
Depo of: WILLIAM B. PAPAGEORGE Monsanto v Aetna February 10, 1993 CR: 54388.0

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[1] IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
 [2] IN AND FOR NEW CASTLE COUNTY
 [3]
 [4] MONSANTO COMPANY,)
 [5])
 [6] Plaintiff,)
 [7])
 [8] vs.) C.A. No. 88 CJA-118-1-CV
 [9])
 [10] AETNA CASUALTY & SURETY)
 [11] COMPANY, et al.)
 [12])
 [13] Defendants.)
 [14]
 [15] VOLUME V
 [16]
 [17] Continuation of the deposition of WILLIAM
 [18] B. PAPAGEORGE, taken on behalf of Defendant Travelers
 [19] Indemnity Company, at the Ritz Carlton Hotel, in the County
 [20] of St. Louis, State of Missouri, recommencing at 9:00 a.m.
 [21] on the 10th day of February, 1993, before J. Bryan Jordan,
 [22] certified shorthand reporter and notary public.

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[1] FEBRUARY 10, 1993
 [2] MR. HUGHES: Back on the record.
 [3] EXAMINATION (Continued)
 [4] BY MR. HUGHES:
 [5] Q. Good morning, Mr. Papageorge.
 [6] A. Good morning.
 [7] Q. You understand you are still under oath?
 [8] A. I do.
 [9] Q. Mr. Papageorge, yesterday we talked, we touched
 [10] on several occasions on environmental policy staff meetings.
 [11] A. Yes.
 [12] Q. Were environmental policy staff meetings
 [13] scheduled on any periodic basis?
 [14] A. They were held fairly regularly. I don't recall
 [15] that a specific day of the month was set aside, such as the
 [16] second Thursday or the first Monday. It wasn't that type of
 [17] schedule, but there was a serious attempt made to hold at
 [18] least one meeting a month.
 [19] Q. And I take it you attempted to attend those
 [20] meetings when you could?
 [21] A. Yes.
 [22] Q. Okay. Did the members of your staff attend those

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[1] meetings when they could?
 [2] A. They would attend if I invited them to join me,
 [3] or in my behalf.
 [4] Q. All right.
 [5] A. They were not regular attendees.
 [6] Q. Perfect. That's what I was getting at. And am I
 [7] correct that the other DEO's were regular attendees at
 [8] environmental policy staff meetings?
 [9] A. They were regular invitees.
 [10] Q. But you were a regular attendee; is that right?
 [11] A. Well, no, invitee, and I would attend whenever I
 [12] was in the, in the area.
 [13] Q. And I think you indicated that people from the
 [14] Risk Management Department would also attempt to attend
 [15] these environmental policy staff meetings?
 [16] A. Not on a regular basis.
 [17] Q. Can you give us an idea of under what
 [18] circumstances, if there was any pattern other than random,
 [19] that people from the Risk Management Department would attend
 [20] environmental policy staff meetings?

[21] A. I don't know under what conditions they were
[22] invited. All I do know is that they did not show up

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[1] regularly. Two times a year or some such frequency.
[2] Q. That's fair enough. Was there a particular
[3] person from the Risk Management Department who ordinarily
[4] was the individual who attended?

[5] A. They changed through the years. Initially it was
[6] Mr. Chapman, and then I recall Miss Grimm showing up
[7] occasionally, and Mr. Toth. There was no regularly-assigned
[8] individual, as I recall.

[9] Q. Do you recall anyone from the Risk Management
[10] Department other than Mr. Chapman and Mr. Toth and Ms.
[11] Grimm, attending environmental policy staff meetings?

[12] A. I don't know anyone else in that group, so I
[13] don't remember any other person there.

[14] Q. Fair enough. Can you tell me whether, on those
[15] occasions that people from the Risk Management Department
[16] attended environmental policy staff meetings, there were
[17] scheduled discussions of potential liabilities?

[18] MR. SARFATTI: Objection; vague.

[19] A. Oh, I don't, I don't recall a specific subject
[20] that I associate with their presence.

[21] BY MR. HUGHES:

[22] Q. Let me back up. At the environmental policy

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[1] staff meetings, were there discussions concerning
[2] environmental litigation in which Monsanto was involved? I
[3] mean from time to time, would somebody give a report on the
[4] status of the litigation?

[5] A. On a rare occasion.

[6] Q. You do recall that happening?

[7] A. I remember the attorney in the room making some
[8] comments about activity he was involved with. Again, I
[9] don't recall specific subjects but when it came his turn as
[10] they went around the table, he would offer some comments
[11] occasionally and many times he would pass, "nothing new"
[12] kind of response.

[13] Q. Did somebody from the Legal Department regularly
[14] attend environmental policy staff meetings?

[15] A. There was a representative at most of the
[16] meetings. I don't know if they made every meeting.

[17] Q. And am I correct that on some occasions the
[18] representative was Phocion Park?

[19] A. Yes.

[20] Q. What other individuals do you recall being a
[21] representative at - of the Legal Department at
[22] environmental policy staff meetings?

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[1] A. I've forgotten one man, one attorney's name.
[2] There was a Peter Smith and a Brent Gilhausen, and there was
[3] a third one, his name escapes me at the moment.

[4] Q. And am I correct from your prior answer that
[5] although you remember from time to time an attorney speaking
[6] about litigation at these meetings, you don't remember what
[7] litigations they were discussing?

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

[9] Q. How many people generally attended environmental
[10] policy staff meetings? How big a group?

[11] A. Gosh of course, it varied. It was a table about
[12] this size, twice as wide, we had about, I would guess, I
[13] would say fifteen people around the table and then there
[14] were people sitting in the chairs back against the wall. It
[15] would go from, say, fifteen to twenty-five people. And
[16] sometimes it would be down to six because they were not in
[17] town.

[18] Q. At environmental policy staff meetings that you
[19] attended, were there ever any discussions of facts that
[20] people thought potentially could turn into litigation?

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

[22] Q. Were there discussions at environmental policy

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[1] staff meetings that you attended of sites at which people
[2] had determined there was some environmental issue that
[3] needed to be addressed?

[4] A. Oh, certainly. Mm-hmm.

[5] Q. Was there, in that vein, discussions of, for
[6] example, the types of substances that had been released at
[7] particular sites?

[8] MR. SARFATTI: Objection; vague.

[9] A. There were reports from individuals such as me,
[10] regarding the activities associated with sites. Speaking
[11] for myself, I would report on what I understood, for
[12] example, a state agency might be alleging or claiming, I
[13] would report what activity Monsanto was embarked on to
[14] determine the validity of that allegation. Really, in my
[15] situation and others spoke similarly, I was trying to bring
[16] the group up-to-date as to what we understood of each of
[17] these sites as they became known to us.

[18] BY MR. HUGHES:

[19] Q. Were reports along the lines that you just
[20] described that you gave given by representatives of other
[21] operating companies?

[22] A. Certainly.

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[1] Q. Did, from time to time did you ask members of
[2] your staff to give reports on particular sites that had come
[3] to your attention?

[4] A. Do you mean did I ask them to join me at the
[5] meeting and give a formal presentation?

[6] Q. That's one example, yes.

[7] A. I don't recall any, any report of that nature.

[8] When they were attending the meeting because I was not able
[9] to, and if new information was available, they would, of
[10] course, share that with the group.

[11] Q. I take it from your responses that the
[12] environmental policy staff meetings were used at least in
[13] part as a means of keeping those individuals interested in
[14] environmental issues informed about what was going on in
[15] other areas of the company.

[16] A. That was a - one objective of having those
[17] meetings, yes.

[18] Q. That's something you used those meetings for when
[19] you were giving your own reports?

[20] A. Well, certainly.

[21] Q. When you gave a report on a particular site, you
[22] indicated, for example, you would describe any agency

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[1] allegations that had been made?

[2] A. Yes.

[3] Q. Would you generally tell the people at the
[4] meeting where the site was?

[5] A. Oh, certainly.

[6] Q. What plant it was associated with?

[7] A. Yes.

[8] Q. Give them a name of the site -

[9] A. Yes.

[10] Q. - to the extent you knew one?

[11] A. Yes.

[12] Q. Would you also, you would also report, I take it,
[13] on what facts Monsanto, itself, had discovered in its own
[14] investigation of the allegations?

[15] A. Any information we had, yes.

[16] Q. Can you identify for us any sites concerning
[17] which you did give a report at an environmental policy staff
[18] meeting?

[19] A. The one I specifically recall was at Texas City
[20] Wye, the site we referred to as the Texas City Wye. There
[21] were, of course, others, but I just don't remember the
[22] specifics.

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[1] Q. Can you tell us when you gave a report at an
[2] environmental policy staff meeting concerning the Texas City
[3] Wye?

[4] A. I don't recall a specific year and month, but I
[5] started to share that information as soon as I became aware
[6] of the situation, and that would have to be, oh, late '77,
[7] early '78, and as new information developed, I would share
[8] it with the group up through 1983.

[9] Q. During the period that you were the DEO of
[10] Monsanto Chemical Intermediates, did you - were you a
[11] member of any committees that addressed environmental
[12] matters? And by that, I mean within Monsanto. Let me
[13] rephrase the question so that it's clear on the record, at
[14] least. During the time that you were the DEO of Monsanto
[15] Chemical Intermediates, did you serve on any internal
[16] Monsanto committees that were charged with addressing
[17] environmental issues?

[18] A. I don't recall personally belonging or being
[19] assigned to a group which called itself a committee on a

[20] specific subject with a chairman. I do recall participating
[21] with others in a common effort, and the one that I recall
[22] quite clearly is the group that worked with Mr. Corey on the

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[1] list of chemicals in response to the Toxic Substance Control
[2] Act inventory.

[3] Q. Okay.

[4] A. I don't know if that was a committee or not. I
[5] just don't, in my mind, I don't recall us referring to
[6] ourselves as a committee.

[7] Q. Well, if I expanded it to a working group with
[8] specified members to address an issue -

[9] A. Well, that's the one I recall, then.

[10] Q. Let me ask a slightly different question. You've
[11] indicated that you - you were a regular invitee and pretty
[12] regular attendee of environmental policy staff meetings. Is
[13] that right?

[14] A. That's right.

[15] Q. And you were - were you also a regular attendee
[16] of the DEO meetings?

[17] A. As regular as I could be, yes.

[18] Q. Were there any other regularly-scheduled meetings
[19] of any group within Monsanto to - of people who addressed
[20] environmental issues that you attended?

[21] A. I don't recall any others.

[22] Q. Mr. Papageorge, I'm now going to move back to

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[1] some issues regarding environmental impairment liability
[2] insurance, and bear with me. I'm simply attempting to
[3] refresh your recollection, and we'll see if I have any
[4] success. Okay?

[5] A. Very good.

[6] Q. I understand I have failed to date, but I'm going
[7] to keep trying for awhile. So bear with me.

[8] (Papageorge Deposition Exhibit 49 marked for
[9] identification.)

[10] BY MR. HUGHES:

[11] Q. Papageorge Exhibit 49 is a memorandum dated
[12] October 20, 1982, from M. F. Weishaar to G. L. Jessee, with
[13] production numbers MCO 6034100 to 106. And Mr. Papageorge,
[14] I understand from other evidence in the case that that
[15] memorandum of October 20, which is Papageorge Exhibit 49 is
[16] a response to Mr. Keating's memo, which we marked at
[17] Papageorge Exhibit 48.

[18] (Witness peruses said document.)

[19] A. I have quickly glanced and reviewed the document.

[20] Q. Now, you note, Mr. Papageorge, that on the
[21] document, at least, you are shown as a carbon copy, or
[22] courtesy copy, whichever way you like to refer to that.

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[1] A. I note that, yes.

[2] Q. And as we've agreed in the past, in the ordinary
[3] course, if a document is actually put in the mail with a
[4] "cc" to you, you would receive it, correct?

[5] A. Very likely, yes, sir.

[6] Q. Have you seen this document before, Papageorge
[7] Exhibit 49?

[8] A. I don't recall it.

[9] Q. Having reviewed the document, does that refresh
[10] your memory at all about a process in late 1982 where
[11] Monsanto was pulling together information to give to an
[12] environmental risk assessment service?

[13] A. I certainly recognize some of the items described
[14] in this document, the sites, and the study programs, et
[15] cetera.

[16] Q. You are saying you recognize the information?

[17] A. The information, correct. I, at this point in
[18] time, have difficulty remembering the activity which
[19] generated the need for this document.

[20] Q. And when you say you are having difficulty, are
[21] you saying right now, you just don't remember it?

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

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[1] Q. So right now, it's more than difficulty, it's a
[2] complete inability; is that right?

[3] A. Well, that's why it's, I call it difficulty.

[4] Q. Would it be, would it be fair to say that a
[5] matter such as this, where Mr. Weishaar was pulling together
[6] information to go to this risk assessment service, for the
[7] purpose of acquiring insurance, is something in which you

[8] would have been interested in 1982?

[9] A. Well, I would certainly be interested in the
[10] information.

[11] Q. You wanted - wouldn't you have wanted to make
[12] sure that it was correct?

[13] A. Certainly.

[14] Q. Were there instances that you can recall where
[15] Monsanto was compiling information about environmental
[16] issues with which it was faced to provide to some outsider,
[17] and by that I mean a newspaper, an agency, something of that
[18] nature that was outside of Monsanto?

[19] A. I do not recall any to a newspaper at all. I do
[20] recall that list of chemicals to the EPA for the Toxic
[21] Substances Control Act, that kind of information. I just
[22] don't remember any other activity of the type you describe.

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[1] Q. Were you aware of any specified procedure that
[2] Monsanto employees had to follow before releasing
[3] information concerning environmental conditions within the
[4] company to an outsider?

[5] A. I don't recall any specified procedure. It was
[6] left to the judgment of the individual preparing the
[7] information and releasing it.

[8] Q. Mr. Papageorge, going back to an exhibit we
[9] marked yesterday, Exhibit 46, attached to the cover
[10] memorandum is a memorandum from Georgene Grimm that we went
[11] through, and what I wanted you to take a look at now is a,
[12] another attachment, the last three pages of the exhibit,
[13] which is a letter on Monsanto letterhead dated September
[14] 16th, 1982, from Georgene Grimm, to Mr. Thomas Burger,
[15] setting forth a confidentiality agreement that was then
[16] signed on behalf of Harding Lawson Associates and returned
[17] to Monsanto.

[18] The question is whether you had any involvement
[19] in reviewing confidentiality - well, first of all, that
[20] confidentiality agreement, pursuant to which environmental
[21] information was to be given to Harding Lawson Associates.

[22] A. The involvement you are asking about had to do

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[1] with the preparation of this agreement and - or -

[2] Q. With preparation being broadly defined; not just
[3] that you wrote it, because I'm not asking that, but were you
[4] asked to review it, to comment upon it, anything of that
[5] nature?

[6] A. I was never involved in that kind of activity.

[7] Q. Never in any respect that you can remember?

[8] A. That's right.

[9] Q. On Exhibit 49, there is some handwriting in the
[10] upper right-hand corner of the first page. Is that your
[11] handwriting?

[12] A. No, it's not.

[13] MR. HUGHES: We're done with that one.

[14] (Papageorge Deposition Exhibit 50 marked for
[15] identification.)

[16] MR. HUGHES: We've marked as Papageorge Exhibit

[17] 49 a document, the first page is a cover letter dated

[18] November 5, 1992, from Adam Ross to Kent Roberts.

[19] MR. JOHNSON: I'm sorry, this is Number 50.

[20] MR. HUGHES: You are right. That's number 50.

[21] Thank you, Broderick.

[22] MR. HUGHES: Production numbers INE 000795 to

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[1] 803.

[2] A. I have reviewed the document.

[3] BY MR. HUGHES:

[4] Q. Mr. Papageorge, during the time that you were
[5] at - that you were DEO with Monsanto, at both the operating
[6] companies for which you served in that position, were you
[7] ever made aware of an entity called Thomas E. Sears, Inc.?

[8] A. No, not that I recall.

[9] Q. Have you ever seen the cover letter on this
[10] exhibit before today?

[11] A. No, this is the first time I've seen it.

[12] Q. And then attached to this cover letter, Mr.

[13] Papageorge, I will represent to you is Monsanto's
[14] application or proposal, is the way this document is termed,
[15] for environmental impairment liability insurance. Have you
[16] ever seen that document before today?

[17] A. I have not.

[18] Q. In or about the time period from July of 1982

[19] through November 5th, 1982, which is the date on the cover
 [20] letter, were you ever asked by anyone from the Risk
 [21] Management Department to review any information that was
 [22] intended to be put into an insurance application?

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[1] A. Not that I recall.
 [2] Q. And let me broaden that. At any time in your
 [3] career at Monsanto, do you - were you asked by the
 [4] Insurance Department or Risk Management Department to review
 [5] information that they intended to provide to an insurer in
 [6] an application for insurance?
 [7] A. No.
 [8] Q. During the time that you were the Director of
 [9] Environmental Operations for Monsanto Chemical
 [10] Intermediates, did Jean Jessee ever ask you for information
 [11] for the purposes of completing an insurance application?
 [12] A. I don't recall that request from Mr. Jessee at
 [13] all.
 [14] Q. You told us yesterday that from time to time, Mr.
 [15] Chapman would come to you, or maybe he called you but in any
 [16] event, contact you to ask you essentially what was going on
 [17] in the PCB area of the company; correct?
 [18] A. I did say that, yes.
 [19] Q. And did you ever have a conversation along those
 [20] same lines with either Mr. Toth or Georgene Grimm?
 [21] MR. SARFATTI: Object on the grounds of
 [22] vagueness. I'm not sure what you are asking to compare.

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[1] MR. HUGHES: Fair enough. Let me rephrase the
 [2] question.
 [3] BY MR. HUGHES:
 [4] Q. And let me make it noncompound, too, while I'm at
 [5] it. Did you ever - did Mr. Toth and you ever have a
 [6] conversation in which you provided him information on the
 [7] status of the PCB in the environment situation at Monsanto?
 [8] A. No.
 [9] Q. Same question with respect to Georgene Grimm.
 [10] A. No.
 [11] Q. And finally, along these lines, in any of the
 [12] conversations that you had with Mr. Chapman where the
 [13] subject matter is the status of the PCB program in Monsanto,
 [14] did he indicate that he was interested in that information
 [15] for the purpose of conveying it to an insurance company?
 [16] A. Not to me, no.
 [17] Q. Okay, you assumed that was why he wanted it,
 [18] didn't you?
 [19] A. I assumed it had something to do with insurance.
 [20] That's it.
 [21] Q. Mr. Papageorge, if you would turn to the second
 [22] page of Exhibit 50.

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[1] A. I have it.
 [2] Q. And there's a section 4 on this page, it's called
 [3] "record" and then there's A, B, C, D?
 [4] A. I see that.
 [5] Q. Let me ask you, would you read the question that
 [6] is beside the letter "B"?
 [7] (Witness peruses said document.)
 [8] A. I've read it.
 [9] Q. In November of 1982, if you had wanted to know
 [10] whether there were any third-party claims against Monsanto
 [11] as the result of operations at any of its locations where it
 [12] manufactured chemicals, who would you have contacted?
 [13] A. Monsanto's attorneys.
 [14] Q. You are talking about the in-house corporate
 [15] attorneys?
 [16] A. Yes.
 [17] Q. And would there have been a specific individual
 [18] you would have contacted?
 [19] A. I would have started with Mr. Park or any of his
 [20] staff, in his absence.
 [21] Q. Now, if you would go and read the question that
 [22] is beside the letter "C," which, for the record is, quote,

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[1] "At the time of signing this proposal, are you aware of any
 [2] environmental impairment arising from operation at the
 [3] location that may give rise to a claim in the future?"
 [4] (Witness peruses said document.)
 [5] A. I've read it.
 [6] Q. If you had wanted to know whether there was any

[7] environmental impairment that might give rise to a claim in
 [8] the future against Monsanto in or about November of 1982,
 [9] who would you have gone to?
 [10] A. Again, I'd go to a legal person.
 [11] Q. Mr. Park, again?
 [12] A. Yes.
 [13] Q. Or one of the other individuals in that area in
 [14] the Legal Department?
 [15] A. Correct.
 [16] Q. Did your DEO group maintain information that
 [17] would have permitted you to respond to the question that is
 [18] beside the letter "C"?
 [19] A. No, I don't have the proper training to take what
 [20] information would have been available to me and relate that
 [21] to a possible claim and the basis for such a claim, and so
 [22] on.

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[1] Q. Let me see if I understand you. What you are
 [2] saying is, although you might have had facts, not being a
 [3] lawyer, you would not be able to evaluate whether that was
 [4] something that might give rise to a claim?
 [5] A. I would not be able to do that and be in a
 [6] position to properly respond to that question.
 [7] Q. If you'll turn back to the first page of this
 [8] exhibit, Mr. Papageorge, and we all understand that you
 [9] didn't write this letter, you didn't receive it, you are
 [10] seeing it now for the first time. All right? All that is
 [11] accepted and it's assumed in my following question; okay?
 [12] You'll note that the letter states, "As agreed, it has been
 [13] signed by Bob Toth but only after full review and approval
 [14] from Monsanto's Environmental Law and Regulatory Compliance
 [15] groups," end quote. Okay?
 [16] A. I see it.
 [17] Q. In November of 1982, did you have an
 [18] understanding of what the Environmental Law Group was within
 [19] Monsanto?
 [20] A. I had an understanding.
 [21] Q. And that's the group we discussed of Mr. Park,
 [22] Mr. Gilhausen, Mr. Smith, and one other that you can't

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[1] remember?
 [2] A. That is correct.
 [3] Q. Did you have an understanding of what the
 [4] Regulatory Compliance Group was?
 [5] A. My understanding, I had one, yes.
 [6] Q. And who was that?
 [7] A. That consisted of members of Mr. Throdahl's staff
 [8] who were assigned the various areas in which environmental
 [9] pollution could occur.
 [10] BY MR. HUGHES:
 [11] Q. Mr. Papageorge, did you ever obtain any
 [12] information about a meeting attended by Jean Jessee and
 [13] Georgene Grimm in Boston with a company that was performing
 [14] an environmental risk assessment of Monsanto for insurance
 [15] reasons?
 [16] A. No, I just don't recall that at all.
 [17] (Papageorge Deposition Exhibit 51 marked for
 [18] identification.)
 [19] BY MR. HUGHES:
 [20] Q. We've marked as Papageorge Exhibit 51 a one-page
 [21] document dated February 4, 1983, from Gene L. Jessee to a
 [22] number of addressees and CC's, production number MCO

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[1] 0426136.
 [2] (Witness peruses said document.)
 [3] A. I have -
 [4] Q. Do you recognize this document, Mr. Papageorge?
 [5] A. I don't remember it.
 [6] Q. Does it refresh your memory at all about a
 [7] meeting that Mr. Jessee had in Boston with, as he put it,
 [8] representatives of insurance brokerage and underwriter
 [9] firms?
 [10] A. No, it doesn't.
 [11] MR. HUGHES: All right.
 [12] (Papageorge Deposition Exhibit 52 marked for
 [13] identification.)
 [14] (Witness peruses said document.)
 [15] BY MR. HUGHES:
 [16] Q. We've marked as Papageorge Exhibit 52 an exhibit,
 [17] a cover memorandum dated February 22, 1983, from

[18] G. L. Jessee to five addressees, including Mr. Papageorge,
 [19] then it has as an attachment a document with a cover page
 [20] "Report On Monsanto Corporation, February 11, 1983,"
 [21] production numbers MCO 0 - I'm sorry, let me do that again.
 [22] MCO 6033875 to 983; and Mr. Papageorge, I don't want to take

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[1] up our time reading this entire lengthy document, which is
 [2] 103 pages in total, but I wanted to show you the format and
 [3] the extent of the report, and again ask whether that
 [4] refreshes your memory at all that you received from Mr.
 [5] Jessee such an environmental risk assessment of Monsanto.
 [6] A. I don't remember the document, itself. I do
 [7] remember the subject matter, in terms of which sites were
 [8] being looked at. I just do not have any recall that
 [9] associates the activity that I was familiar with with this
 [10] impairment liability insurance that we're talking about,
 [11] here. I just don't remember that at all.
 [12] Q. If I understand your answer, you are again saying
 [13] that you are familiar with facts stated in the report.
 [14] MR. SARFATTI: Well, wait a second. He hasn't
 [15] read the record.
 [16] MR. HUGHES: That's fair enough.
 [17] MR. SARFATTI: If you want to give him enough
 [18] time, sufficient time to look at 103 page document -
 [19] MR. HUGHES: No, I think we have better ways of
 [20] spending our time. I would agree with that.
 [21] MR. SARFATTI: Okay. Don't premise the
 [22] question -

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[1] MR. HUGHES: Withdraw that question.
 [2] MR. SARFATTI: - with knowledge of the contents.
 [3] MR. HUGHES: Withdraw that question.
 [4] Why don't we not spend anymore time on that one.
 [5] (Papageorge Deposition Exhibit 53 marked for
 [6] identification.)
 [7] MR. HUGHES: We've had marked as Papageorge
 [8] Exhibit 53, a three-page document. It's dated April 12,
 [9] 1983, from W. B. Papageorge to L. J. BOEsh (Phonetic)?
 [10] A. BAWsh (Phonetic).
 [11] Q. Bosch; thank you. Production numbers MCO 6263977
 [12] to 979.
 [13] (Witness peruses said document.)
 [14] MR. HUGHES: Let me know when you've had a
 [15] sufficient chance to review that document, Mr. Papageorge.
 [16] (Witness peruses said document.)
 [17] A. I have reviewed the document. I cannot recall
 [18] it.
 [19] Q. All right, am I right that that is your signature
 [20] at the bottom?
 [21] A. That's my signature, yes, sir.
 [22] Q. Okay, and this is a - can we agree this is,

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[1] whether or not you remember it, this does appear to be a
 [2] document that you prepared in the regular course of your
 [3] duties at Monsanto?
 [4] A. It appears to be so, yes.
 [5] Q. Who was Mr. - what was Mr. Bosch's position as
 [6] of April 1983?
 [7] A. April '83, Mr. Bosch was the General Manager of
 [8] Manufacturing for Monsanto Industrial Chemicals Company.
 [9] Q. Am I correct, then, that he was Monsanto
 [10] Industrial Chemicals' equivalent to Earl Brasfield during
 [11] the period you were DEO at Monsanto Chemical Intermediates?
 [12] A. You are correct.
 [13] Q. As you sit here today, can you tell us what led
 [14] you to prepare such a memorandum as we see in Papageorge
 [15] Exhibit 53 for Mr. Bosch?
 [16] A. I don't know what triggered this.
 [17] Q. You have reviewed the memorandum that you
 [18] drafted? The first page?
 [19] A. You mean right now?
 [20] Q. Yes.
 [21] A. I've glanced at it, yes, sir, mm-hmm.
 [22] Q. Okay. Does that refresh your memory at all about

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[1] having some knowledge of an environmental impairment
 [2] liability policy?
 [3] A. No, it doesn't.
 [4] Q. Now, you'll note, you noted, didn't you, Mr.
 [5] Papageorge, when you reviewed this document, that bottom

[6] line, you made a recommendation to Mr. Bosch for renewal of
 [7] the policy? Correct?
 [8] A. Yes, I did.
 [9] Q. You would not have made any recommendation to Mr.
 [10] Bosch if you didn't feel you had sufficient information to
 [11] come to a conclusion, would you?
 [12] MR. SARFATTI: I'm going to object on the grounds
 [13] of vagueness. It's somewhat speculative, based on the
 [14] testimony that's been elicited so far about his knowledge of
 [15] the situation.
 [16] MR. HUGHES: Let me rephrase, Mr. Papageorge.
 [17] BY MR. HUGHES:
 [18] Q. What I'm getting at is the kind of businessman
 [19] that you were at Monsanto, it was not your practice to make
 [20] recommendations unless you felt, yourself, that you had
 [21] sufficient knowledge and information to make that
 [22] recommendation?

