collect finished documents. The exhibit we're looking at, Number 1550, is a rough draft. I don't know if it was ever published as a finished

document of the Government and whether it was intended for distribution within the Department of Agriculture or for general distribution to all parties interested.

Q. (By Mr. Bradley) Well, certainly, the business group would have been interested in any documents from USDA dealing with PCBs, whether it was in draft form or finished form; isn't that fair to say?

A. If it was --

MR. BAUER: Objection. Lacks foundation. It's outside the scope of the 30(b)(6) Notice.

A. If the documents were made available to Monsanto, we certainly would have been interested in it.

Q. (By Mr. Bradley) All right. Would you now turn to page four of that document, and the page numbers, I believe, are on the top right-hand side.

A. I have it.

Q. If you come down one, two, three, four, five lines, all the way to the right-hand side and the sentence that begins, reads, "All PCBs used in the United States are manufactured by Monsanto Chemical Company and are sold under the tradename of Aroclor." Is that what the document says?

MR. BAUER: Objection. Hearsay.

Q. (By Mr. Bradley) That is what the document says, isn't it, Mr. Papageorge?

MR. BAUER: Same objection.

A. The document does say that.

Q. (By Mr. Bradley) All right. Did Monsanto Chemical Company ever write to the USDA, or to any other Governmental agency, or to anybody anywhere in the whole world, indicating that PCBs used in the U.S. are not manufactured by Monsanto Chemical Company and are sold under the tradename of Aroclor?

MR. BAUER: Objection. Lacks foundation.

A. Not to my knowledge.

Q. (By Mr. Bradley) Would you look at Plaintiff's 443, Mr. Papageorge, if you have it there.

A. I have it.

Q. Have you seen this document before today's date?

A. I have seen something very similar to it. I cannot, at this point, determine the source of this, these two pages.

Q. Are you able to determine whether the numbers that appear on this exhibit, along with the words that they refer to, are accurate?

MR. BAUER: Objection. Lacks foundation.

A. Well, since they are very finite numbers, I can't possibly remember each digit, but it appears to be representative of the activity through the years.

Q. (By Mr. Bradley) Is there a way, Mr. Papageorge, for you to determine whether the figures that are on this exhibit are accurate?

A. Yes. This assumes that the records are still available. I would go back and look at the, I guess the quickest way for me to determine that is to go back and look at the Interagency Task Force report of May of 1972, in which a table very similar to this is included, and the information on that table came from Monsanto.

Q. And is the information contained in the table, as the Interagency Task Force document, is that information accurate?

A. Yes. As accurate as we could make it.

Q. At some point, Monsanto provided documents to the EPA going back to 1957 that indicated the amount of PCBs it produced and sold both in the United States and abroad; isn't that true?

MR. BAUER: Objection. Assumes facts not in evidence and the witness testified that his recollection was that it went back to 1958, but you may answer, Mr. Papageorge.

A. Well, if I remember the question accurately, my answer is yes, as best I recall.

Q. (By Mr. Bradley) Do you have Plaintiff's Exhibit 1508 there, Mr. Papageorge?

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A. I have it.

Q. All right. And have you seen this document before today's date?

A. I have.

Q. Did you see it on or about October 13th, 1971?

A. Yes.

Q. Is this a true and accurate copy of the document you saw on or about October 13th, 1971?

A. Not quite.

Q. What is different?

A. I don't see the Monsanto logo that appears on Monsanto's letters to customers.

Q. It looks like it's been copied right off with so many copies, doesn't it?

MR. BAUER: Object to the form.

A. I don't know what the source of this is.

Q. (By Mr. Bradley) Other than that one change, does this appear to be a true and accurate copy of the document that you saw on or about October 13th, 1971?

MR. BAUER: I'm a broken record at this point but again, I'm going to object on the grounds this is outside the scope of the 30(b)(6) Notice, which specifically excluded sales to Westinghouse Electric Company as a topic for which we were being asked to tender a Rule 30(b)(6) designee.

Q. (By Mr. Bradley) Go ahead and answer my question, Mr. Papageorge.

A. As best as I can determine, it appears to be a copy of what was issued back in October, 1971.

Q. And that was a letter written by Paul Benignus, Market Manager, Dielectric Fluids for Monsanto to Mr. Tom Dakin at Westinghouse Electric; is that correct?

