

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

AYDIN CORPORATION, a Corporation,)

Plaintiff,)

vs.)

No. 857826

COMMERCIAL UNION INSURANCE)

COMPANY, et al.,)

Defendants.)

DEPOSITION OF WILLIAM B. PAPAGEORGE
Taken on behalf of the Defendant
Commercial Union Insurance Company
December 17, 1991; December 19, 1991

COPY

TAYLOR & ASSOCIATES

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10 DEPOSITION OF WITNESS, WILLIAM B. PAPAGEORGE,
11 produced, sworn and examined on the 17th and 19th of
12 December, 1991, between the hours of eight o'clock in
13 the forenoon and six o'clock in the afternoon of that
14 day, at the offices of Kohn, Shands, Elbert,
15 Gianoulakis & Giljum, One Mercantile Center, St. Louis,
16 Missouri (December 17, 1991) and at the offices of
17 Husch & Eppenberger, 100 North Broadway, St. Louis,
18 Missouri (December 19, 1991), before TARA R. RILEY, a
19 Notary Public and Shorthand Reporter within and for the
20 State of Missouri, in a certain cause now pending in
21 the Superior Court of the State of California, in and
22 for the City and County of San Francisco, wherein Aydin
23 Corporation is Plaintiff and Commercial Union Insurance
24 Company is Defendant.
25

A P P E A R A N C E S

Aydin Corporation was represented by:

BROBECK, PHLEGER & HARRISON
Spear Street Tower
One Market Plaza
San Francisco, California 94105
by: Mr. Harry Jacobs Summers

Commercial Union Insurance Company was represented by:

RIVKIN, RADLER, BAYH, HART & KREMER
Eab Plaza
Uniondale, New York 11556-0111
by: Mr. Gary D. Centola

William Papageorge was represented by:

HUSCH & EPPENBERGER
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13th Floor
St. Louis, Missouri 63102
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Videographer

DEPOVISION, LTD.
2129 Barrett Station Road
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by: Ms. Kelly Bennett

Stenographer

TAYLOR & ASSOCIATES
906 Olive Street, Suite 920
St. Louis, Missouri 63101
by: Ms. Tara R. Riley

1 IT IS HEREBY STIPULATED AND AGREED by and
2 between Counsel for the Plaintiff and Counsel for the
3 Defendant that this deposition may be taken by Tara R.
4 Riley, Notary Public and Shorthand Reporter, thereafter
5 transcribed into typewriting, with the signature of the
6 witness being required.

7 WILLIAM B. PAPAGEORGE,
8 of lawful age, having been produced, sworn and examined
9 on the part of the Defendant Commercial Union Insurance
10 Company, testified as follows:

11 EXAMINATION

12 QUESTIONS BY MR. CENTOLA:

13 (Papageorge Exhibit No. 1 marked for
14 identification by the court reporter.)

15 Q Mr. Papageorge, good morning.

16 A Good morning.

17 Q My name is Gary Centola, and I represent the
18 Commercial Union Insurance Company. Today we're here
19 for your deposition, to ask you a number of questions
20 about your past employment at Monsanto Company. If,
21 during the course of my deposition, you don't
22 understand one of my questions or don't hear it, please
23 feel free to let me know, and I'll repeat it or have it
24 read back to you. Is that understood, sir?

25 A Yes.

1 Q And I will assume that you understand my
2 questions unless you tell me so. Is that okay, sir?

3 A That's a good assumption, yes.

4 Q Okay. Now, if at any time during the course
5 of the deposition you need to break for some reason or
6 speak to your lawyer, please feel free to do so, and we
7 will give you that opportunity.

8 Mr. Papageorge, will you please state your
9 full name for the record?

10 A William B. Papageorge.

11 Q Okay. And where do you presently live, Mr.
12 Papageorge?

13 A In St. Louis County in Missouri.

14 MR. SUMMERS: Mr. Centola, may I make a brief
15 statement before we go on?

16 MR. CENTOLA: Sure.

17 MR. SUMMERS: My name is Harry Summers, sir,
18 I represent Aydin Corporation in this case. And your
19 counsel may have already explained this, but when Mr.
20 Centola asks you questions, I'd appreciate it if you
21 could attempt to pause before you answer, because my
22 job, part of my job is to make objections where
23 necessary. And again, he may have already explained
24 this to you, but it makes it easier for me to do that
25 if you could try to pause before you answer. That's

1 all I ask.

2 A I'll try.

3 Q (By Mr. Centola) What's your date of birth,
4 sir?

5 A September 7, 1922.

6 Q I want to show you what I've already had
7 marked as Papageorge 1 for identification, which
8 purports to be a subpoena on deposition of Mr. William
9 Papageorge. Will you please take a look at that? Have
10 you seen that before, sir?

11 A Yes, this was a subpoena served on me at
12 home.

13 Q And are you here testifying pursuant to that
14 subpoena?

15 A Yes, I am.

16 Q Mr. Papageorge, are you presently employed?

17 A I am not.

18 Q What I'd like to do first is take a little
19 bit of your background so we get to know you a little
20 bit better. When did you graduate from high school,
21 sir?

22 A 1940.

23 Q And did you go to college, sir?

24 A I did.

25 Q Where was that?

1 A Washington University in St. Louis.

2 Q And did you receive a degree, sir?

3 A I did.

4 Q In what?

5 A Bachelor of Science in chemical engineering
6 in 1943.

7 Q Did you do any post-graduate work, sir?

8 A Yes.

9 Q And where was that?

10 A The same university.

11 Q Did you receive a post-graduate degree?

12 A I did.

13 Q What was that?

14 A Master of Science in chemical engineering.

15 Q And when did you receive that degree?

16 A 1947.

17 Q After you received your Masters in chemical
18 engineering, did you take employment, sir?

19 A Yes.

20 Q And where was that?

21 A Phillips Petroleum Company in Bartelsville,
22 Oklahoma.

23 Q And what was your position there, sir?

24 A The initial assignment was as a research
25 engineer in their Research Department.

1 Q And how long were you there, sir?

2 A Total time with Phillips?

3 Q Yes.

4 A Four years. 1951 is when I left.

5 Q Where did you go after that, sir?

6 A The Monsanto Company.

7 Q And where was the Monsanto Company you went
8 to?

9 A I was employed at their plant in St. Louis on
10 Second Street, St. Louis. The plant referred to as the
11 Queeny plant. Q-U-E-E-N-Y.

12 Q And when you began your employment in 1951 at
13 Monsanto, what position were you in?

14 A I was a process design engineer.

15 Q Just briefly, what is that?

16 A I was assigned the task of designing
17 equipment to be used in the manufacture of chemicals.

18 Q And how long did you hold that position, sir?

19 A About two years.

20 Q And what happened on or about 1953?

21 A I was assigned as a supervisor of one of the
22 plant's units that manufactured chemicals.

23 Q Same location?

24 A Yes.

25 Q Okay. And how long did you hold that

1 position?

2 A About a couple years, year and a half, couple
3 years.

4 Q Okay. What happened after that?

5 A I was assigned to another producing unit as
6 the supervisor of that unit.

7 Q Same location?

8 A Yes.

9 Q Was that a lateral move or was that a
10 promotion?

11 A Oh, I would suggest it might have been a
12 promotion. It was a bigger department.

13 Q In 1953, were any of the chemicals that you
14 were dealing with polychlorinated biphenyls?

15 A No.

16 Q In 1955 were they?

17 A No.

18 Q And how long were you with this other
19 producing unit?

20 A As I remember, that went to about 1956 or so.

21 Q What happened then?

22 A I was appointed as a maintenance supervisor
23 in the, at that same plant in their Maintenance
24 Department.

25 Q What'd you do as maintenance supervisor?

1 A I supervised a team consisting of a foreman
2 and various types of mechanics that were involved with
3 the installation of equipment used in the manufacture
4 of chemicals.

5 Q So you maintained the equipment?

6 A This particular unit installed new equipment,
7 but it was part of the Maintenance Department.

8 Q And how long were you in that position?

9 A About a couple years. These time periods may
10 not be exact, but they are approximations.

11 Q That's fine. What was your next position?

12 A I became the superintendent of the
13 Maintenance Department.

14 Q Same division?

15 A Same plant, same department, yes.

16 Q And did you take another position after that
17 at some time?

18 A Following the maintenance superintendency, I
19 was appointed as a superintendent in the plant's
20 Engineering Department, which was referred to as the
21 Technical Services Department.

22 Q Briefly, what did you do there?

23 A I supervised a team of, oh, eight to twelve
24 engineers, plus three to six technicians who were
25 assigned engineering responsibilities to design new

1 equipment, improve the processes, come up with new
2 ideas that could be used in the plant.

3 Q This would be equipment, again, used to
4 produce various chemicals?

5 A Correct.

6 Q Okay. And what time frame were you the
7 superintendent of the Technical Services Department?

8 A Up until about 1963, if I remember
9 correctly. '62, '63.

10 Q All right. And what happened in 1962 or
11 1963?

12 A I was then appointed as a general
13 superintendent at that same plant.

14 Q Mm-hmm.

15 A Of a unit in that plant that concerned itself
16 with warehousing, receiving, distribution, utilities
17 generation and distribution. In other words, services
18 to the manufacturing departments other than the
19 maintenance service.

20 Q I'm a little confused as to what you mean by
21 that. Can you tell me what you mean by that again?

22 A By my last statement?

23 Q Yeah.

24 A Well, the manufacturing units, in order to
25 make the chemical they're assigned, must have steam,

1 electricity, the raw material, the starting material,
2 all of these came from that unit I just described.

3 Q And how big a unit was that in terms of
4 employees?

5 A These are not going to be exact numbers.
6 There were about 15 supervisors, 30 foremen, and a
7 couple hundred shipping people, receiving people, truck
8 drivers and so on.

9 Q And as general superintendent, you were the
10 top man on the totem pole, so to speak?

11 A Yes, sir.

12 Q Okay. Did you take a different position
13 after this?

14 A Yes. In 1964, I was assigned to a plant
15 located in Sauget, Illinois, and I was appointed one of
16 the general superintendents of manufacturing.

17 Q And what did the plant in Sauget, Illinois,
18 manufacture?

19 A Several hundred different chemicals.

20 Q You said you were one of the general
21 superintendents of manufacturing?

22 A Yes.

23 Q Did you have a specific line that you were in
24 charge of?

25 A Yes. I had, as I recall, about a dozen

1 products that were assigned to me.

2 Q And what was your, how would you describe
3 your position as general superintendent of
4 manufacturing?

5 A I was responsible for a given number of
6 chemicals to produce, and I was expected to produce
7 them safely, of proper quality, at a targeted cost, on
8 time, and make certain that my personnel were properly
9 trained to do this, and that I, whatever I did fit in
10 with the rest of that location.

11 Q Were any of the chemicals that were part of
12 your charge to have manufactured polychlorinated
13 biphenyls or containing polychlorinated biphenyls?

14 A Not on that assignment, no.

15 Q Okay. Were there, prior to that assignment,
16 had you been involved in the manufacture of, let's call
17 them PCB's, polychlorinated biphenyls?

18 A Not in the manufacture, no.

19 Q Had you had any experience with PCB's up
20 until your position in Sauget, Illinois?

21 A Yes, I had some experience with those
22 materials, PCB's.

23 Q What was your experience up to that date?

24 A Well, there was one type of experience that
25 involved the use of PCB's in electrical equipment.

1 Q Right.

2 A And I became involved with those in two
3 situations. One in the maintenance of that equipment
4 as maintenance superintendent.

5 Q Okay.

6 A And the other as the user of that equipment
7 in the distribution of electricity in the plant to the
8 using departments.

9 Q Okay.

10 A The other exposure or involvement was with
11 this assignment at the Queeny plant, where I provided
12 services to the manufacturing units. One of the
13 departments that were under my supervision was the
14 Blending Department, which was involved in the blending
15 of ingredients to produce industrial hydraulic fluids,
16 some of which contained PCB's.

17 Q So your involvement essentially was just in
18 the fact that the PCB's were used as ingredients to
19 these hydraulic fluids?

20 A At that time, yes, sir.

21 Q Okay, let's go back to Sauget, Illinois. How
22 long were you there?

23 A About a year, year and a half.

24 Q Take us to 1966, or 19 --

25 A '65.

1 Q '65. And did you have a reassignment at that
2 time?

3 A Yes, I did.

4 Q And where was that reassignment to?

5 A I was assigned to the Anniston, Alabama plant
6 as plant manager.

7 Q Anniston is spelled?

8 A A-N-N-I-S-T-O-N.

9 Q How would you describe your position as plant
10 manager?

11 A I guess the simplest way is I was responsible
12 for everything that took place at that plant that
13 represented Monsanto.

14 Q All right. What was it that that plant
15 manufactured?

16 A They manufactured about a dozen different
17 chemicals.

18 Q Anything else?

19 A That's all they did was make chemicals, so --

20 Q All right. Were any of the chemicals --
21 strike that. Were any of the ingredients used in
22 manufacturing those chemicals PCB's?

23 A Yes, sir.

24 Q Okay. Can you tell me which chemicals those
25 were? What they were used for?

1 A The chemicals that included PCB's as an
2 ingredient were the fluids used in electrical equipment
3 as dielectrics, and some of those were blends that
4 included as a component PCB's.

5 Q These are dielectric fluids?

6 A Yes.

7 Q What was the ultimate use of dielectric
8 fluids that came out of Anniston's plant?

9 A They were used as an insulating, non-
10 conducting liquid in electrical equipment which
11 included transformers, capacitors, motor switches.

12 Q Were any of the uses for those -- I'm sorry,
13 were you done with your answer?

14 A There are a couple more that I can't recall
15 at the moment. But I've given you the principal uses.

16 Q Were any of the uses of the PCB containing
17 fluids that were manufactured at Anniston for
18 noncontained equipment? Plasticizers or the like? Or
19 were these all ultimately to go to transformers and
20 capacitors?

21 A You are referring, if I understand your
22 question, to the blended materials?

23 Q Right.

24 A None of those blended materials produced at
25 the Anniston plant were used for anything other than

1 the electrical equipment use.

2 Q Fine. Did those blended materials have trade
3 names?

4 A Yes.

5 Q Okay. Let me give you a couple names and see
6 if they used those. Askarel?

7 A That's not a trade name, that's a generic
8 trade used by -- generic name used by the industry.

9 Q Okay. Was that a name given to these fluids?

10 A No.

11 Q Aroclors?

12 A Not given -- I want to correct that. That
13 expression Askarel was used to describe these fluids,
14 but it was not a trademark used with the fluids.

15 Q Understood. Thanks. Were any other names
16 used to describe these fluids?

17 A Yes, there were.

18 Q Do you recall any of them?

19 A There was, at the plant, we packaged and
20 labeled using trade names Inerteen, which was a
21 Westinghouse trademark, and Pyranol, P-Y-R-A-N-O-L,
22 which was the General Electric trademark.

23 Q And Inerteen and Pyranol were also dielectric
24 fluids containing PCB's?

25 A Yes.

1 Q Okay. Some of these questions seem obvious
2 to you, Mr. Papageorge, but I'm doing it for the
3 record.

4 A I understand.

5 Q Okay. Did you ever hear the term Aroclor?

6 A Yes.

7 Q Okay. What is the term Aroclor?

8 A That is Monsanto's trademark for mixtures of
9 chemicals of the same chemical family that are used in
10 many, many applications. They are not blends of the
11 kind we spoke of earlier.

12 Q Inerteen and Pyranol were blends?

13 A Yes.

14 Q Aroclor is not a blend?

15 A That is correct.

16 Q When you say "blend," I'm not certain I
17 understand. Do you mean that there were other
18 chemicals in addition to PCB's in it?

19 A Yes, sir.

20 Q How about Aroclor, are there other chemicals
21 in addition to PCB's?

22 A There are some Aroclors that are not PCB's.

23 Q Okay.

24 A But those that are PCB's are entirely PCB's.

25 Q And Inerteen and Pyranol, what other

1 chemicals were used, do you recall?