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[1] A. Yes, to the point where I felt, I'm going to use
 [2] the word "comfortable" with that support or acceptance, and
 [3] so on.
 [4] Q. And would it also be accurate to say it was your
 [5] practice that if you did not feel sufficiently comfortable
 [6] with your own knowledge of a subject to give a
 [7] recommendation, you would tell people that they should talk
 [8] to somebody else on this issue?
 [9] A. Well, that would certainly be one approach. The
 [10] other would - there are many approaches to either change
 [11] the recommendation or for me to get more information, to
 [12] ending up supporting it.
 [13] Q. Fair enough, but the upshot of all that is you
 [14] wouldn't have made the recommendation without either
 [15] acquiring sufficient information to be comfortable, or
 [16] referring it to someone else.
 [17] A. I'll accept that.
 [18] Q. Now, in the last paragraph, you wrote, quote, "I
 [19] believe the potential for liability claims are great enough
 [20] that the protection purchased outweighs the listed
 [21] exclusions and the cost." End quote.
 [22] Now, is it fair to conclude from that sentence

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[1] that at April 12, 1983, you had been aware of the cost of
 [2] this insurance?
 [3] A. Well, I don't recall it, but I must have been.
 [4] Q. You wouldn't have written something like that if
 [5] you didn't have any idea what the cost was?
 [6] A. That's the likelihood, yes.
 [7] Q. And it also - you also make a reference to the
 [8] listed exclusions in that same sentence, so is it fair to
 [9] conclude that at April 12, 1983, you had reviewed the
 [10] exclusions applicable to this insurance policy?
 [11] A. Yes, I had.
 [12] Q. Can you tell us at April 12, 1983, what
 [13] information you had concerning the potential for liability
 [14] claims that is referenced in that same sentence?
 [15] A. Well, I, I'd have to read some further documents
 [16] regarding the sites that are described, and the conditions
 [17] observed or reported to refresh my memory as to how I
 [18] related that information to a potential for claims.
 [19] Q. Now, let's go back up to the first paragraph, Mr.
 [20] Papageorge. Have you read that paragraph?
 [21] A. Yes, I have.
 [22] Q. And in the first sentence, you are stating to Mr.

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[1] Bosch, essentially a summary of the type of damages that
 [2] would be covered by this insurance policy; correct?
 [3] MR. SARFATTI: Objection; no foundation.
 [4] MR. HUGHES: Let me withdraw that question, Mr.
 [5] Papageorge.
 [6] BY MR. HUGHES:
 [7] Q. In this Papageorge Exhibit 53, you indicated to
 [8] Mr. Bosch that Monsanto had purchased a policy, "To cover
 [9] injury and property damage resulting from our processes and
 [10] wastes despite responsible management." Is that right?
 [11] A. That's what it says, yes, sir.
 [12] Q. Can you tell us here, today, what the basis was
 [13] for that statement that you made to Mr. Bosch in Papageorge
 [14] Exhibit 53?
 [15] A. I don't remember where I - what I based that on.
 [16] Q. Having reviewed this document in which you do

[17] make some statements concerning the policy, does it refresh
 [18] your recollection as to whether you had any conversations or
 [19] attended any presentations by risk management personnel at
 [20] which they describe the policy coverage and exclusions?
 [21] A. I don't recall attending such a discussion. I
 [22] just don't recall it.

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[1] Q. You'll note, as well, Mr. Papageorge, that in the
 [2] last sentence of that first paragraph, you told Mr. Bosch,
 [3] quote, "Coverage does not include product liability, fire
 [4] damage, et cetera, which have traditionally been covered
 [5] under other plans," end quote. That's what you told Mr.
 [6] Bosch.
 [7] A. That's what it says here, yes, sir.
 [8] Q. And you will agree that this is a memorandum that
 [9] you prepared?
 [10] A. It appears to be, yes, sir.
 [11] Q. You don't know of any facts to suggest that you
 [12] didn't prepare this and send it to Mr. Bosch?
 [13] A. That is correct.
 [14] Q. Okay. Can you tell us here, today, on what facts
 [15] you based that statement to Mr. Bosch concerning what
 [16] coverage did not include?
 [17] A. I certainly received that information from some
 [18] source. I don't recall a specific source. It could be
 [19] several individuals that could have supplied that
 [20] information to me.
 [21] Q. Let me ask you this; can we agree that you did
 [22] not sit down, read Monsanto insurance policies, and come to

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[1] that conclusion on your own?
 [2] A. That's for certain.
 [3] Q. Somebody with more knowledge about insurance
 [4] policies at Monsanto must have given that information to
 [5] you?
 [6] A. Not necessarily. One of my staff members may
 [7] have given me this, that they picked up from someone else.
 [8] Q. You indicated that there were several potential
 [9] sources for the information that you gave Mr. Bosch, here,
 [10] about insurance coverage.
 [11] A. Yes.
 [12] Q. What sources were you thinking of?
 [13] A. Well, as I indicated, my staff member might have
 [14] done it.
 [15] Q. Let me interrupt for a minute. If it was your
 [16] staff member, you would have asked him where he got that
 [17] information, wouldn't you?
 [18] MR. SARFATTI: I'm going to object on the grounds
 [19] of speculation, here. We're getting into several levels of
 [20] speculation now.
 [21] MR. HUGHES: Okay. That's fine.
 [22] MR. SARFATTI: To this whole line, if you want to

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[1] continue it.
 [2] BY MR. HUGHES:
 [3] Q. You didn't think your staff members had insurance
 [4] expertise, either?
 [5] A. That's true.
 [6] Q. So wouldn't you have wanted to know where they
 [7] got that information?
 [8] A. Well, certainly, somehow it would have come up,
 [9] he would say, "I just attended the meeting," or "I just
 [10] talked to so and so."
 [11] Q. Are there any other sources for the information
 [12] other than people in the Risk Management Department, itself?
 [13] A. Any of the attorneys we talked about earlier
 [14] could have been the source. Mr. Gene Jessee, himself, could
 [15] have been the source. Miss Grimm and Mr. Toth could have
 [16] been a source, and so on, or a DEO that attended one of our
 [17] meetings may have spoken for - on that subject.
 [18] Q. Would you have considered any of those sources
 [19] you just named reliable enough for you to put in that
 [20] memorandum and send it to Mr. Bosch?
 [21] A. Yes.
 [22] (Papageorge Deposition Exhibit 54 marked for

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[1] identification.)
 [2] MR. HUGHES: We've had marked as Papageorge
 [3] Exhibit 54, a two-page exhibit which appears in the original
 [4] to have been the front and back of a single page, memorandum

[5] dated March 31st, 1983, from W. B. Papageorge to what I
 [6] believe is a list of DEO's of Monsanto Company; is that
 [7] right, Mr. Papageorge? Callis, Carpenter, Harness, KERN-ee
 [8] (Phonetic) or is it KARN-ee (Phonetic)? And McCarville.
 [9] Oh, McCarville was not a DEO, was he?
 [10] THE WITNESS: Correct, the first four were DEO's
 [11] at that time.
 [12] MR. HUGHES: The Bates numbers are MCO 0426100 to
 [13] 101.
 [14] BY MR. HUGHES:
 [15] Q. We had been talking about whether you attended
 [16] any meetings at which the EIL insurance presentation was
 [17] made, and this appears to be a notice you sent out over your
 [18] own signature of a meeting between the DEO's, Mr. Throdahl,
 [19] and Ms. Grimm, Mr. Toth and Mr. Jessee, where EIL insurance
 [20] would be discussed.
 [21] A. That's what this document indicates, yes, sir.
 [22] Q. You are still drawing a blank about such a

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[1] meeting?
 [2] A. I draw a blank on the meeting. I do.
 [3] Q. Were there any circumstances in or about March of
 [4] 1983, which is the date of Papageorge Exhibit 54, that
 [5] raised particular concerns about environmental liability on
 [6] the part -
 [7] A. Not that I can recall.
 [8] (Papageorge Deposition Exhibit 55 marked for
 [9] identification.)
 [10] BY MR. HUGHES:
 [11] Q. I've had marked as Papageorge Exhibit 55 a
 [12] memorandum, there is a cover sheet as produced that suggests
 [13] the original had been removed. It was copied in the
 [14] production process. Personally, I don't see a Bates number
 [15] on it, but attached to it is a document with Bates numbers
 [16] MCO 0026493 to 496 which is a cover transmittal memo or
 [17] transmittal sheet from Robert E. Toth dated 4-13-83, with
 [18] attachment; and Mr. Papageorge, you'll note that the
 [19] memorandum attached makes reference to an April 11, 1983,
 [20] meeting with Mr. Throdahl, which is the same date that's
 [21] referenced in Papageorge Exhibit 54.
 [22] A. I see that.

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[1] Q. And then there is a discussion of various -
 [2] there's discussion by Mr. Toth, or a description of both
 [3] some excess liability insurance of Monsanto and
 [4] environmental impairment liability coverage. The question
 [5] to you is, having seen this document, whether you are
 [6] refreshed at all as to a meeting in April 1983 where there
 [7] was a presentation on scope of Monsanto's insurance coverage
 [8] for environmental liability.
 [9] A. It does not help me recall, no.
 [10] Q. If you'll turn to the last page of this exhibit,
 [11] which is what appears to be something that was prepared for
 [12] an overhead with the heading "Major EIL Policy Exclusions"?
 [13] Are you there?
 [14] A. I see that, yes.
 [15] Q. At any point did you receive a description from
 [16] either Mr. Toth or Ms. Grimm of exclusions from Monsanto's
 [17] insurance policies with respect to environmental claims?
 [18] A. I don't recall any.
 [19] Q. You note that there is a reference on that last
 [20] page of Papageorge Exhibit 55 to product liability being one
 [21] of the areas excluded from EIL policy? You see that on the
 [22] document?

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[1] A. I do.
 [2] Q. Did you ever - let's broaden it past just this
 [3] document or this particular presentation. While you were a
 [4] DEO at either of the two operating companies, did you have
 [5] discussions with anybody in risk management concerning
 [6] insurance coverage for product liability claims?
 [7] A. No.
 [8] Q. Did you, during that same period, have any
 [9] discussions with anybody concerning product liability
 [10] insurance coverage?
 [11] A. No.
 [12] Q. During that same period did you have any
 [13] discussions with anybody about whether there was insurance
 [14] coverage for environmental cleanup or remediation costs?
 [15] A. No.

[16] (Papageorge Deposition Exhibit 56 marked for
[17] identification.)
[18] MR. HUGHES: I've had marked as Papageorge
[19] Exhibit 56 a document dated February 4, 1985, from Georgene
[20] Grimm to a distribution list. It's production numbers MCO
[21] 7191398 to 1399, and why don't you read this document, Mr.
[22] Papageorge, and let me know when you are finished.

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[1] (Witness peruses said document.)
[2] THE WITNESS: I have read the document.
[3] BY MR. HUGHES:
[4] Q. Do you recognize this document as being one that
[5] you've seen before, Mr. Papageorge?
[6] A. I don't recall it.
[7] Q. Did you participate in any effort in the first
[8] half of 1985 to pull together information regarding
[9] potential claims arising from environmental impairment for
[10] the purpose of giving notice under a Monsanto insurance
[11] policy?
[12] A. I do not recall that type of activity.
[13] Q. Did you have any discussions with Georgene Grimm
[14] during the first, let's say seven months of 1985, concerning
[15] the need to give notice to an insurance company of all
[16] potential environmental claims?
[17] A. I don't recall such a meeting.
[18] Q. Or discussion?
[19] A. Or discussion.
[20] Q. When you moved over to Monsanto Industrial
[21] Chemicals, was Mr. Foresman on your staff, there?
[22] A. Yes.

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[1] Q. So he moved over with you to MIC?
[2] A. Correct.
[3] Q. Did you have any discussions with Mr. Foresman
[4] during the first seven months of 1985 about pulling together
[5] information of all potential environmental claims to give to
[6] Georgene Grimm?
[7] A. I don't recall any.
[8] MR. SARFATTI: Are we at a good breaking point?
[9] MR. HUGHES: We are, yes, if you need to take one
[10] now.
[11] (Recess from 10:25 to 10:45.)
[12] MR. HUGHES: Okay, back on the record.
[13] BY MR. HUGHES:
[14] Q. Mr. Papageorge, during the time that you were DEO
[15] of Monsanto Chemical Intermediates, 1977 to the very end of
[16] 1982, there was a significant amount of federal legislation
[17] and rule making in the area of environmental matters;
[18] correct?
[19] A. Well, I hope we have the same understanding of
[20] "significant." There was much new legislation and
[21] regulation.
[22] Q. Well, within Monsanto, the legislation and rule

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[1] making that was coming out of the federal government was
[2] considered to have the potential for having a significant
[3] impact on Monsanto's operations; isn't that right?
[4] MR. SARFATTI: Object, lack of foundation and
[5] vague.
[6] A. It depended upon the individuals expressing their
[7] opinions regarding impact, whether it be monetary, or
[8] shutting down, or what have you, so -
[9] BY MR. HUGHES:
[10] Q. You had that view, didn't you?
[11] A. I don't know that I used the word "significant."
[12] I felt that it was important to keep abreast and to comply,
[13] and also to, if possible, participate in these rule-making
[14] activities.
[15] Q. During the late 1970's, early 1980's, regulations
[16] under RCRA were promulgated; correct?
[17] A. Yes.
[18] Q. And during that same period, CRCLA was enacted;
[19] correct?
[20] A. Yes.
[21] Q. And as Director of Environmental Operations, one
[22] of your jobs was to stay informed about the requirements of

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[1] those laws and regulations. Is that fair to say?
[2] A. To what degree?
[3] Q. You didn't have to know every comma and semicolon

[4] in the statutes, but you had to know generally what the
[5] requirements were that Monsanto was expected to meet in
[6] order to comply with the federal laws and regulations?
[7] A. In order for Monsanto to comply or at least the
[8] parts of Monsanto within MCI, yes.
[9] Q. Now, upon the enactment of the Resource
[10] Conservation and Recovery Act, RCRA, Monsanto faced the
[11] challenge of conforming its waste disposal practices to the
[12] requirements of the federal regulations when they came out;
[13] correct?
[14] A. Yeah, like everyone else.
[15] Q. And isn't it also true that Monsanto was
[16] concerned about the potential financial impact of bringing
[17] itself into compliance with the requirements under the RCRA
[18] regulations?
[19] MR. SARFATTI: Objection; vague and lack of
[20] foundation.
[21] A. There's always concern for the cost of complying
[22] with any regulation.

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[1] BY MR. HUGHES:
[2] Q. But within Monsanto, isn't it true that in the
[3] individuals at Monsanto who were most familiar with
[4] environmental concerns, there was a considerable worry about
[5] the amount of money it was going to cost the corporation to
[6] comply with these federal regulations?
[7] MR. SARFATTI: Objection; lack of foundation,
[8] vague.
[9] A. I don't know that I can use the word "worry." As
[10] part of our jobs, economic factors are considered. There is
[11] always the concern of how these economic factors will affect
[12] Monsanto, and every effort is made to control these
[13] expenditures, so if these kinds of thoughts are considered
[14] worries, I again, it's a concern, rather than a worry, in my
[15] opinion.
[16] BY MR. HUGHES:
[17] Q. Okay, I'm not sure I personally draw a big
[18] distinction between concerns and worries.
[19] A. A worry in my mind has a more negative kind of
[20] connotation.
[21] MR. SARFATTI: If you don't, you should read a
[22] dictionary.

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[1] MR. HUGHES: I'll do that when I get home.
[2] BY MR. HUGHES:
[3] Q. In - you were aware, weren't you, Mr.
[4] Papageorge, in the early 1980's, that RCRA required
[5] companies with waste disposal sites to provide financial
[6] assurances that they were capable of spending the money
[7] necessary to close sites as necessary and to monitor sites
[8] as necessary to comply with RCRA?
[9] A. I, I recall that requirement, yes.
[10] Q. Monsanto was required to go through an effort to
[11] estimate what its closure and post-closure expenses would be
[12] for RCRA purposes?
[13] A. I faintly recall an activity of that type, yes,
[14] sir.
[15] Q. And at least at the time that activity was going
[16] on, that's something that you would have been involved in,
[17] isn't it?
[18] A. I certainly would have been aware of it, I would
[19] have made assignments appropriately to get the task done,
[20] yes.
[21] Q. And the end result of that process was that
[22] Monsanto had a number of its potential costs for closure and

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[1] post closure in the tens of millions of dollars, isn't it?
[2] A. I don't remember the number.
[3] Q. You remember it was a fairly substantial amount,
[4] don't you?
[5] MR. SARFATTI: Objection; vague.
[6] A. It was millions of dollars, is all I remember.
[7] BY MR. HUGHES:
[8] Q. And at the same, during the same period, it was
[9] coming to your attention, wasn't it, that the legal
[10] interpretation of liabilities under CRCLA was broadening.
[11] MR. SARFATTI: Objection; vague.
[12] A. Yes.
[13] BY MR. HUGHES:
[14] Q. And you were aware of the Motco sue, for

[15] example, or the Texas City Wye?

[16] A. I was aware of it, yes.

[17] Q. And that Monsanto potentially faced a

[18] considerable expense, amounting in the tens of millions of

[19] dollars, to clean up that site?

[20] A. Yes.

[21] Q. And you were aware of that in the early 1980's,

[22] well, even before 1980, weren't you?

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[1] A. I was aware of Monsanto's interest in the site, I

[2] was aware of the material, the source of the material at the

[3] site, or at least some of the material, I was aware - of

[4] course, I was aware of the State's interest in the site and

[5] before RCRA and CRCLA.

[6] Q. And you told us about that in previous testimony.

[7] A. Yeah.

[8] Q. And I don't want to go over that again, so -

[9] A. All right.

[10] Q. Didn't you hear expressions from other Monsanto

[11] employees that they were concerned that with the broadening

[12] net of environmental requirements, the very existence of the

[13] corporation could be threatened?

[14] A. Oh, I never heard that.

[15] Q. Never heard anybody say that?

[16] A. No.

[17] Q. Never heard that from Mr. Throdahl?

[18] A. No.

[19] Q. Never heard that from Mr. Jessee?

[20] A. No.

[21] Q. In connection with providing financial insurances

[22] under RCRA, did you have discussions on that subject with

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[1] anybody from the Risk Management Department?

[2] A. No.

[3] Q. With whom did you discuss the issue of required

[4] financial insurances under RCRA?

[5] A. Again, I don't recall the specific individuals.

[6] I was aware of the subject matter and I recall the operating

[7] units I represented were involved, through its teams of

[8] people. Specifically, I don't recall.

[9] Q. Were you made aware of the fact that one of the

[10] means of satisfying the financial insurance requirements of

[11] RCRA was through insurance?

[12] A. I don't know if I was informed of that or I

[13] assumed it. I just don't recall the specifics.

[14] Q. If I understand your answer, you are saying that

[15] was something that was present in your own mind in the early

[16] 1980's but you don't know where it came from?

[17] A. That is correct.

[18] Q. In your position as a Director of Environmental

[19] Operations for MCI, didn't you concern yourself with

[20] budgeting the potential costs of Monsanto's complying with

[21] environmental requirements within your operating company?

[22] A. No.

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[1] Q. Didn't you review such estimate?

[2] A. No, never saw them.

[3] Q. You were out of that loop entirely?

[4] A. Yes.

[5] Q. In the early 1980's, as all of the, as these

[6] various federal enactments and regulations came on line, you

[7] had discussions, didn't you, on the subject of where

[8] Monsanto was going to get the money to pay for all of the

[9] costs associated with those laws?

[10] A. That was not in my bailiwick. That was not in my

[11] area.

[12] Q. And you never considered that, as Director of

[13] Environmental Operations?

[14] A. Not as part of my job. As a personal interest

[15] kind of thing, but not a professional kind of way, no.

[16] Q. Was there anyone within the operating company who

[17] you understood to have the responsibility for taking into

[18] account for budgeting and financial purposes the costs of

[19] environmental compliance and environmental liabilities?

[20] A. Well, certainly the Managing Director is

[21] involved, and I don't know which of his staff is assigned

[22] that particular responsibility.

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[1] Q. And are you telling us that they never came to

[2] the Director of Environmental Operations to discuss that

[3] issue?

[4] A. That is correct.

[5] Q. All right. And you are telling us that nobody

[6] ever came to the Director of Environmental Operations, at

[7] least while it was William Papageorge, to discuss "How are

[8] we going to budget for these millions and millions of

[9] dollars that we're going to have to incur for environmental

[10] concerns?"

[11] A. That is correct.

[12] MR. SARFATTI: Objection to the extent you are

[13] characterizing prior testimony.

[14] BY MR. HUGHES:

[15] Q. If I can refer you back for a moment to

[16] Papageorge Exhibit 53, Mr. Papageorge, which is the

[17] memorandum we discussed in which you indicated to Mr. Bosch

[18] that you were in favor of renewing the environmental

[19] insurance policy, for the purposes of - strike that.

[20] Did you have any discussions at any time with

[21] anyone, and then I'll narrow it down if the answer to this

[22] is yes, but any discussions with anyone while you were

Page 727

[1] Director of Environmental Operations concerning the amount

[2] of insurance coverage, in dollars, that Monsanto had for

[3] environmental liabilities?

[4] A. No.

[5] Q. Now, we talked earlier about the fact that in

[6] this memorandum, which we've marked as Papageorge Exhibit

[7] 53, in the last paragraph, you made a comment about your

[8] belief that the potential for liability claims were great

[9] enough that the cost of the policy was justified. Now,

[10] at - does that indicate that at April 12, 1983, you had

[11] made - given some consideration to the potential cost to

[12] the company of environmental liability?

[13] A. Well, I must have.

[14] Q. In order to write that memorandum.

[15] A. Yes, and compare it to a 250-thousand-dollar

[16] cost.

[17] Q. But you are telling us as you sit here today you

[18] have no recollection of what that amount was, in your mind,

[19] of potential liability exposure?

[20] A. No. No, I don't know that I ever quantified it.

[21] Q. Wouldn't it be fair to say you had in your mind

[22] an amount in the tens of millions of dollars?

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[1] A. Millions, many millions.

[2] Q. Now, as someone who had been in the, in the

[3] business world for decades, as of early 1980 - fair enough?

[4] A. That's right.

[5] Q. Okay, and in the chemical business for decades,

[6] correct?

[7] A. Correct.

[8] Q. You were aware, weren't you, that one potential

[9] source for payment of liability claims was insurance.

[10] A. Oh, yes. I was aware of that.

[11] Q. And that's common sense if you are in the

[12] business world, isn't it? If there's a liability claim -

[13] A. I can't speak for others in terms of common

[14] sense. I was aware of this type of resource or support.

