

John H. Hynes
CERTIFIED TRANSCRIPT OF PROCEEDINGS

Pages 1-18
Exhibits

IN THE MATTER OF

Excerpt of CALENDAR, September 22, 1981
A video-taped transcription.

JACK HYNES EXPOSES
MAJOR HEALTH THREAT
IN NEW BEDFORD

MONS 011711

Registered Professional Court/Conference Reporters

18 Tremont Street
Boston, Massachusetts 02108

BENDIXEN
associates

617-742-5644

1 MS. JACOBSON: Jack Hynes reveals a
2 major health threat in New Bedford.

3 MR. GOYETTE: It is the most serious
4 problem in the world and there is a high health impact,
5 economic impact. It is one huge ball rolled into one

6 * * * *

7 MS. JACOBSON: Food, we buy it in stores
8 and restaurants, we pay our money and we assume that it
9 is safe to eat, but is it?

10 Right here in Massachusetts a
11 potentially deadly game of passing the buck has
12 allowed chemically poisoned food into the City of
13 New Bedford. Calendar Correspondent Jack Hynes
14 discovered that lobster contaminated with the toxic
15 chemical PCB is being fished out of New Bedford Harbor.
16 Most of Bedford lobster is sold in New Bedford area,
17 but some is shipped as far away as Connecticut, New
18 York and New Jersey, and the question is, are Government
19 officials playing roulette with the public health?

20 MR. GOYETTE: Do you know that this area
21 is closed to lobster fishing?

22 ANNOUNCER: New Bedford Harbor, poisoned
23 with the toxic chemical PCB, closed to lobster fishing
24 by the Department of Public Health since 1979. No one

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1 is supposed to lobster in this area, but no one
2 enforces the law, so they do.

3 MR. GOYETTE: Is that your color, black
4 and orange? (Inaudible) out of you.

5 ANNOUNCER: State Representative Sparky
6 Goyette wants to stop the illegal fishing. He
7 confronts a lobsterman fishing the poisoned waters.

8 MR. GOYETTE: I am going to put out a
9 report in writing so you know where to fish.

10 ANNOUNCER: Recreational lobstermen
11 called "Ten Potters" and commercial lobstermen,
12 too, regularly fish these fertile waters. The lobsters
13 they catch here are often contaminated with high
14 levels of PCB's. Certain eel and flounder are also
15 contaminated. That is because the floor of New
16 Bedford Harbor is coated with up to 110 tons of the
17 toxic chemical.

18 PCB's are suspected of causing cancer.

19 MR. GOYETTE: PCB's are highly toxic and
20 we have tons of them and that is the reason why New
21 Bedford is unique. Small in area, but pollution
22 tremendously high.

23 ANNOUNCER: This lobsterman is not
24 concerned about PCB's or fishing bans or Sparky

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1 Goyette. He will continue to pull his pots from
2 these polluted waters and no one will stop him from
3 doing it. The question is why?

4 MR. GOYETTE: There is no reason any
5 lobster pots being there at all. All you need is
6 enforcement.

7 MR. HYNES: New Bedford is all about the
8 ocean and fish and lobsters and men who make their
9 living from the sea. In fact, this small city has the
10 largest fishing fleet along the entire east coast.
11 It also has, according to some experts, the largest
12 pollution problem in the entire world and this is a
13 story about what is not being done about it.

14 MR. GOYETTE: It is the most serious
15 problem in the world and has a high health impact,
16 economic impact. It is one huge ball rolled into
17 one.

18 ANNOUNCER: The number one pollution
19 problem in the world and the State of Massachusetts
20 can't even enforce a simple fishing ban.

21 Representative Roger "Sparky" Goyette is Chair-
22 man of the state Hazardous Waste Commission.

23 MR. GOYETTE: It is now a law or enforce-
24 ment by constitutional powers, the Department of

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BENDIX
RECORDING

1 Public Health establishes a closure and if we are
2 not going to enforce the laws of the Commonwealth,
3 then how could people sleep at night knowing it is
4 any issue. It could be a drinking water problem,
5 it could be any contamination in the Commonwealth.

6 ANNOUNCER: Last year between 75 and 100
7 million dollars worth of fish came through New
8 Bedford Harbor. Almost all of it was caught in the
9 rich fishing region called George's Bank and Grand
10 Bank. There is no PCB problem with that fish, but
11 lobster, eel and bottom dwelling flounder are another
12 story altogether. They're found in large numbers in
13 areas that are heavily polluted with PCB's.

14 Lobster pots dot the contaminated area because
15 many lobstermen go where the lobsters are even if it
16 means breaking the law. And many of those who obey
17 the law often find themselves at a disadvantage.