A Yes. To Dr. Dakin, right.

Q. All right. Is this a document that you maintained in your filing system at Monsanto?

A. Yes, sir.

Q. Is this a document that Mr. Benignus wrote regarding a telephone call that he'd received on or about October 13th, 1971 from Dr. Dakin?

A. That's what the letter indicates.

Q. Was it Monsanto's regular business to keep copies of these documents such as this as part of its regularly conducted business?

A. That is the normal practice, yes. But it varied from individual to individual.

Q. All right.

A. I can't speak for everybody.

Q. Would you turn now to the third paragraph?

A. I have it.

Q. I want you to come down three lines and move

your eyes all the way to the right side to the sentence that begins with the word "Our..."

A. I see it.

Q. I says, "Our people welcome the opportunity to present all details of its biological work and to discuss the practical implications which help to support our corporate policy to continue to supply of this material to meet the requirements of the electrical industry." That's what the document says; isn't that true?

A. It does.

Q. All right. Mr. Papageorge, have you ever spoken with anyone from McGraw-Edison regarding their purchase of PCB dielectric fluid?

A. I recall talking to someone from McGraw-Edison. I do not recall the name or the position.

Q. Have you ever spoken with anyone from McGraw-Edison who indicated that they purchased PCB dielectric fluid from anyone, other than Monsanto?

A. I have not.

Q. Have you seen any documents written by or to McGraw-Edison indicating that McGraw Edison purchased PCB dielectric fluids from someone, other than Monsanto?

A. I'm not aware of any.

Q. Have you spoken with anyone from Line Material regarding PCBs?

A. No.

Q. Have you reviewed any documents written to or from Line Material indicating that Line Material purchased PCBs from someone, other than Monsanto?

A. No.

Q. Have you spoken with anyone from Ohio Brass regarding PCBs?

A. No.

Q. Have you seen any documents written to or by Ohio Brass that indicated that they purchased PCBs, dielectric fluid, from anyone, other than Monsanto?

A. I have not.

Q. Have you spoken with anyone from Sangamo, or Sangamo-Schlumberger, regarding PCBs?

A. I recall speaking to representatives of Sangamo but again, I don't recall the individual by name, nor the specifics of the discussion.

Q. Do you recall speaking with anyone from Sangamo, or anyone else, that indicated to you that Sangamo purchased PCB dielectric fluid from anyone, other than Monsanto?

A. I do not.

Q. Have you seen any documents written to or from or about Sangamo indicating that they purchased PCB dielectric fluids from anyone, other than Monsanto?

A. I have not.

Q. Have you spoken with anyone from Standard regarding PCBs?

A. I don't recall doing so.

Q. Have you read any documents written to or from Standard, or about Standard, indicating that they purchased PCB dielectric fluid from anyone, other than Monsanto?

A. I have not.

Q. Have you spoken with anyone from Packard regarding PCBs?

A. I don't recall doing so.

Q. Have you read any documents written to or by Packard indicating that they purchased PCB dielectric fluids from anyone, other than Monsanto?

A. I have not.

Q. Have you spoken from anyone from Allis-Chalmers regarding PCBs?

A. Yes.

Q. And has anyone from Allis-Chalmers, or anywhere else, indicated to you ever that Allis-Chalmers purchased PCB dielectric fluid from anyone, other than Monsanto?

A. No.

Q. Have you read any documents written to or by or about Allis-Chalmers indicating that they purchased PCB

dielectric fluid from anyone, other than Monsanto?

A. I have not.

Q. Have you spoken with anyone from Line Material regarding PCBs?

A. I thought we answered that.

Q. We did. I'm sorry. Have you spoken with anyone from Pennsylvania regarding PCBs?

A. No.

Q. Have you read any documents written to or from or about Pennsylvania indicating that the company purchased PCB dielectric fluid from someone, other than Monsanto?

A. I have not.

Q. Have you spoken with anyone from RTE, or any of its subsequent names, regarding PCBs?

A. I don't recall doing so.

Q. Have you read any documents written to or from or about RTE indicating that they purchased PCB dielectric fluid from anyone, other than Monsanto?

A. I have not.

Q. Have you spoken with anyone from ITE regarding PCBs?

A. Not that I remember.

Q. Have you read any documents written to or by or about ITE which indicated that they purchased PCB dielectric fluids from anyone, other than Monsanto?