2 A Yes. There, some of them contained
3 trichlorobenzene or tetrachlorobenzene, or a mixture
4 of the two chlorinated benzenes, plus some additives in
5 very small amounts that were added to make these
6 mixtures more stable, not deteriorate.

7 Q Now, let's go back to Askarel. Is Askarel a
8 blend?

9 A It doesn't have to be.

10 Q Okay. That's just a generic name for --

11 A It's a generic name used by the manufacturers
12 and users of electrical equipment to describe fluids in
13 that equipment that are fire resistant. They could be
14 PCB's and they were, or they could be other materials.

15 Q So you can use term Askarel to describe an
16 Aroclor or a Pyranol or an Inerteen; is that correct?

17 A And any other chemical that the industry
18 decides to use that is fire resistant.

19 Q Okay. How long did you stay at the Anniston,
20 Alabama plant?

21 A Until the end of 1969.

22 Q Okay. And at that time, did you move back to
23 St. Louis?

24 A I did.

25 Q Before we get to St. Louis, I want to ask you

1 one or two more questions about Alabama. In your
2 position as plant manager, did you have any involvement
3 in the disposal of or cleaning up of PCB containing
4 chemicals?

5 A Yes.

6 Q Okay. What was your experience? Let's start
7 with the disposal of PCB's.

8 A The Anniston plant had its own landfill on
9 its own property in which materials that were no longer
10 recoverable or usable were disposed, including wastes
11 from the PCB operations.

12 Q Both solid and liquid?

13 A Solid and liquid, yes, sir.

14 Q And just for definitional purposes, when we
15 talk about solid PCB waste, what are we talking about?

16 A Oh, for example, sawdust that is used to soak
17 up a spill, or sand, or soil that had been exposed or
18 on which materials like PCB's would be dumped or
19 spilled. It could include clothing, contaminated
20 clothing, or rags that are used to wipe the equipment,
21 or even some, some of the equipment. Pieces of pipe
22 and old pumps and the like.

23 Q And liquid waste would be?

24 A Liquid would be, any free flowing fluid that
25 contained even a little bit of PCB's would be

1 considered a PCB liquid waste.

2 Q Okay. Were you involved at all at the plant
3 with containing spills or the cleanup of PCB's?

4 A Oh, yes.

5 Q Tell me what your involvement was, what the
6 plant -- strike that. What did the plant do towards
7 containing spills?

8 A They would absorb as much -- well, first,
9 depending on the size of the spill. If it was a major
10 spill, they would use pumps and hoses to suck up the
11 material and put in the proper tank. If it's a minor
12 one, we'd use, as I said earlier, sand or sawdust to
13 soak up the material. A real small one, of course, a
14 rag might well do the job. Once it was under control
15 and collected, it would be taken to the in-plant
16 landfill.

17 Q Were PCB wastes segregated out from other
18 wastes at that point in time?

19 A No.

20 Q Okay. 1969, you moved to St. Louis; is that
21 correct?

22 A Well, officially, it was the first of January
23 of 1970.

24 Q Okay. What was the reason for you going to
25 St. Louis?

1 A I was given a new assignment and a new
2 position entitled Manager Environmental Control to help
3 Monsanto in the evolving PCB environmental issue.

4 Q Did someone from St. Louis seek you out, or
5 did you seek out that position?

6 A Well, they asked me if I would interview for
7 the job, which I did, and then I was selected.

8 Q Do you remember who it was who interviewed
9 you?

10 A Yes. There were two individuals.

11 Q Who was that?

12 A They were Mr. Howard Bergen and Mr. James
13 Springgate. S-P-R-I-N-G-G-A-T-E.

14 Q You made reference to the evolving PCB
15 issue. What was the evolving PCB issue at that time?

16 A I'll try to describe it. PCB's were being
17 found in environmental samples by laboratories
18 throughout the industrial world. Initially, there was
19 some question as to whether the material identified as
20 a PCB was truly a PCB. As time went on, the evidence
21 was convincing that it was. The question then became
22 one of what type of PCB is it? Where is it being found
23 and in what quantities is it being found? What harm,
24 if any, is it creating? So when I use the word
25 "evolving," I'm describing the evolving state of the

1 science that would help us understand the PCB and its
2 impact on the environment.

3 Q So it's fair to say, then, when you went over
4 to St. Louis, you had to familiarize yourself with the,
5 what impact, if any, PCB may have on the environment?

6 A That was one of my assignments, yes, sir.

7 Q Was part of your assignments to keep abreast
8 of toxicity studies that were being done?

9 A Oh, yes.

10 Q Was part of your assignments uses and
11 disposals of PCB's?

12 A Yes.

13 Q Was part of your assignment considerations
14 concerning uses of PCB's?

15 A Yes.

16 Q Meaning whether they're going to go into
17 closed capacitors or other kinds of uses; is that
18 correct?

19 A That is correct.

20 Q When you got to St. Louis, can you tell me
21 what your responsibility was with respect to your
22 position as, and I'm sorry, Manager of Environmental
23 Control?

24 A My responsibility was one of being as
25 knowledgeable as I could of all of the information in

1 existence and being generated regarding PCB's, and
2 being able to communicate this to anyone that raised
3 the question; or if not capable of responding, I was in
4 a position to know where to get an answer that was
5 beyond my expertise or training. So I guess I would
6 describe it as being a communications center regarding
7 PCB's.

8 Q Now, Monsanto, back in '69 and '70, had a
9 number of different groups with different functions.
10 For instance, marketing, sales, manufacturing, et
11 cetera; is that correct?

12 A That is correct.

13 Q Was it your position to coordinate your
14 effort among all of the different groups?

15 A Certainly. Within Monsanto.

16 Q Within Monsanto?

17 A Yes, sir.

18 Q So is it fair to say that you reached out and
19 communicated with people in marketing administration
20 regarding PCB development?

21 A Yes.

22 Q And sales groups as well?

23 A Yes.

24 Q And I would assume your coordinating
25 responsibility involved the manufacturing people and

1 research and development?

2 A Yes.

3 Q And did it involve legal and labeling people
4 as well?

5 A Yes.

6 Q Did it involve public relations people and
7 advertising people?

8 A Public relations, yes. Advertising, I don't
9 ever recall dealing with that particular group.

10 Q How about shipping and distribution?

11 A Yes.

12 Q And did you have a medical staff at Monsanto?

13 A Certainly, yes.

14 Q And did your involvement include them as
15 well?

16 A Yes.

17 Q What is the labeling group in Monsanto?

18 A It was a group that was assigned to our
19 corporate Transportation Department whose duty was to
20 act primarily as a custodian or librarian of all labels
21 ever published and used by Monsanto, and also to
22 coordinate the activities for the design and printing
23 of new labels and their distribution to the using,
24 packaging plants.

25 Q Okay. Now, what was the function of the

1 medical group back at Monsanto at that time?

2 MR. CARNEY: You're talking about '69, '70?

3 Q (By Mr. Centola) '69, '70.

4 A Their overall function?

5 Q Well, let me ask you this. When you
6 coordinated your efforts with medical concerning PCB's,
7 what kind of communications went back and forth between
8 you and them?

9 A Initially, of course, I was brought up to
10 date on their knowledge and experience regarding PCB's
11 through many decades. Following that, I was privileged
12 to sit in on some of their planning discussions
13 regarding the progress of tests under way relating to
14 PCB's and their impact on test animals, and also in the
15 planning of new programs, new tests, regarding the
16 effect of PCB's on animals, birds, fish, and so on.
17 That, I think, pretty well describes the program.

18 Q Did the medical people disseminate that
19 information to management of Monsanto, their findings?

20 A Certainly.

21 Q Did they disseminate it to customers as well?

22 A Yes.

23 Q And was that 1969, 1970?

24 A It was true in 1970. That doesn't mean it
25 started in 1969 and '70.

1 Q Right.

2 A That was an ongoing policy of the Medical
3 Department to share with the user of the material,
4 whether it be PCB's or any chemical. The information
5 that our Medical Department had.

6 Q So it would be part of the custom and
7 practice of Monsanto's Medical Department to share
8 whatever information they had about a chemical to its
9 customers?

10 A Yes.

11 Q You mentioned a couple names earlier, Howard
12 Bergen. What was his position in 1970?

13 A He was the business director of the
14 functional products business group.

15 Q And Mr. Springgate?

16 A He was the business director of the
17 plasticizers business group.

18 Q Was Mr. Berger more involved with fluids
19 opposed to plasticizers?

20 A Yes.

21 Q What is a plasticizer? We've used the term
22 before.

23 A It was a material added to plastics to make
24 the final product flexible such as garden hoses, as an
25 example, they wouldn't be brittle, they would flex. Or

1 added, say, even to rubber tires, to make them flex so
2 they would perform better.

3 Q And the fluids that Mr. Bergen managed would
4 be the Aroclors, Pyranol, Inerteen, Askarel?

5 A The fluids would include those you described,
6 you mentioned.

7 Q Okay. Thank you. Who did you report to, by
8 the way, when you began your position as, I'm sorry
9 again, Manager of Environmental Control?

10 A To Mr. Bergen.

11 Q Did you have staff working for you?

12 A No.

13 Q A secretary?

14 A Part time. I used Mr. Bergen's secretary,
15 and then I was assigned a part time later.

16 Q As part of your role of Manager of
17 Environmental Control, did you impart your knowledge
18 to, concerning the possible potential toxicity of PCB's
19 or its impact on the environment, to the sales group or
20 public relations, et cetera, within Monsanto?

21 A There were occasions when I would hold
22 discussion sessions with representatives of the groups
23 you described, but that function was generally
24 fulfilled by a representative out of the Medical
25 Department.

1 Q Do you know who that person was?

2 A It was primarily Mr. Elmer Wheeler.

3 Q Was he a doctor?

4 A No.

5 Q When did you become aware of the presence of
6 Aroclors in the environment?

7 A I was first informed in about June of 1969.

8 Q And how did you come about that information?

9 A My supervisor, during one of his frequent
10 trips to the plant, mentioned that he was informed of
11 some environmental issue relating to the PCB's, and he
12 personally didn't know an awful lot of the details, but
13 he also told me that as soon as he got more
14 information, he would tell me more.

15 Q Who was that supervisor, do you recall?

16 A Yes, sir, that was Mr. Raymond Stratmeyer,
17 S-T-R-A-T-M-E-Y-E-R.

18 Q Was he out of St. Louis?

19 A Yes.

20 Q When did you find out more?

21 A I believe the first meaningful update that I
22 got was early December of 1969 when I was approached by
23 Mr. Stratmeyer regarding my interest in interviewing
24 for the assignment. And at that time, he gave me a
25 little bit more information regarding the findings of

1 the laboratories and PCB's and environmental samples.

2 Q Do you have a recollection what those
3 findings were?

4 MR. SUMMERS: I think I'll object, vague and
5 ambiguous.

6 Q (By Mr. Centola) If you recall.

7 A He mentioned the studies that came out of
8 Sweden, he mentioned the type of PCB that the
9 laboratories were reporting, he mentioned that Monsanto
10 had its own research program to develop the analytical
11 methodology, and that program was confirming that these
12 findings were indeed PCB's, that animal studies were
13 under way to determine whether or not any harm could
14 result and at what levels of exposure, and that the
15 business groups needed more help in communicating all
16 of these. That was his reason for asking me to
17 interview for that new job.

18 Q Did there come a time when you became more
19 familiar with the Swedish studies that you just
20 mentioned?

21 A Yes.

22 Q And when was that?

23 A I don't know that it happened any particular
24 moment. It was a matter of a period of time in which I
25 picked up a little bit more information each time. The

1 principal tutorial I got was from Dr. Robert Keller,
2 who brought me up to date on the analytical methodology
3 and the procedure used by the Swedish laboratories and
4 their findings. Later that year in --

5 Q What year is that?

6 A 1970 when I first came on that new job. And
7 in April or May of 1970, I was with a group that
8 visited the laboratory in Stockholm, and picked up a
9 little bit more information from Dr. Widmark,
10 W-I-D-M-A-R-K, so that added a little bit more to my
11 understanding of what the laboratory did.

12 Q Was Dr. Robert Keller an employee of
13 Monsanto?

14 A Yes.

15 Q And he was with the Medical Department?

16 A No, he is a chemical doctor. He is the head
17 of Monsanto's research group that works on analytical,
18 chemical analytical procedures.

19 Q Did Dr. Keller inform you as to whether he
20 was imparting his information to people other than
21 yourself?

22 A Oh, yes.

23 Q Who was he giving his information to?

24 MR. CARNEY: You're talking about this
25 analytical?

1 Q (By Mr. Centola) Yes, the analytical
2 methodology, the fact that the Swedish studies were
3 finding PCB's in the environment.

4 A Dr. Keller was communicating that type of
5 information to his peers, other research analytical
6 chemists, in government laboratories and university
7 laboratories. And, of course, through his team of
8 chemists, he was communicating to individuals within
9 Monsanto such as marketing people, engineering people,
10 manufacturing people.

11 Q Why was he imparting that information to
12 marketing people?

13 A Some of the marketing representatives were
14 getting inquiries, especially from the bigger companies
15 that had their own chemical laboratories. And the
16 marketing people, salespeople, would contact either Dr.
17 Keller or his team members regarding the availability
18 of documents that would describe the procedure used, or
19 getting samples of the pure material that they can use
20 in their analysis, that's the kind of thing that the
21 marketing people would come back with.

22 Q So that was part of Mr. Kell -- Dr. Keller's
23 employment, to keep the marketing people informed of
24 these matters?

25 A Yes, sir.

1 Q Did you ever hear of Soren Jensen?

2 A Yes, sir.

3 Q Was he the man who wrote the Swedish study
4 that you're referring to?

5 A He was one of the authors.

6 Q Do you have a recollection of what the
7 Swedish studies found?

8 A I don't recall everything, of course, but I
9 do recall that they found what they initially described
10 as a PCB, and later confirmed in such samples as pine
11 needles from a forest, they went to a museum and took a
12 feather off of a preserved eagle and found PCB's in
13 that feather. They had clippings of an infant's head,
14 hair, and found PCB's in it. There were more examples
15 given that I don't recall at the moment.

16 Q Was it concerned, at that time, that PCB's
17 were, in fact, persistent in the environment?

18 MR. SUMMERS: I'll object to that, vague and
19 ambiguous, calling for speculation.

20 Q (By Mr. Centola) Do you remember what
21 concerns, if any, of those studies?

22 A Concerns were, many of the time, first of
23 all, is it really a PCB?

24 Q Right.

25 A Can it really be identified with confidence

1 that it's a PCB? If so, are the amounts that it
2 reported reproducible?

3 Q Right.

4 A If so, then the concern became on how can an
5 industrial chemical end up in a pine needle or in an
6 eagle in a museum? Was that eagle treated with some
7 kind of adhesive or dye that had the PCB's in it, or
8 did it get it before it was mounted and displayed? So
9 the concerns were many. The findings raised more
10 questions than it answered.

11 Q And when you went to Europe, one of your
12 charges was to find out as much as you can about the
13 PCB's that were found in the environment? Or the fact
14 that these chemicals at least suggested the PCB's in
15 the environment were, in fact, there?

16 A That was one of the objectives, yes.

17 Q You said you went with Dr. Keller and Dr.
18 Widmark to Europe?

19 MR. CARNEY: I think Widmark was there.

20 Q (By Mr. Centola) I'm sorry, who did you go
21 with to Europe?

22 A I went with Dr. Keller and Elmer Wheeler.

23 Q When you returned from Europe, did you do
24 anything with the information you acquired?

25 A Oh, yes.

1 Q What did you do with it?

2 A Well, primarily, I used that information in
3 discussing the status of the PCB issue with either
4 individuals or groups. Preferably with groups where I
5 had a bigger audience.