18 MR. GOYETTE. And I feel for the honest
19 lobsterman who refuses to break the law, but he is
20 losing money, others are making it.

21 ANNOUNCER: It is hard enough to make it
22 in this business without worrying about PCB's. That
23 is polychlorinated biphenyls described as benzene
24 rings surrounded by chlorine. There are over 200

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1 different kinds of this man-made chemical which was
2 used in manufacturing application until the mid
3 1970's. It is thought by some scientists that the
4 more chlorine in the molecule the more toxic the PCB.
5 But how dangerous is it if you regularly eat seafood
6 contaminated by PCB's? Plenty according to
7 Dr. Phillip Gidley (phonetics), an expert in pollution
8 control and management.

9 DR. GIDLEY: What bothers me is I know
10 down the road thirty to forty years in this city we
11 will probably have twenty-five to twenty-seven extra
12 cases of cancer and one to two extra cases of cancer
13 deaths if we proceed to eat this shellfish and
14 lobster at this rate.

15 MR. HYNES: These little items are the
16 source of New Bedford's problems. They are discarded
17 electrical capacitors filled with a toxic chemical,
18 PCB. Up until 1975 they were made by two companies
19 here in New Bedford which dumped their toxic wastes
20 into the river and harbor. Now, six years later, these
21 capacitors still dot the shoreline contaminating the
22 nearby water.

23 ANNOUNCER: Cornell-Dubieer sits on the
24 edge of New Bedford's outer harbor. For over thirty

1 years it discharged PCB waste into the nearby water
2 Upstream on the Acushnet River another company,
3 Aerovox, dumped its PCB waste into the river which
4 feeds the harbor. Another company uses PCB's today
5 and when they dumped the waste it was not known to be
6 dangerous and it was not illegal. Today, supposedly,
7 they know better. But hundreds, perhaps thousands,
8 of electrical capacitors still lay rotting in the
9 mud behind the Aerovox plant. Nothing has been done
10 to clean them up.

11 MR. McCAVITT: What shows on the surface
12 probably represents only the tip of the iceberg.
13 There are probably tons and tons of these capacitors
14 in here and they do have PCB's in them

15 ANNOUNCER: Larry McCavitt is a regional
16 director for Coastal Zoning Management. He has been
17 trying to get this dumpsite cleaned up ever since he
18 discovered that it was contaminated with PCB's.

19 MR. McCAVITT: We have indicated to people
20 at the Department of Environmental Quality Engineering
21 well over a month and a half ago that this problem
22 existed and, to my knowledge, no action has been taken
23 by them on this matter.

24 ANNOUNCER: Why not? Why wouldn't they

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CORPORATION

1 jump right in on it?

2 MR. McCAVITT: That is a good question,
3 that is a question you might want to ask the people
4 at DEQE directly. I, myself, have not been able to
5 get a satisfactory answer out of people at DEQE.

6 MR. HYNES: We didn't have any better
7 luck than Larry McCavitt. The closest we got to
8 DEQE was the outside of their building in downtown
9 Boston. After three weeks of phone calls we gave up
10 trying to get an answer from the Department of
11 Environmental Quality Engineering, but we did ask
12 Clifford Tuttle, President of Aerovox Corporation.
13 He reminded us that the Company changed ownership in
14 1978 and the present owners were not involved in the
15 manufacturing of PCB capacitors or the dumping of
16 PCB waste. They don't believe that they inherited the
17 PCB problem behind their plant.

18 MR. TUTTLE: As I understand it, and I
19 have never seen those capacitors, they were put out
20 there in 1950--in '60. We don't feel any
21 responsibility. I reported their existence to EPA
22 in 1974 and suggested that they probably should be
23 cleaned up. They haven't taken action on it. We
24 feel that if we did, we would be admitting a

responsibility that we don't really own.

ANNOUNCER: So no one, apparently, takes responsibility for the mess behind Aerovox and potentially deadly PCB's continue to leach into the nearby river. They also enter the harbor through this sewage treatment plant, because pipes leading into and out of the plant are coated with PCB's. The theory is that lobster and some fish ingest PCB's. Lobstermen in illegal areas catch the PCB filled lobster and sell it at market and when you or I sit down to a lobster dinner we don't know whether or not we are eating contaminated food. That is why the Massachusetts Department of Public Health issued a fishing ban. It covers three regions of the Acushnet River and New Bedford Harbor. Area 1 in red is the most heavily contaminated. The PCB's came exclusively from the Aerovox plant. No fishing is allowed here. A massive hurricane dike at the base of the harbor has contained much of the PCB's within Area 1.