[15] Q. You were aware that if, in the event of a

[16] lawsuit, seeking to recover damages for Monsanto, one would

[17] want to see if there's insurance that would cover the claim.

[18] A. Yes, sir.

[19] Q. Didn't it occur to you during the early 1980's,

[20] with all of this federal regulation imposing new

[21] requirements upon Monsanto, and with an expansion of

[22] potential environmental liability, that you would want the

Page 729

[1] know about whether there was insurance coverage for Monsanto

[2] for such claims?

[3] A. I was not responsible for the cost of this

[4] activity. I, I wouldn't - I had too many things to do to

[5] worry about that one item. That's someone else's

[6] responsibility. Therefore, I would not have, as you say,

[7] worry about it.

[8] Q. Well, I'll use the word "concern," since Mr.

[9] Sarfatti tells me that's a better word in this context.

[10] MR. SARFATTI: Just a different word.

[11] BY MR. HUGHES:

[12] Q. That's not something that ever, you ever were

[13] concerned with as Director of Environmental Operations? Is

[14] that right? Let me rephrase the question, because it's got
 [15] a - there is no antecedent, perhaps, or it's a concluding
 [16] antecedent.
 [17] Weren't you concerned, while you were DEO of
 [18] Monsanto Chemical Intermediates, about whether there was
 [19] adequate insurance coverage for the potential environmental
 [20] cost facing your organization?
 [21] A. That was not my responsibility. Therefore, I did
 [22] not address it.

Page 730

[1] Q. So are you telling us that in your job as DEO, if
 [2] you weren't specifically assigned a responsibility, you
 [3] weren't concerned about it?
 [4] A. Not as part of my job, no.
 [5] Q. You indicated that one of the things that came
 [6] into your mind during this spate of federal rule making in
 [7] the early 1980's was whether there should be some input by
 [8] Monsanto into that rule making. Is that right?
 [9] A. I did say that, yes, sir.
 [10] Q. Okay, what did you mean by that?
 [11] A. I don't have a specific in mind but it involves
 [12] such things as attending the appropriate meetings held by
 [13] the regulatory agency, participating as a, as a provider of
 [14] information to the agencies, commenting to proposed rules
 [15] that are published, and -
 [16] Q. Did you personally engage in any of these
 [17] activities? I'm sorry, did I interrupt you?
 [18] A. No, that's -
 [19] Q. Okay. I apologize if I did.
 [20] MR. SARFATTI: You seem to be showing a lack of
 [21] interest in the answer.
 [22] MR. HUGHES: That part is true.

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[1] BY MR. HUGHES:
 [2] Q. Not a lack of interest, but I realized your
 [3] answer was a lot more broad than I was really concerned
 [4] with. I'm more interested in whether you, yourself, were
 [5] involved in any such activities.
 [6] A. For what products? For what materials, what
 [7] parts of Monsanto or when?
 [8] Q. Fair enough. During the period you were Director
 [9] of Environmental Operations of Monsanto Chemical
 [10] Intermediates, did you personally have any involvement in
 [11] providing input to the issuing of regulations under RCRA?
 [12] We'll start with that.
 [13] A. No.
 [14] Q. Did you personally have any involvement in
 [15] providing input or comment on any other environmental
 [16] regulations while you were DEO of Monsanto Chemical
 [17] Intermediates?
 [18] A. No.
 [19] Q. All right. Now, before our first break, Mr.
 [20] Papageorge, I marked. I won't use an adjective, but a number
 [21] of documents relating to environmental insurance that had
 [22] your name on them: right?

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[1] A. Yes.
 [2] Q. All right. You were copied on some so, you - we
 [3] looked at one, or several that you authored yourself;
 [4] correct?
 [5] A. That's correct.
 [6] Q. Now, as we went through that series of documents
 [7] today, were you surprised that your name was on that number
 [8] of documents addressing the issue of environmental
 [9] impairment liability insurance?
 [10] MR. SARFATTI: Objection; lack of relevancy.
 [11] A. There was a surprise on my part because I had, as
 [12] I indicated, completely forgotten the subject.
 [13] BY MR. HUGHES:
 [14] Q. And you have still completely forgotten the
 [15] subject; is that right?
 [16] A. Well, you are asking me to recall specific
 [17] meetings, specific discussions, specific activities. I
 [18] recall the general subject, but not the specifics.
 [19] Q. Here's where I am, Mr. Papageorge. Let me
 [20] explain to you and see what your response is, and of course,
 [21] I wasn't on the scene in the early 1980's, but I see a
 [22] situation where there's a lot of legislative activity going

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[1] on in the environmental area, imposing obligations upon

[2] Monsanto; correct?
 [3] A. All right.
 [4] MR. SARFATTI: I'm going to object to this format
 [5] of what you see and asking him to comment. There's a lot
 [6] that's in these little statements that you are making.
 [7] MR. HUGHES: Okay, all of that is reserved for
 [8] trial.
 [9] MR. SARFATTI: Yes. Well, I continue to object.
 [10] MR. HUGHES: As you know, it's inappropriate to
 [11] say more than you object to the form of the question.
 [12] MR. SARFATTI: Well, "a lot of" is not
 [13] questioning, it's just statements and then asking the
 [14] witness to agree to an area -
 [15] MR. HUGHES: That's called cross examination.
 [16] Steve, isn't it?
 [17] MR. SARFATTI: Well -
 [18] MR. HUGHES: That's what cross examination is.
 [19] MR. SARFATTI: No, I think what it is is
 [20] coaching.
 [21] MR. HUGHES: That's what cross examination is,
 [22] where I went to school.

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[1] BY MR. HUGHES:
 [2] Q. Anyway, let's proceed.
 [3] And you were in a position, as the Director of
 [4] Environmental Operations for one of the operating companies
 [5] at Monsanto Company in the early 1980's; correct?
 [6] A. Correct.
 [7] Q. And you were aware of concerns at that time about
 [8] Monsanto's potential liability for waste disposal sites at
 [9] various places within your operating company; correct?
 [10] MR. SARFATTI: During what period of time are we
 [11] talking about?
 [12] MR. HUGHES: While he's DEO of Monsanto Chemical
 [13] Intermediates.
 [14] A. Yes. There was concern about some speculation
 [15] regarding what might transpire in the future regarding those
 [16] sites.
 [17] BY MR. HUGHES:
 [18] Q. Okay, and -
 [19] MR. OMROD: I don't want to break you up. Could
 [20] you read the answer back?
 [21] THE COURT REPORTER:
 [22] "A. Yes. There was concern about some

Page 735

[1] speculation regarding what might transpire in the future
 [2] regarding those sites."
 [3] BY MR. HUGHES:
 [4] Q. Well, some things, it wasn't speculation. You
 [5] knew that the State agency had been looking into the
 [6] situation at the Texas City Wye; correct? You had known
 [7] that since 1977?
 [8] A. True, but you speculate from that piece of
 [9] information as to how the agency is going to use that
 [10] information, when are they going to impose some action on
 [11] us, and how much it'll cost, and on and on.
 [12] Q. And in fact, by the latter half of 1981, Monsanto
 [13] had received a potentially responsible party letter from the
 [14] EPA concerning the Texas City Wye site?
 [15] MR. SARFATTI: Objection; lack of foundation.
 [16] BY MR. HUGHES:
 [17] Q. You knew that, didn't you?
 [18] A. I recall the letter. The date, I don't recall
 [19] the exact date. I do recall the letter, or the infor -
 [20] being informed.
 [21] BY MR. HUGHES:
 [22] Q. Surety, the receipt of such a letter from the EPA

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[1] on a site within the jurisdiction of your operating company
 [2] is something that somebody would tell you about.
 [3] A. Oh, sure. Sure.
 [4] Q. So I see Monsanto Company faced with these
 [5] potential financial implications of environmental
 [6] development, and the Risk Management Department goes out and
 [7] they purchase, on behalf of Monsanto, an environmental
 [8] impairment liability policy, and I'm surprised you didn't
 [9] get involved in that in any way, Mr. Papageorge.
 [10] MR. SARFATTI: Objection as to form. if that's a
 [11] question.
 [12] BY MR. HUGHES:

[13] Q. Do you have any explanation for that, why you
[14] weren't brought into those such things at all as Director of
[15] Environmental Operations?
[16] A. Mr. Hughes, as I understood my assignment, it was
[17] to make certain that the plants' activities relating to
[18] environmental matters complied with all the statutes that
[19] were in place, that they, even over and above that, did the
[20] kinds of things that Monsanto felt was responsible. At no
[21] time was my job limited by any monetary considerations. The
[22] cost of these activities were the responsibility of others

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[1] in terms of budgeting and obtaining the necessary funding.
[2] On occasion, I would find that I would be in the
[3] position of supporting a plant's need for "X" dollars to do
[4] certain things, but in the final analysis, my job did not in
[5] any way relate to the economics of achieving the end result.
[6] That was the responsibility of others. That's it.

[7] Q. Okay, and I wasn't suggesting that your job was
[8] limited by monetary issues, Mr. Papageorge. In fact, I was
[9] implying that I thought your job would be broader and
[10] indeed, that you would, as a Director of Environmental
[11] Operations, be dealing with the Risk Management Department
[12] on ensuring they had the information they needed to take
[13] care of the insurance coverage that was appropriate.

[14] MR. SARFATTI: Is that a question?

[15] BY MR. HUGHES:

[16] Q. (Continuing) but you are telling me that you did
[17] not have any communication line with Risk Management on such
[18] matters while you were Director of Environmental Operations.

[19] A. I didn't say that. I didn't say that. I would
[20] supply to that group the information they were seeking for
[21] their own purposes. At no time did I become involved in the
[22] details of why they needed some of this information. They

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[1] would ask for information which we supplied, some of it in
[2] writing, as we saw in these documents. Some of it was done
[3] over the telephone, some was done across the desk,
[4] informally. How that information was used by that group was
[5] not in my bailiwick at all.

[6] Q. Let me ask you this, Mr. Papageorge. At any
[7] point, did anyone from the Risk Management Department
[8] communicate to you, either individually or in a group, that
[9] there was certain information concerning potential
[10] environmental claims that they wanted you to make sure got
[11] to them for insurance purposes?

[12] MR. SARFATTI: Object on the grounds of
[13] vagueness.

[14] A. I don't know that their request was couched in
[15] those words. They, of course, relied on members of my team
[16] to provide them with some details. I personally don't know
[17] where the risk group got their information regarding the
[18] potential liabilities from the situation as described by my
[19] team. I don't know where they got that.

[20] BY MR. HUGHES:

[21] Q. Was there some procedure set up for communication
[22] from your DEO group of facts to the Risk Management

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[1] Department?

[2] A. There's no formal procedure, no.

[3] Q. Was there any practice that was followed while
[4] you were Director of Environmental Operations to communicate
[5] facts to the Risk Management Department?

[6] A. No different than any other Monsanto facts,
[7] whether they be environmental or marketing, or - if
[8] somebody has a need, he makes the request and the response
[9] is given, and sometimes formally, sometimes informally.

[10] I -

[11] Q. I'm not referring to instances when there is a
[12] request from the Risk Management Department. I would assume
[13] that if you got a direct request, you would respond to that
[14] direct request as best you were able; correct?

[15] A. Yes.

[16] Q. Okay. What I'm trying to get to is whether you
[17] had any understanding that there were a certain category of
[18] facts that even in the absence of a request for the
[19] information, you ought to communicate to the Risk Management
[20] Department, on your own initiative.

[21] MR. SARFATTI: Objection; vague.

[22] A. No, I - no, there was - I don't know of any

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[1] facts that would fall into that category, because the
[2] request would be pretty, pretty specific.
[3] BY MR. HUGHES:
[4] Q. See, I don't want to focus on requests. Let me
[5] give an example from my life.

[6] A. Yeah.

[7] Q. If I'm driving my car and I get in a fender
[8] bender, I know I better go home and call my insurance
[9] company or my agent and give them - notify them of the
[10] incident.

[11] A. Mm-hmm.

[12] Q. I don't know what's going to happen, I don't know
[13] whether there's coverage, but I know I ought to get that
[14] information to them so they can do what's necessary. I
[15] don't wait for them to call me, I call them. Was there
[16] any - all right, that's the kind of thing I'm getting at.
[17] Was there any similar arrangement between your DEO staff and
[18] the Risk Management Department where certain incidents, you,
[19] if you found out about them, you would check to make sure
[20] that information was getting to the Risk Management
[21] Department?

[22] MR. SARFATTI: Objection; vague.

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[1] A. I didn't do that. My department didn't do it.
[2] The plant may have done it.

[3] BY MR. HUGHES:

[4] Q. So, then, the answer to my question, as I hear
[5] you saying, is no, there was no practice for the DEO group
[6] to make sure certain information about environmental issues
[7] got communicated to the risk management group.

[8] MR. SARFATTI: Objection. Objection; vague.

[9] BY MR. HUGHES:

[10] Q. Is my statement accurate?

[11] A. That is my understanding, yes, sir.

[12] MR. HUGHES: Excuse me for a moment.

[13] (Pause)

[14] (Papageorge Deposition Exhibit 57 marked for
[15] identification.)

[16] (Witness peruses said document.)

[17] MR. HUGHES: I've handed the witness Papageorge
[18] Exhibit 57, which is a one-page exhibit dated May 30, 1979,
[19] a memorandum from G. L. Jessee to M. C. Throdahl, production
[20] number MCO 0372862.

[21] BY MR. HUGHES:

[22] Q. Have you had a chance to review that, Mr.

Page 742

[1] Papageorge?

[2] A. I have.

[3] Q. Do you recognize this as a memorandum that Mr.
[4] Jessee sent to Mr. Throdahl and copied you on -

[5] A. Yes.

[6] Q. - concerning the Texas City Wye?

[7] A. Yes.

[8] Q. A document kept in the ordinary course of
[9] Monsanto's business?

[10] A. Yes.

[11] Q. Do you recognize this document as one that you
[12] received from Mr. Jessee?

[13] A. I remember this one.

[14] Q. How come you remember this one?

[15] A. I don't know.

[16] Q. Okay. Did you go with Phocion Park to the State
[17] regulatory offices in Austin to review documents concerning
[18] the Texas City Wye?

[19] A. I've never been in Austin. I did not go.

[20] Q. I guess that answers that question. Do you know
[21] if Mr. Park went?

[22] A. I do not know.

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[1] Q. There's a reference, here, in Mr. Jessee's
[2] memorandum to - in the last paragraph, to some contact with
[3] the hauler of T.C. plant wastes to the Texas City Wye. Do
[4] you see that?

[5] A. I see that.

[6] Q. Were you ever provided any information beyond
[7] what's contained in this memorandum about who that hauler
[8] was?

[9] A. Yes, a Mr. Malone, I think, yes.

[10] Q. Well, the reason I'm asking you is, you told us
[11] when we met in January that you had a meeting with Ralph

[12] Lowe where he was proposing to do chemical recovery or some
 [13] kind of recovery of the wastes from the Texas City Wye site.
 [14] A. Yes, but I don't associate him as being a -
 [15] Q. Hauler?
 [16] A. - hauler of the material in the past.
 [17] Q. So it's the reference to the hauler that makes
 [18] you believe this is Mr. Malone?
 [19] A. That is my understanding, yes, sir.
 [20] Q. Did you know of any plan that Mr. Malone was
 [21] promoting whereby he would be responsible for cleaning up
 [22] the Texas City Wye site?

Page 744

[1] A. I never heard of the specifics of this plan.
 [2] Q. And can you tell us what - whether there's any
 [3] particular portion of this memorandum that you were able to
 [4] recall today, after almost fourteen years?
 [5] A. Well, the reference to Austin, for some reason,
 [6] stuck out in my mind, because I never was able to make that
 [7] trip.
 [8] Q. So you recall there had been a trip planned that
 [9] you were going to accompany Mr. Park to Austin?
 [10] A. Yes.
 [11] Q. I see.
 [12] A. But we never did, I didn't go with Mr. Park.
 [13] (Papageorge Deposition Exhibit 58 marked for
 [14] identification.)
 [15] MR. HUGHES: I've handed the witness what's been
 [16] marked as Papageorge Exhibit 58, a two-page exhibit. It's a
 [17] letter dated June 3, 1981, from Dick Whittington to William
 [18] J. Librizzi, with attachment, and this does not have Bates
 [19] numbers.
 [20] BY MR. HUGHES:
 [21] Q. And my question for you, after you've had a
 [22] chance to review the document, Mr. Papageorge, is whether

Page 745

[1] you have seen it before today.
 [2] (Witness peruses said document.)
 [3] A. I don't remember it.
 [4] Q. Did you ever deal directly with Dick Whittington?
 [5] A. No.
 [6] Q. Now, after being on the Texas Department of Water
 [7] Resources, Mr. Whittington was later in the regional office
 [8] of the EPA. Did you ever deal with a Mr. Whittington at the
 [9] EPA?
 [10] A. No.
 [11] Q. While you were the Director of Environmental
 [12] Operations at Monsanto Chemical Intermediates, did the -
 [13] was any effort made to obtain from State regulatory agencies
 [14] a listing of the sites that they were proposing to send to
 [15] the EPA to nominate for inclusion on Superfund?
 [16] A. Not to my knowledge.
 [17] Q. Okay. Was any information ever provided to you
 [18] concerning whether individuals at the Texas City or
 [19] Chocolate Bayou plants made any attempts to get information
 [20] from the Texas Department of Water Resources as to sites
 [21] that they were interested in because of potential
 [22] environmental problems?

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[1] A. I had the understanding that representatives of
 [2] the Texas plants were communicating with the appropriate
 [3] representatives of the regulatory agency, and that was
 [4] certainly a topic of their discussions.
 [5] Q. Can you identify for us which individuals at the
 [6] Texas plants at Monsanto you understood to be staying in
 [7] contact with the Texas Department of Water Resources?
 [8] A. They were members of the environmental staffs at
 [9] the Texas plant.
 [10] Q. When you say the Texas plant, are you referring
 [11] to Texas City or both Texas City and Chocolate Bayou?
 [12] A. Well, eventually, the environmental team served
 [13] both plants.
 [14] Q. This is when Mr. Himes was heading it up at both
 [15] plants?
 [16] A. Yes.
 [17] Q. Can you identify which individual on those
 [18] staffs?
 [19] A. No, not really.
 [20] Q. Mr. Papageorge, am I correct that your DEO group
 [21] was involved in attempting to determine the identity and
 [22] quantity of materials that had originated at Monsanto and

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[1] wound up at the Texas City Wye?
 [2] A. Yes, we were interested in that information.
 [3] Q. Can you tell us what involvements the DEO group
 [4] had in pulling together or compiling that information?
 [5] A. Oh, this was simply a request from Mr. Weishaar
 [6] to the plant to pull that data together for him. That was
 [7] the only involvement. We did not, through Mr. Weishaar,
 [8] personally look at records and add up numbers.
 [9] Q. Okay. Was that request by Mr. Weishaar to the
 [10] plant something that you and he discussed?
 [11] A. Well, certainly an item that was included in a
 [12] discussion of the overall site.
 [13] MR. HUGHES: Let me mark this exhibit.
 [14] (Papageorge Deposition Exhibit 59 marked for
 [15] identification.)
 [16] MR. HUGHES: Marked as Papageorge Exhibit 59, a
 [17] four-page document, beginning with a cover memorandum dated
 [18] September 1, 1982, from M. F. Weishaar to C. E. Donaldson,
 [19] with a number of cc.'s. The production numbers are STG
 [20] 1604581 to 84.
 [21] (Witness peruses said document.)
 [22] MR. HUGHES: Let me know when you've had an

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[1] opportunity to review that, Mr. Papageorge.
 [2] THE WITNESS: I've reviewed it.
 [3] BY MR. HUGHES:
 [4] Q. Do you recognize this document as a memorandum
 [5] prepared by Mr. Weishaar, I think, requesting the
 [6] information that you just referred to?
 [7] A. It, it appears to be that, yes, sir.
 [8] Q. Is this the request that you were thinking of?
 [9] A. Well, I recall the request being made. I did not
 [10] recall it being in the form of a memorandum as distinguished
 [11] from a telephone call or a plant visit. This could have
 [12] been just a repetition of other requests made along the same
 [13] lines.
 [14] Q. Okay. Can you tell us why it was that the DEO
 [15] staff wanted the information that Mr. Weishaar requests in
 [16] this memorandum?
 [17] A. It was very likely in response to some other
 [18] request, but at the moment, I don't know who made that
 [19] request and for what purpose.
 [20] Q. Are you thinking of a request from somewhere else
 [21] within Monsanto?
 [22] A. Yes.

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[1] Q. But you can't identify today who that was?
 [2] A. That is true.
 [3] Q. You are indicating that somebody seeking
 [4] information had asked the DEO staff to take charge of
 [5] compiling it?
 [6] A. Yes, for this particular site, mm-hmm.
 [7] Q. Was it your understanding that there was a desire
 [8] to compile a complete record of Monsanto's relationship, if
 [9] any, with the various persons and entities identified in the
 [10] attachments to this memorandum?
 [11] MR. SARFATTI: Objection; lack of foundation and
 [12] vague.
 [13] A. I don't remember any such intent, or activity,
 [14] or -
 [15] BY MR. HUGHES:
 [16] Q. What information was expected to come back from
 [17] the plant level?
 [18] A. Well, it depended on the, the programs in place
 [19] at the time. This is '82. It's conceivable that somebody
 [20] within Monsanto was interested in an update or had reviewed
 [21] documents, and I could speculate all afternoon on what the
 [22] purpose was, who it was, and what was submitted. This is an

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[1] ongoing topic involving many people for many reasons.
 [2] Q. You were speaking of the Texas City Wye as an
 [3] ongoing topic?
 [4] A. Yes, that's what this document is about.
 [5] Q. You'll note in the second page of this exhibit,
 [6] Mr. Papageorge, that among the entities about which Mr.
 [7] Weishaar inquired were Lowe Chemical Company, Hard-Lowe
 [8] Chemical Company, JOC Oil Aromatics, and Dixie Oil
 [9] Processors. Do you see those names on that list on the
 [10] second page?

[11] A. I see them, yes, sir.
 [12] Q. Okay, and his memorandum indicated attached are
 [13] several lists, and it was information about the entities on
 [14] those lists that he was seeking, correct?
 [15] A. Yes.
 [16] Q. Did you ever see any response to Mr. Weishaar's
 [17] memorandum - that's Papageorge Exhibit 59 - indicating
 [18] what Monsanto's business relationship was with Lowe Chemical
 [19] Company, Hard-Lowe Chemical Company, JOC Oil Aromatics and
 [20] Dixie Oil Processors?
 [21] A. I don't recall any.
 [22] Q. Were you aware in 1982 that JOC Oil, an entity to

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[1] whom you knew Monsanto had sent styrene tars, was also
 [2] alleged to be involved in some way with the Texas City Wye?
 [3] A. In 1982?
 [4] Q. Yes.
 [5] A. By then, yes, I had heard references to that
 [6] relationship.
 [7] Q. Between JOC Oil and the Texas City Wye?
 [8] A. Yes.
 [9] Q. When did you first hear of a relationship between
 [10] JOC Oil and the Texas City Wye?
 [11] A. Gosh, sometime between '79 and '82.
 [12] Q. Can you tell us what you heard concerning a
 [13] relationship between JOC Oil and the Texas City Wye?
 [14] A. Oh, something to the effect that they hauled,
 [15] they did some of the hauling to the Texas City Wye.
 [16] Q. From whom did you receive that information?
 [17] A. Oh, God, I don't remember.
 [18] Q. Did you receive any information that styrene tars
 [19] that Monsanto had sent to JOC Oil had then been trucked by
 [20] JOC Oil to the Texas City Wye and dumped?
 [21] A. No, not at - no.
 [22] Q. You were aware, however, that there was an

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[1] allegation, at least, that JOC Oil had taken some materials
 [2] to the Texas City Wye, correct?
 [3] A. Yes.
 [4] Q. And were you also aware of an allegation that JOC
 [5] Oil had improperly disposed of materials at the Texas City
 [6] Wye?
 [7] A. No, I was not aware of that.
 [8] Q. At the time that you learned that JOC Oil was
 [9] alleged to have been involved at the Texas City Wye, do you
 [10] know of any steps that were taken to look into the manner in
 [11] which JOC Oil had handled the styrene tars that Monsanto had
 [12] sent to JOC Oil?
 [13] A. I don't know of any such study.
 [14] Q. Did you know Mike Hancock, who worked at the
 [15] Texas City plant in the environmental area?
 [16] A. Yes, I remember the name. Mike Hancock; yes, I
 [17] remember the name.
 [18] Q. Did you ever talk with Mr. Hancock concerning the
 [19] site that later became to be known as the Brio Refining
 [20] Site?
 [21] A. I don't remember such a discussion, no.
 [22] Q. Did you ever have any discussions with Mr.