6 Q Within Monsanto or without?

7 A Both.

8 Q Okay. We'll get to that in a moment. Did
9 you ever hear of something called the Yusho incident?
10 Y-U-S-H-O.

11 A Yes, I have.

12 Q What is the Yusho incident?

13 A The term describes an incident that occurred
14 in Japan in which an oil which was extracted from rice
15 bran and used for cooking and human consumption was
16 contaminated with PCB's in a system that was used to
17 distill off the usable oil. The system had developed a
18 leak, and the PCB's they used in that system which,
19 incidentally, were of Japanese origin, got into that
20 oil, contaminated it, and the producer of that oil
21 continued to sell it to the community.

22 Q And what happened as a result of that, or
23 what was the suspicion?

24 A There were many individuals that became ill
25 as a result of ingesting or eating the oil. They

1 displayed many, many symptoms.

2 Q When did that incident take place?

3 A It was in 1968.

4 Q And when did you learn about it?

5 A When I came on this new assignment in January
6 of 1970.

7 Q And was Mr. Wheeler and Mr. Keller aware of
8 this incident?

9 A Mr. Wheeler was the one that informed me. I
10 do not know if Mr. Keller knew it or not.

11 Q Okay. I should say Dr. Keller. Before we go
12 on to the next topic, I just want to step back just for
13 a second and go through some definitional things that
14 are going to be coming up during the course of my
15 deposition with you so we understand our terms. We've
16 already talked about Aroclors, okay?

17 A Yes.

18 Q Now, have you ever heard the expression
19 Aroclor 1242?

20 A Yes.

21 Q Aroclor 1254?

22 A Yes.

23 Q Aroclor 1260?

24 A Yes.

25 Q Aroclor 1016?

1 A Yes.

2 Q Aroclor 1264?

3 A Would you repeat that?

4 Q Is there a 1264?

5 A No.

6 Q Okay. So we have 1242, 1254, 1260, and then
7 Aroclor 1016, you've heard of all of those?

8 A Yes.

9 Q Can you tell me what the significance is of
10 the last two numbers in each of those digits of those
11 numbers I've given you?

12 A The last two numbers represents the percent
13 by weight of chlorine that is present in that total
14 mixture.

15 Q It's fair to say that the higher the last two
16 digits, the more chlorine in the total mixture?

17 A Yes.

18 MR. CARNEY: Are you asking about 1016 as
19 well or just the 1254, 1242?

20 Q (By Mr. Centola) Fair comment. Fair comment.
21 Just talk, we're talking about just the 12 numbers now,
22 not the 1016.

23 A That was what I understood, yes, sir.

24 Q Okay. What is the significance in terms of
25 biodegradability of the number of chlorine molecules?

1 A It's been determined with some testing that
2 the higher that number is, the more resistant that
3 particular PCB is to degradation.

4 Q So following through what you just told me,
5 Aroclor 1260 would be more resistant to degradation
6 than Aroclor 1242?

7 A As a composite within each of those. There
8 are types of PCB's present in both that are resistant,
9 but as a whole, the 1260 mixture is more resistant than
10 the whole 1242 mixture.

11 Q We also mentioned Aroclor 1016?

12 A Yes.

13 Q I take it that that, that the last two digits
14 in that number does not represent the percentage by
15 weight of chlorinated molecules?

16 A That is correct.

17 Q What is the significance of Aroclor 1016?

18 A Aroclor 1016 is an Aroclor 1242 that has been
19 distilled such that the higher chlorinated types of
20 PCB's are left in the pot, if you will, and separated
21 from the lower chlorinated. The intent there is to
22 produce a, an industrial PCB that is more apt to
23 degrade and still be used for the uses that 1242 was
24 designed for.

25 Q Thank you.

1 MR. CARNEY: Is this an appropriate time,
2 anybody need a break?

3 MR. CENTOLA: Yeah, why don't we take a short
4 break.

5 (A brief recess was held at this point.)

6 Q (By Mr. Centola) All right, I'm marking as
7 Papageorge Exhibit 2 a three-page document dated
8 March 3, 1969, purported to be prepared by Elmer P.
9 Wheeler, Manager Environmental Health. Mr. Papageorge,
10 I want you to look at that, and my first question to
11 you is going to be, have you ever seen it before?

12 A I have seen this document before, or a copy
13 of this document.

14 Q And what is this -- strike that. When did
15 you first see a copy of this document?

16 A About January, 1970.

17 Q Under what circumstances did you see a copy
18 of this document?

19 A When I first assumed my duties on a new
20 assignment and had my discussions with Mr. Wheeler, he
21 gave me a copy of this document.

22 Q And what is this document?

23 A This is a copy of a letter authored and
24 signed by Mr. Wheeler that was sent to users of
25 dielectric fluids on or about the date of the document.

1 Q When you say "users of dielectric fluids," do
2 you mean customers of Monsanto who bought dielectric
3 fluids from Monsanto during that time?

4 A Yes, these are customers of Monsanto, that is
5 correct.

6 Q And so was this document, in fact, sent to
7 all customers of record on or about that date, that is,
8 March of 1969?

9 MR. SUMMERS: I'll object, calls for
10 speculation.

11 A This was sent to all customers of dielectric
12 fluids that contained PCB's.

13 Q (By Mr. Centola) Okay. And did Mr. Wheeler,
14 in fact, tell you that he had prepared this document?

15 A Yes.

16 Q And he told you that as a matter of his
17 regular course of business, he sent this out to all his
18 customers that you just identified?

19 A Yes.

20 Q What was the purpose of sending this document
21 out, sir?

22 A This was intended by Mr. Wheeler to bring up
23 to date those who received this letter regarding the
24 findings of PCB's in the environment and Monsanto's
25 understanding of the situation at that time and

1 Monsanto's programs that had been in place or were
2 being planned at that time.

3 Q Now, the first paragraph of this letter
4 reads, "On February 24, the San Francisco Chronicle
5 carried a major feature about 'a menacing new
6 pollutant' found in the San Francisco Bay area. The
7 article was based on marine life research carried out
8 by Dr. Robert Risebrough," R-I-S-E-B-R-O-U-G-H, "of the
9 University of California. It stated that residues of
10 polychlorinated biphenyl (PCB) were killing certain
11 marine birds and posed a long-term threat to humans."
12 Do you see that paragraph?

13 A I do.

14 Q Do you know who Dr. Risebrough is or was?

15 A Yes. Dr. Risebrough was a, a member of the
16 University of California at Berkeley, their research
17 staff. And I don't propose to know his formal
18 schooling or training, but I would describe him as
19 being a nature scientist.

20 Q Okay. Do you have a recollection, have you
21 ever read the article, the San Francisco Chronicle
22 article?

23 A I read it in January of 1970.

24 Q Do you know if that article was also sent on
25 to customers as a regular course?

1 A I do not know.

2 Q Let's mark this as Papageorge 3.

3 (Papageorge Exhibit No. 3 marked for
4 identification by the court reporter.)

5 Q (By Mr. Centola) Okay. I'm marking as
6 Exhibit Papageorge No. 3, a multiple page exhibit, it's
7 actually two documents. The first document is a News
8 for Release Immediately, 1970, and the first paragraph
9 starts "St. Louis, April 10," and it's three pages.
10 The second document is News for Release Immediately,
11 1970, St. Louis, July 16, and is it's four pages. Mr.
12 Papageorge, have you ever seen this document before?

13 A Yes, I have.

14 Q When did you first see this document? Let's
15 take the first three pages of it first.

16 MR. CARNEY: Is Exhibit 3 more than three
17 pages?

18 MR. CENTOLA: Yes. Unfortunately, I only
19 have enough copies, so if you can look on his.

20 MR. CARNEY: Okay.

21 Q (By Mr. Centola) Let's take the first three
22 pages. When did you first see that?

23 A I saw this document at, shortly before it was
24 published.

25 Q Did you partake in preparing the contents of

1 the document?

2 A I was one of the reviewers prior to the
3 publication.

4 Q Whose decision was it to -- strike that.
5 What is this document?

6 A This document is a release to the news media
7 prepared by a Monsanto representative in Monsanto's
8 Public Relations Department.

9 Q What was the purpose of -- strike that.
10 Whose decision was it to put together this news release
11 to have released to the news media?

12 A Mr. Howard Minckler, M-I-N-C-K-L-E-R.

13 Q And who was he?

14 A He was, at the time, a Monsanto Vice
15 President in charge of the, one of the operating
16 divisions in Monsanto.

17 Q Did you participate in that decision to put
18 this news release out?

19 A I was present in a small group that discussed
20 the wisdom of responding to Congressman Ryan's
21 remarks. I guess you'd call it that, I was a
22 participant.

23 Q Okay. The first -- and, in fact, was this
24 news release released to the news media on or about
25 April 10 of 1970?

1 A Yes.

2 Q I want to ask you a couple questions about
3 this news release, okay? The first paragraph says,
4 "Monsanto Company said today it was well aware of the
5 concern over possible environmental contamination by
6 polychlorinated biphenyl (PCB), an industrial chemical
7 made by the company." Do you see that first sentence?

8 A I do.

9 Q Is that fair, is that an accurate
10 representation of what Monsanto was aware of as of
11 April 10, 1970?

12 A It is.

13 Q And it goes on to say, "The company began a
14 six point program in 1968 to properly identify and
15 measure PCB in the environment." Do you see that?

16 A Yes.

17 Q And it goes on to say, "Steps have been taken
18 to strictly control use of the chemical and replace
19 those grades of PCB which linger in nature." Do you
20 see that?

21 A Yes.

22 Q Okay. First of all, let's talk about the six
23 point program. Were you familiar with the six point
24 program in April of 1970?

25 A Yes.

1 Q Do you remember what the six point program
2 involved?

3 A I don't know that I remember all six points.

4 Q Did it involve the development of analytical
5 methodology?

6 A Yes, it did.

7 Q Did it involve the tightening of operations
8 to prevent PCB's from escaping into the environment, or
9 coming up with methods to prevent it from escaping into
10 the environment?

11 A It did.

12 Q Did the six point program look into
13 alternative materials?

14 A Yes.

15 Q Did the six point program involve an
16 understanding of the biodegradation rates of PCB's?

17 A Yes.

18 Q And did the six point program involve
19 becoming more knowledgeable about any toxic effects of
20 PCB's?

21 A It did.

22 Q And did the six point program involve keeping
23 customers advised of developments relating to PCB's?

24 A It did.

25 Q And was this news release, in essence, part

1 of your six point program to keep people involved and
2 informed of the knowledge that Monsanto had about
3 PCB's?

4 A It was.

5 Q And this six point program that involved the
6 keeping customers advised of developments relating to
7 PCB's was implemented sometime in the middle of 1968?

8 A Yes.

9 Q Now, if we go to Page 4 of Exhibit 3, we have
10 a second news release. Is this, in fact, the second
11 news release released on or about July 16?

12 A Yes.

13 Q Okay. Was it, in fact, released to the news
14 media?

15 A It was.

16 Q On the second to last page of that document,
17 the first full paragraph, second full paragraph,
18 states, "Monsanto said it intends to continue selling
19 PCB for 'closed system' uses such as electrical
20 components and heat transfer systems. 'With rigid
21 control over where the product goes, how it is handled
22 and disposed of, we believe the safety functions of the
23 product can continue to serve society and the
24 environment can be protected,' Minckler said. 'We are
25 discontinuing sales into 'open systems' -- adhesives,

1 sealants, chlorinated rubber, specialty paints, et
2 cetera." Do you see that?

3 A I do.

4 Q Did Monsanto, in fact, discontinue its sale
5 of PCB's to open systems?

6 A It did.

7 Q And when was that?

8 A It was effective August 30, 1970.

9 Q How much of the sales of PCB's did that
10 involve, percentagewise?

11 A By that, you mean just the plasticides?

12 Q Yeah, the open systems.

13 A I don't recall the exact numbers, but I would
14 suggest that it was approaching half, 40 percent or so.

15 Q So Monsanto, as early as August 30, 1977 --
16 or 1970, because of its concerns about PCB's entering
17 the environment, made a decision to close down
18 approximately 40 percent of its sales of PCB's?

19 A Close to that, yes.

20 Q And was this, as a matter of custom and habit
21 and in the regular course of your business,
22 communicated to your customers at that time?

23 A Oh, certainly.

24 Q And, in fact, did Monsanto at this time sell
25 even the closed systems only under rigid control of

1 where the product went and how it was handled and
2 disposed of?

3 MR. SUMMERS: Objection, vague and ambiguous.

4 A Will you help me with the expression "rigid
5 control"?

6 Q (By Mr. Centola) Okay. Let me ask you this,
7 and you told me you had reviewed the first news release
8 before it went out; is that correct?

9 A Yes.

10 Q Did you review the second news release?

11 A Yes.

12 Q Okay. When you reviewed it back in 1970, did
13 you have an understanding of what was meant by the
14 term, "rigid control of where the product goes, how it
15 was handled and disposed of"?

16 A Yes.

17 Q Okay. What was your understanding?

18 A This was the, as I perceived it, it was the
19 control exercised by the individuals in possession of
20 the material in terms of making certain that no leaks
21 occur; that if they do, they are quickly cleaned up,
22 and when disposed, they are put into the proper place,
23 or preferably recycled, reused. That's what my
24 understanding of rigid control, and it's really
25 primarily aimed at the person in possession of the

1 material at the time that the incident occurs or use
2 occurs.

3 Q When you say, "the person in control of the
4 material," would that be a customer of dielectric
5 fluids from Monsanto?

6 A That would be an example, yes.

7 Q Let's mark this as Papageorge 4.

8 (Papageorge Exhibit 4 marked for
9 identification by the court reporter.)

10 Q (By Mr. Centola) Okay, I'm marking as
11 Papageorge 4 for identification a multiple page
12 document that's an eight page document entitled
13 Polychlorinated Biphenyls, Control of Escape to the
14 Environment, and it appears to be on Monsanto
15 letterhead or stationery. Mr. Papageorge, would you
16 please look at the document that I've just marked as
17 Exhibit 4, and my first question will be to you, while
18 you're looking at it, is whether you've ever seen it
19 before?

20 A I have seen this document before.

21 Q Okay. When did you first see this document?
22 Strike that. Did you help in the preparation of this
23 document?

24 A I was involved in the preparation either of
25 this document or versions of it. There is no date on

1 this, I have no way of knowing whether it's the first
2 of the series or the last of the series, but --

3 Q Well, let me ask you this. You just
4 mentioned a series. What is this document, first of
5 all?

6 A This document is a collection of three, of
7 three summaries attempting to summarize the status of
8 Monsanto's programs. And it approaches to controlling
9 the escape of PCB's into the environment, understanding
10 what might happen if they do get into the environment
11 in terms of presence, and thirdly, trying to get an
12 understanding of what effects PCB's have on test
13 animals.

14 Q Okay. You mentioned that there were a series
15 of these type of documents prepared by Monsanto?

16 A There were attempts every six to eight months
17 or so to update the information in this collection of
18 documents.

19 Q And when did that series begin, do you have a
20 recollection?

21 A About mid-1970 is when I first put together
22 either this document or something similar.

23 Q Let's look at Page 2 of the document, and see
24 the paragraph numbered 1?

25 A Yes. Yes.

1 Q Just above it, it says, "We are therefore
2 taking the following actions: 1) Discontinue sales of
3 PCB's for all general plasticizer applications - August
4 30, 1970." Does that help refresh your recollection as
5 to when this was prepared?

6 A Yes, this was prepared in the summer of
7 1970.

8 MR. CARNEY: And by "this," you're talking
9 about the first three pages?

10 A Yes. I don't know about the other two,
11 there's no clue there that I can spot.

12 MR. CARNEY: There is a date on the --

13 A Oh, yes, January 15, 1970, yeah.

14 MR. CARNEY: -- on the third to last page.

15 Q (By Mr. Centola) All right. On the third to
16 last page of the document, you have Status of Aroclor
17 Studies, and that's dated January 15, 1970?