A. I have not.

Q. Have you spoken with anyone from Bear State regarding PCBs?

A. No.

Q. Have you read any documents written to or from or about or by Bear State indicating that they purchased PCB dielectric fluid from anyone, other than Monsanto?

A. I have not.

MR. BRADLEY: I have no further questions.

MR. BAUER: Ms. Basch, are you there?

MS. BASCH: Yes, I'm here.

MR. BAUER: Do you have any questions?

MS. BASCH: No, I have no questions.

MR. BAUER: Mr. Shaughnessy, are you there?

MR. SHAUGHNESSY: Yes. I have no questions. Thank you.

MR. BAUER: I have no questions.

MR. BRADLEY: Thank you, Mr. Papageorge.

MR. BAUER: The court reporter wants to know who would like copies.

MR. BRADLEY: I want the original ordered and I'd like it as quickly as possible.

MS. BASCH: I'd like a copy as well, please.

MR. SHAUGHNESSY: Mr. Shaughnessy. I would like one as well, please.

MR. BAUER: Great.

WILLIAM B. PAPAGEORGE

Subscribed and sworn to before me this _____ day of _____, A.D., 19____.

Notary Public

Notary Public within and for the State of Missouri.

MY COMMISSION EXPIRES THE _____ DAY OF _____, A.D., 19____.

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STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

I, John T. Concannon, a Notary Public within and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to take and certify to depositions, do hereby certify that pursuant to Notice in the civil cause now pending and undetermined in the District Court of the United States, within and for the District of Nevada, entitled NEVADA POWER COMPANY, Plaintiff, -vs- MONSANTO COMPANY, et al., Defendants, to be used in the trial of said cause in said Court, I was attended at the offices of Monsanto Chemical Company, 800 North Lindbergh Boulevard, in the County of St. Louis, State of Missouri, by Ralph A. Bradley, attorney for the Plaintiff; by Scott R. Bauer and Bruce Featherstone, attorneys for the Defendant, Monsanto Company; by Laurie Basch, attorney for the Defendant, Westinghouse Corporation; by Robert Shaughnessy, attorney for the Defendant, General Electric; and by WILLIAM B. PAPAGEORGE, the witness, in said office on July 12, 1993.

The said witness, WILLIAM B. PAPAGEORGE, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the case aforesaid, thereupon testified as is shown in the foregoing

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transcript, said testimony being by me reported in shorthand and caused to be transcribed into typewriting, and that the foregoing pages correctly set out the testimony of the aforementioned witness, WILLIAM B. PAPAGEORGE, together with the questions propounded by counsel and the remarks and objections of counsel thereto, and is in all respects a full, true and complete transcript of the questions propounded to and the answers given by said witness; and that said testimony, so transcribed, was subscribed to by the witness on the _____ day of _____, A. D., 1993.

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

I FURTHER CERTIFY that Plaintiff's Exhibit Number One, marked for identification and attached to and made a part of this deposition, is the identical exhibit referred to and identified by the witness in the foregoing deposition.

WITNESS MY HAND and Notarial Seal, given this _____ day of _____, A. D., 1993, at St. Louis, Nevada.

MY COMMISSION EXPIRES SEPTEMBER 12, 1994

_____
JOHN T. CONCANNON,
Notary Public, within and
for the State of Missouri

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July 12, 1993

Mr. William B. Papageorge
321 Pebble Valley Drive
St. Louis, Missouri 63141

Re: Nevada Power -v- Monsanto Company, et al.

Dear Mr. Papageorge:

This letter, incorporated as the last page of your deposition, taken on July 12, 1993, will serve as notice to you that your testimony is now ready for your reading and signing of same. You will recall Mr. Bauer indicated a preference for you reading your deposition, rather than waiving signature.

If you will contact Mr. Featherstone or Mr. Bauer, they will furnish you with a copy of the deposition to read, along with a signature page and an errata sheet for any corrections you feel are necessary. Mr. Featherstone or Mr. Bauer will see to it that I am furnished with the signature page and the correction sheet. I will then see all parties are notified of any corrections you made, and send the original of your transcript to Mr. Bradley to be filed at the time of trial.

Thank you for your cooperation in this regard.