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[1] Hancock?
 [2] A. I don't remember any.
 [3] Q. Did you and Mr. - let me see if your memory is
 [4] jogged - did you and Mr. Hancock ever have any discussion
 [5] concerning Monsanto's having sold styrene tars to a company
 [6] in which Ralph Lowe was involved?
 [7] A. I don't recall any discussion on that.
 [8] (Papageorge Deposition Exhibit 60 marked for
 [9] identification.)
 [10] (Witness peruses said document.)
 [11] MR. HUGHES: We've handed Mr. Papageorge what's
 [12] been marked as Exhibit 60, a one-page memorandum with
 [13] production number STG 1604373 and the handwritten date on it
 [14] 9-21-83; and containing handwriting and a copy of an article
 [15] entitled "State Plotting Cleanup Of Waste Site That Now
 [16] Borders New Subdivision."
 [17] BY MR. HUGHES:
 [18] Q. Did you ever receive a copy of this document
 [19] while you were with Monsanto, Mr. Papageorge?
 [20] A. I don't recall this at all.
 [21] Q. And I realize this is at a time when you had

[22] changed assignments to Monsanto Industrial Chemicals;

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[1] correct?
 [2] A. That is correct.
 [3] Q. After you had made that switch to Monsanto
 [4] Industrial Chemicals, Dr. Callis succeeded you as DEO of
 [5] what was then called Monsanto Fibers and Intermediates;
 [6] correct?
 [7] A. Correct.
 [8] Q. In any event, the organization that had
 [9] responsibility for the Texas City plant, the DEO was then
 [10] Dr. Callis?
 [11] A. Correct.
 [12] Q. After that reorganization took place, did Dr.
 [13] Callis ever contact you to ask whether you had any knowledge
 [14] from the period that you were DEO at - with responsibility
 [15] for the Texas City plant, concerning a site in Friendswood,
 [16] Texas, where it was alleged Monsanto had sent styrene tars?
 [17] A. No, Friendswood Texas was not mentioned in any
 [18] discussions, to my recollection, with Dr. Callis.
 [19] Q. Did Dr. Callis contact you from time to time when
 [20] he started working on a matter to ask you what you had known
 [21] during the period you had responsibility for the operating
 [22] company in which the Texas City plant was located?

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[1] A. On occasion, yes.
 [2] Q. On any of those occasions, did he ask you about
 [3] JOC Oil?
 [4] A. I don't recall any discussion with JOC Oil.
 [5] Q. On any of those chemicals did he ask you about
 [6] Phoenix Chemical Company?
 [7] A. No.
 [8] Q. In any of those conversations did Dr. Callis ask
 [9] you about Ralph Lowe?
 [10] A. Not that I recall, no.
 [11] Q. In any of those conversations, did he ask you
 [12] about the Lowe Chemical Company, or the Hard-Lowe Chemical
 [13] Company?
 [14] A. No.
 [15] Q. Did Dr. Callis ever contact you and ask you about
 [16] an entity called Dixie Oil Processors?
 [17] A. No.
 [18] Q. Did he ever call you and ask you about Brio
 [19] Refining?
 [20] A. No.
 [21] Q. When you learned - when you heard the name "Brio
 [22] Refining" and that there had been an allegation that

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[1] Monsanto had sent materials there, did you have any
 [2] conversations after that with Dr. Callis -
 [3] A. No.
 [4] Q. - to get information about what the allegations
 [5] were?
 [6] A. No.
 [7] Q. Did you become aware, by any means in the 1980's,
 [8] of a litigation by a plaintiff named Slaughter against
 [9] Monsanto and others, arising out of a chemical plant site in
 [10] Texas?
 [11] A. I recall the name "Slaughter." I recall the
 [12] litigation, but I don't recall the details at all.
 [13] Q. Were you ever interviewed by anyone on behalf of
 [14] Monsanto in connection with the Slaughter litigation?
 [15] A. No, I don't remember that at all.
 [16] Q. How did you learn of the Slaughter litigation?
 [17] A. I don't know. I don't remember. All I remember
 [18] is the name and the fact that it was litigation associated
 [19] with that name.
 [20] Q. Did you have an understanding that it arose out
 [21] of a site in Texas?
 [22] A. Yes.

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[1] Q. Near the Texas City plant, in the Texas City
 [2] region?
 [3] A. In that area, yes, sir.
 [4] Q. And were you made aware of what allegations had
 [5] been made against Monsanto in that litigation?
 [6] A. I don't recall them now.
 [7] Q. Were you ever made aware that there was an
 [8] allegation that Monsanto had sent various chemical
 [9] substances to this site and that they were inappropriately

[10] put into landfills?
 [11] A. As I said earlier, I don't remember the details
 [12] of the allegations.
 [13] Q. Were you aware that that case went to trial?
 [14] A. No, I don't know that. I don't remember that,
 [15] no.
 [16] Q. A rather lengthy trial? You didn't know that?
 [17] A. I don't remember that, no.
 [18] Q. Did you ever see any reports about Monsanto's
 [19] having prevailed in that trial?
 [20] A. I don't remember that.
 [21] Q. Did anyone ever contact you, Mr. Papageorge, to
 [22] ask whether you had any knowledge that would be of any use

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[1] in the litigation between the Slaughter plaintiffs and
 [2] Monsanto?
 [3] A. No.
 [4] Q. Mr. Papageorge, while you were Director of
 [5] Environmental Operations of MCI, did your DEO group
 [6] subscribe to any publications that reported on environmental
 [7] or pollution issues? In other words, that focused on those
 [8] issues?
 [9] A. We certainly had publications. I've forgotten
 [10] the specifics, other than the Federal Register, I remember
 [11] that one. There were some journal - there was a journal
 [12] that had the environmental - I've forgotten the names of
 [13] them. Of course, we had access to the Monsanto library,
 [14] which carried many of these types of publications.
 [15] Q. Were there any publications that you can tell us
 [16] about that the DEO group made an effort to monitor for
 [17] either legal or factual developments?
 [18] A. Not that type of monitoring, no. I'm not aware
 [19] of -
 [20] Q. And what - how are you using the term "that type
 [21] of monitoring"?
 [22] A. When you described it "legal and factual."

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[1] Q. What type of monitoring, if any, of periodicals
 [2] was done in the DEO group while you were there?
 [3] A. We, of course, monitored for regulatory activity,
 [4] proposed regulations. That was our primary interest.
 [5] Secondly, we would try to keep updated on regulatory
 [6] activity performed by agencies on sites, to determine
 [7] whether a similar situation could occur with Monsanto's MCI
 [8] units. In other words, to learn from others' experiences.
 [9] We would monitor articles that related to analytical methods
 [10] and we would monitor articles relating to toxicity studies,
 [11] health effects. That's all that comes to mind at the
 [12] present.
 [13] Q. Now, you indicated that you tried to keep up with
 [14] regulatory activity at other sites to see if something
 [15] similar could happen to MCI, to learn from others' problems.
 [16] A. Yes, that was -
 [17] Q. Were there specific sources that you looked to
 [18] for that information? And by that, I mean publications of
 [19] any kind.
 [20] A. I'm sure there were. I just don't recall their
 [21] title any longer.
 [22] Q. Did you - you indicated you monitored for

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[1] regulatory activity and proposed regulations. Clearly, you
 [2] did that on the federal level through the Federal Register:
 [3] correct?
 [4] A. That is right.
 [5] Q. Did you make any similar effort to monitor
 [6] regulatory activity in the States where MCI had facilities?
 [7] A. To a lesser degree, we relied primarily on the
 [8] plants to send us copies, and did our monitoring through the
 [9] plants.
 [10] Q. While you were the DEO of MCI, did your group
 [11] subscribe to a publication called the Texas pollution
 [12] reporter?
 [13] A. No, not to my knowledge.
 [14] (Discussion off the record and luncheon
 [15] recess from 12:05 to 1:21.)
 [16] (Papageorge Deposition Exhibit 61 marked for
 [17] identification.)
 [18] (Witness peruses said document.)
 [19] MR. HUGHES: I've handed the witness Papageorge
 [20] Exhibit 61, a memorandum with attachments. The memorandum

[21] is dated August 13th, 1982, from G. M. Rinaldi to F. C.
 [22] Himes: Subject, "8/6/82 meeting with TDWR/Galveston

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[1] County." The entire document is production numbers MCO
 [2] 6551695 to 1708.
 [3] BY MR. HUGHES:
 [4] Q. And Mr. Papageorge, things might move more
 [5] quickly, if it was acceptable to you, if you re-reviewed
 [6] that document just to familiarize yourself and then I'll
 [7] direct your attention to particular parts. If you feel a
 [8] need to read anything further to answer my questions, then
 [9] you just let me know that.
 [10] A. Very good.
 [11] (Witness peruses said document.)
 [12] A. (Continuing) I have glanced through the
 [13] document.
 [14] BY MR. HUGHES:
 [15] Q. Okay, Mr. Papageorge, let me turn to the page I'd
 [16] like to start with, which is the one ending on Bates number
 [17] 703; and what I'm hoping to do, Mr. Papageorge, is see if we
 [18] can nail down the North 80, in your mind.
 [19] A. Yes, sir.
 [20] Q. This is a map of the North 80, and this whole
 [21] report is on the North 80.
 [22] A. Okay.

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[1] Q. You understand that?
 [2] A. Yes.
 [3] Q. And this is a map of the North 80. All right?
 [4] And let me go through some of the characteristics that we
 [5] have of the North 80, here. First, you will recall we
 [6] discussed to a certain extent when we met in January the
 [7] issue of an owner of a bait camp having some complaints
 [8] about a Monsanto site. Do you recall that?
 [9] A. I do.
 [10] Q. And the record will speak for itself what you
 [11] said last time, but you note in this map of the North 80,
 [12] there is a bait camp indicated along the north side of
 [13] Monsanto property?
 [14] A. Yes.
 [15] Q. And you do recall, I take it, a Monsanto site
 [16] owned by Monsanto where there was a bait camp at one edge of
 [17] the site?
 [18] A. I do.
 [19] Q. Now, you'll also note in this map of the North
 [20] 80, there's an indication of a pump station at the north end
 [21] of Monsanto's property near the bait camp.
 [22] A. I see that.

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[1] Q. And that's another thing that you recall as being
 [2] a physical characteristic of a Monsanto site.
 [3] A. Correct.
 [4] Q. Correct? Now, there was also some confusion
 [5] about sea walls, and east and west of the sea wall and all
 [6] of that.
 [7] MR. SARFATTI: Object to your characterization of
 [8] what the discussion may have been.
 [9] MR. HUGHES: The record will speak for itself.
 [10] MR. SARFATTI: Agreed.
 [11] BY MR. HUGHES:
 [12] Q. There is a, a line on the page that we're looking
 [13] at in Papageorge Exhibit 61, representing the sea wall off
 [14] of Galveston Bay, running through the North 80 property.
 [15] MR. SARFATTI: I'm sorry, are you referring to a
 [16] line that's referred to as "sea wall"?
 [17] MR. HUGHES: No, I pointed. It's the line, the
 [18] double line that goes past the borrow ditch.
 [19] A. I interpret that double line as a road.
 [20] BY MR. HUGHES:
 [21] Q. Okay, and there was a road on top of the sea
 [22] wall?

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[1] A. On top of the wall, yes, sir.
 [2] Q. Fair enough. That's probably a better
 [3] description. Now, I don't think there's any dispute among
 [4] the lawyers that the North 80 site was on both sides of the
 [5] sea wall, both on the Galveston Bay side and on the west
 [6] side of the sea wall.
 [7] A. Yeah, I have no argument there.
 [8] Q. Okay, and in addition, along the sea wall of the

[9] North 80, there was a borrow ditch to the west side, away
 [10] from Galveston Bay?
 [11] A. That's the body of water that I referred to.
 [12] Q. And does the depiction on this map comport with
 [13] your recollection of roughly where you saw that body of
 [14] water at the North 80?
 [15] A. Yes, it does.
 [16] Q. Okay, and in addition, although it's not shown on
 [17] this map, I don't think there's any dispute in the record
 [18] that Monsanto had a fire training area at the North 80. Do
 [19] you recall seeing a fire training area?
 [20] A. No, I don't.
 [21] Q. You don't recall seeing that at any site, I take
 [22] it?

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[1] A. No.
 [2] Q. And if we turn to the page ending in 696, which
 [3] is the second page of the entire exhibit -
 [4] A. I have it.
 [5] Q. - there's a reference in the second paragraph
 [6] from the bottom about a claim - well, it says, quote,
 [7] "Steve Reynolds, proprietor of the adjacent Dollar Bay Bait
 [8] Camp," in paren, "(claimed to own his land)," and it goes
 [9] on.
 [10] Now, did you associate the name Steve Reynolds
 [11] with the bait camp owners which we were talking about?
 [12] A. No, I've forgotten the man's name.
 [13] Q. But there was, I take it, only one bait camp
 [14] owner who you recall having made any complaint about a
 [15] Monsanto site?
 [16] A. Correct.
 [17] Q. And as indicated in this memorandum, that's a
 [18] bait shop at the North 80 site?
 [19] A. That is correct.
 [20] MR. HUGHES: Let me have this marked.
 [21] (Papageorge Deposition Exhibit 62 marked for
 [22] identification.)

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[1] MR. HUGHES: We've had marked as Papageorge
 [2] Exhibit 62, a memorandum dated July 7, 1982, from F. C.
 [3] Himes to Ian Brasfield, with attachments. The entirely
 [4] document is STG 3414150 to 164, and Mr. Papageorge, you have
 [5] turned to the page ending in 152, which is where I'm going
 [6] to start. You can review as much of the document as you
 [7] think necessary first, but that's the page I would like to
 [8] ask you about.
 [9] A. I have glanced through the document and I'm back
 [10] to page 152.
 [11] Q. Okay, looking at that page 152, do you recognize
 [12] that as a map of at least part of the Texas City, Texas
 [13] area?
 [14] A. Yes.
 [15] Q. Okay.
 [16] A. I'm no authority on the area, but this is my
 [17] understanding of the area.
 [18] Q. I don't believe that there'll be any dispute in
 [19] the evidence that the trapezoidal, is probably the correct
 [20] term, shape, shaded shape along Galveston Bay on this map,
 [21] approximately two inches down on the right-hand side of the
 [22] map of the land, is the location of the North 80. You know

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[1] there's the borrow ditch through the center, and so on.
 [2] Okay?
 [3] A. That's my understanding, yes, sir.
 [4] Q. Okay, and that's consistent with your memory of
 [5] where the North 80 was in relation to Galveston Bay?
 [6] A. Yes, sir.
 [7] Q. Do you recall that it was slightly, a slight
 [8] distance away from a larger body of - well, from a smaller
 [9] body of water than Galveston Bay called Dollar Bay?
 [10] A. I don't remember the name Dollar Bay, but I do
 [11] remember a bigger body of water than the water on the site,
 [12] itself.
 [13] Q. And if we go down, all the way down to the
 [14] bottom, approximately, straight vertical line down on this
 [15] map, do you recognize the shaded area at the bottom of the
 [16] map along the Galveston Bay to be the Texas City plant site?
 [17] A. Yes. That's my recollection.
 [18] Q. So that your recollection is clear today that you
 [19] would go north from the Texas City plant - and we've got

[20] various estimates of approximately how far, but a certain
 [21] distance north to arrive at the North 80 site owned by
 [22] Monsanto?

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[1] A. That's correct.
 [2] Q. Have you ever heard of another body of water in
 [3] the Texas City area called Swan Lake?
 [4] A. Swan Lake. I don't remember that term.
 [5] Q. We'll leave that, then.
 [6] Now let me see if I can summarize, Mr.
 [7] Papageorge, to see if we've now got a picture in our minds
 [8] that it's the same site down there in Texas City. We've got
 [9] a site a couple of miles or so north of the plant, right on
 [10] Galveston Bay, correct?
 [11] A. That is correct.
 [12] Q. And it's a site through the middle of which there
 [13] was a road on top of a sea wall?
 [14] A. It's approximately middle, all right, yes.
 [15] Q. I don't want to quibble whether it's perfectly
 [16] bisecting. There was part of the site was on either side of
 [17] the sea wall in the road.
 [18] A. That's correct.
 [19] Q. And on the west side of the sea wall, away from
 [20] the bay, there was this borrow ditch with some water in it.
 [21] A. Correct.
 [22] Q. And at the north end of the site, there was a

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[1] bait shop?
 [2] A. Correct.
 [3] Q. Which you understood the owner of which made some
 [4] kind of claim against Monsanto, right?
 [5] MR. SARFATTI: Objection to the term "claim," if
 [6] you are trying to mischaracterize - if you are trying to
 [7] characterize his prior testimony.
 [8] A. He made some allegations regarding disrupting his
 [9] business.
 [10] BY MR. HUGHES:
 [11] Q. Fair enough. I believe that's consistent with
 [12] what you said last time. And it is now clear in your mind
 [13] that that occurred at the North 80 site?
 [14] A. Yes.
 [15] Q. And similarly, there were these pumps as part of
 [16] an irrigation system at the northern part of the site,
 [17] correct?
 [18] A. I don't associate the pumps with irrigation so
 [19] much as -
 [20] Q. Flood control?
 [21] A. Flood control, water control.
 [22] Q. You are absolutely right. I misspoke. There

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[1] were some pumps there for flood or water control purposes of
 [2] the governmental agency, there.
 [3] A. Correct.
 [4] Q. Not of Monsanto.
 [5] A. Correct.
 [6] Q. Okay. Now, with that picture of the North 80 in
 [7] your mind, let's go back to the knowledge that you had
 [8] concerning environmental issues at the North 80, and when
 [9] you learned of them. You gave a fairly - and I'm going to
 [10] use an adjective you might quibble with. Let's just say you
 [11] testified about it when we met in January. You recall that?
 [12] A. I did.
 [13] Q. And then some confusion intervened in, I won't
 [14] attribute it to any particular person; confusion was in the
 [15] air at the end of the deposition concerning what you had in
 [16] mind as the North 80 site.
 [17] A. I recall that.
 [18] Q. Having gone through these maps and drawings of
 [19] what was at the North 80 site, is it fair to say that in
 [20] your last sessions when you gave testimony concerning your
 [21] knowledge of the North 80 site, that you were referring to
 [22] this site that we're looking at in Papageorge Exhibits 61

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[1] and 62?
 [2] MR. SARFATTI: Objection.
 [3] A. The confusion you described also applied to me at
 [4] the end of our discussion because I, I may have referred to
 [5] this as the South 20, when in my mind I had a picture of
 [6] this body of water, and the pumps, and the bait shop, and
 [7] the sea wall. I'd have to look at the transcript again to

[8] see just what terminology I used when I was describing this
 [9] site. I may have used the expression "South 20." All the
 [10] time in my mind, I had this site, which we now have -
 [11] BY MR. HUGHES:
 [12] Q. Clarified?
 [13] A. Identified and clarified, as the North 80.
 [14] Q. Well, when you were giving testimony the last
 [15] time concerning, putting to one side the Texas City Wye,
 [16] which we recognize is a different site -
 [17] A. Correct.
 [18] Q. - when you were giving testimony as to another
 [19] site and your knowledge concerning environmental - the
 [20] environmental situation at that site, did you always have in
 [21] your mind a picture of this site that we've now talked about
 [22] in the last ten minutes?

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[1] MR. SARFATTI: Objection. You are not - well,
 [2] objection as to form.
 [3] A. I don't recall everything I said last time we
 [4] were together, but whenever - as an example, I mentioned a
 [5] sheen.
 [6] BY MR. HUGHES:
 [7] Q. Correct.
 [8] A. I saw the rainbow sheen on this body of water
 [9] that I now associate with the area described as North 80.
 [10] Q. Very good.
 [11] A. I may have mentioned in my previous testimony and
 [12] used the word "South 20" in error.
 [13] Q. You also made reference, I believe, to
 [14] allegations of seepage by the Texas regulators.
 [15] A. I did.
 [16] Q. When you made that reference, did you have in
 [17] mind the site that now in the last ten minutes or so we have
 [18] clarified as the North 80?
 [19] A. As best I remember, those allegations applied to
 [20] both sites.
 [21] Q. I believe you are correct, Mr. Papageorge. Can
 [22] you tell us, now that we have clarified in your mind the

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[1] picture of the North 80, is it still accurate that you
 [2] learned of - you received information concerning the
 [3] environmental situation at the North 80 soon after you took
 [4] over as DEO of Monsanto Chemical Intermediates?
 [5] A. Yes.
 [6] Q. And I believe last time we met, you thought it
 [7] was probably before the end of 1977 -
 [8] MR. SARFATTI: Objection.
 [9] BY MR. HUGHES:
 [10] Q. - that you obtained information concerning the
 [11] North 80 and environmental allegations.
 [12] MR. SARFATTI: Objection.
 [13] A. As best I recall, it was shortly after I was made
 [14] the DEO, I would put that in the latter quarter of '77, on a
 [15] visit to the plant.
 [16] BY MR. HUGHES:
 [17] Q. And at that time, you actually visited the North
 [18] 80 site?
 [19] A. That was my first visit, yes.
 [20] Q. On that trip to the Texas City plant, were you
 [21] given information about allegations of the State regulators
 [22] concerning the North 80?

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[1] A. Yes, that's when I was informed that the State
 [2] was interested and it looks like they found something. I
 [3] didn't, at the time, get hard numbers, so to speak, other
 [4] than that the State was interested and they think they saw
 [5] something.
 [6] Q. Mr. Papageorge, after seeing - after this visit
 [7] to the Texas City plant when you first saw the North 80,
 [8] were there discussions among individuals at - in St. Louis
 [9] concerning environmental issues presented at the North 80?
 [10] MR. SARFATTI: Objection: lack of foundation.
 [11] BY MR. HUGHES:
 [12] Q. In which you participated; sorry.
 [13] A. I don't recall exactly under what circumstances I
 [14] shared this information with others. I do know that
 [15] sometime soon after that, I had informed enough individuals
 [16] that the environmental policy staff was aware of it, and of
 [17] course, my team was aware of it, and my boss, and so on.
 [18] Q. Your boss being Dr. Dmytryszyn?

[19] A. Dr. Dmytryszyn, and of course, that would have
 [20] happened within days, really, or at most a month.
 [21] Q. Now, am I correct, Mr. Papageorge, that the North
 [22] 80 continued to be an issue that you were addressing during

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[1] the entire period that you were the Director of
 [2] Environmental Operations for MCI?
 [3] A. It was still an open issue. The amount of time
 [4] spent on it, of course, varied. It was my role to see that,
 [5] at least in my opinion, that things were being well managed
 [6] and that proper actions were being taken.
 [7] Q. Did you participate in any discussions concerning
 [8] the North 80 and whether any federal agency ought to be
 [9] informed of the situation there?
 [10] A. I don't remember that subject coming up.
 [11] Q. Mr. Papageorge, am I correct that at some point
 [12] in, during the last year that you were the DEO of Monsanto
 [13] Chemical Intermediates, from 1982, the activity concerning
 [14] the North 80 picked up during that year?
 [15] A. As best I recall, that is correct. Mm-hmm.
 [16] Q. And that Monsanto actually began a more in-depth
 [17] investigation of whether some kind of remediation was
 [18] necessary at the North 80 during the year 1982?
 [19] A. Correct.
 [20] Q. And in fact, last time you may recall we looked
 [21] at a memorandum that talked about a Managing Director's
 [22] Review concerning the North 80.

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[1] A. Yes.
 [2] Q. And am I correct that that related to this more
 [3] in-depth investigation of whether remediation was required
 [4] at the North 80?
 [5] A. Well, that was certainly discussed as part of the
 [6] overall subject, mm-hmm.
 [7] Q. And I'm sorry, Mr. Papageorge, I've forgotten.
 [8] The Managing Director in 1982 was which one of the three?
 [9] A. I think it was Mr. Reese, the best I recall.
 [10] Q. Okay. All right, and were you actually present
 [11] at a meeting where the situation at the North 80 was
 [12] described to Mr. Reese? Not necessarily by you, but were
 [13] you present during such a meeting?
 [14] A. Yes. The reason I'm hesitating, I'm wondering
 [15] now if it was Mr. Cunningham. '82.
 [16] Q. You did indicate he was the third, and this is
 [17] your last year as -
 [18] A. Yes, it was Mr. Cunningham.
 [19] MR. HUGHES: Okay.
 [20] (Papageorge Deposition Exhibit 63 marked for
 [21] identification.)
 [22] (Witness peruses said document.)

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[1] MR. HUGHES: We've had marked as Papageorge
 [2] Exhibit 63 a document, a cover memo dated May 7, 1982, from
 [3] G. M. Rinaldi and Raeann Reid to F. C. Himes with a 28-page
 [4] attachment. I'm not going to ask you to read it all, Mr.
 [5] Papageorge.
 [6] THE WITNESS: All right.
 [7] MR. HUGHES: MCO 6552343 to 371.
 [8] (Witness peruses said document.)
 [9] BY MR. HUGHES:
 [10] Q. (Continuing) Mr. Papageorge, were you involved
 [11] at all in making a decision in 1982 that in connection with
 [12] the more detailed investigation concerning the North 80, a
 [13] search of the Texas City files should be made?
 [14] A. Oh, I was aware of that need. I had discussed it
 [15] with my staff and was aware also that my staff had gone to
 [16] the plant, in essence, requesting or suggesting very
 [17] strongly that such a literature search be made, a file
 [18] search be made, so I was, I was involved in that fashion.
 [19] Q. And do you recognize this exhibit as one that you
 [20] received which summarized the results of a search of the
 [21] Texas City files that had been performed?
 [22] A. I do recognize this. I recognize my writing.

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[1] Q. And which part of the handwriting on the first
 [2] page is yours?
 [3] A. The bottom of the page, below the author's
 [4] signatures.
 [5] Q. Okay, could you read it for us, the part that's
 [6] yours?