18 A It does.

19 MR. CARNEY: Just for the record, I think
20 there's a group of documents stapled together. I don't
21 know that that date -- I just don't have any idea, but
22 I don't know whether that date refers to the other
23 documents, the preparation of the other documents or
24 what.

25 Q (By Mr. Centola) Clearly in 1970, this

1 document was prepared; is that correct?

2 A At the earliest, yes.

3 Q Right. And was this document meant to be
4 disseminated to customers?

5 A Yes.

6 Q And was this document, in fact, passed on to
7 customers as a regular course of Monsanto's business?

8 A Yes.

9 Q And is it a fact that it became part of the
10 custom and habit of Monsanto to pass on these status
11 reports to all customers of record when they were
12 prepared?

13 A There's, no, I wouldn't say they went to all
14 customers of record. They went to --

15 Q Customers of dielectric fluids?

16 A For sure.

17 Q Okay. And users of PCB's?

18 A Yes.

19 Q Okay. So your answer would be yes to that
20 question as to going on to, being part of your custom
21 and practice with respect to purchasers of dielectric
22 fluid, and PCB's?

23 A Yes, but the implication of, unless I
24 understood you incorrectly, that there was a mailing
25 effort for this kind of document.

1 Q Right.

2 A This was generally issued by the salesman
3 when somebody called on a customer, he would distribute
4 copies to make sure it got to the right people.

5 Q Right, and it was part of his practice to do
6 that?

7 A Yes.

8 Q Okay. Who else helped you prepare this
9 document, sir? Or who else was involved in the
10 preparation of this document?

11 MR. CARNEY: Again, you're talking about the
12 entire Exhibit 4, which is --

13 Q (By Mr. Centola) Right. If you have a
14 recollection as to who helped you participate in the
15 series that you were talking about?

16 A The part that refers to biodegradation
17 studies, the primary author was Dr. Scott Tucker.

18 Q Who is Dr. Scott Tucker?

19 A He is a research chemist reporting to Dr.
20 Keller who was supervising the biodegradation
21 studies. The interim status report on the toxicity
22 testing was prepared by Mr. Elmer Wheeler. The front
23 pages, Pages 1, 2, and 3, I was the primary author.

24 Q Did Mister -- what position was Mr. Wheeler
25 in at this time again?

1 A He was the principal member of Monsanto's
2 Medical Department who was responsible for the
3 management of toxicity studies placed with laboratories
4 for Monsanto.

5 Q Do you know who Mr. Olson is?

6 A Olson?

7 Q Right.

8 A Yes, sir.

9 Q Who was Mr. Olson back in 1970?

10 A At that time he was the marketing director
11 for functional fluids reporting to Mr. Bircham.

12 Q What is Mr. Olson's first name?

13 A Donald.

14 Q Did he help prepare this document, or was he
15 involved in the preparation of these?

16 A Oh, he saw draft versions as they were being
17 prepared, so he did participate to that extent, yeah.

18 Q And did -- was it your decision to send this
19 document out to customers, sir? Or was that part of
20 Mr. Olson's decision as well?

21 MR. CARNEY: Again, you're talking about
22 Exhibit 4, and I think you're mischaracterizing his
23 testimony in regard to sending it out.

24 Q (By Mr. Centola) Let's, let's talk about, you
25 mentioned you had a series of reports, status reports,

1 that people at Monsanto were involved in preparing,
2 correct?

3 A I did, yes.

4 Q And you also testified, I believe, that as a
5 matter of course, salesmen would give these status
6 reports to customers; is that correct?

7 A Yes.

8 Q And you testified that these reports were
9 prepared maybe every six to eight months; is that
10 correct?

11 A Yes.

12 Q My question to you is, the series of reports
13 that you were discussing, was it your decision or Mr.
14 Olson's decision to send those out to customers?

15 MR. SUMMERS: I'll just object to the extent
16 that he said they were prepared every six to eight
17 months, I believe he said there was an attempt to
18 prepare those.

19 Q (By Mr. Centola) Were they, in fact, prepared
20 every six to eight months?

21 A Close to that. We might have put some out a
22 little earlier, and some, we'd wait a year or so,
23 depending on when we got meaningful new data.

24 Q Okay. Now, the question that I have with you
25 is whose decision was it to distribute that

1 information, those series?

2 A The decision to share the data was made very
3 early in this PCB environmental issue. I was not
4 physically present when it was made, so I'll be
5 speculating, but the preparation of a summary of the
6 major phases of this work was my strong recommendation,
7 and it was implemented, we actually did it.

8 MR. SUMMERS: I'd object and move to strike
9 as speculation.

10 Q (By Mr. Centola) Was there ever an attempt,
11 Mr. Papageorge, to phase out the manufacture and sale
12 of Aroclors 1242, 1254, and 1260, or any of those?

13 MR. SUMMERS: I'm sorry, just those three?

14 Q (By Mr. Centola) Yeah.

15 A Well, that's what actually took place. I'm
16 puzzled with the timing of the question.

17 Q Okay. What did take place with respect to
18 those Aroclors?

19 A Those were phased out in 1977.

20 Q Those were all Aroclors that were phased out?

21 A Yes, sir.

22 Q Did there come a time when Monsanto was
23 attempting to substitute for 1242, 1016?

24 A Yes.

25 Q Okay. When did that take place?

1 A 1971.

2 Q And that was in an attempt to put on the
3 market a less, a more biodegradable product?

4 A Yes.

5 Q Okay. And 1016 was, in fact, being used,
6 there was developments on trying to replace 1242 with
7 1016; is that correct?

8 A For use in capacitors.

9 Q Right. Did the same substitution take place
10 with respect to 1254 and 1260?

11 A No, if I understand your question correctly.
12 There was no material that was comparable to the 54 and
13 60 and still would be more degradable, no.

14 Q All right. Did there come a time before the
15 phaseout of all PCB's altogether when Monsanto stopped
16 selling the 1242?

17 A As best I recall, there was still some 1242
18 available for those customers who continued to use it
19 in transformers, but not in capacitors.

20 Q Let's mark this as Papageorge No. 5.

21 (Papageorge Exhibit No. 5 marked for
22 identification by the court reporter.)

23 Q (By Mr. Centola) I have just marked as
24 Exhibit Papageorge No. 5 a two-page document dated
25 September 15, 1970, addressed to "Gentlemen," and

1 purportedly prepared by James G. Bryant, and AYD stamp
2 AYD 000099 and 000100. Mr. Papageorge, could you
3 please take a look at this? Have you ever seen that
4 before?

5 A Yes, I have.

6 Q What is that?

7 A This is a letter prepared by Mr. James Bryant
8 of Monsanto and sent to customers of dielectric fluids
9 in which Mr. Bryant is informing the customer that the
10 FDA is, has issued some guidelines regarding the
11 presence of PCB's in fish and milk.

12 Q Have you ever seen Mr. Bryant's signature
13 before?

14 A Yes.

15 Q And do you recognize the signature on that
16 letter?

17 A I do.

18 Q And is that Mr. Bryant's signature?

19 A Yes.

20 Q And now would you please take a look at the
21 second page of that document?

22 A Yes.

23 Q What is that?

24 A This is a copy of the list of customers who
25 received the letter we just talked about.

1 Q Now, is that a redacted list?

2 A Yes.

3 Q In other words, there were other customer
4 names on that second page, but for purposes of
5 producing to us, those customer names were eliminated;
6 is that correct?

7 MR. SUMMERS: I object, calls for
8 speculation.

9 A That is correct.

10 MR. CARNEY: Let me just say for the record
11 that that's also my understanding, that Monsanto's
12 policy would be to not disclose other customer names
13 just as a matter of business propriety, so those names
14 were redacted.

15 Q (By Mr. Centola) Okay. So it's your
16 understanding, Mr. Papageorge, is it not, that back in
17 1970, there were a list of customers that were
18 maintained by Monsanto who purchased dielectric fluids;
19 is that correct?

20 A Certainly.

21 Q And that's a copy of the list; is that
22 correct?

23 A Yes.

24 Q And, in fact, on that list is Energy
25 Systems, Palo Alto, California, Mrs. Domer, 9/15/1970;

1 is that correct?

2 A That is correct.

3 Q Which indicates that this letter was, in
4 fact, sent to that location, does it not, sir?

5 A Yes, it does.

6 Q By the way, had you ever heard of Mrs. Domer?

7 A I haven't personally, no.

8 Q But Energy Systems?

9 A Yes.

10 Q How about Aydin, A-Y-D-I-N?

11 A I don't recall Aydin.

12 Q When did you first hear of Energy Systems?

13 A About 1970.

14 Q What did you know about Energy Systems in
15 1970?

16 MR. SUMMERS: I object, too general.

17 Q (By Mr. Centola) Let me try to correct it.
18 You first learned of Energy Systems in 1970; is that
19 correct?

20 A That's correct.

21 Q Do you remember the circumstances under which
22 you heard of them?

23 A Yes. I recall that they were amongst a list
24 or a grouping of users of dielectric fluids on what I'm
25 going to call the west coast, the western part of the

1 United States. I also recalled that our marketing
2 manager for dielectric fluids had made a trip, and
3 amongst the customers that he called on, Energy
4 Systems was listed. My recollection is that they were
5 a small user of PCB dielectric fluids.

6 Q Who was that marketing manager?

7 A Paul Benignus, B-E-G-N-I-G-U-S (sic).

8 Q Who is James Bryant, by the way?

9 A Mr. Bryant was, reported to Mr. Benignus, and
10 he was the man located in St. Louis who provided
11 technical assistance to customers of dielectric fluids.

12 Q Okay. Did Paul Benignus report to you?

13 A No.

14 Q Did Paul -- strike that. You testified
15 earlier about the six point program that Monsanto had,
16 one of those points being keeping customers informed of
17 developments concerning PCB's in the environment. Do
18 you recall that?

19 A Yes.

20 Q As part of that effort, were trips made to
21 various customers to keep them informed?

22 A Oh, yes, many trips by many people.

23 Q Was Mr. Benignus' trip one of those trips?

24 A Yes.

25 Q And was the purpose of his trip, among other

1 things, to keep Energy Systems informed of the
2 developments of PCB's in the environment?

3 MR. SUMMERS: Objection, calls for
4 speculation.

5 A Yes.

6 Q (By Mr. Centola) By the way, how do you have
7 knowledge of that, sir? As to what the purpose of Mr.
8 Benignus' trip was?

9 A Well, Mr. Benignus and I saw each other every
10 day and planned our activities in this area, and as
11 part of those discussions, it was proposed that
12 somebody make some of these calls. Mr. Benignus was
13 assigned some of the customers and some of his
14 salespeople were assigned other groups. In fact, I
15 went on a tour of some of these customers' plants as
16 part of this overall program. So it was a matter of
17 doling out the work assignments so that it could be
18 done in a short period of time by as many people as
19 were available to communicate the information we had.

20 Q So as part of your everyday contact with Mr.
21 Benignus, as part of your and his participation in this
22 program to keep customers informed, Mr. Benignus was
23 assigned the task of going to Energy Systems to
24 accomplish that end; is that correct?

25 A That is correct.

1 Q And, in fact, he did go to Energy Systems
2 for that purpose?

3 A He did.

4 Q And when you and Mr. Benignus sat down every
5 day to discuss where you would go, what kind of things
6 did you discuss should be imparted to customers
7 concerning PCB's?

8 A Well, the kinds of things that were
9 represented in that summary document, the uses, the
10 program for discontinuing the open use sales, the
11 status of the toxicity studies, the biodegradation
12 studies, the status of analytical chemistry in the
13 procedures, whether they were available, and if so, if
14 any customer was interested, we would be glad to give
15 them copies, that covers most of it.

16 Q Did you discuss with customers the importance
17 of keeping PCB's out of the environment?

18 A Oh, that's the number one subject, yes.

19 Q And did you discuss with customers keeping
20 PCB's away from water?

21 A Yes. We emphasized that.

22 Q And did you talk to customers about the
23 information you learned in your trips to Europe and the
24 incident concerning Yusho?

25 A Yes.

1 Q And did you recommend to customers disposal
2 and use techniques in order to keep the PCB's out of
3 the environment?

4 A We were able to recommend some procedures and
5 suggest that they carefully review these procedures and
6 apply it to their circumstances.

7 Q And that was all part of Mr. Benignus' charge
8 when he went to see Energy Systems; is that correct?

9 A Yes.

10 Q And just my last question on this, there is
11 no doubt in your mind that this letter was, in fact,
12 sent to Energy Systems?

13 A That is correct.

14 MR. SUMMERS: I object and move to strike as
15 speculation.

16 Q (By Mr. Centola) Do you have any reason to
17 believe this was not sent to Energy Systems?

18 A I do not.

19 Q In fact, was this letter sent out as part of
20 the practice of Monsanto during this time period to
21 keep customers informed of the developments concerning
22 PCB's in that time frame?

23 A Yes.

24 Q And it would have been sent out as part of
25 custom and practice of Monsanto?

1 A Yes.

2 Q By the way, do you have a recollection of any
3 specifics concerning the trip of Mr. Bryant -- of Mr.
4 Benignus to Energy Systems other than it was a small
5 operation and a small user of dielectrics?

6 A I do recall that when he came back and we
7 discussed it, that it was his definite impression that
8 they understood the issues he talked about, and he was
9 assured that they had no problems. So it was a, let me
10 summarize, it was a comfortable feeling regarding that
11 particular trip in his report.

12 Q But he was assured they understood the
13 issues?

14 A Yes, sir.

15 Q Do you know if he made any other trips to
16 Energy Systems?

17 A I do not.

18 Q The trip we're talking about, when was that
19 trip made?

20 A 1970.

21 Q Is that when most of these trips were made,
22 by the way?

23 A There were many trips made through the
24 several years. There was a concentrated effort in 1970
25 to bring everybody up to speed regarding the PCB issues

1 followed by bringup sessions.

2 Q When you went on these trips, who would you
3 meet with as customers, generally? Would you meet with
4 the principals of the customers?

5 A You're talking about my personal experience?

6 Q Yes.

7 A Certainly we would meet with the location
8 manager and his staff. His engineers, the whole group
9 that reported to him, which gave us an opportunity to
10 give our message to a good size audience, anywhere from
11 six to a dozen people in a conference room at a time.

12 Q Do you know who Mr. Benignus met with at
13 Energy Systems?

14 A I do not.

15 Q Do you know how long he was there?

16 A No.

17 (A brief off the record discussion was held
18 at this time.)

19 (Papageorge Exhibit No. 6 marked for
20 identification by the court reporter.)

21 Q (By Mr. Centola) All right. I'm going to
22 mark as Papageorge Exhibit 6 an eight-page document,
23 the first page being a two-page, apparently a two-page
24 cover letter to Dear Customer on Monsanto stationery
25 from W.E. Schalk, S-C-H-A-L-K, and attached to it is a

1 October 29, 1969, appears to be a Chemical Week
2 article. And my first question to you as you're
3 viewing that, Mr. Papageorge, is whether you've ever
4 seen any portion, either this entire document or any
5 portion of it before?

6 A I have seen the entire document with
7 attachments.

8 Q What is this document, sir?

9 A This is a copy of a letter sent to customers
10 of record to Monsanto's PCB products that were used as
11 plasticizers.

12 Q Do you know if this letter was also sent to
13 users of dielectric fluids?

14 A A similar letter with a paragraph that
15 addressed the dielectric use added was sent to
16 dielectric customers.

17 MR. SUMMERS: Object and move to strike as
18 nonresponsive.

19 Q (By Mr. Centola) Well, my last question was,
20 was a similar letter sent to dielectric users, and your
21 answer is what, that it was?

22 A It's similar, yes, but a little bit
23 different.

24 Q All right, let me show you this. Let's mark
25 this as Papageorge Exhibit 6. I'm sorry, 7.

1 (Papageorge Exhibit No. 7 marked for
2 identification by the court reporter.)