Area 2 in orange is heavily contaminated with PCB's from Cornell-Dubieer and outflow from Area 1 through the dike opening. This region is closed to all lobster, eel and bottom dwelling flounder

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1 It is one of the richest lobster areas in the Spring
2 and the Fall.

3 Area 3 in the yellow is closed only to
4 lobstering and tests are now being conducted to see
5 whether the lobster here remain contaminated. But
6 no one questions Area 2, it's heavily contaminated.
7 People should not eat lobster from there, but they
8 do because no one enforces the ban.

9 MR. GOYETTE: Why wasn't the closure
10 carried out? You have never had a closure of there,
11 never, especially Area 3. And the violations are in
12 Area 2 that upsets me greatly and it should upset
13 everybody.

14 ANNOUNCER: In 1960 the Army Corps
15 of Engineers built this massive hurricane dike to
16 hold up against the fury of Atlantic storms. They
17 took precautions to make sure that the City of New
18 Bedford was protected against potential disaster. In
19 1979 the Massachusetts Department of Public Health
20 issued a fishing ban to protect the citizens of New
21 Bedford from a different kind of potential disaster,
22 that is deadly chemical pollution. But unlike the
23 dike, the fishing ban is not protecting the community.
24 The ban is being ignored because it isn't being

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1 enforced. The potential for disaster here is very
2 real.

3 VOICE: We cannot tell you for certain
4 how many people are going to get sick, how many
5 children are going to be affected, how many unborn
6 children are going to be affected, but we know
7 there is a significant probability that this could
8 happen.

9 ANNOUNCER: John Ferrington, chemical
10 oceanographer and research scientist at Woods Hole
11 Oceanographic Institute, one of the leading experts
12 on PCB pollution in New Bedford.

13 MR. FERRINGTON: Certainly, the scientists
14 and regulators involved would feel terrible if they
15 thought that there were some malformed children out
16 there because they hadn't proceeded to do their duty
17 in this particular case, despite economic hardships
18 on some segments of the population.

19 MR. MARKEY: I am concerned that PCB's
20 exist there, but I don't think it is a real health
21 problem like it has been made out in some quarters.

22 ANNOUNCER: This is New Bedford Mayor
23 John Markey. He doesn't believe that commercial
24 lobstermen are fishing closed areas and he doesn't

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1 think it is his problem.

2 MR. MARKEY: I certainly am not going to
3 hire six people to go down there and stop the fishing.
4 If the State imposed it let them enforce it. I just
5 don't believe that there is anybody out there fishing.
6 certainly commercially. There might be some
7 youngsters that go out in a Whaler or something.
8 but I don't believe that there is anybody out there
9 commercially fishing, I just don't believe *that*.

10 VOICE: Now there are people that are
11 fishing inside of them areas right now and a lot of
12 them I don't blame them for fishing in there. Why,
13 they have fished there all their life. They don't
14 know where to fish, to go lobstering, other places and
15 there is no enforcement of the law and the bans are
16 supposed to be closed, it is supposed to be closed
17 in them areas. But what good is the closure if they
18 have no enforcement?

19 ANNOUNCER: Chuck Connor has been a
20 commercial lobsterman for fifteen years. Like many
21 lobstermen, he obeys the ban and doesn't fish in
22 contaminated areas, but he says it costs him thousands
23 of dollars a year to steam out past Area 3 and if he
24 has to do it everyone should.

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1 MR. CONNOR: The ban is no good
2 whatsoever, because there is no enforcement of it.
3 And if they enforce a ban then that is another
4 situation, then everybody has to stay out, and that
5 is the only proper way to do it. I rather see it
6 open all the way inside again, but if it is not
7 going to be open for me it is not going to be open
8 for anybody, as far as I am concerned.

9 ANNOUNCER: So while some people pay the
10 price for obeying the law others flaunt it without
11 penalty. The Department of Public Health issued
12 the fishing ban, but they have no power to enforce
13 it. They put up signs announcing the ban, most of
14 them were vandalized ,and they informed other State
15 agencies.

16 Joe Apopka (phonetics) is Assistant
17 Commissioner of Public Health.

18 MR. APOPKA: No, we don't consider this
19 a voluntary ban, this is a regulation of the
20 Commonwealth. However, again, we do not have the
21 power to enforce it and that is the reason that we
22 ask Mr. Coates to enforce it for us.

23 ANNOUNCER: Mr. Coates is Phil Coates,
24 Director of the Division of Marine Fisheries. If

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1 enforcing this ban is a hot potato Phil Coates
2 knows how to pass it along with the best of them.