[7] A. That's "5-19-82," arrow to "M.D.," "FYI. It
[8] appears T.C. Plant does not adhere to records retention
[9] policy, P."
[10] Q. "M.D." was Myron Dmytryszyn?
[11] A. Correct.
[12] Q. Mr. Papageorge, why did you make that comment
[13] concerning the Texas City plant's document retention or
[14] records retention policy?
[15] A. As best I remember it, I was impressed with the
[16] volume of information that the plant was able to gather, and
[17] then I noted that the dates of some of the material struck
[18] me as being of the type that indicated that these records
[19] were retained longer than the policy that Monsanto had was
[20] suggesting, so I just decided to share that thought with my
[21] boss.
[22] Q. In May of 1982, what did you understand to be

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[1] Monsanto's records retention policy insofar as the length of
[2] time to maintain records?
[3] A. Gosh, I forgot the details. I'd have to look at
[4] the, the booklet that was issued to all employees.
[5] Q. Were you concerned, Mr. Papageorge, in May of
[6] 1982 that because the Texas City plant had retained records
[7] far beyond that period required by Monsanto, that there
[8] would be too much information available about events at the
[9] Texas City plant?
[10] A. I don't recall that that thought occurred to me.
[11] I kind of felt that all this background data might be
[12] helpful, instead of the very sketchy file with a lot of
[13] guessing as to what happened.
[14] Q. Did you have -
[15] A. I -
[16] Q. I'm sorry, I didn't mean to interrupt.
[17] A. I don't recall at this time any thought that the
[18] data that was in those files would have been harmful.
[19] Q. You were not troubled by the fact that there was
[20] information, detailed information going far back into the
[21] past that might be available to the regulators?
[22] A. Not really.

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[1] (Papageorge Deposition Exhibit 64 marked for
[2] identification.)
[3] BY MR. HUGHES:
[4] Q. Mr. Papageorge, did you and Mr. - Dr. Dmytryszyn
[5] ever have a conversation concerning the records retention -
[6] A. I don't remember.
[7] Q. - at Texas City? I'm sorry?
[8] A. I don't remember.
[9] Q. Did you have discussion concerning records
[10] retention at Texas City with anyone else?
[11] A. Not that I recall.
[12] Q. Did you ever receive any information about the
[13] Texas City plants destroying any documents?
[14] A. No.
[15] MR. HUGHES: I've had marked as Papageorge 64 a
[16] document with a cover page, "Overall Assessment Of Texas
[17] City's North 80 Disposal Site, a Presentation For Review By
[18] MCI Senior Management." It's dated June 19, 1982,
[19] production number CBY 1900848 to 916.
[20] (Witness peruses said document.)
[21] BY MR. HUGHES:
[22] Q. And Mr. Papageorge, what I'm primarily interested

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[1] in in this document is whether, first of all, whether you
[2] recognize this as a record of a presentation that was made
[3] to the Managing Director of Monsanto Chemical Intermediates
[4] concerning the situation at the North 80 in June of 1982.
[5] A. It appears -
[6] MR. SARFATTI: Objection; lack of foundation.
[7] A. It appears to be that.
[8] BY MR. HUGHES:
[9] Q. You were present at that presentation?
[10] A. I recall it, yes.
[11] Q. At that presentation, was a, a copy of the
[12] overheads to be used, and so on, provided to you?
[13] A. Oh, that I don't remember.
[14] Q. Okay, at any time, did you receive a record of
[15] the presentation that had been given to the Managing
[16] Director?
[17] A. I don't remember that, either.

[18] Q. Nonetheless, having reviewed what we've marked as
[19] Papageorge 64, you are able to recognize that as parts of a
[20] presentation that were given to the Managing Director,
[21] correct?
[22] A. Well, I recognize pieces of it as part of that

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[1] presentation. I cannot speak for every page in this
[2] particular exhibit.
[3] Q. That's fair enough. And let's see. We've now,
[4] we've now determined it was Mr. Cunningham at the time?
[5] A. As best I recall, yes.
[6] Q. And was Mr. Cunningham present?
[7] A. Yes.
[8] Q. Obviously.
[9] A. That was his meeting.
[10] Q. Were there any lawyers present?
[11] A. No.
[12] Q. You were there. Were there any other members of
[13] your DEO staff at the Managing Director's Review?
[14] A. I honestly don't know. I don't know.
[15] Q. And do you recall that Mr. Himes and Mr. Tromblee
[16] were there?
[17] A. Yes.
[18] Q. Are they the ones who actually gave the
[19] presentation?
[20] A. Yes.
[21] Q. Did one of the two of them appear to be the
[22] primary presenter?

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[1] A. Mr. Himes did most of the presentation.
[2] Q. Did Mr. Cunningham ask any questions?
[3] A. Oh, yes.
[4] Q. Can you tell us any of them?
[5] A. I don't remember the details, no.
[6] Q. At the end of the Managing Director's Review, did
[7] Mr. Cunningham give any instructions to those in attendance
[8] as to what further work he would like to see done?
[9] A. I recall his instructions. I don't recall what
[10] they were.
[11] Q. So you are recalling that he did give some
[12] instructions? Is that right?
[13] A. Yes, mm-hmm.
[14] Q. But you don't remember the content?
[15] A. No, I don't.
[16] (Papageorge Deposition Exhibit 65 marked for
[17] identification.)
[18] (Witness peruses said document.)
[19] MR. HUGHES: We've had marked as Papageorge
[20] Exhibit 65 a document with a routing slip as the first page,
[21] with a date of 1-10, unspecified year, and then an attached
[22] article. Unfortunately, all of the Bates numbers aren't

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[1] showing up, so for the record, I'll describe it by the
[2] microfilm numbers, which is MST 79-1092 through 1100.
[3] BY MR. HUGHES:
[4] Q. Mr. Papageorge, did you subscribe to the "Texas
[5] Monthly" while you were a DEO?
[6] A. No, I did not.
[7] Q. In the attachment to this exhibit, which is an
[8] excerpt from the "Texas Monthly" of February 1979, there's
[9] an article called "The Seep Of Death." Did that article
[10] come to your attention while you were a Director of
[11] Environmental Operations at MCI?
[12] A. I do not this article.
[13] MR. HUGHES: Okay.
[14] (Discussion off the record)
[15] BY MR. HUGHES:
[16] Q. In 1979, were you ever informed of an article
[17] concerning the Texas City Wye that appeared in the
[18] publication of, the "Texas Monthly"?
[19] A. I don't recall receiving that information.
[20] (Discussion off the record)
[21] BY MR. HUGHES:
[22] Q. Now, in addition to addressing the Texas City

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[1] Wye, Mr. Papageorge, if it's okay if I come over and show
[2] you the page, because the numbers are not the best, it's the
[3] microfilm number 1096, and there's a paragraph a little over
[4] halfway down the page that states, quote, "Properly cleaning
[5] up these sites would be an expensive and dangerous job."

[6] Nowhere is this more obvious than at the chemical plant four
 [7] miles east of Friendswood, a rapidly developing suburb of
 [8] Houston. Opened in 1962 by Ralph Lowe, now mayor of
 [9] Friendswood, the site ran into trouble in 1975. Lowe was
 [10] trying to dispose of 300,000 gallons of vinyl chloride and
 [11] had arranged to have it hauled to Brazoria County, where,
 [12] state officials say, it was dumped at an unauthorized
 [13] construction site. They obtained an injunction against
 [14] Lowe, and the hauling ceased."
 [15] Then the next paragraph goes on to describe the
 [16] purchase of the site by the JOC Oil Company.
 [17] Does that refresh your recollection as to whether
 [18] it was ever brought to your attention in, while you were the
 [19] DEO of MCI that there was an article addressing the JOC Oil
 [20] site in Friendswood, Texas, that was contained in the "Texas
 [21] Monthly"?
 [22] A. No, it doesn't.

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[1] (Papageorge Deposition Exhibit 66 marked for
 [2] identification.)
 [3] MR. HUGHES: We've marked as Papageorge Exhibit
 [4] 66 a three-page document. It's a transmittal slip dated
 [5] July 2, 1979, from R. L. Neunreiter to a distribution list
 [6] with an attached two-page article, production numbers MCO
 [7] 0037772 to 74. Mr. Papageorge, I'm not going to ask you to
 [8] strain your eyes and read that article in detail, okay?
 [9] A. Thank you.
 [10] Q. On the first page of this exhibit, you are shown
 [11] as one of the addressees. Correct?
 [12] A. I see that, yes, sir.
 [13] Q. Did you from time to time receive from Mr.
 [14] Neunreiter articles that I guess he decided were interesting
 [15] enough to circulate?
 [16] A. Yes.
 [17] Q. How frequently did you receive articles from Mr.
 [18] Neunreiter?
 [19] A. Oh, golly, there was no set pattern. I have no
 [20] way of quantifying it. Very sporadic kind of communication
 [21] from him.
 [22] Q. For the record, who was Mr. Neunreiter in July of

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[1] 1979?
 [2] A. In '79, he was a public relations employee of
 [3] Monsanto, working for Monsanto Chemical Intermediates
 [4] Company.
 [5] Q. Do you recognize this document, Mr. Papageorge?
 [6] A. I don't recognize it, no.
 [7] MR. HUGHES: Off the record.
 [8] (Recess from 2:15 to 2:20.)
 [9] EXAMINATION
 [10] BY MR. OMROD:
 [11] Q. Good afternoon, Mr. Papageorge.
 [12] A. Good afternoon.
 [13] Q. I finally get my opportunity. My name is Robert
 [14] Omrod, and I represent one of the other insurance companies
 [15] in this case, North Star Reinsurance Corporation. We're an
 [16] excess carrier, and we're one of the Defendants in this
 [17] litigation. Some follow-up, what I'll be doing,
 [18] essentially, this afternoon is follow-up testimony or
 [19] follow-up questioning, so we may bounce around a bit, and I
 [20] apologize in advance for doing that.
 [21] Starting with the testimony you gave regarding
 [22] the North 80, just after the lunch, in response to Mr.

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[1] Hughes' questioning, you said that sometime in the last
 [2] quarter of 1977, after you became DEO for the MIC, you
 [3] became aware of environmental allegations made by a State
 [4] regulatory authority regarding, if I recall your testimony,
 [5] allegations of seepage from the North 80. Do you recall
 [6] that?
 [7] A. I recall that, yes.
 [8] Q. What were the allegations at that time that the
 [9] State regulatory authority was making?
 [10] MR. SARFATTI: In late 1977 is what you are
 [11] referring to?
 [12] MR. HUGHES: This is, if - and correct me if the
 [13] time frame is wrong, but I have written down in my notes
 [14] that it was in the late, or rather the last quarter of 1977.
 [15] just after you became DEO.
 [16] A. That is my best recollection of the timing, and

[17] the allegations, as I recall them, were that someone in the
 [18] State agency had determined that there were chemicals in
 [19] some water samples taken at or near the site and they were
 [20] at that point, not positive as yet, and they were conducting
 [21] further study, but it appeared from their preliminary
 [22] evaluation of their data that what they were seeing could

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[1] well have come from the North 80 site. That's all I recall
 [2] about the allegation.
 [3] BY MR. OMROD:
 [4] Q. And were these samples that you referred to in
 [5] your testimony samples taken from the borrow ditch that ran
 [6] in the North 80?
 [7] A. That was my understanding.
 [8] Q. Was the State at that time asking Monsanto to
 [9] take any corrective action or to do anything in response to
 [10] their allegations of seepage from the North 80 site?
 [11] A. Not yet, to my knowledge.
 [12] Q. When did that request happen?
 [13] A. Oh, several years later. I've forgotten. '81,
 [14] '82, '83, somewhere in there.
 [15] Q. And that's when the request came from the State
 [16] regulatory authority?
 [17] A. I don't recall the request so much, but that's
 [18] when Monsanto was actively seeking more information and
 [19] arranging for whatever remedial action was considered
 [20] appropriate.
 [21] Q. Now, you also testified that you recall seeing a
 [22] rainbow sheen on the borrow ditch. Do you recall that

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[1] testimony?
 [2] A. Yes.
 [3] Q. And when, just the time frame, when do you recall
 [4] seeing that?
 [5] A. As best I remember, it was my first visit, and it
 [6] wasn't on all of the water, it was just along one edge, as I
 [7] recall.
 [8] Q. And that was in, in 1977?
 [9] A. Yes.
 [10] Q. And that was consistent with the allegations made
 [11] by the State?
 [12] A. Not necessarily. What they had analyzed for may
 [13] not have been present in that sheen.
 [14] Q. By what they had analyzed for may not be present
 [15] in the sheen, the sheen, I take it, reflected, in your mind,
 [16] the presence of organic chemicals on the water?
 [17] A. It reflected, really, some oily material that's
 [18] lighter than water that floated on the surface and gave that
 [19] rainbow image.
 [20] Q. And based on what you were told at the time when
 [21] you observed that sheen, was that, was that evidence of the
 [22] seep that the State was concerned about?

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[1] A. Not necessarily evidence, but that could be the
 [2] kind of thing the State is talking about.
 [3] Q. You testified at that point, the State had raised
 [4] allegations of seeping from the North 80. You observed the
 [5] sheen of a rainbow sheen on the north, or on the borrow
 [6] ditch?
 [7] MR. SARFATTI: I'm going to object to the
 [8] characterization of the testimony.
 [9] A. Yeah, the two thoughts may not be related or may
 [10] or may not be. The State found something. I saw something.
 [11] They may or may not be the same thing.
 [12] BY MR. HUGHES:
 [13] Q. They both occurred in and around the same time?
 [14] A. Oh, no, the State had taken these samples long
 [15] before I arrived at the plant, but sometime early on that
 [16] year; several, several months before about, as I remember.
 [17] Q. So the State had taken samples from the borrow
 [18] ditch sometime in, earlier in 1977?
 [19] A. That's my understanding.
 [20] Q. You were made aware of - they tested those
 [21] samples and made allegations regarding seepage from the
 [22] North 80?

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[1] A. Yes.
 [2] Q. And you were made aware of that sometime shortly
 [3] after you became the DEO?
 [4] A. Yes.

[5] Q. And your recollection is that's sometime in the
[6] last quarter of '77?
[7] A. That is correct.
[8] Q. Was there some point in that time frame when the
[9] State, based on their testing, confirmed their conclusion
[10] that the seep was, was coming from the North 80?
[11] MR. SARFATTI: Objection; lack of foundation.
[12] A. There was a point in time - and I've forgotten
[13] just when - the State was confident that their results were
[14] factual or true. I just don't recall what - when that
[15] conclusion was reached. I'd be guessing. I just don't
[16] remember.
[17] BY MR. HUGHES:
[18] Q. They started their testing sometime early in
[19] 1977?
[20] A. As best I remember, yes.
[21] Q. Can you give a general time frame when they, when
[22] they confirmed their, their conclusions?

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[1] MR. SARFATTI: I think it's been asked and
[2] answered.
[3] A. '78-'79 is as close as I can come to it.
[4] BY MR. HUGHES:
[5] Q. Moving on to the subject matter of the Motco
[6] site, could you - and this is a general question, and I
[7] recognize that, but in order to provide me at least with
[8] some understanding of your involvement, could you describe
[9] for me generally your involvement with the Motco site?
[10] A. I was made aware of that site at about the time I
[11] was informed of the North 80 situation. In fact, as best I
[12] remember, it was the same visit. Later on, about 19, about
[13] 1978, during another visit to the plant, I had an
[14] opportunity to be taken to the site. This is when I
[15] actually walked on it and saw the, the lush weed growth and
[16] the black material that looked like road tar? You may
[17] remember I described that earlier?
[18] Q. I recall that testimony.
[19] A. And the tanks and the shed or building of some
[20] sort, some of the fencing. It was not completely fenced in.
[21] As I remember, I made maybe one or two more trips to that
[22] site at subsequent visits, and that would be roughly '78-'79

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[1] period.
[2] I was informed that the State regulators were
[3] becoming very interested in that site. I don't know that I
[4] remember anything else that's outstanding in my memory,
[5] here. You remember I mentioned meeting with Mr. Lowe and
[6] his offer to help clean up and meeting with Mr. Malone and
[7] he had indicated that yes, he had been there and made some
[8] deliveries, and that's about it, really.
[9] Q. Your involvement with the site and the visits
[10] that you made, that occurred as part of your responsibility
[11] as the DEO?
[12] A. Yes.
[13] Q. Did you also serve on, on an internal Monsanto
[14] committee called the Motco task force?
[15] A. No.
[16] Q. Do you recall the creation of that committee?
[17] And I may be using the - I may have the wrong name for the
[18] committee, but do you recall the creation of an internal
[19] Monsanto committee to deal with the Motco site? And my
[20] recollection, I recall seeing a document that indicated that
[21] you were the chairperson of that committee.
[22] A. I was chair of that? I sure don't remember a

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[1] task force on it.
[2] MR. SARFATTI: Do you want to show him the
[3] document?
[4] MR. OMROD: I don't have the document. I would.
[5] A. Don't I don't recall. I do know that was one of
[6] the sites that we were keeping a close eye on. I don't even
[7] recall who would have been on that committee. I just don't
[8] remember it.
[9] MR. OMROD: If we take a break this afternoon,
[10] I'll look through my files of documents. I might find it.
[11] THE WITNESS: That might help.
[12] BY MR. OMROD:
[13] Q. You said when you, during the same, the same
[14] visit to the plant, that you became or was made aware of the
[15] allegations relating to the North 80, you also became aware

[16] of the existence of the Motco site.
[17] A. That's the best of my recollection, yes, sir.
[18] Q. At that - did that occur during a visit to the
[19] Texas City plant?
[20] A. Yes.
[21] Q. At that time, were you told about agency
[22] interests in the, in the Motco site?

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[1] A. Yes.
[2] Q. State agencies?
[3] A. I think I said that.
[4] Q. So that would also be in the last quarter of
[5] 1977?
[6] A. Yes.
[7] Q. Now, I used the words "state agency interest,"
[8] and I think I picked that up from your testimony. What were
[9] you told about what the State agency was interested in with
[10] regards to Motco?
[11] MR. SARFATTI: Are you referring specifically to
[12] the first visit in late 1977?
[13] MR. OMROD: Yes. Thank you.
[14] A. As best I recall, the concern was groundwater
[15] contamination of the materials that were believed to exist
[16] on that property.
[17] BY MR. OMROD:
[18] Q. So essentially, that the materials that existed
[19] on that property were contaminating the groundwater?
[20] A. That was their strong suspicion.
[21] Q. And "their," that was the State agency that you
[22] were referring to?

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[1] A. Yes.
[2] Q. And at that time, had the agency, the State
[3] agency expressed those concerns specifically to Monsanto?
[4] A. By using the word "specifically," you mean
[5] uniquely to Monsanto, or -
[6] Q. Not uniquely.
[7] A. Oh.
[8] Q. To the exclusion of others, but had they
[9] expressed those - that concern directly, I think, would be
[10] a better word, directly to Monsanto?
[11] A. That's my understanding, yes, sir.
[12] Q. At that time in the last quarter of '77, was -
[13] during your meeting or visit at the Texas City plant, was
[14] there discussion about the possibility that the State or
[15] some other organization would begin a cleanup operation or
[16] some corrective operation at, at the Motco site?
[17] A. As I remember, the discussion centered around the
[18] strong possibility that cleanup of some sort would take
[19] place, but there was no opinion expressed as to what would
[20] be done and who would do it, who would pay for it.
[21] Q. So the conclusion reached at that - during your
[22] first visit at the Texas City plant was that there was a

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[1] strong possibility that a cleanup operation would actually
[2] take place?
[3] A. That was -
[4] MR. SARFATTI: Objection to the extent you are
[5] trying to characterize his testimony. It speaks for itself.
[6] BY MR. OMROD:
[7] Q. Is that correct?
[8] A. That was the impression that I was left with
[9] after our discussion.
[10] Q. Again referring to that first visit in the last
[11] quarter of 1977, was there also discussion concerning
[12] whether Monsanto would have some financial responsibility,
[13] in whole or in part, for that cleanup or corrective
[14] activity?
[15] A. Yes, there was some, really, speculative
[16] discussion regarding Monsanto's role in this effort, and it
[17] was expressed that very likely, Monsanto would be involved.
[18] Q. When you say, when you say speculative
[19] discussion, are you referring to a discussion of a different
[20] scenario by which the cleanup would take place?
[21] A. No, I call it speculative because it was not
[22] based on my hard data, it was just a, almost a gut feel for

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[1] the way they were getting the message that Monsanto will
[2] very likely be involved somehow, we don't know how, but
[3] we're going to get involved. That kind of message was

[4] relayed to me.
 [5] Q. So there was, at least among the people that you
 [6] talked to at the Texas City plant, their gut feeling was
 [7] that Monsanto would have some financial responsibility?
 [8] A. Well, I don't know if they used the word
 [9] "financial." They used the word "Monsanto will get
 [10] involved."
 [11] Q. In the cleanup?
 [12] A. In the cleanup. We didn't know if it would be
 [13] the physical effort, the economic contribution, the public
 [14] relations problem, and so on.
 [15] Q. All of which would require Monsanto to expend
 [16] some funds in order for the cleanup to take place?
 [17] A. Well, if all of them took place, certainly.
 [18] Q. And if I can recall your testimony correctly, you
 [19] conveyed that information that you learned while, when you
 [20] visited the plant, Texas City plant, you conveyed that
 [21] information to the Environmental Policy Committee?
 [22] A. Yes, eventually, yeah. Not the committee, the

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[1] staff.
 [2] Q. The staff; excuse me.
 [3] A. Yes. Mm-hmm.
 [4] Q. And was that done at your next
 [5] regularly-scheduled meeting?
 [6] A. Very likely. I don't remember the exact meeting.
 [7] Q. With regards to the issue as to how much money
 [8] would have to be spent to clean up the Motco site - and I'm
 [9] not restricting this to how much money Monsanto would
 [10] actually have to spend, but how much money would generally
 [11] be spent in cleaning up the Motco site, when did that, did
 [12] facts relating to how much money would be spent, when did
 [13] that start to develop?
 [14] A. Hmm. I don't recall a specific number or
 [15] magnitude of expenditure. As best as I recall, the problem
 [16] was defined as involving millions of dollars, tens of
 [17] millions. I don't know or I don't recall any formal
 [18] calculations that were made to arrive at such a number. It
 [19] was really somebody's best guess, with the limited
 [20] information available in '78-'79 period. I personally do
 [21] not remember a specific number associated with the Texas
 [22] City Wye cleanup.

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[1] Q. But it's your recollection that at least in the
 [2] '78-'79 time period, that the best guess with regards to how
 [3] much it would cost to clean up the Motco site was in tens of
 [4] millions?
 [5] A. Yeah, I don't know that I'd call that the best
 [6] guess. That was a guess based on fragmentary information
 [7] because we had no idea how deep the pits were or how much
 [8] material was there, what it would take to get it out, on and
 [9] on, where it would go, and so on.
 [10] Q. Was that, was that estimate, is it fair to call
 [11] that the current estimate at the time in 1978?
 [12] A. That was the best estimate anybody could come up
 [13] with. It was a big gut feel, if I can call it that,
 [14] regarding the numbers involved.
 [15] Q. That estimate was, was reached by Monsanto
 [16] employees?
 [17] A. Yes.
 [18] Q. Was that estimate prepared based, based on your
 [19] request?
 [20] A. I don't know that it was really prepared. It was
 [21] just the subject came up, "What do you think of the cost"
 [22] and somebody threw out a number, it was discussed, and

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[1] everybody accepted it because of lack of anything else.
 [2] Q. Do you recall whether there was anyone
 [3] specifically who provided that, that estimate?
 [4] A. No, I don't.
 [5] Q. And my sense is, from your testimony, that this
 [6] estimate was, was first raised during a group discussion of
 [7] some kind. Is that correct?
 [8] A. Yes.
 [9] Q. What group was it that the assessment was
 [10] provided?
 [11] A. It was plant, plant representatives.
 [12] Q. Was this - did this occur at one of your
 [13] subsequent visits to the plant? And I say subsequent, I
 [14] mean subsequent to your visit in the last quarter of 1977.