Sincerely,

JOHN T. CONCANNON
Shorthand Reporter

Concannon & Jaeger
General Court Reporters
705 Olive Street - Ste. 604
St. Louis, Nevada 63101

JTC:md

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MONSANTO COMPANY, a foreign corporation; GENERAL ELECTRIC CORPORATION; a foreign corporation; WESTINGHOUSE ELECTRIC CORPORATION; a foreign corporation; and DOES I through XXV, inclusive, Defendants.	PLAINTIFF NEVADA POWER COMPANY'S NOTICE OF TAKING DEPOSITION OF DEFENDANT MONSANTO COMPANY PURSUANT TO FRCP 30(b)(6) BY VIDEO TAPE AND/OR BY STENOGRAPHIC RECORDING

TO DEFENDANTS MONSANTO COMPANY, a foreign corporation; GENERAL ELECTRIC COMPANY, a foreign corporation; WESTINGHOUSE ELECTRIC CORPORATION, a foreign corporation; and to their attorneys of record herein:

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, plaintiff Nevada Power Company will take the deposition of defendant Monsanto Company at 8:30 a.m. on February 22, 1993, at Monsanto Company's corporate headquarters located at 800 North Lindbergh Boulevard, St. Louis, Missouri 63167. The deposition will be taken, until completed and by video tape, upon oral examination before a Notary Public or before some other officer authorized by law to administer oaths. You are invited to attend and cross-examine.

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PLAINTIFF'S EXHIBIT 1 7-12-93

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The individual(s) produced shall be the ones who can testify concerning the subjects listed on Attachment "1" to this Notice.

DATED: February 4, 1993

BRADLEY & MERRELL
RALPH A. BRADLEY
PAUL E. MERRELL

By: _____
PAUL E. MERRELL
c/o JONES, JONES, CLOSE & BROWN
300 South Fourth St., Suite 700
Las Vegas, Nevada 89101
(702) 385-4202

Attorneys for Plaintiff
NEVADA POWER COMPANY

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ATTACHMENT "1"

Definitions

"PMK" means person most knowledgeable.

"PCB fluids" means dielectric fluids manufactured by Monsanto Company containing monochlorinated or polychlorinated biphenyls in any concentration.

"Vendee" or "vendees" means any of the persons or entities listed on Schedule "1" annexed hereto.

"Any time" means a calendar year during which Monsanto Company shipped PCB fluids to a vendee.

"Contract" or "contracts" means formal written agreements, purchase orders, confirmations, specifications, appendices, addendas, memoranda, invoices and without limitation other instruments (including any instrument incorporated by reference) individually or collectively documenting the terms and conditions of transactions involving sales of PCB fluids to vendees.

Witnesses to be Produced

1. Produce the PMK to testify about the quantity of PCB fluids shipped to each vendee at any time.
2. Produce the PMK to testify about the contracts, including the terms and conditions thereof, pursuant to which PCB fluids were sold to vendees at any time.
3. Produce the PMK to testify about any contracts between Monsanto Company and any vendee pursuant to which Monsanto Company agreed at any time to supply the entire requirements of any such vendee for PCB fluids, PCB fluids of any particular type, formula or specification, or PCB fluids for any particular application.

4. Produce the PMK to testify about any agreements between Monsanto Company and any vendee in any way relating to any warranty, disclaimer of warranty, restriction, use, resale, return or disposal of PCB fluids, including any such agreement pursuant to which Monsanto Company or any vendee agreed to indemnify the other in respect of any use of any PCB fluid or any consequence of any use of any PCB fluid.

5. Produce the PMK to testify about Monsanto Company's market share of all PCB fluids manufactured in the United States and any of its possessions and territories at any time.

6. Produce the PMK to testify about Monsanto Company's market share of all PCB fluids sold in the United States and any of its possessions and territories at any time.

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SCHEDULE "1"

Listed below are the "vendee" referred to under "Definitions" in Attachment "1" hereto:

McGraw Edison
Line Material (now McGraw Edison)
- Ohio Brass
Sangamo (now Sangamo-Schlumberger)
Standard
Packard
Allis-Chalmers (now Siemens)
Line Material (now McGraw Edison)
- Pennsylvania
- RTE (purchased by Cooper Industries, is now Cooper Power Systems)
ITE
- Bear State

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