3 MR. CARNEY: Do you have another copy of
4 that?

5 Q (By Mr. Centola) No, I'm sorry, I don't. Mr.
6 Papageorge, you have before you what I've just marked
7 as Papageorge Exhibit 7. Is this, in fact, the letter
8 that was sent to users of dielectric fluids?

9 A It is.

10 Q Okay. So Exhibit 6 represents a form letter
11 that was sent to customers of record as a matter of
12 course and practice of Monsanto to plasticides users;
13 is that correct?

14 A That is correct.

15 Q And No. 7 represents a form letter sent to
16 customers of record as a matter of course and practice
17 by Monsanto to dielectric users?

18 A That is correct.

19 Q And was the Chemical Week article also
20 attached to Exhibit 7 when that went out?

21 A It was.

22 Q And that was sent out as part of the custom
23 and habit of Monsanto back in 1970 to all customers of
24 record?

25 A Yes.

1 Q So if Energy Systems or Aydin were customers
2 of record, that would be sent out as a matter of
3 course?

4 A Yes.

5 Q And again, what was the purpose of these
6 particular letters?

7 A This is an attempt in early 1970 to bring the
8 customers up to date regarding the findings of PCB's in
9 the environment, and to inform the customer that the
10 products he has been purchasing do contain the
11 materials being found in the environment.

12 MS. BENNETT: I need to switch the tapes
13 now.

14 MR. CENTOLA: Take a break?

15 (A short recess was taken at this time.)

16 Q (By Mr. Centola) Mr. Papageorge, who is W.E.
17 Schalk?

18 A Mr. Schalk at the time was the marketing
19 director for the plasticizers business group.

20 Q And Donald Olson was the?

21 A Marketing director for the functional fluids
22 business group.

23 Q All right. Which would explain why
24 Papageorge 7 was sent by Mr. Olson to dielectric
25 customers?

1 A That is correct.

2 Q As opposed to Exhibit 6, which was sent by
3 Schalk to plasticides users?

4 A That is correct

5 Q Mr. Papageorge, who is Randy Graham?

6 A Who was he?

7 Q Yes.

8 A He was the field representative for
9 dielectric fluids for Monsanto.

10 Q And what did Mr. Graham do as a field
11 representative for dielectric fluids at Monsanto?

12 A He would call on customers like a typical
13 salesman would, try to keep in touch with the customer
14 and his needs, and try to ascertain whether or not the
15 customer was satisfied with the product and the service
16 that he was getting, and also would act as the person
17 who would communicate to the customer any new
18 developments that Monsanto was knowledgeable of or, in
19 turn, would also report back to Monsanto the new ideas
20 and thoughts and developments that he would receive
21 from the customers.

22 Q Was Graham and Benignus on the same line of
23 authority?

24 A No. Mr. Graham reported to Mr. Benignus as a
25 functional reporting. Not administratively, but

1 functionally in terms of selling dielectric fluids.

2 Q And how about -- strike that. Where is Mr.
3 Benignus today, do you know?

4 A The last I knew, he was living in Belleville,
5 Illinois.

6 Q Is he still working?

7 A No, he's retired.

8 Q When you say the last time you knew, when was
9 that?

10 A About a year or two ago.

11 Q How about Mr. Bryant? Do you know where he
12 is today?

13 A In the northeast somewhere. That's as close
14 as I can get.

15 Q He's no longer with Monsanto?

16 A No. He left in about 1976 or thereabouts.

17 Q And Mr. Graham, do you know where he is?

18 A Mr. Graham is in the northeast also. I don't
19 know his address.

20 Q In the 1970 time frame, was Monsanto making
21 recommendations to clients regarding disposal controls
22 of PCB's?

23 A Yes.

24 Q In fact, was Monsanto letting clients know
25 that they would accept PCB wastes during that time

1 period?

2 A Of a certain type, yes.

3 Q What type of waste?

4 A Liquid waste. Pumpable material.

5 Q Did you participate in that decision to
6 inform clients that they would be able to send pumpable
7 waste back to Monsanto?

8 A Yes.

9 Q When did that take place?

10 A 1970.

11 Q And as a matter of course, did you
12 communicate that to your clients?

13 A Certainly.

14 Q Clients, customers of dielectric fluids?

15 A Yes.

16 Q And did you recommend, at that time, methods
17 of disposal of liquid waste to customers?

18 A In 1970?

19 Q Yes.

20 A Yes.

21 Q And what was the preferred method?

22 MR. SUMMERS: Objection, calls for
23 speculation, vague and ambiguous.

24 Q (By Mr. Centola) What method did you
25 recommend to clients back in 1970?

1 A We recommended that incineration was the
2 preferred method.

3 Q In fact, did Monsanto have an incinerator?

4 A Eventually, we had an incinerator operating.
5 It was being designed in 1970.

6 Q Did there come a time when you received your
7 waste from customers to incinerate in the Monsanto
8 incinerator?

9 A Yes.

10 Q And did you inform your customers that this
11 service was available to them?

12 A Yes.

13 Q And were all your customers on the, on date
14 of record as a matter of course informed that Monsanto
15 had an incinerator to dispose of their liquid wastes?

16 A Yes.

17 Q And when was that?

18 A The information was sent to the customers
19 starting in 1970 in anticipation of the unit that went
20 into operation the following year.

21 Q Did you have any, did Monsanto have any
22 proposals with respect to solid PCB wastes which it
23 communicated to its customers as a regular course of
24 its business back in 1970 and '71?

25 A We did.

1 Q And what was that communication to your
2 customers?

3 A Well, it emphasized, first of all, to keep
4 the amount to a minimum; and secondly, that the only
5 available acceptable method of disposal was in a
6 landfill that was properly authorized by the local
7 authorities, and one that did not have underground
8 water problems or allow for seepage into waterways on
9 the surface or even underground water.

10 Q So as a matter of your business and custom
11 back in 1970 and '71, you informed your customers as of
12 that date that even their solid wastes were to be put
13 into landfills where there would be no problems with
14 the PCB's escaping into ground water or waterways?

15 A That is correct.

16 Q We talked about the labeling section of
17 Monsanto earlier today. Did there come a time when
18 Monsanto placed labels on containers containing PCB's
19 that went to customers which addressed the warnings
20 which -- strike that. Which had warnings concerning
21 PCB's and their entering the environment?

22 A Yes.

23 Q And in what time frame did that take place?

24 A In May of 1970.

25 Q Let's mark this as Papageorge 8 and this one

1 as Papageorge 9.

2 (Papageorge Exhibits No. 8 and 9 marked for
3 identification by the court reporter.)

4 Q (By Mr. Centola) Let me show you what I've
5 marked as Papageorge 8 first. And this purports to be
6 -- well, it says "Aroclor 1016, Electrical Grade,
7 Monsanto," and it says, "Caution" on it. It's a
8 one-page document. Have you ever seen this document,
9 this, this document before?

10 A Yes, I have.

11 Q What is it?

12 A This is a copy of a Monsanto label which is
13 placed on a 55 gallon drum of Aroclor 1016.

14 Q Do you recall what color that label was?

15 A As I remember, this was a white background
16 with red highlights and red lettering.

17 Q So the Monsanto and the lettering here would
18 be in red?

19 A That's my recollection.

20 Q And was that label placed on all 55 gallon
21 drums of 1016 that went to customers?

22 MR. SUMMERS: Objection, calls for
23 speculation.

24 Q (By Mr. Centola) Well, strike it. Who
25 participated in drafting the language on that label?

1 A All of the language?

2 Q Yeah.

3 A Medical Department.

4 Q Right.

5 A Marketing Department.

6 Q Right.

7 A The Label Department.

8 Q Right.

9 A The Legal Department.

10 Q Right.

11 A I participated, and Manufacturing Department.

12 Q So you participated with all of those other
13 departments in putting this label together?

14 A Well, I hesitate because some portions of
15 this label are as old as the 30's.

16 Q Right.

17 A I was not present then, so I can't claim that
18 I participated in all of this.

19 Q Which portion did you participate in?

20 A I participated, of course I reviewed the old
21 warning and found that they were still appropriate, so
22 there was a participation of that kind.

23 Q Right.

24 A I participated primarily in the environmental
25 paragraph that refers to containing it and preventing

1 it from escaping. I participated in this reference to
2 reclamation, and I also participated in the waste
3 disposal paragraph.

4 Q Would you read the portion that you helped
5 prepare?

6 A "This product contains polychlorinated
7 biphenyls, which some studies have shown may be
8 persistent, an environmental contaminant and, possibly,
9 injurious to certain forms of bird, aquatic and animal
10 life. Extreme care should be taken to prevent any
11 entry into the environment through spills, leakage,
12 use, disposal, vaporization or otherwise."

13 Q Thank you. Did you participate in the
14 decision to put this label on the barrels of 1016?

15 A Yes, I promoted that idea.

16 Q And, in fact, was your idea put into
17 practice?

18 A Yes.

19 Q And, in fact, then that label was put on
20 barrels of 1016 that went out to customers pursuant to
21 your promotion?

22 MR. SUMMERS: Objection, speculation.

23 Q (By Mr. Centola) You can answer the question.

24 A Yes.

25 Q And when did that take place?

1 A For 1016, it was when it was introduced into
2 the marketplace, it would be 1971.

3 Q Was that put on barrels until the
4 discontinuance of the use of 1016?

5 MR. SUMMERS: Same objection.

6 A These words were, they were slightly
7 modified, but the message, a similar message was on
8 barrels until 1977.

9 Q (By Mr. Centola) Did you see those on
10 barrels, those labels?

11 A Did I see?

12 Q Yes.

13 A I didn't see every barrel, but I did see
14 many, many of them.

15 Q Right. And it was it the practice and
16 custom, then, of Monsanto, starting in 1971 when 1016
17 was introduced into the market, to place these warnings
18 on all 55 gallon drums that went to customers?

19 A Yes.

20 Q And do you know of any drums containing 1016
21 that did not contain this label on it?

22 A No.

23 Q Let me show you what has been marked as
24 Papageorge No. 9 for identification. Now, on this, we
25 have two pages. Do you recognize either this entire

1 document or any portion thereof?

2 A I recognize the entire document.

3 Q What is that?

4 A This is a copy of a label that is attached to
5 a five gallon container of Aroclor 1254, and attached
6 to that is a copy of the wording that is painted, in
7 essence, on the container. It was part of the
8 enameling or the covering of the container. This is a
9 four language message that refers to the environment
10 and health effects.

11 Q Okay. Did you -- strike that. Do you recall
12 what the color of this label was?

13 A This, again, was a white background with red
14 highlights. This was black lettering, the second page
15 was black lettering on a yellow bucket of material.

16 Q Okay. So the first page would have been,
17 again, white with red; is that correct?

18 A Yes.

19 Q And the second page was yellow with black; is
20 that correct?

21 A Correct.

22 Q And the second page -- strike that. The
23 first page went onto what?

24 A It went onto the side of the pail, the five
25 gallon pail of material.

1 Q Did it also go onto the 55 gallon drums?

2 A Yes, a similar label with a different weight
3 designation printed on it.

4 Q Okay. And the second, that was also on the
5 pails?

6 A The second was imprinted on the pails when
7 they were painted.

8 Q How about the 55 gallon drums?

9 A The 55 gallons had these four languages and
10 an additional three. Seven language around the
11 perimeter of the barrel.

12 Q And when did these warnings go on with
13 respect to 1254?

14 A The warnings of this type went on in 1973.

15 MR. CARNEY: You're talking about the
16 environmental warnings?

17 Q (By Mr. Centola) Right. On 1254.

18 A Yeah, the environmental as well as the multi-
19 language approach.

20 Q Is there a reason why 1973 was selected for
21 1254?

22 A Oh, I didn't mean to mislead. The
23 environmental message went on 1254 in 1970, along with
24 everything else.

25 Q Okay.

1 A The multi-language yellow drum was initiated
2 in '73.

3 Q Okay.

4 A And covered all the products that were being
5 sold is as of 1973.

6 Q Okay. Thank you. So as of 1970, the
7 warnings were on in English, but as of 1973, they went
8 on in the other languages?

9 A That is correct.

10 Q And it was part of the custom and habit and
11 practice of Monsanto in the time frames that you
12 described to put these warnings on any containers
13 containing 1254 that went to customers; is that
14 correct?

15 A That is correct.

16 Q Were these kind of warnings put on containers
17 containing 1260, Aroclor 1260?

18 MR. SUMMERS: Objection, vague and ambiguous,
19 speculation.

20 Q (By Mr. Centola) If you know.

21 A When you say "these kind of warnings," are
22 you also including multi-language?

23 Q Okay. Let's just, let's start with the
24 environmental warning, not necessarily multi-language.

25 A The environmental warning was placed on drums

1 of 1260 in 1970, and when the sales of 1260 were
2 terminated in about 1971, of course, they were no
3 longer required.

4 Q And with respect to Aroclor 1242, was it the
5 custom and practice of Monsanto to place similar
6 warnings on drums and buckets containing that product
7 as of 1970?

8 A Yes.

9 Q This is from the production.

10 MR. CARNEY: Those last two were not?

11 MR. CENTOLA: No.

12 MR. SUMMERS: So far we've only had one from
13 the production?

14 MR. CARNEY: That's right. Exhibit 5.

15 Q (By Mr. Centola) I'm going to mark this as
16 one exhibit. Make it two exhibits. Mark these
17 collectively as Papageorge 10.

18 MR. CARNEY: Those are the Transformer
19 Pyranol?

20 MR. CENTOLA: Yeah, Pyranol and Inerteen.

21 MR. SUMMERS: Do you know where those are in
22 the --

23 MR. CENTOLA: And this will be Papageorge
24 11.

25 (Papageorge Exhibits No. 10 and 11 marked for

1 identification by the court reporter.)

2 Q (By Mr. Centola) Papageorge 10 are one, two,
3 three, four, five, six two-page documents purporting to
4 be warnings concerning Transformer Pyranol A -- just
5 Transformer Pyranol. Take a look at those, Mr.
6 Papageorge.

7 MR. CARNEY: I counted five.

8 Q (By Mr. Centola) There may be. Try it
9 again. Oh, I see why. There's five, okay. Have you
10 ever seen these before, Mr. Papageorge?

11 A Yes, I have.

12 Q And if you could, would you please let us
13 know what these are?

14 A These are copies of labels that were applied
15 to drums of dielectric fluid which was marketed under
16 the trademark Pyranols.

17 Q We discussed Pyranols earlier today, did we
18 not?

19 A We did.

20 Q And Pyranols are dielectric fluids that, in
21 fact, contain PCB's, are they not?

22 A They are.

23 Q And again, what color were these particular
24 labels?

25 A Just like the previous ones we discussed.

1 The label itself which is attached to the drum is the
2 white background with red lettering, and the attachment
3 is a copy of the multi-language, seven language message
4 regarding environmental control and health effects that
5 is lithographed on the drums.

6 Q All right. And again, did you participate in
7 drafting at least some of the language on these two
8 pages?

9 A Yes.

10 Q And which language is that, sir?

11 A Just, at this point in time, just about all
12 of it.

13 Q And what point in time are we talking about?

14 A It's 1973 for the multi-language part.

15 Q Right.

16 A And these labels, I see some of them that
17 were prepared in about 1975.

18 Q Okay. How do you know that they were
19 prepared in 1975?

20 A There is a reference to ship to supervisor of
21 the department for disposal.

22 Q Right.

23 A In the earlier one, the '73, the department
24 was referred to as Department 790.

25 Q Right.

1 A And the later ones, two years later, the
2 department number changed to 831.

3 Q Okay. Again, were, when did warnings first
4 go on containers that contained Transformer Pyranol?

5 A What kind of warning?

6 Q Environmental.

7 A 1970.

8 Q But in the form we have before you today,
9 we're talking 1973 and 1975?

10 A Correct.

11 Q So it was the custom and practice and habit
12 of Monsanto as of 1970 to put environmental warnings,
13 label warnings on containers containing Transformer
14 Pyranol that went to customers; is that correct, sir?