[15] A. Yes, I'm trying to recall just which one. It
 [16] might well have been maybe the second visit or so. I just
 [17] don't remember.
 [18] Q. Do you recall at any point in time the State
 [19] providing estimates on what the cleanup cost would be at
 [20] Motco?
 [21] A. I don't recall any.
 [22] MR. OMROD: Let me mark this as the next. That's

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[1] 67.
 [2] MR. SARFATTI: Can I have a representation from
 [3] you that every document you mark is on Mr. Hughes' list?
 [4] MR. OMROD: No, you can't, because this document
 [5] comes from the documents that Mark Manta sent you. What I
 [6] can tell you, because obviously it's difficult -
 [7] MR. SARFATTI: How are you certain of that?
 [8] MR. OMROD: That's what I'm going to tell you.
 [9] Obviously, it's difficult, because there was no list, to be
 [10] absolutely certain. What I asked Mr. Manta to do was to
 [11] send me a copy of the documents he sent to you, and he did
 [12] that, and I took this document from the collection.
 [13] MR. SARFATTI: Okay, and you'll so represent that
 [14] it was taken from -
 [15] MR. OMROD: I can represent that.
 [16] (Papageorge Deposition Exhibit 67 marked for
 [17] identification.)
 [18] MR. OMROD: And for the record, we've marked as
 [19] Papageorge Exhibit 67 a document Bates stamped STG 3414607
 [20] and it runs through 611. It's dated April 6, 1981.
 [21] BY MR. OMROD:
 [22] Q. Mr. Papageorge, would you take a moment to look

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[1] over the document, if you would like, and my questions will
 [2] go, as is probably obvious from my last few questions, to
 [3] the cleanup cost estimate provided for the Motco site.
 [4] (Witness peruses said document.)
 [5] A. I have glanced through the document.
 [6] Q. The document, which is entitled, or the
 [7] attachment, which is entitled "Cleanup Cost Estimates
 [8] Abandoned Hazardous Waste Sites In Texas," has a cover memo
 [9] from an F. C. Himes. Do you see that?
 [10] A. Yes.
 [11] Q. And there is some handwritten names on the upper
 [12] right-hand corner of the cover memo. One of them indicates
 [13] that you were at least intended to have received a copy of
 [14] this. Do you see that?
 [15] A. I see that.
 [16] Q. Do you recall seeing this document?
 [17] A. No, I don't.
 [18] Q. Is the cover memo, at least, an example of a, a
 [19] document that was prepared in the ordinary course of
 [20] business at Monsanto?
 [21] A. Yes.
 [22] Q. And is it an example of a document that would be,

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[1] would be kept in the files at Monsanto?
 [2] A. Yes.
 [3] Q. This may have been covered during the prior days
 [4] of your deposition, but F. C. Himes, who is that? Do you
 [5] recall?
 [6] A. Mr. Himes, at that point in time, was the plant
 [7] superintendent, supervising the environmental activities for
 [8] both Monsanto plants in Texas City and Chocolate Bayou,
 [9] Texas.
 [10] Q. Is he someone who would have had as his
 [11] responsibility monitoring the State regulatory activities
 [12] with regards to Motco?
 [13] A. Certainly.
 [14] Q. The reference on the cover memo to the Texas
 [15] Department of Water Resources cost estimates, is that the
 [16] agency that was involved with the Motco site?
 [17] A. That was my understanding.
 [18] Q. Have you ever seen this document before?
 [19] A. I don't remember it.
 [20] Q. You don't recall seeing it?
 [21] A. No.
 [22] Q. The estimates provided, the cleanup cost

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[1] estimates provided for the Motco sight which are at, on the
 [2] attachment, the third page in, do you see that?

[3] A. I do.
 [4] Q. The estimate that's provided, there, of
 [5] \$30,8466,000, do you see that?
 [6] A. That is a total that's shown in that tabulation,
 [7] yes.
 [8] Q. Is that consistent with the estimates that you
 [9] were receiving from your own staff?
 [10] A. It doesn't - it fits the concept of tens of
 [11] millions. We - Monsanto had not come up with that accurate
 [12] a number or that precise a number.
 [13] Q. And I take it from your testimony, then, it would
 [14] be generally consistent with the numbers that were discussed
 [15] in 1978 among, among the people you met with when you went
 [16] to the Texas City plant?
 [17] A. I would say yes.
 [18] Q. When - at this time in April of 1981, in terms
 [19] of the question whether Monsanto would have some financial
 [20] responsibility for cleaning up the Moico site, where did
 [21] things stand on that issue in terms of Monsanto's opinion as
 [22] to whether it would have responsibility?

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[1] MR. SARFATTI: I'm going to object for lack of
 [2] foundation.
 [3] A. I don't quite know how to describe where
 [4] Monsanto's thinking stood at the time. The feeling or the
 [5] belief was that Monsanto was certainly involved at this
 [6] time, at least in the eyes of the State regulatory people.
 [7] I believe it's at about this time that efforts were made by
 [8] the plant environmental staff to determine what other
 [9] sources of material could be identified; the material, that
 [10] is, that went to the site, in addition to the material that
 [11] came from Monsanto's plant.
 [12] BY MR. OMROD:
 [13] Q. If I understand what you are referring to, is
 [14] that the - is that the effort that was conducted by
 [15] Monsanto to find other, other parties to be responsible for
 [16] the - to share in the responsibilities for the cleanup?
 [17] A. Yes, that was - there was an effort begun at
 [18] about that time, as best as I recall.
 [19] Q. While I don't think this comes up in these
 [20] documents, I've heard a reference in other depositions to
 [21] the fingerprinting project or something like that, using the
 [22] term "fingerprinting"? Do you recall that?

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[1] A. I'm not familiar with the expression
 [2] "fingerprinting."
 [3] Q. You do recall, though, at around this time in
 [4] April of 1981, that that effort in terms of finding other
 [5] responsible parties began?
 [6] A. Yes, that's the best of my recollection, a search
 [7] for other sources, mm-hmm.
 [8] Q. Getting back to my initial question, at that
 [9] time, had Monsanto concluded that it would have financial
 [10] responsibility to clean up the Monsanto - the Moico site?
 [11] MR. SARFATTI: Objection; lack of foundation.
 [12] BY MR. OMROD:
 [13] Q. And when I say "that time," I'm sorry, the time
 [14] I'm referring to is April of 1981.
 [15] A. '81. By 1981, as best as I recall, there was a,
 [16] a belief that was growing stronger, if you will, with time,
 [17] that Monsanto was going to be involved. It became, then, a
 [18] matter of to what degree would that involvement be.
 [19] Q. So there would be some financial responsibility?
 [20] A. Yes.
 [21] Q. And I take it that at this point, Monsanto was
 [22] beginning an effort to try to reduce that by finding other

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[1] people to share in the responsibility?
 [2] A. Well, that was the purpose of finding other
 [3] sources of material.
 [4] Q. The belief that Monsanto would have financial
 [5] responsibility, when was that conclusion reached?
 [6] MR. SARFATTI: Same objection; lack of
 [7] foundation.
 [8] A. I don't know that it happened on any one day or
 [9] anything. It was something that evolved as those who worked
 [10] with the issue became increasingly familiar with more
 [11] details, and the more they talked with the regulatory people
 [12] and what have you, the more they were convinced that there
 [13] was no way that Monsanto could avoid being involved.

[14] BY MR. OMROD:
 [15] Q. If I recall your testimony, it started in, at
 [16] least in terms of your understanding, it started in the
 [17] late, last quarter of '77, when a gut feeling was expressed
 [18] that there would be some -
 [19] A. That gut feeling, I don't know when that gut
 [20] feeling began. That was when it was shared with me in my
 [21] new assignment. It might have existed at the plant before
 [22] MCI was formed and my job was created. I don't know that.

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[1] that timing.
 [2] Q. It started as a gut feeling, and at least by
 [3] April of 1981, there was some certainty about it?
 [4] MR. SARFATTI: Objection; mischaracterization of
 [5] his testimony, if that's what you are trying to do.
 [6] A. It was, there was some certainty, is a good way
 [7] to put it, yes, sir.
 [8] MR. OMROD: Off the record.
 [9] (Discussion off the record.)
 [10] (Papageorge Deposition Exhibit 68 marked for
 [11] identification.)
 [12] MR. OMROD: We've just marked as Papageorge
 [13] Exhibit 68 a document Bates stamped CBY 1604075 through 77.
 [14] There are two memorandums. The first is a, is a cover
 [15] memorandum dated October 26, 1982: Subject, "Contract Waste
 [16] Disposal."
 [17] The memo was written by Mr. Papageorge, and there
 [18] is an attached memo written by Mr. Park, dated October 22,
 [19] 1982: Subject, "Contract Waste Disposal Liability Problem."
 [20] (Witness peruses said document.)
 [21] A. I have glanced at the documents.
 [22] BY MR. OMROD:

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[1] Q. Before we get started in detail, let me ask the
 [2] basic question, which is, are these, or is this document and
 [3] the attached memo an example of documents that were prepared
 [4] by Monsanto personnel in the ordinary course of business at
 [5] Monsanto?
 [6] A. It appears to be, yes.
 [7] Q. And the type of memo that would be kept in the
 [8] files of Monsanto in the ordinary course?
 [9] A. Yes.
 [10] Q. The cover memo appears to have been prepared by
 [11] you. Is that your signature?
 [12] A. That is my signature.
 [13] Q. Do you recall this, the topic that's reflected
 [14] here?
 [15] A. Vaguely. Not too clearly. I know the general
 [16] subject, and I don't recall all the details.
 [17] Q. The group of individuals that you sent this memo
 [18] to, I'm not going to ask you to describe which one of them,
 [19] but is there some way to characterize, as a group, who it
 [20] was going to?
 [21] A. Plant managers.
 [22] Q. They're all plant managers? And Mr. Tromblee was

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[1] the manager of the Texas City plant?
 [2] A. Yes.
 [3] Q. And are they, are they the plants within the MIC
 [4] Company?
 [5] A. Yes.
 [6] MR. HUGHES: Did you say "MIC"?
 [7] MR. OMROD: I did.
 [8] A. (Continuing) I was wrong. My answer should have
 [9] been no.
 [10] BY MR. OMROD:
 [11] Q. MCI. Excuse me.
 [12] A. Right.
 [13] MR. SARFATTI: MCI is the phone company.
 [14] Before we go further with the document, can I
 [15] just have a general representation that all of the documents
 [16] you intend to use are among the ones that were sent to you
 [17] from Mr. Manta which are duplicates of what was sent to me?
 [18] MR. OMROD: It's, of course, impossible for me to
 [19] represent that they are duplicates. I can tell you what my
 [20] request was to Mark, and that I'm using documents from the
 [21] material that he told me he sent to you, and that's what I
 [22] can represent. It's my understanding that I am using

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[1] documents that he designated for this deposition pursuant to

[2] the Court's seven-day designation rule.
 [3] MR. SARFATTI: Well, no documents were
 [4] designated. Some documents were belatedly sent to me, but
 [5] no list was ever sent.
 [6] MR. OMROD: I wasn't party to any of that, so I'm
 [7] not sure what the background is, but my understanding was
 [8] that Mr. Manta had sent you documents.
 [9] MR. SARFATTI: That's correct.
 [10] MR. OMROD: And you accepted them and permitted
 [11] them to be used.
 [12] MR. SARFATTI: That's right.
 [13] MR. OMROD: And it is my understanding this
 [14] document would fall among those documents, and as well as
 [15] the other documents that I use today.
 [16] BY MR. OMROD:
 [17] Q. You testified that you can recall generally the
 [18] subject matter of this memo and the attachments?
 [19] A. Yes.
 [20] Q. What do you recall?
 [21] A. I recall that Mr. Park had expressed his opinion
 [22] regarding the vulnerability that Monsanto had regarding the

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[1] use of outside disposal services; and by "outside," I mean
 [2] other than Monsanto - and his understanding of the way the
 [3] federal regulatory agency would react should a mishap occur,
 [4] and his understanding was that any problems that occurred at
 [5] these sites would eventually flow back to companies like
 [6] Monsanto, who were the source of the materials at those
 [7] sites.
 [8] Q. And that would, that would occur based on his
 [9] understanding of the Superfund legislation?
 [10] A. That was his understanding at that point in time,
 [11] yes. That's my understanding.
 [12] Q. He expressed that concern in the memo that's
 [13] attached?
 [14] A. Yes.
 [15] Q. Did you accept that concern as being valid?
 [16] A. I have no reason not to. I did accept it.
 [17] Q. Was Mr. Park in a position to be knowledgeable
 [18] about, about the concerns that he was raising?
 [19] A. Certainly, in my opinion.
 [20] Q. Why was that?
 [21] A. Well, he was an environmental attorney, very
 [22] active on the legislative and regulatory scene, had followed

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[1] the activities of the Environmental Protection Agency
 [2] regarding these things, and I perceived him as the person
 [3] within Monsanto who was the closest to these statutes and
 [4] regulations.
 [5] Q. Were there - and you took Mr. Park's memo and
 [6] you sent it to the plant managers?
 [7] A. Yes.
 [8] Q. And why, why did you convey that concern to the
 [9] plant managers?
 [10] A. Well, it was my job to communicate opinions of
 [11] this type within Monsanto to the managers who were
 [12] responsible for the activities at the various locations.
 [13] Q. Were there decisions made based on the concerns
 [14] raised by Mr. Park - Mr. Park?
 [15] MR. SARFATTI: Objection; lack of foundation.
 [16] A. I can -
 [17] BY MR. OMROD:
 [18] Q. And I can ask it generally, were there any
 [19] changes in Monsanto's policy based on - with regards to
 [20] outside contractors for waste disposal?
 [21] MR. SARFATTI: Same objection.
 [22] A. Not at the time, no. Not at any time that I know

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[1] of.
 [2] BY MR. OMROD:
 [3] Q. If his - if, in your mind, his concerns were
 [4] viewed as legitimate -
 [5] A. I'm sorry, I didn't hear the last word.
 [6] Q. Is that in your mind, were his concerns - did
 [7] you view his concerns as legitimate?
 [8] A. Yes.
 [9] Q. Why wasn't there a change in Monsanto's policy
 [10] with regards to outside contractors?
 [11] MR. SARFATTI: Objection; lack of foundation.
 [12] A. Because the procedure we had in place at that

[13] time was believed to be adequate to safeguard, within
 [14] reason, the kinds of situations that could lead to future
 [15] problems.
 [16] BY MR. OMROD:
 [17] Q. What procedure was that, or procedures?
 [18] A. This was, I forget the exact name of the
 [19] guideline. It had to do with one of those worldwide
 [20] environmental policy guidelines relating to the proper
 [21] disposal of wastes, and it called for evaluations to be made
 [22] of the service purchased, and the type of hauler, and the

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[1] type of disposal site, and so on, that they be carefully
 [2] evaluated before contracts were signed, and the service
 [3] used.
 [4] Q. So there were some efforts made at that time,
 [5] based on the environmental, worldwide guidelines, to
 [6] safeguard against liability?
 [7] A. Oh, certainly.
 [8] Q. Was it understood, though, that none of those
 [9] safeguards were perfect?
 [10] A. Were what?
 [11] Q. Perfect.
 [12] A. Oh, that's always understood in the real world.
 [13] Q. Well, in the real world, as with regards to the
 [14] Superfund, potential Superfund liability?
 [15] A. Well, they were as good as the technology known
 [16] at the time would allow them to be. Monsanto was not going
 [17] to drag its feet and use technology that was inappropriate.
 [18] Q. In your cover memo, you say - and I'll read -
 [19] "This concern" - that concern being raised by Mr. Park -
 [20] "was recognized by the corporate Hazardous Waste Management
 [21] Study Team and is reflected in the approved revision of
 [22] Worldwide Environmental Protection Guideline Number 2 which

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[1] calls for incineration or fixation and detoxification of
 [2] waste prior to landfilling." Do you see that?
 [3] A. Yes.
 [4] Q. Now, you say that the concern was recognized by
 [5] the corporate Hazardous Waste Management Study Team. I
 [6] don't think that that group has come up, to date, in this
 [7] deposition, anyway. What was that?
 [8] A. The group defined here?
 [9] Q. Yes, Hazardous Waste Management Study Team.
 [10] A. That consisted of representatives from each of
 [11] the operating units, DEO staffs. For example, my
 [12] representative at that time was Mr. Weishaar. He was joined
 [13] by his equivalents from the other operating units to form
 [14] this task force, to put together these guidelines, and now
 [15] to review them, in light of the kinds of concerns expressed
 [16] by Mr. Park.
 [17] Q. And did that, did that group consider his
 [18] concerns legitimate?
 [19] A. Were given, you say?
 [20] Q. Did they consider his concerns legitimate?
 [21] A. Legitimate; yes.
 [22] Q. And you remember also it indicates that the

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[1] concern is reflected in the approved revision to the
 [2] Guideline Number 2. What revision was made to that
 [3] guideline to reflect the concern?
 [4] A. I forget the details. They, they were modified
 [5] slightly, as I remember.
 [6] Q. It's my sense from reading this that at least
 [7] with regards to incineration and detoxification of wastes
 [8] prior to landfilling, that would be some effort to alleviate
 [9] a concern that shipping the material off site would result
 [10] in liability because material would be considered a
 [11] hazardous waste. Do you agree with that?
 [12] A. That was the objective, yes.
 [13] Q. Did that start happening at Monsanto's plants in
 [14] response to Guideline Number 2? Incineration, fixation and
 [15] detoxification?
 [16] A. It did.
 [17] Q. So the record is clear, and my understanding,
 [18] what is fixation?
 [19] A. It's a - I think I can best explain it by giving
 [20] an example that might be a little -
 [21] Q. Fixation in this context.
 [22] A. An example of fixation -

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[1] Q. That would be useful.
 [2] A. - is to take a material that is apt to be either
 [3] water soluble or can be moved in the environment and encase
 [4] it in a concrete block and then put that block in the
 [5] landfill. That was perceived to be a type of fixation where
 [6] you would create a situation where that material is now
 [7] encapsulated and cannot be easily moved from that block out
 [8] into the environment. Does that help?
 [9] Q. That helps. That helps. And that was something
 [10] that started around this time, at least in part, in response
 [11] to the concerns raised by Mr. Park?
 [12] A. Well, at least the consideration of these kinds
 [13] of things, including fixation, was included in the
 [14] evaluation of which procedure do you use to dispose of this
 [15] unwanted material. It started at about this time.
 [16] Q. Was that done in response to the concerns raised
 [17] by Mr. Park - Mr. Park?
 [18] A. Yes.
 [19] Q. If you could turn to the attached memo that Mr.
 [20] Park wrote, the last sentence of Paragraph 2 - and I'll
 [21] read it - "Unless the contractor is able to completely
 [22] fulfill its contract indemnity obligations, at least some of

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[1] the cleanup costs would be borne by Monsanto, since there
 [2] appears to be no insurance available which provides coverage
 [3] for Superfund cleanup costs." Do you see that?
 [4] A. I see that.
 [5] Q. Is that consistent with your understanding of the
 [6] availability of insurance for cleanup costs?
 [7] MR. SARFATTI: Objection; lack of foundation.
 [8] A. Since I knew so little about insurance, I took, I
 [9] took Mr. Phocion's word for it. I had no reason to doubt
 [10] it.
 [11] BY MR. OMROD:
 [12] Q. You trusted his judgment on that point?
 [13] A. Yes.
 [14] Q. On this issue, the availability of insurance or
 [15] some other way to alleviate Monsanto's potential liability,
 [16] that's a critical component of the conclusions reached by
 [17] Mr. Park; isn't that correct?
 [18] MR. SARFATTI: Objection. Speculative.
 [19] A. I have no way of determining whether or not it's
 [20] critical. It's certainly an important consideration. It
 [21] can't be ignored. It's an economic factor.
 [22] BY MR. OMROD:

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[1] Q. If the contractor that was disposing of waste for
 [2] Monsanto was able to meet its obligations to indemnify
 [3] Monsanto under the contracts, I take it at that point,
 [4] Monsanto wouldn't have the concerns that are reflected by
 [5] Mr. Park?
 [6] MR. SARFATTI: Objection; lack of foundation and
 [7] speculative.
 [8] A. Well, I'd have to believe, from Mr. Park's
 [9] communication here, that should those conditions be met by
 [10] the contractor, that the proper people within Monsanto would
 [11] approve that arrangement.
 [12] BY MR. OMROD:
 [13] Q. My question isn't whether the proper people would
 [14] approve the arrangement. My question is whether the
 [15] concerns about liability to Monsanto would still be, would
 [16] still be valid or justified.
 [17] MR. SARFATTI: Same objection; lack of foundation
 [18] and speculative.
 [19] A. Well, the concerns would probably be there, but
 [20] if there's an indemnity, if there's an indemnity clause in
 [21] the contract that protects Monsanto, those concerns would
 [22] be, of course, reduced as compared to those situations where

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[1] there is no protection for Monsanto.
 [2] BY MR. OMROD:
 [3] Q. Well, one way for Monsanto to, to protect itself
 [4] under an indemnity clause like that would be to insist that
 [5] the contractor carry insurance for the possible liability.
 [6] MR. SARFATTI: Objection; no foundation, and
 [7] speculative.
 [8] BY MR. OMROD:
 [9] Q. Is that correct?
 [10] A. That's one, yes.
 [11] Q. And in fact, that's what Mr. Park is referring to

[12] here; isn't that correct -
 [13] A. Yes.
 [14] Q. - in that sentence? And his conclusion is that
 [15] that's not possible because there isn't insurance available
 [16] for that liability for cleanup costs under the Superfund
 [17] Act?
 [18] A. I don't read it that way.
 [19] (Witness peruses said document.)
 [20] A. (Continuing) I read this sentence a little
 [21] differently than that, because of the use of the word
 [22] "unless."

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[1] Q. Why don't you tell me how you read it.
 [2] A. The way I read that or read it now, even, is that
 [3] the - if that contractor who is providing this service does
 [4] not agree to any indemnity kind of phraseology in the
 [5] contract and a problem occurs at the site where this
 [6] activity takes place, then Mr. Park, in his evaluation of
 [7] the Superfund regulations, believe that the regulatory
 [8] agencies would go to Monsanto, seeking funds for the
 [9] necessary remedial action.
 [10] Q. Well, that's part of it. The last clause says,
 [11] "Since there appears to be no insurance available which
 [12] provides coverage for Superfund cleanup costs."
 [13] A. I'm reading that as saying no insurance available
 [14] to Monsanto as a company to cover these cleanup costs.
 [15] Q. So a fair reading of this, based on your reading,
 [16] is that Monsanto did not have insurance for cleanup costs -
 [17] MR. SARFATTI: Objection. There's no way he can
 [18] answer that.
 [19] BY MR. OMROD:
 [20] Q. Under Superfund. I'm asking for your reading of
 [21] the memo.
 [22] A. I can give you my understanding right or wrong.

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[1] It's my understanding that they had no insurance for
 [2] Superfund cleanup costs, which may or may not cover all the
 [3] situations possible.
 [4] Q. And was that also your understanding at the time
 [5] in 1982?
 [6] A. Yes, sir.
 [7] Q. That "they," being Monsanto, had no insurance
 [8] coverage for cleanup costs under Superfund?
 [9] A. I'm sorry, I didn't hear the first part.
 [10] Q. That Monsanto did not have insurance coverage for
 [11] cleanup costs.
 [12] A. That was my understanding, then and now.
 [13] Q. Based on your experience as a DEO, and your
 [14] experience with the Motco site or your involvement with the
 [15] Motco site, what's your understanding of how the pollution
 [16] actually occurred at Motco?
 [17] MR. SARFATTI: Objection; vague and lack of
 [18] foundation.
 [19] A. My understanding is based on the fact that there
 [20] were materials present at the site and that some of these
 [21] materials were believed by the regulatory people to have
 [22] affected the environment in that area, either below the site

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[1] or surrounding it. How this material found its way into
 [2] these areas, I do not know.
 [3] BY MR. OMROD:
 [4] Q. What is your understanding about the materials as
 [5] you described them, their location at the site?
 [6] A. Well, I have three different types that I would
 [7] describe. One is material in the tanks, then there's
 [8] material in excavations on that property, which were
 [9] referred to as pits, and then, of course, there's material
 [10] that's visible on the surface.
 [11] Q. The material that's visible on the surface, what
 [12] are you referring to?
 [13] A. This is the material I described earlier as a, a
 [14] black, tarry-looking solidified material that looked like
 [15] road tar.
 [16] Q. Now, I take it from your testimony that that's
 [17] distinct from the materials that was in the pits.
 [18] A. I don't know. I don't know if underneath that
 [19] material was the pit or whether the pit was off underneath
 [20] the weeds. I personally never did know where the pits were
 [21] physically located.
 [22] Q. What you saw, though, was what looked to be a

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- [1] pile of black tar material? Tar-like material?
- [2] A. Mounds of tarry material, yes. Solidified; not
- [3] gummy or tacky.
- [4] Q. Okay. I don't recall whether Mr. Manua asked you
- [5] these questions, and I actually don't think he did, but
- [6] could you give me some sense of proportion of volume of the
- [7] material?
- [8] A. Gosh, I, I have no way of determining that. The
- [9] weeds were so profuse and covered the area, it was very
- [10] difficult to come up with any proportion of how much of the
- [11] area was covered or not. I couldn't tell.
- [12] Q. Can you give me a general sense? Was it an area
- [13] that was one yard in dimension or was it some other greater
- [14] amount?
- [15] A. I would suggest that - gosh, it's hard to recall
- [16] the specifics. Let's say there were about three, four
- [17] different spots, and some of them were really as big as this
- [18] room, some a little smaller, and there were weeds growing in
- [19] the middle and on the edges. I couldn't tell when one area
- [20] was connected to another or not because of the weed growth
- [21] in between.
- [22] Q. Were these mounds, or were they flush to the

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- [1] ground?
- [2] A. Some of them were fairly flat and there were some
- [3] that were mounded. There were both types.
- [4] Q. You said there were three or four areas. The
- [5] area -
- [6] A. As I remember, but then again, I did not cover
- [7] the entire Texas City Wye site. This was just the areas we
- [8] could get to.
- [9] Q. So we have a sense of the time frame, when was
- [10] this? It may be clear from your prior testimony, but we
- [11] haven't established it here.
- [12] A. Early '78 is as best as I can come up with.
- [13] Q. The areas that were mounded, how high were the
- [14] mounds?
- [15] A. Oh, they ranged from a foot to as high as this
- [16] table; three feet, four feet.
- [17] Q. You said that there was material, your
- [18] understanding is there was material in tanks, there was
- [19] material in pits, and that there was this material that was
- [20] visible, at least to your eye, on the surface.
- [21] A. That is my understanding.
- [22] Q. And that material from those three areas found

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- [1] its way into the environment?
- [2] MR. SARFATTI: Objection. Lack of foundation.
- [3] A. That is what the State representatives were
- [4] alleging at the time.
- [5] BY MR. OMROD:
- [6] Q. Is it your understanding that this occurred
- [7] gradually over time?
- [8] MR. SARFATTI: Objection; lack of foundation.
- [9] A. I assume that. I didn't ask the specific
- [10] question when did it occur and how quickly.
- [11] BY MR. OMROD:
- [12] Q. That was your assumption?
- [13] A. Yes.
- [14] Q. And that was based on your conversations with
- [15] State personnel? Plant personnel?
- [16] A. Plant personnel.
- [17] Q. Now, the material that was in the tanks, as you
- [18] describe it, were those tanks leaking?
- [19] A. No. No.
- [20] Q. And why is it that you believe that the material
- [21] in the tanks found its way or made its way into the
- [22] environment?