3 MR. COATES: No, we don't have the
4 enforcement here is rather interesting. Like I say,
5 the people who would do any enforcing would be either
6 food and drug inspectors or, theoretically, environmental
7 affairs and they are not in our department.

8 ANNOUNCER: If you had difficulty under-
9 standing that you might just be getting some idea
10 as to why nothing is being done to insure the
11 public against eating PCB contaminated food. It is
12 called passing the buck.

13 MR. COATES: And I agree, there has been
14 a lot of bureaucratic buck passing.

15 VOICE: Quite frankly, I don't enforce
16 what the State says.

17 VOICE: We cannot enforce the ban and
18 it is their responsibility to enforce it.

19 VOICE: We don't enforce. I have regu-
20 latory authority and I rely on the divisional law
21 enforcement for enforcement.

22 HYNES: So far no sickness or disease has
23 been linked to PCB pollution in New Bedford, but that
24 doesn't mean that people aren't getting sick from

1 PCB's. In fact, here in New Bedford people could
2 be dying of cancer from PCB pollution and no one
3 would know. That is because no one has really
4 studied the problem. But in a small sample of
5 twenty-one New Bedford residents there were some
6 disturbing findings.

7 ANNOUNCER: Eight of the twenty-one
8 people tested had elevated PCB levels in their
9 blood and the woman who had the highest level never
10 worked with PCB's, she just ate fish from the river
11 and harbor.

12 MR. PETLEY: Will I sometime later in
13 life come down with cancer? That is a basic point
14 that I am interested in.

15 ANNOUNCER: Joseph Petley has a PCB
16 blood level almost two and a half times the
17 national average. He used to work as an engineer at
18 Aerovox.

19 MR. PETLEY: There is a great deal of
20 concern to everybody; it should be. But many people
21 are afraid to find out if they are going to have, if
22 they have cancer or they are going to have cancer.
23 They are afraid, very afraid of it.

24 VOICE: I have been tested for PCB's. I

1 have twenty-two parts per million in my blood because
2 I have been eating, I have grown up in this area, I
3 have been eating fish from the Acushnet River all
4 my life, and lobster, too. How do I know that this
5 PCB isn't going to affect me in a few years from now.
6 I am not getting any younger, you know.

7 ANNOUNCER: The problem, of course, is
8 this, it will take years to cleanup New Bedford
9 Harbor. Estimates run as high as \$130,000,000
10 to eliminate PCB's from Area 1 alone and no one yet
11 knows where that money will come from. Suing the
12 two companies that dumped the PCB's will probably
13 bankrupt them, put people out of work without
14 coming up with anywhere close to the money needed for
15 the cleanup. So while the harbor remains polluted,
16 the only protection for the public is a two-year old
17 fishing ban that isn't enforced. As long as some
18 lobstermen continue to fish contaminated water the
19 public can't know whether the lobster it eats is
20 contaminated with PCB's or not. Now enforcing the
21 ban brings into question the quality of all lobster
22 sold in New Bedford. Enforcing the ban, of course,
23 would eliminate the problem. Until that happens,
24 though, some people find that the only solution is

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BENDIXEN

1 imposing their own ban.

2 VOICE: No, I wouldn't eat any lobster
3 and I love seafood. I wouldn't eat any lobsters
4 taken out of New Bedford because PCB's, once you
5 ingest it, it is in your body forever.

6 VOICE: I haven't eaten either lobster,
7 shellfish, and recommend that no one does so.

8 VOICE: I wouldn't eat lobsters from the
9 New Bedford Harbor area until it has been proven to
10 me beyond any doubt that they are safe from a public
11 health standpoint.

12 VOICE: If they make a law and they don't
13 enforce it, the law is no good.

14 MS. JACOBSON: The Department of
15 Environmental Quality Engineering wrote us a letter
16 after they got wind of our story. They said, among
17 other things, that they have requested federal aid
18 through the national super fund. They expect that
19 the strategy will be finalized by the end of the
20 year and the cleanup in New Bedford Harbor will
21 proceed as soon as possible. In the meantime, of
22 course, the public's only protection is a fishing
23 ban that isn't enforced.
24

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1 I, PATRICIA A. BUCKO, Registered
2 Professional Reporter in the Commonwealth of
3 Massachusetts do hereby certify that this is
4 a true and accurate transcript of the proceedings,
5 to the best of my ability, reported from a
6 videotape.

7 Dated this 23rd day of September,
8 1981.

9 *Patricia A. Bucko*
10 PATRICIA A. BUCKO, RPR, Notary
11 Public. My Commission expires:
12 9-5-86.
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