15 A That is correct.

16 Q And I will show you what I have marked
17 collectively as Papageorge 11, which is six two-page
18 warnings and two single page warnings. But before you
19 look at that, Mr. Papageorge, let's go back to
20 Papageorge 10 just for a second. Now, on the bottom,
21 we have what appears to be pounds and weights; is that
22 correct?

23 A That is correct.

24 Q Okay. So on the bottom of all of these
25 labels, you can tell what size the container is by the,

1 by this designation on the bottom; is that correct?

2 A That is correct.

3 Q All right. Go to page -- go to Exhibit 11,
4 and again, do you recognize what's before you, sir?

5 A These are copies of labels that were applied
6 to containers of a dielectric fluid sold under the
7 trademark Inerteen, and there are at least two
8 Inerteens represented in this collection.

9 Q Again, what color were these labels?

10 A Again, red lettering on white background,
11 except for those copies of the black on yellow
12 lithograph.

13 Q That's the second page?

14 A That's the multi-language second page on some
15 of these.

16 Q Okay. And was it the custom and practice and
17 habit of Monsanto during its regular course of business
18 beginning in 1970 to place warnings with respect to
19 Inerteen on containers going to customers that were on
20 record, that was going to customers when they purchased
21 this product?

22 A Yes.

23 Q And that that warning would contain warnings
24 about the product getting into the environment and
25 dangers to aquatic life?

1 A Yes.

2 Q And again, did you participate in the
3 drafting of at least some of the language on these
4 warnings?

5 A Yes.

6 Q And again, was it, for the most part, the
7 same people involved in the drafting of these
8 documents?

9 A Yes.

10 Q By the way, is this approximately the size of
11 the labels?

12 A Yes. Except for the multi-language portion.
13 That's a reduced size.

14 Q Oh, it is? How big would the multi-language
15 portion be?

16 A It would fit around the circumference of a 55
17 gallon drum, which is about 30 inches across, I would
18 guess. So the message would be, I'm guessing, about
19 three times what's pictured there in size.

20 Q And this would include the language
21 concerning, that states, "Prevent any entry into the
22 environment through spills, leakage, disposal,
23 vaporization, reuse of containers or otherwise, spills
24 leakages and waste product must be collected"?

25 A Yes.

1 Q That would be around the entire circumference
2 of the barrels?

3 A Yes, in different languages around the drum.

4 MR. SUMMERS: I'm sorry, where is that?

5 Q (By Mr. Centola) I was reading from the
6 Inerteen.

7 A It's the label that has the Cross of St.
8 Andrew on the top sheet, on the multi-language portion
9 of it.

10 Q It's 000133. That's the AYD stamp number.
11 To your knowledge, would this product be sold without
12 that label once you started using it?

13 A No, I'm convinced it can't be.

14 MR. SUMMERS: Objection, move to strike,
15 speculation.

16 MR. CENTOLA: Well, he said he's convinced it
17 can't be, so it doesn't sound like speculation.

18 MR. SUMMERS: You can be convinced of a lot
19 of things.

20 Q (By Mr. Centola) Was this, were the labels
21 put on the product until the discontinuation of the
22 product?

23 A There is a copy of a label there that existed
24 up until the continuation. The full packet wasn't in
25 existence then.

1 Q But the environmental warnings were kept on
2 until you discontinued use of the product?

3 A Yes.

4 Q By the way, were these labels, in addition to
5 being on containers, distributed to customers to place
6 on containers in their facilities?

7 MR. SUMMERS: Same objection.

8 A Not to my knowledge.

9 Q (By Mr. Centola) Well, did customers, did
10 some customers return waste PCB's to you, to Monsanto?

11 A Yes.

12 Q And in returning the waste PCB's to Monsanto,
13 did you require them to put labels on the containers?

14 A We provided a label.

15 Q Okay. Let's get to that. Did Monsanto then
16 provide labels to customers to put on waste PCB's that
17 were going to be returned to Monsanto?

18 A Yes.

19 Q And what did these labels say, sir?

20 A Oh, I forget the exact wording, but it
21 described the contents.

22 Q Right.

23 A And it also had the environmental warnings,
24 the need to control and preventing escape, and had, as
25 I recall, a telephone number to call in case of a

1 transportation problem, shipping problem.

2 Q So as a matter of course and as a custom and
3 practice of Monsanto, it would send these labels to be
4 placed on containers that would be returned to Monsanto
5 from customers with waste PCB's?

6 A Yes.

7 Q When did that practice begin?

8 A 1971.

9 Q This is from the production. Did there come
10 a time in your charge -- strike that. Let me back up
11 for a minute. In 1970, you became the Manager of
12 Environmental Control; is that correct?

13 A That is correct.

14 Q How long did you maintain that position?

15 A The job and its area of responsibility, I was
16 involved with that job until February of 1976 in terms
17 of how it related to PCB's. The titles through those
18 years did change somewhat.

19 Q To what?

20 A Oh, it went from Manager Environmental
21 Control to Manager Environmental Protection, and
22 finally it was Manager of Product Acceptability.

23 Q As a result of those changes in title, did
24 your job function at all change?

25 A There were products in addition to PCB that

1 were assigned to me.

2 Q Okay. Did there come a time when you
3 participated in drafting language containing
4 environmental warnings to be placed on invoices to be
5 sent to customers of Monsanto?

6 A Yes.

7 Q And do you have a recollection as to when the
8 time frame was?

9 A As best I recall, it was about 1972.

10 Q Let me show you a document. It's two pages,
11 and the stamp number is AYD 000061 and 62 which
12 purports to be an invoice sent to Energy Systems,
13 Inc., for Inerteen 70-30. Why don't we mark it first.
14 This would be Papageorge Exhibit 12 for
15 identification.

16 (Papageorge Exhibit No. 12 marked for
17 identification by the court reporter.)

18 Q (By Mr. Centola) Okay, my first question to
19 you is, have you ever seen a copy of this document
20 before?

21 A Yes, it looks familiar.

22 Q In particular, I want you to point, direct
23 your attention to the first page under "Description,
24 Price & Unit."

25 A I see it.

1 Q Where it says, "Inerteen" -- strike that.
2 First of all, it says, "674 pound metal drum." Do you
3 see that?

4 A I do.

5 Q Is that a 55 gallon drum?

6 A Yes.

7 Q And it says, "Inerteen 70-30." Is that a
8 dielectric fluid containing PCB's?

9 A Yes.

10 Q And it says, "FOB Santa Clara, California,"
11 do you see that?

12 A I do.

13 Q It's for delivery to that location, is it
14 not?

15 A Yes.

16 Q In fact, this is for delivery to Energy
17 Systems, Inc., at Palo Alto, California, do you see
18 that?

19 A I do.

20 Q Now, the language under "Description, Price &
21 Unit," states, "This product contain polychlorinated
22 biphenyls, PCB's, which some studies have shown may be
23 persistent, an environmental contaminant, and possibly
24 injurious to certain forms of bird, aquatic and animal
25 life. Prevent any entry into the environment through

1 spills, disposal, vaporization, reuse of containers or
2 otherwise," and it goes on. Do you see that?

3 A I do.

4 Q Did you draft this language, sir?

5 A I drafted a paragraph which was used on the
6 labels, and this message was copied from that draft.

7 Q Okay. Had it become the custom and habit and
8 practice of Monsanto in the regular course of its
9 business to place this warning on products containing
10 PCB's? On invoices of products containing PCB's that
11 went to its customers in the 1973 time frame?

12 A Yes.

13 MR. SUMMERS: I object, move to strike as to
14 what warning; speculation, vague and ambiguous.

15 Q (By Mr. Centola) Was it the custom and
16 practice and the habit of Monsanto during its regular
17 course of business to place this language that was just
18 read to you on its invoices containing, referring to
19 materials containing PCB's that went to its customers?

20 A Yes.

21 Q Okay. And when did you begin, did Monsanto
22 begin doing this?

23 A As best I can I recall, it was late '72.

24 Q Okay. So would this language have been
25 placed upon invoices relating to the various Aroclors

1 we've discussed beginning in late '72?

2 A Yes. Those that were still marketed or sold,
3 yes.

4 Q Right. And would this have been placed on
5 Pyranol invoices?

6 A If it contained PCB's, yes.

7 Q And it was your understanding that once the
8 policy began, that all invoices containing, relating to
9 PCB products would contain this language?

10 A Yes, sir.

11 Q And was that the case until you discontinued
12 selling those products, sir?

13 A As far as I know.

14 Q I just want to mark one more of these, which
15 is Papageorge 13.

16 (Papageorge Exhibit No. 13 marked for
17 identification by the court reporter.)

18 Q (By Mr. Centola) Again, we have the, this is
19 another invoice to Energy Systems, let me identify it
20 first. It's AYD 000063 and 64 from the production, and
21 again, it purports to be an invoice, a Monsanto invoice
22 to Energy Systems, Inc., 3180 Hanover Street, Palo
23 Alto, California. And under "Description, Price &
24 Unit," it refers to 674 pound metal drum, Inerteen
25 70-30, and containing, does it not, the same language

1 that we just read, sir?

2 A It does.

3 Q And this, again, is one of the invoices that
4 would have gone as practice and custom of Monsanto
5 during the regular course of its business to its
6 customers that were purchasing Inerteen at this time
7 frame?

8 A Yes.

9 Q And is there any doubt in your mind that
10 this, in fact, did not go to Energy Systems?

11 A There is no doubt.

12 Q By the way, do you know who G. Graf is?

13 A He was a member of Monsanto's staff in St.
14 Louis that concerned themselves with customer service,
15 and he would make sure that the proper documents were
16 prepared and that the shipment did take place and so
17 on.

18 MR. CENTOLA: Thank you. Would you like to
19 break now for lunch?

20 MR. SUMMERS: Sure.

21 MR. CARNEY: Yeah.

22 (A recess was taken at this point from
23 12:05 p.m. to 1:15 p.m.)

24

25

1 CONTINUED DIRECT EXAMINATION

2 QUESTIONS BY MR. CENTOLA:

3 Q Mr. Papageorge, just for the record, I'd like
4 to remind you that you're still under oath.

5 A I understand.

6 Q What I'd like to do is go back over a couple
7 of the exhibits that we've been through this morning,
8 and in particular, let's start with Papageorge Exhibit
9 No. 2, which was the March 3, 1969, letter that you
10 said was sent to customers and authored by Elmer P.
11 Wheeler, okay?

12 A Yes.

13 Q Is it your understanding that this document
14 was prepared by Mr. Wheeler during the normal course of
15 his business at Monsanto?

16 A Yes.

17 Q And as part of his course of business, you
18 imparted the information onto this letter and sent this
19 letter out; is that correct?

20 A That is correct.

21 Q And let's go to Papageorge Exhibit 3, which
22 are the two news releases, okay? Now, you testified
23 that you participated, at least you reviewed these
24 releases before they went out; is that correct?

25 A Yes.

1 Q Is it your understanding that these news
2 releases were made by Monsanto personnel?

3 A Yes.

4 Q And these news releases were made during the
5 course, regular course of business for Monsanto?

6 A Yes.

7 Q And they were made in furtherance of that
8 course of business; is that correct, sir?

9 A That is correct.

10 Q And as part of that business, these news
11 releases did, in fact, go out; is that correct, sir?

12 A That is correct.

13 MR. SUMMERS: I'd object and move to strike
14 as to speculation, and the same as to all these that
15 you're going through now.

16 Q (By Mr. Centola) And Mr. Papageorge, with
17 respect to Exhibit 3, you testified, did you not, that
18 you, in fact, prepared the first three pages of this
19 document?

20 A I did.

21 Q And did you prepare those first three pages
22 during the regular course of your business at Monsanto?

23 A Yes.

24 Q And did you prepare those three pages during
25 the furtherance of that business at Monsanto?

1 A Yes.

2 Q And did you acquire the information that was
3 contained in these pages during the course of your
4 employment at Monsanto?

5 A Yes.

6 Q And you imparted the information shortly
7 thereafter onto these documents?

8 A Correct.

9 Q And is that your understanding with respect
10 to the other pages of this document as well here, Mr.
11 Papageorge?

12 A Except that there were different individuals
13 were the authors of those, yes.

14 Q Right. And they were prepared in the normal
15 course of their business; is that correct?

16 A That is correct.

17 Q And in furtherance of the normal course of
18 that business?

19 A Yes.

20 Q Did you collaborate with them when they
21 prepared these documents?

22 A Yes.

23 Q And so you were witness to them preparing
24 these documents; is that correct, Mr. Papageorge?

25 A That is correct.

1 Q And when they prepared them, they were
2 preparing them in the course of their business at
3 Monsanto; is that correct?

4 A That is correct.

5 Q And the information that they received, they
6 received during the course of their business at
7 Monsanto; is that correct, sir?

8 A That is correct.

9 Q Thank you. Okay. And Mr. Papageorge, I want
10 to show you Exhibit No. 5. This was the letter of
11 James Bryant dated September 15, 1970. Do you recall
12 that, sir?

13 A I do.

14 Q And I recall that you testified that this, in
15 fact, was sent out?

16 A Yes.

17 Q Is it your understanding that Mr. Bryant
18 prepared this letter during the course of his
19 employment at Monsanto?

20 A Yes.

21 Q And did he prepare this letter in furtherance
22 of the course of his employment at Monsanto?

23 A He did.

24 Q Thank you. By the way -- strike that. By
25 the way, Mr. Papageorge, was a file maintained by you

1 at Monsanto for documents that were generated regarding
2 the PCB issues that were developing in the 1970's?

3 MR. SUMMERS: I'd object, unintelligible,
4 vague and ambiguous.

5 Q (By Mr. Centola) Did you understand me?

6 A I believe I did.

7 Q Okay.

8 A I kept a file.

9 Q Okay. What was kept in your file?

10 A A mixture, really, of information that
11 related to PCB's. There were, of course, copies of my
12 personal correspondence related to the subject, there
13 were copies of correspondence I received from others,
14 there were copies of such documents as that one we had
15 here describing the status of a given period of time
16 kept, there were copies of brochures and pamphlets that
17 covered the subject.

18 Q Do you know, for instance, let's go back to
19 Papageorge No. 4. Were the three, first three pages
20 you prepared maintained in that file?

21 A Yes.

22 Q And that was a file that you maintained at
23 Monsanto?

24 A That was part of the file system, yes.

25 Q Okay. Do you know if any of the other first

1 of Exhibits 2, 3, or 5 were part of your file?

2 A 2 and 3 were; I don't recall keeping a copy
3 of No. 5.

4 Q So it's your testimony that, in fact, you've
5 maintained Exhibits 2 and 3 in your file at Monsanto?

6 A That is right.

7 Q And you maintained that file during the
8 regular course of your business at Monsanto?

9 A Yes.

10 Q And all of these documents were kept there as
11 business records, were they not?

12 A Those that I kept.

13 Q That would be Exhibit 4, 2, and 3?

14 A Those are examples of the types that I kept,
15 yes.

16 Q And, in fact, were these kept there, 2, 3,
17 and 5? 2, 3, and 4, I'm sorry.

18 A Yes.

19 MR. SUMMERS: 2, 3, and 4, not 5?

20 Q (By Mr. Centola) Right. Right. Do you know
21 if Mr. Bryant kept a copy of this?

22 A I do know, yes.

23 Q You do know?

24 A Definitely. He was told to.

25 Q So it's your testimony, then -- who told him

1 to do that?

2 A Well, I for one, and the Law Department for
3 another.

4 Q So it's your understanding that Exhibit 5 was
5 kept and maintained at Monsanto in its file?

6 A Yes.

7 Q And it was maintained by Mr. Bryant at your
8 direction in the Monsanto file?

9 A Yes.

10 Q As a business record?

11 A Right.

12 Q Let's take a look at 6. This, too, is, I
13 believe, a letter that you said, that we established
14 was prepared by Mr. Schalk?