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- [1] A. When you asked me if it was leaking, my answer
- [2] was no, I did not see any evidence of leakage. I have no
- [3] way of knowing whether they leaked in the past or were
- [4] leaking in areas not visible.
- [5] Q. So you don't know one way or the other whether
- [6] the material in the tanks was a source of contamination at
- [7] the site?
- [8] A. That is correct.
- [9] Q. I take it that's not true with regards to the
- [10] material in the pits and the material visible on the

- [11] surface?
- [12] A. I don't know that, either. I don't know anything
- [13] about the geology of those pits and whether they do leak or
- [14] not.
- [15] Q. What I'm asking is your understanding of the
- [16] circumstances.
- [17] A. Well, that's why I mentioned the tank, the pits,
- [18] and the ground surface. My understanding is that all three
- [19] of these sources very likely contributed to the material the
- [20] agency claims they found.
- [21] Q. And it was your understanding that that occurred
- [22] gradually, over a period of time?

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- [1] MR. SARFATTI: Objection; no foundation.
- [2] A. That was my assumption.
- [3] BY MR. OMROD:
- [4] Q. If you could turn to Exhibit 55 -
- [5] (Witness complies).
- [6] Q. (Continuing) This is a document that Mr. Hughes
- [7] showed you earlier this afternoon, and there is a - the
- [8] first page is a distribution memo from a Robert E. Toth. Do
- [9] you see that? It's actually the second page, because the
- [10] first page is an un-Bates-stamped page that appears to have
- [11] come from the production in some way. The first actual page
- [12] of the document, though, is a, is a cover, a distribution
- [13] memo from Mr. Toth to a number of people, including you. Do
- [14] you see that?
- [15] A. I do.
- [16] Q. Mr. Toth at the time - and this is 1983 - was
- [17] the Director of Risk Management for Monsanto?
- [18] A. He was with the Risk Management Group. I do not
- [19] recall his title.
- [20] Q. Was it your understanding that he was the head of
- [21] that, that group at this time?
- [22] A. No, I didn't - I really didn't question what his

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- [1] position was. He just represented that group, in my, my
- [2] mind.
- [3] Q. He, Toth represented the Risk Management Group,
- [4] in your mind?
- [5] A. Yes.
- [6] Q. The memo that's attached that Mr. Toth writes to
- [7] Mr. Throdahl, in the second paragraph - and I'll read it -
- [8] "Monsanto is protected by its Excess Liability Insurance for
- [9] incidents involving sudden and accidental pollution which
- [10] results in bodily injury or property damage. The limit of
- [11] that coverage is currently \$325 million subject to a \$2
- [12] million Monsanto 'deductible.' However, the coverage
- [13] excludes gradual seepage and pollution." Do you see that?
- [14] A. I do.
- [15] Q. Is that consistent with your understanding of
- [16] Monsanto's coverage, insurance coverage?
- [17] MR. SARFATTI: Objection; lack of foundation.
- [18] A. I find that hard to answer because I didn't
- [19] really dwell into the area of insurance coverage. It was
- [20] kind of an interesting bit of side information that had no
- [21] impact on my responsibilities directly, and I really did not
- [22] try to understand it, frankly.

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- [1] BY MR. OMROD:
- [2] Q. But did you have some understanding?
- [3] A. All I had is an understanding that Monsanto
- [4] somehow or other is covered by some insurance. That's other
- [5] people's problems.
- [6] Q. When you say "other people's problems," you
- [7] include Mr. Toth and other people in risk management?
- [8] A. Certainly Mr. Toth, yes.
- [9] Q. Now, Mr. Toth writes that Monsanto has coverage
- [10] for incidents involving sudden and accidental pollution but
- [11] that the coverage excludes gradual seepage and pollution.
- [12] Now, my question is, is that consistent with your
- [13] understanding of the scope of Monsanto's insurance coverage?
- [14] MR. SARFATTI: Objection; lack of foundation.
- [15] A. I didn't reach any understanding on the type of
- [16] coverage, in terms of details of that kind.
- [17] BY MR. OMROD:
- [18] Q. The description of gradual seepage and pollution,
- [19] is that gradual seepage and pollution, is that consistent
- [20] with your understanding of the way the pollution occurred at
- [21] the Motco site?

[22] MR. SARFATTI: Objecting; lack of foundation.

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[1] A. Yes, I would describe, from what I understood of
[2] that situation, that it was a gradual, rather than a
[3] catastrophic kind of accident happening, and creating the,
[4] the problem.

[5] MR. OMROD: That's it for me.

[6] (Discussion off the record and short break.)

[7] MR. OMROD: Why don't we mark this as the next in
[8] order.

[9] (Papageorge Deposition Exhibit 69 marked for
[10] identification.)

[11] MR. OMROD: We've just marked as Papageorge
[12] Exhibit 69 a document Bates stamped M-O t1008810. It's
[13] dated September 2, 1982, re: "Superfund response, Texas
[14] City Wye," "Motco" in parens.

[15] MR. SARFATTI: This document -

[16] MR. OMROD: Yes, this document also fits in the
[17] category of documents that Mr. Manta sent me.

[18] Just so the record is clear, I'm asking Mr.

[19] Papageorge questions about this document that I had raised
[20] earlier, that he alluded to in response to my question about
[21] whether he was ever appointed chairman of a task force
[22] dealing with the Motco site.

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[1] BY MR. OMROD:

[2] Q. Have you had an opportunity to look over the
[3] documents, Mr. Papageorge?

[4] A. I have.

[5] Q. Does this refresh any recollections regarding
[6] whether you were ever appointed the chairman of the task
[7] force?

[8] A. I can't argue with the typewritten word, but I
[9] just - I'm having difficulty picturing this group working
[10] on that Motco site as a group, here, like this, but the
[11] document indicates that that task force was formed.

[12] Q. That's your signature on the document?

[13] A. I'm sorry?

[14] Q. That's your signature -

[15] A. Yes.

[16] Q. - on this one-page memo? Do you recall the task
[17] force being created?

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

[19] Q. The first paragraph says, "Pursuant to the
[20] recently-approved guideline for Superfund response, a task
[21] force has been formed to manage a response to the Texas City
[22] Wye," and then it lists the members and you are listed as

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[1] the chairman. The reference to the guideline for Superfund
[2] response, what is that?

[3] A. I don't recall it. I'd have to read that
[4] document over again to refresh my memory.

[5] Q. Is there a document called a guideline for
[6] Superfund response?

[7] A. I don't - that's why I'm having difficulty; I
[8] just don't recall such a title.

[9] Q. Is there a source of information that would
[10] provide, provide guidance, generally provide guidance on
[11] Superfund response for Monsanto?

[12] A. As best I recall, this would have to be one of
[13] the environmental policy guidelines having to do with waste
[14] disposal that were modified to take into account Superfund
[15] regulations.

[16] Q. You testified that you don't specifically recall
[17] this task force. Do you recall the creation of another task
[18] force for Superfund sites, within Monsanto?

[19] A. I'm having difficulty recalling. I just don't
[20] remember.

[21] MR. SARFATTI: Have you now truly completed your
[22] examination?

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[1] MR. OMROD: I have now truly completed my
[2] examination, but I did feel like after I had made that
[3] representation, I at least should make some effort to find
[4] this document.

[5] THE WITNESS: I understand.

[6] (Discussion off the record)

[7] EXAMINATION

[8] BY MR. JOHNSON:

[9] Q. Good afternoon, Mr. Papageorge.

[10] A. Good afternoon.

[11] Q. I want to say thank you, certainly, for five days
[12] of very patient testimony, and I'm sure it's been a long
[13] time coming for you, as well, so I'll try to wrap it up,
[14] here, in due order and we can all get out of here.

[15] Mr. Papageorge, in your prior testimony, you've
[16] testified that in 1974, you had no responsibility regarding
[17] vinyl chloride and styrene. Do you recall that?

[18] A. Yes, I recall it, and that is true.

[19] (Papageorge Deposition Exhibit 70 marked for
[20] identification.)

[21] BY MR. JOHNSON:

[22] Q. While you are perusing this document, let me just

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[1] note the Bates range number. We'll go with WHP 0323272.

[2] Unfortunately, this document is not all in the order it
[3] should be in. The Bates range ranges are switched, ending
[4] at WHP 0323271.

[5] Steve, I'll represent that these were included in
[6] the designation.

[7] MR. SARFATTI: The Manta materials?

[8] MR. JOHNSON: Yes.

[9] MR. SARFATTI: I'll accept that.

[10] MR. JOHNSON: And that will be the case with all
[11] the documents I use as exhibits.

[12] MR. SARFATTI: I'll accept your representation.

[13] BY MR. JOHNSON:

[14] Q. Mr. Papageorge, in particular, I'm interested in
[15] a Monsanto "Dear Customer" letter, there, at WHP 0323267.

[16] A. I see it.

[17] (Witness peruses said document.)

[18] A. (Continuing) I have read the document you refer
[19] to or the letter you refer to.

[20] BY MR. JOHNSON:

[21] Q. Okay, and I use this just, perhaps, to refresh
[22] your recollection going back to almost twenty years. Would

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[1] you agree that it appears from this documents that, in fact,
[2] in 1974, you did have some responsibility with regard to
[3] vinyl chloride?

[4] A. It depends on your definition, really, of
[5] involvement and responsibility with vinyl chloride. I was
[6] involved with plasticizers which were manufactured by
[7] Monsanto, and one of the ingredients of manufacture was
[8] vinyl chloride. The end product is not vinyl chloride, per
[9] se, so when you asked me was I involved with vinyl chloride,
[10] I, I really wasn't involved with vinyl chloride.

[11] Q. But I believe my question was whether you had any
[12] responsibility with respect to vinyl chloride.

[13] A. I didn't. I had nothing to say about vinyl
[14] chloride and its labeling or what have you.

[15] Q. Well, in the second paragraph of this document,
[16] there are the words, and in fact, you signed this letter and
[17] sent it to, presumably sent it to Monsanto customers; isn't
[18] that correct?

[19] A. Yes.

[20] Q. There is some language, quote - there in the
[21] second paragraph, right after the vinyl chloride latexes,
[22] it's in the third line, there -

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[1] A. Yes.

[2] Q. - quote, "- you purchase from Monsanto are also
[3] polymers derived from VC and as such contain residual
[4] amounts of vinyl chloride monomer." I guess I'm at a bit of
[5] a quandary as to understand the distinction that you are
[6] drawing as to whether you had any responsibility with regard
[7] to vinyl chloride.

[8] A. Well, I'm having problems understanding your, the
[9] thrust of your question. In the products that I
[10] represented, vinyl chloride was a contaminant, as
[11] distinguished from the product sold as vinyl chloride in
[12] tank cars to customers. Since it did exist as referred to,
[13] residual amounts, and it's possible for these amounts to
[14] build up under certain conditions of use or storage, it was
[15] prudent, at least in my belief, that I inform the purchaser
[16] of Monflex and Polvin materials that they might see some
[17] vinyl chloride under certain conditions. This is the status
[18] of the vinyl chloride situation. That was the intent of
[19] this letter.

[20] Q. Well, you may have misunderstood me, but I was

[21] not trying to suggest that we were talking about the
[22] product, itself. I was talking -- I didn't use that

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[1] terminology, in fact. I just was referring to vinyl
[2] chloride as a chemical.
[3] A. Okay.
[4] Q. Okay, you can put that aside, as we frequently
[5] use the expression at my firm. I should also have said and
[6] now will say for the record that I represent the Travelers
[7] Indemnity Company in this litigation.
[8] A. All right.
[9] (Papageorge Deposition Exhibit 71 marked for
[10] identification.)
[11] (Witness peruses said document.)
[12] BY MR. JOHNSON:
[13] Q. Exhibit 71 has a Bates range of MCO 8229030
[14] through 8229031.
[15] Mr. Papageorge, you can -- I'm not going to go
[16] into the substance of this too much. Just let me know when
[17] you are ready.
[18] (Witness peruses said document.)
[19] A. I believe I am ready.
[20] Q. Okay. This appears to be a follow-up to your
[21] earlier letter we discussed as Exhibit Number 70. Would
[22] that be correct?

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[1] A. It is.
[2] Q. And it's signed by you, as well; isn't that
[3] correct?
[4] A. It is.
[5] Q. Would it be fair to say this was an expression to
[6] Monsanto customers of safety or health concerns regarding
[7] vinyl chloride?
[8] A. Yes.
[9] Q. And would you just fill me in on, in a lay
[10] person's term, terminology, what your concerns were about
[11] the safety of vinyl chloride?
[12] A. The Occupational Safety and Health Administration
[13] had determined that vinyl chloride, under certain conditions
[14] of exposure, can cause harm to human beings. As a result of
[15] that determination, they established exposure levels that
[16] they felt would -- should be maintained to avoid harming
[17] individuals in the workplace.
[18] Since that position was taken by OSHA, I felt
[19] that I ought to inform customers that although the vinyl
[20] chloride in the products we sold them was very small, we
[21] didn't know the conditions of use or whether it would build
[22] up to a point where it could create a situation that would

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[1] exceed the guidelines that OSHA, or the levels that OSHA was
[2] promulgating, that we felt that our customers at least ought
[3] to be informed that the material they were buying under a
[4] Monsanto trademark had in it this residual amount of vinyl
[5] chloride, and then they were expected to make their own
[6] decisions regarding the need to take any further action.
[7] Q. And while you were alerting your customers to
[8] these potential adverse health effects of vinyl chloride
[9] monomer, were you aware that there were similar warnings
[10] being given to Monsanto employees?
[11] A. Since I wasn't involved, I can't speak personally
[12] on that. I was not involved with employee exposure at the
[13] time, at the plants.
[14] Q. Okay, but -- so whether or not you were
[15] responsible, were you aware of whether or not something
[16] similar was being done at Monsanto?
[17] A. I had heard that these kind, this kind of
[18] information was being relayed to the various Monsanto plants
[19] and handled -- that handled vinyl chloride, yes, but it was
[20] only what I'm going to call hearsay. I personally did not
[21] study it or pursue it any further.
[22] Q. Okay, hearsay, what do you mean by hearsay, sir?

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[1] A. I'm over in the Medical Department, and they're
[2] talking about it in the restroom, and so on, that's where I
[3] heard it.
[4] Q. Did you at any time make an effort to communicate
[5] what you knew about the concerns regarding vinyl chloride
[6] within Monsanto's company and personnel?
[7] A. No.
[8] Q. In the, quote, "hearsay," unquote, that you

[9] heard, what kind of information do you recall being told?
[10] A. I don't remember the details, other than that
[11] vinyl chloride was suspected, if my memory serves me right,
[12] of causing liver damage at high levels of exposure, and
[13] that's really all I remember about it. I've forgotten what
[14] levels OSHA set, and so on, later.
[15] MR. HUGHES: Okay, let's set that aside.
[16] (Papageorge Deposition Exhibit 72 marked for
[17] identification.)
[18] (Witness peruses said document.)
[19] MR. JOHNSON: The Bates range for Papageorge
[20] Exhibit 72 is MCO 9431852 through 9431851, and it's an
[21] excerpt from the "Chemical Marketing Reporter" dated April
[22] 22nd, 1974. At least, that's on the first page, and the

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[1] following page is an excerpt from a "Journal of Commerce"
[2] dated April 17, 1974.
[3] A. I've reviewed it.
[4] BY MR. JOHNSON:
[5] Q. Mr. Papageorge, you would have received a copy of
[6] this document in the normal course of Monsanto mailings;
[7] isn't that correct?
[8] A. I see my name listed.
[9] Q. Do you recall --
[10] A. I --
[11] Q. Do you recall seeing this document?
[12] A. I do not recall these at all.
[13] Q. Do you know why you would have been "cc:'d" on
[14] this document, sir?
[15] A. Because of my involvement at the time with those
[16] materials I had mentioned earlier as shown in the previous
[17] documents, the Monsanto products that were made with vinyl
[18] chloride as one of the starting materials.
[19] Q. And who would have been responsible for sending
[20] this document to you?
[21] A. Well, I don't know who sent the first one.
[22] There's no indication. The second page came from Mr.

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[1] Barton.
[2] Q. And who was Mr. Barton?
[3] A. He's a public relations employee of Monsanto.
[4] Q. We talked several days ago, or perhaps it was
[5] actually sometime in January, about press clippings that you
[6] would receive. Isn't that correct?
[7] A. Yes, I mentioned that.
[8] Q. Do you think this would have been part of that
[9] service?
[10] A. No.
[11] Q. Why not?
[12] A. Well, the service I described, I got the actual
[13] clippings from newspapers, and journals and all, rather than
[14] copies, such as this one, and it did not come from Mr.
[15] Barton, Mr. Barton's office, so this is not the kind of
[16] thing that I would have seen in that clipping service.
[17] Q. Do you recall attending meetings to discuss this
[18] issue of the safety of vinyl chloride monomer around the
[19] time of this document, 1974, by around, let's say, within,
[20] within six months on either side of this date?
[21] A. I don't recall any vinyl chloride meeting. I
[22] just don't remember one.

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[1] Q. Do you recall when you were originally given the
[2] assignment to address vinyl chloride?
[3] A. No.
[4] Q. Do you recall why you were given responsibility
[5] over this chemical?
[6] A. Well, back in about 1973, when, as best I recall,
[7] was the time Monsanto Industrial Chemicals Company was
[8] formed, I was one of three Managers of Product Acceptability
[9] assigned to that operating unit. That part of the operating
[10] unit, the products of the operating unit assigned to me
[11] included those plasticizers which were manufactured at
[12] Monsanto's plants, using vinyl chloride as one of the
[13] starting materials. That's how I ended up with that
[14] particular product line.
[15] Q. Now, given that and given the fact that we've
[16] focused on vinyl chloride as one chemical that you had some
[17] responsibility for by virtue of what you just described, do
[18] you recall now other chemicals that would fall in that same
[19] category leading to -- within your responsibility?

[20] A. You mean other chemicals containing vinyl
[21] chloride?

[22] Q. No, other chemicals other than vinyl chloride.

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[1] A. Gosh, I can't recall all of them, of course.
[2] There were other plasticizers that belonged in that family
[3] of chemicals. I think that's what you are referring to.

[4] Q. For example?

[5] A. Phosphate esters, and phthalate esters, and
[6] maleic esters.

[7] Q. Were there others, other chemicals that you would
[8] have sent warnings to customers regarding?

[9] A. Regarding what?

[10] Q. Regarding the health consequences of the use of
[11] those chemicals.

[12] A. Only if there was some new and important
[13] development regarding the ingredients present in that
[14] product line, such as the vinyl chloride situation.

[15] Q. Right. My question is not hypothetical, though.

[16] My question is whether there were others, do you recall
[17] there being others.

[18] A. I don't recall any.

[19] (Papageorge Deposition Exhibit 73 marked for
[20] identification.)

[21] (Witness peruses said document.)

[22] MR. JOHNSON: The Bates range is STG 3415164 and

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[1] STG 3416165.

[2] (Witness continues to peruses said

[3] document.)

[4] A. I've glanced at the article.

[5] BY MR. JOHNSON:

[6] Q. Mr. Papageorge, do you recall ever seeing this
[7] document before?

[8] A. I don't remember it.

[9] Q. Up in the left-hand corner, there are some

[10] handwritten notations there, and it appears that you

[11] received what is an XC copy of this. Would that be a

[12] correct statement?

[13] A. I would suggest that more correctly, an XC copy
[14] was addressed to me, intended for my use, or -

[15] Q. And in the normal course of business and mailings

[16] at Monsanto, something was directed toward you, you would

[17] have received it; is that correct?

[18] A. Likely, yes.

[19] Q. Okay. I don't want to go down that road again.

[20] The second page of this document indicates that

[21] it was apparently sent or at least written, published by the

[22] Environmental Control Program, Galveston County Health

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[1] District, August 24, 1979. Is that correct?

[2] A. Well, that's what I read there, yes, sir.

[3] Q. Could you - or, I'm sorry, scratch that.

[4] Do you recall why, as late as August 24, 1979, at

[5] least, you could have received this document even later, but

[6] at least as of that date, you were still receiving

[7] information on vinyl chloride?

[8] MR. SARFATTI: I object to the question to the

[9] extent it has a certain assumption that's not borne out by

[10] the testimony as to receipt of the document.

[11] BY MR. JOHNSON:

[12] Q. Mr. Papageorge, it appears that at least as late

[13] as August 24, 1979, you were still receiving information

[14] regarding vinyl chloride; is that correct?

[15] MR. SARFATTI: Same objection.

[16] A. I was receiving information regarding vinyl

[17] chloride in a different context. This had to do with the

[18] Texas City Wye, as distinguished from vinyl chloride in a

[19] product sold by Monsanto.

[20] BY MR. JOHNSON:

[21] Q. And how critical is that distinction?

[22] A. Well, it depends what you are looking for.

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[1] Q. Well, I'm sorry, sir, you made the distinction,
[2] so I'm just asking you what difference it makes.

[3] A. Well, you made your question sound to me as
[4] though I was on somebody's mailing list that said I would
[5] get a steady flow of vinyl chloride information, and I
[6] didn't really perceive it that way. I got the initial
[7] information as it related to an OSHA action, and it did

[8] relate to a product. This document I'm now looking at

[9] relates to a reported finding from the Texas City Wye.

[10] Q. Well, you may have, perhaps, misunderstood my

[11] question, but -

[12] A. I may well have.

[13] Q. Do you recall the, quote, "in between magazine"

[14] close quote, article that apparently was attached to this

[15] originally but does not appear here, regarding the

[16] petroprocessor pits at the Wye in LaMarque?

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

[18] Q. Regarding the next sentence, and the alleged

[19] exposure to, quote, "possibly deadly amounts of vinyl

[20] chloride between 1973 and 1978 by some LaMarque residents,"

[21] do you recall that subject?

[22] A. No. Where are we? I'm having a hard time

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[1] finding that.

[2] Q. I'm sorry, we're at the second sentence of the

[3] first paragraph. Quote, "A major criticism expressed by

[4] this article is that LaMarque residents in the Sunflower

[5] Mobile Home Park were exposed to 'possibly deadly amounts of

[6] vinyl chloride between 1973 and 1978'," close quote.

[7] A. I don't remember that, but that's what it says.

[8] Q. And again, you don't recall receiving this

[9] document?

[10] A. That's true.

[11] Q. Would you agree with the sentence under "public

[12] awareness" that reads, "The Petro-Processors Pits at the Wye

[13] in LaMarque have been recognized as a serious environmental

[14] problem since the early 1960's"?

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

[16] A. I have no way to agree or disagree with that,

[17] since I know nothing about the 1960's and early '70's. I

[18] have no way to evaluate that sentence, so I can't agree with

[19] it, I can't disagree with it.

[20] BY MR. JOHNSON:

[21] Q. How about under Paragraph 2, "Vinyl chloride

[22] hazard," quote, "It was not until 1974 that vinyl chloride

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[1] became recognized as a human carcinogen," close quote. Do

[2] you have any reaction to that sentence?

[3] A. That is my understanding. I agree with that.

[4] (Papageorge Deposition Exhibit 74 marked for

[5] identification.)

[6] (Witness peruses said document.)

[7] MR. JOHNSON: The Bates range for this exhibit is

[8] MCO 6550949 through MCO 6550952. It's a memo, memorandum

[9] dated November 4, 1957, to a J. S. Putnam at Texas City.

[10] THE WITNESS: I have glanced over the document

[11] and I have - this is the first time I've seen it.

[12] BY MR. JOHNSON:

[13] Q. Mr. Papageorge, doesn't it appear, again, that

[14] you were an addressee with regard to this document, by

[15] virtue of your name written next to an "XC" in the upper

[16] right-hand corner?

[17] A. That is certainly there, but I just can't recall

[18] this at all.

[19] Q. But that's been the case with a number of

[20] documents, as well, so -

[21] A. That's right.

[22] Q. But it would appear that you would, in the likely

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[1] course of business, have received this document?

[2] A. Probably.

[3] Q. Okay. Do you know who J. S. Putnam is?

[4] A. No.

[5] Q. Do you have any idea who would have sent this

[6] document to you?

[7] A. No.

[8] Q. Does it appear to you that, to the column just

[9] below to the right of your name, there are the initials

[10] "GLT"? Does that look like "GLT" to you?

[11] A. I see the "LT." I can't make out the first

[12] letter.

[13] Q. Were the plant manager's initials "GLT"?

[14] A. I believe you are right, Gene Tromblee, yes,

[15] mm-hmm.

[16] Q. So it's - if that is GLT, then Mr. Tromblee

[17] received this document as well, probably; is that correct?

[18] A. Oh, I - your guess is as good as mine.

[19] Q. Do you have any idea as to why someone would have
[20] sent this document to you?

[21] A. I do not.

[22] Q. Could it be that the document, this document

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[1] addresses waste materials taken to North 80 for disposal?

[2] You can find that reference on the first page.

[3] A. Yes, I see that reference. It could be. I have,
[4] like I said earlier, I have no idea how this relates to
[5] activity in 1979.

[6] Q. Well, I'm sorry, sir, why are you relating it to
[7] 1979?

[8] A. Well, that's when I was involved with these kinds
[9] of situations. '77-'78-'79.

[10] Q. You could have received this document as early as
[11] 1977; is that what you said, in essence?

[12] A. That's, that is -- if I did receive it, that
[13] would be the earliest date that I can realistically state as
[14] being a possible date.

[15] Q. And again, you would have received it, perhaps,
[16] as early as that date for what reason?

[17] A. Well, that's when I'm having some problems
[18] determining -- since I don't have any recollection on it, I
[19] just would be guessing.

[20] Q. The first numbered paragraph discusses styrene
[21] tars, and it reads, quote, "A project is now being submitted
[22] for capital expenditure of \$150,000 to remedy this

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[1] situation." close quote.

[2] A. I see it.

[3] Q. Do you have any sense as to what, quote, "this
[4] situation" refers to?

[5] A. I know nothing about it.

[6] Q. Let's turn to MCO 6550951.

[7] A. I have it.

[8] Q. Okay, paragraph 12, and it refers to chlorinated
[9] tar from VCM. Would you read that paragraph over and tell
[10] me whether you have any recollection of what situation this
[11] refers to?

[12] A. I know nothing about that.

[13] Q. And then below that, there is a paragraph, the
[14] first sentence of which talks about a visit to North 80 by
[15] Mr. Punam and a Mr. Wood. Do you know Mr. Wood?

[16] A. I do not.

[17] Q. Have you ever heard Mr. Wood's name mentioned
[18] before?

[19] A. Since I don't know who Mr. Wood, which Mr. Wood
[20] this is, I --

[21] Q. Well, which Mr. Wood could it have been?

[22] A. I don't know the Mr. Wood that would fit this

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[1] scenario.

[2] Q. Which --

[3] A. I know other Mr. Woods in Monsanto who were
[4] marketing people had nothing to do with this.

[5] Q. You didn't know any Mr. Woods who were at Texas
[6] City?

[7] A. That is correct.

[8] Q. You don't know any Mr. Woods who might have
[9] visited North 80 in 1957?

[10] A. I do not.

[11] Q. Does the name "N. F. Wood" ring a bell with you,
[12] sir?

[13] A. No.

[14] Q. Mr. Papageorge, when you received documents
[15] throughout the years you were at Monsanto, was it your
[16] policy to read those documents?

[17] A. Well, it depends on the type of document, and if
[18] I felt it related to what I was interested in, certainly I
[19] would read it. If it was the equivalent of junk mail, I
[20] didn't have time to waste on it.

[21] Q. Was it your policy to read documents that were
[22] addressed to you on Monsanto letterhead?

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[1] A. Certainly.

[2] (Papageorge Deposition Exhibit 75 marked for
[3] identification.)

[4] (Witness peruses said document.)

[5] BY MR. JOHNSON:

[6] Q. Papageorge Deposition Exhibit 75 is Bates stamped

[7] MCO number 8250928, and it's a letter on Monsanto letterhead

[8] dated February 9, 1978. I assume you've been able to read
[9] this pretty quickly.

[10] A. Yes, sir.

[11] Q. Is that your handwriting on the right-hand
[12] corner. "File - Styrene"?

[13] A. Yes.

[14] Q. So we found one that has your handwriting on it;
[15] okay.

[16] Who is Tom Smith? Senior Vice-President,

[17] Marketing Coordination, I understand that, but with respect
[18] to what?

[19] A. He is the corporate vice-president who concerns
[20] himself with corporate-wide marketing activities.

[21] Q. And in that connection, then, why would he be
[22] writing a letter to the Manufacturing Chemists Association

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[1] regarding replacing you from the Styrene Technical
[2] Committee?

[3] A. If memory serves me right, Mr. Smith at that time
[4] was Monsanto's official representative on the Manufacturing
[5] Chemists Association Board of Directors or whatever they
[6] call the policy group there, and being a member of an --
[7] sort of an official in the Manufacturing Chemists

[8] Association, he is the one to make the assignment as to who
[9] from Monsanto would fulfill jobs of the type described here.

[10] Q. What was the Styrene Technical Committee?

[11] A. It was a group of representatives from the
[12] various styrene manufacturers and users that met on some
[13] sporadic basis to discuss anything that came up regarding
[14] styrene.

[15] Q. What do you mean by sporadic?

[16] A. It was not a case where they met on some specific
[17] time schedule. They met only on an as-needed basis, and
[18] that need would be perceived either by the chairman of the
[19] committee or any of the members who would ask that a
[20] meeting

be held to discuss some issue.

[21] Q. How long were you on this committee?

[22] A. As best I recall, it was from late '76 to the

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[1] date of this letter.

[2] Q. And Mr. Smith appointed you to this committee?

[3] Is that correct?

[4] A. I don't really know who appointed me. I was
[5] informed that I was a member and I attended a couple of
[6] meetings, and that's about the extent of my involvement.

[7] Q. Where were those meetings held?

[8] A. In the Manufacturing Chemists Association offices
[9] in Washington, D.C.

[10] Q. Why were you replaced?

[11] A. In '78 -- I'm trying to associate some change. I
[12] just don't know. Mr. Schlattman was a DEO of the Plastics,
[13] Monsanto Plastics Company, and someone decided that Mr.
[14] Schlattman, who represented the plastic company, would be a
[15] more logical representative. I don't know who that was that
[16] decided that.

[17] Q. Did you have any objections to being replaced?

[18] A. No.

[19] Q. Why not?

[20] A. Well, selfishly, it meant a lot of work for me,
[21] and I was glad to share the workload with someone, and on
[22] the other hand, I really didn't have any particular styrene

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[1] expertise to bring to the party, so my replacement really
[2] didn't result in any loss, as far as Monsanto was concerned.

[3] Q. If you didn't, to use your word, have particular
[4] expertise in styrene --

[5] A. Right.

[6] Q. -- did it strike you as surprising that you were
[7] named to the committee at all?

[8] A. Not necessarily surprising, because remember, in
[9] 1978, I was the DEO of the Monsanto Chemical Intermediates
[10] Company which manufactured the styrene, so it fit in with
[11] the kinds of materials made by MCI.

[12] Q. But wouldn't it be logical to assume that the
[13] Styrene Technical Committee would be made up of people who
[14] were experts in styrene?

[15] A. Well, I like to think that they had expertise of
[16] many types represented on that committee.

[17] Q. But particularly styrene.
 [18] A. That's what we're talking about, styrene.
 [19] Q. Right.
 [20] A. Yes. There's research expertise, there's
 [21] manufacturing expertise, there's marketing expertise,
 [22] there's health expertise, and so on.

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[1] Q. But you said you didn't have expertise in
 [2] styrene. Isn't that correct?
 [3] A. I only had a one-year assignment to styrene, so I
 [4] didn't come on board with any real background, so I couldn't
 [5] really bring anything to that party other than representing
 [6] Monsanto, a manufacturer.
 [7] Q. So would you - would it be fair to say that you
 [8] would stay relatively quiet during these meetings of the
 [9] committee?
 [10] A. Generally, yes.
 [11] Q. Now, you also said that the committee met
 [12] sporadically. Isn't that correct?
 [13] A. I did.
 [14] Q. You also said that when Mr. Schlattman replaced
 [15] you, you weren't disappointed because it had involved a lot
 [16] of work; is that correct?
 [17] A. Well, it involved some work. I don't know that I
 [18] used the word a lot of work. It involved work, which I was
 [19] willing to share -
 [20] Q. Preparing?
 [21] A. Well, sure, preparing, travel time, away from the
 [22] office, responding to correspondence, what there was of it,

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[1] staying kind of tuned in, yes, it takes time.
 [2] Q. Do you recall as a topic at one of the committee
 [3] meetings or in any correspondence while you were on the
 [4] committee, the issue of disposal of styrene?
 [5] A. No.
 [6] Q. When you were appointed to the committee, did you
 [7] have any knowledge regarding the disposal of styrene?
 [8] A. No.
 [9] Q. None whatsoever?
 [10] A. That's right.
 [11] Q. Wouldn't it be logical to think that the Styrene
 [12] Technical Committee would consider, among other things, the
 [13] disposal of styrene?
 [14] A. Oh, I don't know that I would call it illogical
 [15] (sic). It could be a subject of discussion, assuming that
 [16] there was a problem. I don't recall anybody at any session
 [17] pointing out that, "Hey, disposal of styrene poses some
 [18] problem that we all need to get together on and solve."
 [19] That never came up.
 [20] Q. Would Mr. Schlattman have known more about
 [21] disposal of styrene than you?
 [22] A. I don't know. You'll have to ask someone else

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[1] about that. I just don't know.
 [2] Q. Did you ever convene any of these meetings?
 [3] A. Did I chair them, you mean, or call for one? No.
 [4] Q. Well, yeah, convene.
 [5] A. I did not.
 [6] Q. Did anyone at Monsauo ever direct you to call
 [7] for such a meeting?
 [8] A. Nope.
 [9] Q. How about health issues related to the handling
 [10] of styrene: Did they come up at any of these sessions you
 [11] attended or in any of the correspondence you received?
 [12] A. I don't remember any health issue that wasn't
 [13] already well-known and well documented, so nothing came up
 [14] in the way of new discussions regarding health issues.
 [15] Q. So, then, if you didn't talk about disposal of
 [16] styrene, as you recall, and you didn't talk about health
 [17] issues related to styrene, what other issues were talked
 [18] about in these committee meetings regarding styrene?
 [19] A. I honestly don't remember.
 [20] Q. Did you take notes at any of these meetings?
 [21] A. No. I don't take notes.
 [22] Q. Did you have to report back on what happened at

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[1] these committee meetings to anyone at Monsauo?
 [2] A. No, unless I learned something that was - that
 [3] struck me as being totally new, different and important. If
 [4] nothing resulted from the meeting, I would have nothing to

[5] communicate.
 [6] Q. So it was discretionary with you to decide
 [7] whether or not to communicate the results of any of these
 [8] meetings?
 [9] A. That is right.
 [10] Q. And how long did these meetings generally last?
 [11] A. A couple of hours.
 [12] Q. So would there just be a one-day meeting in
 [13] Washington, D.C.?
 [14] A. Yeah, something like starting at 10:00 and finish
 [15] by noon, that sort of schedule.
 [16] Q. Presumably, you had to report to your superiors
 [17] that you were going to Washington, D.C., for a meeting of
 [18] the Styrene Technical Committee, didn't you?
 [19] A. You mean a report in the way of an expense
 [20] account, or tell them in advance I'm going?
 [21] Q. Yes.
 [22] A. No.

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[1] Q. Did you have to tell your secretary?
 [2] A. Oh, certainly. She arranged my travel
 [3] arrangements; she knew it.
 [4] Q. What's the approximate date, again, when you were
 [5] no longer on the Styrene Technical Committee?
 [6] A. It became effective the date of this letter,
 [7] really, as far as Monsanto was concerned.
 [8] Q. I'm sorry, Mr. Papageorge, Mr. Smith says in the
 [9] letter that, quote, "We would like to replace Mr.
 [10] Papageorge." It doesn't say that it became effective
 [11] immediately, does it?
 [12] A. Well, in the real world, the minute Mr. Smith
 [13] sent this letter out, Mr. Schlattman took over. That's what
 [14] happened.
 [15] (Papageorge Deposition Exhibit 76 marked for
 [16] identification.)
 [17] MR. JOHNSON: The Bates range we'll use as WHP
 [18] 0323077 through WHP 0323080. It's a Monsanto memorandum
 [19] dated February 7, 1978: Subject, "MCA Styrene Chronic
 [20] Toxicology."
 [21] (Witness peruses said document.)
 [22] BY MR. JOHNSON:

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[1] Q. Whenever you are ready, Mr. Papageorge.
 [2] (Witness continues to peruses said
 [3] document.)
 [4] A. I have reviewed the document.
 [5] Q. Would you agree that this is a type of document
 [6] normally - I'm at a loss for words, here - that was
 [7] drafted and presented in the normal course of Monsanto
 [8] business?
 [9] A. Yes.
 [10] Q. Sorry about the lack of eloquence on that.
 [11] Do you recall seeing this document, Mr.
 [12] Papageorge?
 [13] A. I recall the subject matter. I'm having
 [14] difficulty, again, placing the specific document.
 [15] Q. You were "cc:'d" on this, this first document
 [16] dated February 7, 1978; is that correct?
 [17] A. That's what it shows.
 [18] Q. What did you know back on February 7, 1978, shall
 [19] I say up to the date of this memorandum, regarding the
 [20] toxicology of styrene?
 [21] MR. SARFATTI: Objection; vague, lack of
 [22] foundation.

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[1] (Witness peruses said document.)
 [2] A. Reading this document refreshes my memory
 [3] slightly in terms of I recall the Dow study, the styrene and
 [4] leukemia, and I recall that there remained some questions
 [5] about the validity of that work and the need to conduct
 [6] further study. I just, that's all I remember.
 [7] BY MR. JOHNSON:
 [8] Q. Why would you have received this document?
 [9] A. Because the plant in Monsanto that manufactured
 [10] styrene was part of the MCI organization and I was part of
 [11] MCI.
 [12] Q. I think - correct me if I'm wrong, and if we
 [13] have to go back and look at the transcript, maybe we will,
 [14] but in response to a question by Mr. Mania regarding
 [15] hydrogeology -

- [16] A. Correct.
 [17] Q. - you said that you had no expertise in
 [18] hydrogeology, in essence, in the same sense that you had no
 [19] expertise in toxicology. Do you recall that?
 [20] A. Yes.
 [21] Q. So why would you have received a report regarding
 [22] toxicology of styrene?

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- [1] A. Well, you'll have to ask the author of the report
 [2] what intent he had in copying me in. I can't speak for him.
 [3] Q. Well, unfortunately, I can't ask the author of
 [4] the report, and I would assume that you would have a pretty
 [5] good understanding of why you received certain documents
 [6] while you worked at Monsanto. I'm not asking about - I'm
 [7] not asking you about the intent of the person who sent it to
 [8] you, I'm asking you why you think you received this
 [9] document.
 [10] A. Because I represented the environmental
 [11] operations function of the operating unit in Monsanto that
 [12] produced styrene, and it was within my organization that I
 [13] had an individual who concerned himself with industrial
 [14] hygiene matters as it relates to the workplace. Because of
 [15] that connection, in turn, from the Manager of Industrial
 [16] Hygiene down into the plants, this was a way to communicate
 [17] information of this type. That's why I would expect - I'm
 [18] not surprised that I received information like this.
 [19] Q. Okay. I ask you to turn your attention to the
 [20] last page of this document, and it refers to an MCA - I
 [21] assume that's Manufacturing Chemists Association - Styrene
 [22] Toxicology Committee meeting, February of 1978. Isn't that

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- [1] correct?
 [2] A. It does.
 [3] Q. And the second paragraph, in particular, says,
 [4] quote, "The memo (MCT to LF, February 7, 1978) covers the
 [5] agreed-upon position and strategy that was arrived at today
 [6] among the following," and your claim is listed among people
 [7] there. What - first of all, who is "MCT"?
 [8] A. "MCT"? Mr. Throdahl.
 [9] Q. Okay, and is that "LF"?
 [10] A. I'm - where are we reading?
 [11] Q. In the parenthetical in the paragraph I just
 [12] quoted. The memo, "(MCT to LF)"?
 [13] A. "LF" is Louis Fernandez. He's referring to the
 [14] first several pages of this exhibit.
 [15] Q. Okay. What do you think he means by the word
 [16] "strategy"?
 [17] MR. SARFATTI: Objection; lack of foundation.
 [18] A. I can only share with you my understanding of the
 [19] word. It's the - it's an attempt to describe the actions
 [20] to be taken within Monsanto to respond to this new piece of
 [21] information regarding styrene.
 [22] BY MR. JOHNSON:

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- [1] Q. And would that "strategy" be communicated at a
 [2] meeting of the Styrene Toxicology Committee?
 [3] A. Well, first, I don't know of any such committee.
 [4] I don't remember such a title, but that strategy, adopted by
 [5] Monsanto - well, you'll have to ask the spokesman that
 [6] attended that MCA meeting as to what it is they did when
 [7] they were there. I don't know.
 [8] Q. Well, this may be a mistake by Mr. Throdahl when
 [9] he refers to it as the, quote, "Styrene Toxicology
 [10] Committee." Perhaps he's referring to the Styrene Technical
 [11] Committee. Is that possible?
 [12] A. That is possible.
 [13] Q. Okay, and it does say, again, that there was a,
 [14] an agreed-upon position arrived at by a group of people,
 [15] including yourself. Isn't that correct?
 [16] A. It is correct.
 [17] Q. So presumably, you took part in discussions to
 [18] reach an agreed-upon position and strategy; is that correct?
 [19] A. That is correct.
 [20] Q. Do you recall what that was, again?
 [21] A. Not in total detail.
 [22] Q. Well, in less than total detail, then.

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- [1] A. It's reflected, as I said earlier, it had to do
 [2] with questioning, really, the validity of the Dow study
 [3] results and the supporting of continued studies, to either

- [4] confirm the findings or, or whatever the results might
 [5] indicate, and communicate to the employees the status of all
 [6] this in terms of Dow's results an Monsanto's opinion of the
 [7] results and what Monsanto is going to do further.
 [8] Q. Would this topic of styrene chronic toxicology
 [9] have come up at earlier meetings of the Styrene Technical
 [10] Committee that you attended?
 [11] A. I don't, I just don't remember.
 [12] Q. Would positions and strategies, to use those
 [13] words, of Monsanto, have come up at these meetings?
 [14] A. At the MCA Styrene Committee meetings?
 [15] Q. Yes, sir.
 [16] A. No, sir.
 [17] Q. Well, could you explain to me, then, under the
 [18] list of names, what the paragraph means that reads, quote,
 [19] "This memo will serve as a guide for the MCA Styrene
 [20] Committee meeting in Washington, D.C., February 10"? I'll
 [21] just read that much of it.
 [22] A. That tells me that the MCA Styrene Committee had

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- [1] called for a meeting on February 10th to describe Dow's
 [2] findings, to discuss Dow's findings. Monsanto got word of
 [3] that and chose to develop this strategy as described in this
 [4] document and chose Mr. Schlattman, Dr. Levinskas, and Mr.
 [5] Waggoner to attend that meeting and represent Monsanto's
 [6] position. That's what that says to me.
 [7] Q. So Mr. Schlattman would have had an active role
 [8] in this meeting on February 10th in Washington, D.C. Isn't
 [9] that correct?
 [10] A. Yes.
 [11] MR. SARFATTI: Objection; lack of foundation.
 [12] A. (Continuing) That's what this memorandum
 [13] indicates.
 [14] BY MR. JOHNSON:
 [15] Q. Would it be fair to say that this would have been
 [16] quite a departure from the role that you had in the styrene
 [17] committee meetings when you sat on it, based on your
 [18] testimony thus far?
 [19] MR. SARFATTI: Objection to the form.
 [20] A. If management within Monsanto had decided to have
 [21] me continue to represent Monsanto on this committee, I would
 [22] have been furnished the same information that Mr. Schlattman

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- [1] was.
 [2] MR. HUGHES: Would you mind reading back my
 [3] question?
 [4] I appreciate your answer, but I don't think it
 [5] responds to the question. I'm sorry.
 [6] (Discussion off the record.)
 [7] THE COURT REPORTER:
 [8] "Q. Would it be fair to say that this would have
 [9] been quite a departure from the role that you had in the
 [10] styrene committee meetings when you sat on it, based on your
 [11] testimony thus far?"
 [12] A. I don't see it as a departure.
 [13] BY MR. JOHNSON:
 [14] Q. You did testify earlier, though, that you had a,
 [15] shall we say, passive role in your attendance in the
 [16] meetings previously. Would that be an accurate statement?
 [17] A. That's because I had nothing new to offer. This
 [18] would have been something new, so that -
 [19] Q. Are you saying this is the first time that, in a
 [20] sense, Monsanto had something new to offer at one of these
 [21] Styrene Technical Committee meetings?
 [22] A. No, I didn't say that. I said that the few times

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- [1] that I attended - I don't think it was more than twice -
 [2] Monsanto had nothing new to offer to the group. If
 [3] something like this had come up during those two times that
 [4] I attended, I would have played a more active role. It's
 [5] just the way the information was made available.
 [6] Q. Let's go back to the first page of the document.
 [7] Okay? Under "Background facts," says, "A two-year MCA study
 [8] by Dallas Toxicology Laboratory" -
 [9] A. Yes.
 [10] Q. Okay, this was a study that was commissioned by
 [11] MCA; would that be fair to say?
 [12] A. That's what it indicates, mm-hmm.
 [13] Q. And a two-year study had been completed as of
 [14] February 7, 1978; is that correct?

[15] A. That's what it indicates or implies.
[16] Q. And you were on the committee before 1978, as you
[17] testified. Isn't that correct?
[18] A. For about a year.
[19] Q. Right. Now, do you remember -
[20] A. Or really - no, let me think a bit. Yeah, a
[21] little over a year.
[22] Q. Okay. When you came on the committee, were you

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[1] aware of this study being done for MCA by Dow?
[2] A. I was aware of an ongoing study, but I did not
[3] have any updates on the results.
[4] MR. JOHNSON: Let's go off the record, here.
[5] (Discussion off the record.)
[6] MR. SARFATTI: Let's just go back on the record
[7] and say that we're adjourning the deposition to be
[8] recommenced at a later date within the next several weeks,
[9] hopefully, convenient to all parties, and of course, the
[10] witness.
[11] (Whereupon, at 5:03 p.m., the deposition was
[12] recessed.)
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[1] COMES NOW THE WITNESS. WILLIAM B. PAPAGEORGE, and
[2] having read the foregoing transcript of the deposition taken
[3] on the 9th and 10th days of February, 1993, acknowledges by
[4] signature hereto that it is a true and accurate transcript
[5] of the testimony given on the date hereinabove mentioned.
[6]
[7]
[8]

[9] WILLIAM B. PAPAGEORGE

[11] Subscribed and sworn to before me this day
[12] of , 1992.
[13]
[14]

[15] My Commission expires:

[20] Notary Public

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[1] STATE OF MISSOURI)

[2] SS:)

[3] CITY OF ST. LOUIS)

[4] I J. Bryan Jordan, notary public in and for the
[5] State of Missouri, duly commissioned, qualified and
[6] authorized to administer oaths and to certify depositions,
[7] do hereby certify that pursuant to agreement in the civil
[8] cause now pending and undetermined in the Superior Court of
[9] the State of Delaware, to be used in the trial of said cause
[10] in said court, I was attended at the Ritz Carlton Hotel, in
[11] the County of St. Louis, State of Missouri, by the aforesaid
[12] witness and by the aforesaid attorneys, on the 9th and 10th
[13] days of February, 1993.

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

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[1] objections thereto, and is in all respects a full, true,
[2] correct and complete transcript of the questions propounded

[3] to and the answers given by said witness; that signature of
[4] the deponent was not waived by agreement of counsel.
[5] I further certify that I am not of counsel or
[6] attorney for either of the parties to said suit, not related
[7] to nor interested in any of the parties or their attorneys.
[8] Witness my hand and notarial seal at St. Louis,
[9] Missouri, this day of , 1993.
[10] My commission expires July 20, 1994.

[11]
[12]
[13] J. Bryan Jordan
[14] Notary Public in and for the
[15] State of Missouri
[16]
[17]
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[19]
[20]
[21]
[22]

Look-See Concordance
Report

2,503 UNIQUE WORDS
386 NOISE WORDS
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CORRECTIONS TO DEPOSITION

Page	Line	Correction:
498	7	I don't mind being called Harry.
501	2	types, really: air, solid waste and water, and so on.
506	13	plant manager and his acceptance of this charge, if you
512	2	in a dossier. I don't recall ever having a typed list that
528	9	specific subject, but you used the word "contemplated" the
537	18	The types where a material from Monsanto, could be
553	19	forget which now, and after performing its function and is
582	12	later, a Mr. Mieure. There were ---
598	9	medical toxicity studies, the biodegradation studies,
598	16	I don't know that I monitored it. I was
630	22	what if I suggested the name Peter Berteau? would
654	18	All I can recall was Miss Grimm was involved
663	7	arrange for the review.
669	17	I don't remember it, but there again, I may
670	5	It was, it arose more than once.
671	18	I don't know how to describe, describe it as
704	7	April '83. Mr. Boesch was the General Manager of
723	4	course, I was aware of the State's interest in the site
784	12	I do not remember this article
795	5	That I don't recall. I do know that was one of
863	14	Oh, I don't know that I would call it logical
872	6	this in terms of Dow's results and Monsanto's opinion of the