15 A Yes.

16 Q And Exhibit 7 was a letter that was prepared
17 by Mr. Olson; correct?

18 A That is correct.

19 Q Okay. Do you know, sir, if these two letters
20 were prepared during the ordinary course of the
21 business of Mr. Schalk and Mr. Olson?

22 A They were.

23 Q And do you know, sir, if the information that
24 is contained in these letters were acquired during the
25 course of their employment at Monsanto?

1 A It was.

2 Q And was that information imparted into these
3 documents on or about the time, the days that these
4 documents were prepared?

5 A It was.

6 Q And were these documents maintained in files
7 as business records at Monsanto?

8 A Yes.

9 Q And whose files were they maintained in?

10 A In the files of the authors of those letters.

11 Q Take a look at -- let's take a look at 8, 9,
12 10, and 11. And we're looking at them together because
13 they were all in the same category of documents, which
14 are labels; is that correct, sir?

15 A That is correct.

16 Q Now, you testified earlier that you prepared
17 portions of the wording on these particular documents;
18 is that correct, sir?

19 A That is correct.

20 Q And the wording that you prepared was wording
21 with respect to warnings concerning PCB's entering the
22 environment; is that correct, sir?

23 A That is, that included some of the wording,
24 yes.

25 Q Okay. Now, did you prepare that wording

1 during the course of your business at Monsanto?

2 A Yes.

3 Q And did you prepare that in furtherance of
4 that business at Monsanto?

5 A I did.

6 Q And was that wording, in fact, in part
7 incorporated into these documents, sir?

8 A Yes.

9 Q And were these documents prepared as part of
10 the business of Monsanto?

11 A They were.

12 Q And were these, in fact, maintained at
13 Monsanto as business records, copies of these
14 documents?

15 A Yes.

16 Q Just for the record, I'd like to, if we can,
17 get a close up of Exhibit, first, 8. This is the
18 Monsanto warning with respect to Aroclor 1016; and
19 Exhibit 9, which is the Aroclor 1254. And on the
20 second page, the warnings in four different languages.
21 And Exhibit 11, which is a warning with respect to
22 Inerteen; and with respect to Papageorge 10, the
23 warning with respect to Transformer Pyranol.

24 Now, I just want to show you what has been
25 marked as Papageorge 12 and 13. Sir, we discussed

1 these earlier as being invoices that you stated were,
2 in fact, sent to Energy Systems. Do you recall that,
3 sir?

4 A I do.

5 Q Okay.

6 MR. SUMMERS: I'd object as speculation as to
7 whether he knows they were sent.

8 Q (By Mr. Centola) Well, it was my
9 understanding that you had knowledge that they were
10 sent.

11 MR. SUMMERS: And mischaracterizing, I
12 believe, his testimony.

13 Q (By Mr. Centola) Was that your testimony?

14 A That's my understanding, yes, my knowledge.

15 Q Okay. Let me ask you, sir, is, were these
16 documents prepared during the normal course of business
17 at Monsanto, sir?

18 A They were.

19 Q And were they, in fact, in fact, was the
20 language similar language that's on these documents
21 prepared by you in the normal course of your business?

22 A Yes.

23 Q And that's the language with respect to the
24 warning concerning PCB's in the environment?

25 A Yes.

1 Q And were copies of these documents maintained
2 as the ordinary course, in the ordinary course of
3 business at Monsanto, sir?

4 A Yes.

5 Q And -- I have no further questions with
6 respect to those documents. I think we can move on.

7 Mr. Papageorge, you testified, you testified
8 earlier that you used to send, Monsanto sent to
9 customers labels to put on materials that would be
10 returned to Monsanto; is that correct, sir?

11 A Materials concerning PCB's.

12 Q Right.

13 A That is correct.

14 Q Okay. I'd like to mark this as Papageorge
15 Exhibit No. 13.

16 MR. SUMMERS: You mean 14?

17 MR. CENTOLA: Do I mean 14?

18 THE REPORTER: Yes.

19 MR. CENTOLA: I mean 14.

20 (Papageorge Exhibit No. 14 marked for
21 identification by the court reporter.)

22 Q (By Mr. Centola) Would you please look at
23 what I've just marked as Papageorge 14?

24 A I have reviewed it.

25 Q Have you ever seen it before?

1 A Yes.

2 Q Okay. What is that?

3 A This is a copy of a label supplied by
4 Monsanto to its customers for use on containers of
5 material being returned. Material containing PCB's
6 being returned to Monsanto for reclamation, recycling,
7 or disposal.

8 Q Are these the labels that we have spoken
9 about earlier today that were distributed to your
10 customers?

11 A Yes, this is a copy of one of them.

12 Q Okay. Would you show it, face it out,
13 please?

14 A (Witness complies.)

15 Q Do you recall what color those were?

16 A This is white lettering on a red background.

17 Q Did you participate in the preparation of
18 that document?

19 A I did.

20 Q And what part of it did you prepare?

21 A Well, the wording as it, as it refers to the
22 environmental control needs, and I did review the
23 reference to effects on people of breathing and getting
24 on their skin and so on.

25 Q Was that document prepared during the

1 ordinary course of business at Monsanto?

2 A Yes.

3 Q And did you help prepare your portion of it
4 in the course of that business, sir?

5 A I did.

6 Q And, in fact, were copies of those labels
7 kept in the ordinary course of business at Monsanto?

8 A Yes.

9 Q And sir, it's very difficult for me to read.
10 Can you read out loud what that warning says?

11 A I'll try, it's kind of blurred. "This
12 product contains polychlorinated biphenyls which
13 concentrate" --

14 MR. SUMMERS: I can't read it.

15 Q (By Mr. Centola) Well, Mr. Papageorge is the
16 author, that's why I'm having him try to do it.

17 A I can't read some of these words.

18 Q Okay. Go on to what you can.

19 A "May," may something "environmental
20 contaminant. Extreme care should be taken to
21 prevent" -- I can't make out the other word, "the
22 environment through spills, leakage, use, disposal,
23 vaporization or otherwise."

24 Q Okay. Can you try to make out the other side
25 of the document?

1 A I'll try.

2 Q It says "Caution."

3 A "Caution, contains chlorinated hydrocarbons,
4 avoid prolonged breathing of vapors or mists, avoid
5 contact" --

6 Q That's good enough. I just wanted to get an
7 idea of what this said. Mr. Papageorge, what is a
8 chlorinated hydrocarbon?

9 A That describes a class of chemicals that all
10 contain carbon, hydrogen, and chlorine, and PCB's are
11 part of that family of chemicals.

12 Q Okay. Thank you. And was it a custom and
13 habit of Monsanto in and around 1970 to pass these out
14 to customers to put on their containers when they
15 returned wastes to Monsanto, waste PCB's to Monsanto?

16 A Yes.

17 Q And that was done as a course of practice at
18 Monsanto during that time period; is that correct?

19 A It was.

20 Q Do you recall whether, by the late 1970's,
21 Monsanto had adopted guidelines for proper control of
22 PCB's that were given out to customers?

23 A I recall a draft document that was prepared
24 and shared with customers for comments.

25 Q What who prepared that document?

1 A The document I have in mind is one that I
2 prepared.

3 Q Can we go off the air for a minute?

4 (An off the record discussion was held at
5 this point.)

6 Q (By Mr. Centola) You just mentioned that you
7 prepared a document concerning disposal of PCB's, or
8 curbing of PCB's; is that correct?

9 A It was a document intended to offer some
10 guidance on how to handle liquid spills or leakage, how
11 to handle contaminated solid waste, and how to control
12 vaporization of the material.

13 Q Was this ever put into a final form?

14 A No. The draft form seemed to satisfy the
15 customer needs, and --

16 Q Let me ask you this. You sent this draft
17 document to your customers?

18 A Only when the customer raised questions of
19 this nature would I offer to share the document, asking
20 him to review it and also to comment on it as to
21 whether it was appropriate for his needs, what
22 revisions he would propose to it, and so on.

23 Q Okay. So the document you're talking about,
24 then, is not one that was sent out generally; this was
25 only sent out per request?

1 A Not only request, but sometimes I would offer
2 it.

3 Q Right.

4 A It was on a person to person basis, really,
5 that it was issued.

6 Q Let me ask you this. Did the guidelines for
7 proper control of PCB's that you were considering
8 include not letting Aroclor onto the floor in work
9 areas?

10 A Yes.

11 Q Did it include placing curbs around sumps in
12 floors?

13 A Yes, it did.

14 Q And did it include providing for water
15 overflows to pass through a settling basin?

16 A Yes.

17 Q Did it include vacuum system vent wastes to
18 be pumped to a settling basin?

19 A Yes.

20 Q Did it include using drip catch trays which
21 would be used in moving pregnated materials?

22 A Yes.

23 Q Did it include curbing that should be placed
24 alongside of conveyers that may spill PCB's?

25 A It included curbing, I don't know that it

1 limited to conveyers.

2 Q Okay. Did it include taking every effort to
3 contain waste materials so as to eliminate the use of
4 speedy dryer fullers (phonetic) to pick up that
5 material?

6 A It did.

7 Q And this is the kind of material that, as of
8 the late 1970's and '71, you were imparting to
9 customers, sir?

10 A Yes, sir.

11 Q In fact, it was part of your employment
12 practice at Monsanto to impart this type of information
13 to your customers; is that correct?

14 A It was part of my assigned work, yes.

15 Q Right. And you, in fact, did that?

16 A Yes.

17 Q Was it part of your assigned work at Monsanto
18 to keep abreast of the developments that were taking
19 place in the government towards regulating the use and
20 disposal of PCB's?

21 A It was.

22 Q And do you have a recollection of ever, of an
23 -- strike that. Do you have a recollection -- strike
24 that. Go on to another subject. Did you ever hear of
25 NEMA, N-E-M-A?

1 A Yes, sir.

2 Q And what is NEMA?

3 A It's the, it's a trade association, industry
4 association, it's the National Electrical Manufacturers
5 Association.

6 Q What's the purpose of that organization or
7 association?

8 A Oh, I don't pose to know their charter or
9 reason for existing. All I know is that companies that
10 manufacture electrical equipment can become members of
11 this organization to share whatever the industry feels
12 is appropriate.

13 Q Did Monsanto become a member of NEMA?

14 A No.

15 Q Did you ever give any presentations to NEMA?

16 A I did, yes.

17 Q And did NEMA ever come, develop any standards
18 for use and disposal of PCB's?

19 A Not NEMA per se -- well, they issued proposed
20 standards.

21 Q Right. Let me back up again, and I'm sorry
22 to do this to you, and mark this as Papageorge 15.

23 (Papageorge Exhibit No. 15 marked for
24 identification by the court reporter.)

25 Q (By Mr. Centola) Okay, I've just placed

1 before the witness a document, a two page document that
2 I have had marked as Exhibit 15, which is dated April,
3 1972, and addressed to Dear Sir, and appears to be
4 prepared by W.B. Papageorge. Do you recognize this
5 document, sir?

6 A I do.

7 Q On the second page, do you see that
8 signature?

9 A I do.

10 Q Is that your signature?

11 A It is.

12 Q Was this document, in fact, prepared by you,
13 sir?

14 A Yes.

15 Q And was this document prepared by you during
16 the course of your employment at Monsanto?

17 A It was.

18 Q Was the information you received and put out
19 through this document information you received during
20 the course of that employment?

21 A It was.

22 Q And was that information put onto this
23 document at or about April of 1972?

24 A Yes.

25 Q And was a copy of this document maintained in

1 the files of Monsanto during the ordinary course of
2 that business, sir?

3 A It was.

4 Q In fact, sir, what is this document?

5 A This is a letter that was mailed to customers
6 on record as of April, 1972, of Monsanto who were
7 purchasing PCB type products.

8 Q Is it a fact that, as part of custom and
9 habit and during the regular course of business at
10 Monsanto, that this document was, in fact, sent to all
11 customers of dielectric fluids that were on record as
12 of April of 1972?

13 MR. SUMMERS: I object, speculation.

14 A It is.

15 Q (By Mr. Centola) In fact, that's what you did
16 with this document?

17 A That's right.

18 Q You did that yourself, did you not?

19 A Exactly.

20 Q Okay. What was the, what was the purpose of
21 sending this document out, sir?

22 A Well, the purpose is to inform the customer
23 that requests from government agencies regarding sales
24 of PCB's were increasing, and that it was possible that
25 the day might come when Monsanto would have to drop its

1 longstanding policy of not divulging customers and
2 products and amounts. And we wanted them to know that
3 we may be in a position where we would have to comply
4 with the government's requests.

5 Q Okay. In fact, you make reference on the
6 second page, do you not, to a recent FDA notice in the
7 Federal Register? Do you see that?

8 A Yes, I do see it, yes.

9 Q Was it part of your practice to keep your
10 customers informed of publications in the Federal
11 Register concerning PCB's?

12 A Yes.

13 Q Do you know if, in fact, a copy of that
14 Federal Register was sent with this notice?

15 A I don't recall sending a copy with this
16 letter. I just referred to it.

17 Q Okay. Of these letters that we've been going
18 through, some have been sent by Mr. Benignus, some sent
19 by you, some sent by Bryant. Is there a reason why the
20 letters were sent by various individuals as opposed to
21 one particular individual?

22 A Oh, I suspect it may consist of several
23 reasons that might apply at any particular time. One
24 is a case of who has the latest knowledge that's to be
25 shared, another is a matter of workload, and sometimes

1 it's a matter of how much emphasis do you want to put
2 on a particular topic, the thought being that some
3 individuals would be perceived as a different kind of
4 source than others. So in each case, it would be
5 handled on a case basis.

6 Q Okay. You mentioned that, on this particular
7 document, that one of the reasons why you sent it was
8 because you were concerned that you might have to
9 disclose customer information?

10 A Yes.

11 Q And you also sent it because of the FDA
12 notice?

13 A Yes.

14 Q Isn't it a fact, too, that you also sent it
15 because of the reasons given in the last paragraph,
16 which was to continue to urge your customers to
17 "thoroughly review your procedures and inspect your
18 facilities to insure that extreme care is taken in the
19 handling, use, storage, and disposal of these
20 materials"?

21 A Yes. That was a perennial reason, really.
22 Every opportunity I had, I included it just to
23 reemphasize.

24 Q Going back to Papageorge 5 for a moment,
25 which is the second, and then the second page of the

1 document, we have what was, what we referred to as a
2 customer list. Do you see that?

3 A I do.

4 Q In this particular case, it's a redacted
5 customer list, do you see that?

6 A Yes.

7 Q Okay. Does this indicate to you, by the way,
8 that this Energy Systems was, in fact, a customer on
9 record as of 9/15/1970?

10 A It does.

11 Q And as long as Energy Systems or Aydin was
12 purchasing, they would be a customer of record, is that
13 true?

14 A Certainly.

15 MR. SUMMERS: I object, move to strike,
16 speculation.

17 Q (By Mr. Centola) Was that the practice and
18 custom of Monsanto during that time period?

19 A Yes.

20 Q To maintain a record of customers who were
21 purchasing PCB's from them?

22 A Oh, yes.

23 Q And those records were maintained and kept
24 throughout the entire course these customers purchased
25 PCB's from Monsanto; is that correct, sir?

1 A That is correct.

2 Q Thank you. This will be Papageorge 16.

3 (Papageorge Exhibit No. 16 marked for
4 identification by the court reporter.)

5 Q (By Mr. Centola) My, this is what I've put
6 before Mr. Papageorge, is a letter on Monsanto
7 stationery dated August 6, 1970. It's two pages. It
8 appears to be prepared by Paul G. Benignus?

9 A That is correct.

10 Q Have you ever seen it before?

11 A Yes, I have.

12 Q Are you familiar with Mr. Benignus'
13 signature?

14 A Yes.

15 Q Have you seen it in the past?

16 A I have.

17 Q Do you recognize his signature?

18 A I do.

19 Q Is that his signature on the second page,
20 sir?

21 A It is.

22 Q What is this document?

23 A This document is a letter describing the
24 modified PCB, which was determined to be more apt to
25 degrade, and suggests to the person receiving this

1 letter that the material had been developed and is
2 available in small quantities for testing purposes, and
3 that these small quantities were on their way to the
4 person receiving this letter.

5 Q Is this a form letter, sir?

6 A Yes. It was, the same wording was mailed to
7 all of the capacitor customers on record in August of
8 1970.

9 Q Was it also mailed to transformer customers;
10 do you know?

11 A No, it would not relate to the transformer
12 people that I'm aware of.

13 Q But if they were making, they were purchasing
14 dielectrics for capacitors, it would go to them, sir?

15 A Yes. This was intended for capacitor use.

16 Q Okay. And who prepared this document?

17 A Mr. Benignus.

18 Q Did you participate in that preparation?

19 A I saw his earlier versions and we made some
20 changes in them, and this is the final approved
21 version.

22 Q Okay. So did Mr. Benignus and you work on
23 this document during the course of your employment at
24 Monsanto?

25 A And others, yes.

1 Q Okay. And did you obtain the information
2 that's in this document during the course of your
3 employment at Monsanto?

4 A Yes.

5 Q And did you put it into this document on or
6 about the time you obtained that information?

7 A Yes.

8 Q And was a copy of this document maintained in
9 the files at Monsanto as a part of the regular business
10 of Monsanto?

11 A Yes.

12 Q And was it custom and practice and, in fact,
13 was this document sent out as a regular course of
14 business at Monsanto to customers who bought dielectric
15 fluids in the capacitor industry?

16 A Yes.

17 Q Thank you. This is from the production.
18 This is, let's take them one at a time. Just give me a
19 moment. I'm going to mark as a multiple page exhibit
20 Papageorge 17. It's seven page exhibit, date stamp
21 numbers AYD 000092 through 000098. This document is
22 actually a number of letters.

23 The first is a two page letter dated
24 February 4, 1972, the second -- and prepared by Howard
25 Bergen; the second is an undated letter to Dear Sir,

1 two pages prepared by T.L. Gossage, G-O-S-S-A-G-E; and
2 the third appears to be a letter to Purchasing Agent
3 and dated February 28, 1972; the fourth is a letter to
4 Plant Engineer, dated February 28, 1972; and the last
5 page is a blank sheet with Energy Systems, 2180 (sic)
6 Hanover Street, Palo Alto, California.

7 (Papageorge Exhibit No. 17 marked for
8 identification by the court reporter.)

9 Q (By Mr. Centola) Could you please take a look
10 at that document, and my question to you is, do you
11 recognize any portion of it, or all of it?

12 A I recognize all portions of this document.

13 Q Okay. Let's start with the first letter.
14 That's the February 4, 1970, letter, okay? On the
15 second page, there is a signature.

16 A I see is it.

17 Q Is that the signature of Howard Bergen?

18 A Yes.

19 Q Okay. Are you familiar with his hand?

20 A Yes, I am.

21 Q Have you seen his signature in the past?

22 A Yes.

23 Q And, in fact, you recognize that as being his
24 signature, sir?

25 A I do.

1 Q Okay. This, who was this letter sent to,
2 sir? Strike that. Do you see the handwriting on the
3 face of that letter?

4 A I do see that, yes.

5 Q Do you recognize that handwriting?

6 A I do not.

7 Q When was the first time you saw this letter?

8 A Back at the, on or about the date of this,
9 that's on this letter, February, 1972.

10 Q Did you participate in any way in the
11 preparation of this letter?

12 A I was privileged to see a proposed draft of
13 this letter; yes.

14 Q Who showed you the proposed draft?

15 A Mr. Bergen.

16 Q Did you give him any comments with respect to
17 the draft?

18 A I recall commenting, but I don't recall the
19 specifics.

20 Q Did Mr. Bergen prepare this letter during the
21 course of his employment at Monsanto?

22 A Yes.

23 Q And did he acquire the information that was
24 put into this letter during the course of his
25 employment there?

1 A Yes.

2 Q And upon receiving that information, did he
3 put it into this letter on or about February of 1972?

4 A He did.

5 Q And, in fact -- or was a copy of this letter
6 maintained at Monsanto as a course of its business,
7 regular course of its business there?

8 A It was.

9 Q And was this letter sent to anyone?

10 A Yes, it was.

11 Q And who was this letter sent to?

12 A This was sent to customers of Monsanto who
13 purchased PCB type dielectric fluids who, as of
14 February, 1972, had not signed the agreement that's
15 referred to in the second paragraph.

16 Q Okay. We'll get to that in a moment. Was
17 this sent to all customers of Monsanto that purchased
18 dielectric fluids, or fluids containing PCB's, I should
19 say?

20 A It was sent to those who had yet to sign the
21 agreement.

22 Q So it was sent to all those customers who
23 purchased PCB products who were yet to sign the
24 agreement?

25 A Yes. These products were the dielectric

1 products at that time.

2 Q All right. So this was to manufacturers of
3 capacitors and transformers and the like; is that
4 correct?

5 A That's correct.

6 Q And was this letter sent out as custom and
7 habit and as a regular course of Monsanto's business
8 practice to those customers who had not yet signed the
9 agreement that you spoke of?

10 A Yes.

11 Q Okay. Now, let's go to that agreement. The
12 letter starts out by saying, "We are writing to advise
13 you that Monsanto has adopted certain policies with
14 respect to its further sale and delivery of all
15 polychlorinated biphenyl products used as dielectric
16 fluids including but not limited to those sold under
17 trade names such as Aroclor, Inerteen, and Pyranol, and
18 under the generic term Askarel." Those are the -- is
19 that correct?

20 A That is correct.

21 Q And those are the items that we discussed
22 earlier today; is that correct?

23 A That is correct.

24 Q And it goes on to say, "Effective
25 immediately, Monsanto will sell and deliver these

1 products only to manufacturers of electrical equipment
2 or components who utilize the products as dielectric
3 fluids and who have entered into agreement to indemnify
4 and hold harmless Monsanto in the use of those
5 products." Do you see that, sir?

6 A I do.

7 Q It goes on to say, "The two copies of such an
8 agreement are attached. The acceptance by Monsanto of
9 such an agreement is subject to receipt of financial
10 and other information from you (such as evidence of
11 adequate insurance protection) which, in Monsanto's
12 opinion, makes the agreement meaningful." Do you see
13 that, sir?

14 A I do.

15 Q Can you tell me when it is that Monsanto
16 decided not to sell anymore dielectric fluids to its
17 customers before they entered into this agreement to
18 indemnify and hold Monsanto harmless?

19 MR. SUMMERS: I'd object, unintelligible.

20 A Did I hear correctly, you're asking me when
21 did Monsanto make that decision?

22 Q (By Mr. Centola) Yes.

23 A It was made, to the best of my knowledge, in
24 December of 1971.

25 Q Okay. Who was involved in making the

1 decision to have the dielectric customers enter into
2 this hold harmless agreement with Monsanto?

3 A I personally don't know. I can only
4 speculate.

5 Q Were you kept abreast of this development,
6 sir?

7 A Yes.

8 Q And as part of that keeping you abreast, Mr.
9 Bergen showed you this letter; is that correct?

10 A As part of that, yes.

11 Q Okay. And, in fact, did Monsanto require its
12 purchasers of dielectric fluids to enter into such a
13 hold harmless agreement?

14 A It did eventually, yes.

15 Q And was that in 1972?

16 A Yes.

17 Q I'd like to show you, I'd like to mark this
18 as Papageorge Exhibit, what is it, 18.

19 (Papageorge Exhibit No. 18 marked for
20 identification by the court reporter.)

21 Q (By Mr. Centola) What I've marked as an
22 exhibit as Papageorge 18 is a seven page document, the
23 first page of which is entitled Special Undertaking by
24 Purchasers of Polychlorinated Biphenyls, and it's two
25 pages long. And the second portion of the document is

1 called "Feature, PCB's -- Prevalent and Persistent,"
2 and it's an article by Carl G. Gustafson. Okay?

3 Before you go on to that, sir, let's go to
4 the next paragraph of Exhibit 17, okay? Paragraph 3.
5 That paragraph states, "As you are undoubtedly aware,
6 studies indicate PCB's may be accumulating in the
7 environment. In some instances, PCB's have been found
8 in food or in the food chain. For your information,
9 attached is an article by Carl G. Gustafson of the
10 Federal Water Quality Administration appearing in
11 'Environmental Science & Technology' which deals with
12 this subject. Because of Monsanto's concern over this
13 problem, we have discontinued sales of PCB's except as
14 use of dielectric fluids in electrical equipment and
15 components." Do you see that paragraph, sir?

16 A I do.

17 Q Okay. Now, going back to Exhibit 18, again,
18 in fact, that portion of the exhibit which purports to
19 be an article written by Mr. Gustafson. Have you ever
20 seen that article before?

21 A I have.

22 Q Okay. Do you know if that article that's in
23 Exhibit 18 is the article that, in fact, was sent along
24 with the letter dated February 4, 1972, which is
25 Exhibit 17 of this deposition?

1 A It was.

2 Q And that was also sent in the normal course
3 to the same people that the letter was sent to,
4 correct?

5 A Yes.

6 Q And that was part of the continuing efforts
7 of Monsanto to keep its customers abreast of the
8 developments of what was going on with PCB's and their
9 effect on the environment; is that correct?

10 A That is correct.

11 Q Now, on the first part of this document which
12 is Exhibit 18, which that purports to be a special
13 undertaking, do you see that, sir?

14 A I do.

15 Q Have you ever seen that before?

16 A I have.

17 Q And when did you see that?

18 A December, 1971.

19 Q And is that the special undertaking that is
20 being made reference to here in the letter dated
21 February 4, 1972?

22 A It is.

23 Q Okay. And that, too, was sent along to
24 customers in the regular course as described when you
25 described how they were sent with respect to the letter

1 dated February 4, 1972?

2 A That is correct.

3 Q And in fact, this whole -- why don't we take
4 a break.

5 (A short recess was taken at this point.)

6 Q (By Mr. Centola) Let's go back to Exhibit 17,
7 okay? On the bottom of Exhibit 17, there are, what I
8 refer to as date stamp number, it says AYD 000092, do
9 you see that?

10 A I do.

11 Q Do you know the significance of that, sir?

12 A Not really. I can guess what it's all about.

13 Q Okay. Do you know, sir, if client files are
14 maintained at Monsanto?

15 A I do not.

16 Q Okay. Let me go on to the next letter in
17 this document, this exhibit, which would be a letter
18 that's undated and starts out Dear Sir. Turn to the
19 second page of that letter, which is 00095 date stamp.

20 A I see it.

21 Q Do you see the name there?

22 A Yes.

23 Q Who is Mr. Gossage?

24 A He was the marketing director of the group
25 that sold dielectric fluids containing PCB's.

1 Q And when was he the marketing director of
2 that group?

3 A Oh, I believe late 1971, '72, '73, that
4 period of time.

5 Q Okay. Are you familiar with his signature,
6 sir?

7 A Yes.

8 Q Have you seen his signature before?

9 A I have, yes.

10 Q Do you recognize the signature on that second
11 page?

12 A I do.

13 Q Whose signature is that?

14 A T.L. Gossage.

15 Q Okay. Now, on the first page of that
16 letter, which is 000094, there is some handwriting. Do
17 you recognize that?

18 A That looks to me like Mr. Gossage's
19 handwriting.

20 Q And can you read what it says to us?

21 A "Letter to transformer manufacturers," an
22 abbreviation, M-F-R-E-R-S, "and supply of top-up and
23 service shops."

24 Q What does that refer to, "top-up and service
25 shops," do you know?

1 A These are companies in the business of
2 servicing transformers in place and in service to check
3 to see how they are performing and whether or not they
4 need some liquid added to the transformers. Very much
5 like the oil in your car, add a little fluid to bring
6 it up to the right level.

7 Q Okay. I'm sorry, can you read that back to
8 me?

9 (Last answer read back by the court
10 reporter.)

11 Q (By Mr. Centola) So these would be not only
12 manufacturers of transformers, but people who actually
13 maintain transformers; is that what you mean?

14 A That's what the note indicates, yes.

15 Q Okay. What was the purpose of this
16 particular letter? Strike that. Did you see this
17 letter before it went out?

18 A Yes.

19 Q Did Mr. Gossage show it to you?

20 A Yes.

21 Q Did you help prepare the letter?

22 A I reviewed drafts of proposed drafts and
23 commented.

24 Q Did you do that during the course of your
25 employment at Monsanto?

1 A I did.

2 Q And, in fact, did Mr. Gossage prepare this
3 letter during the course of, regular course of his
4 employment at Monsanto?

5 A He did.

6 Q And did he, as a regular course of his
7 business, acquire the information that is in this
8 letter?

9 A Yes, he did.

10 Q And did he, during the course of his business
11 at Monsanto, take that information and put it onto this
12 letter as it appears here?

13 A Yes.

14 Q And, in fact, was a copy of this letter
15 maintained as a regular course of business in the
16 business files at Monsanto?

17 A Yes.

18 Q And, in fact, was this letter sent out, sir?

19 MR. SUMMERS: Objection, speculation.

20 A It was.

21 Q (By Mr. Centola) How do you know that it was
22 sent out, sir?

23 A Well, I'm aware of the customer on record
24 list at the time.

25 Q Right.

1 A I was able to monitor some of the activity
2 involved in typing the letter and addressing it and
3 stuffing it in envelopes, all that activity took place
4 right outside my door. I did not, of course, look at
5 each and every letter, but I knew the activity was
6 going on, I knew the list they were working from, I
7 knew that they kept copies of who received that letter.

8 Q And through your experience, then, through
9 your observations and as part of your function at
10 Monsanto, it was your understanding that copies of this
11 letter went out to customers of Monsanto? Which
12 customers?

13 A Customers of dielectric fluids containing
14 PCB's as of early 1972.

15 Q And this was done as a part of the custom and
16 habit and during the regular course of Monsanto's
17 practice?

18 A It was.

19 Q Okay. Let's go to the next letter in this
20 file, which is still in Exhibit 17, dated February 28,
21 1972, Attention: Purchasing Agent, and it's, again, by
22 T.L. Gossage. Then there's a second one on the very
23 next page, appears to be the same letter except
24 Attention: Plant Engineer. Do you see that?

25 A I do.

1 Q Okay. Sir, is it your understanding that a
2 copy of this -- strike that. Again, do you recognize
3 Mr. Gossage's signature on --

4 A I do.

5 Q -- on both pages, on both of those
6 February 28, 1972, letters?

7 A I do.

8 Q And, in fact, is that his signature?

9 A Yes.

10 Q Okay. Did you see these letters before they
11 went out, sir?

12 A Yes.

13 Q Did you, again, participate in making
14 comments and the like with respect to the drafting of
15 these letters?

16 A I did.

17 Q And, in fact, did you do that during the
18 course of your employment at Monsanto?

19 A I did.

20 Q And you did that in furtherance of that
21 employment; is that correct?

22 A Yes.

23 Q And did Mr. Gossage, in fact, prepare these
24 letters in furtherance of his business at Monsanto?

25 A Yes.

1 Q Okay. And were copies of these letters
2 maintained at Monsanto as business records?

3 A Yes.

4 Q Okay. And who were these letters sent out
5 to, sir?

6 A These letters were sent to customers on
7 record as purchasing PCB type dielectric fluids from
8 Monsanto as of the date of these letters, which is
9 February 28, 1972.

10 Q Okay. And that was, they were sent out as
11 part of the custom and habit and during the regular
12 course of Monsanto's business; is that correct?

13 A That is correct.

14 Q Is there a reason why, in this particular
15 letter, it was sent out to both purchasing agents and
16 plant engineers?

17 A The reasoning was one of, we wanted to make
18 certain that the proper person at the customer's
19 location received this information. And at that time,
20 we decided in order to make certain that somebody paid
21 attention to the mail, that we would send it, really,
22 to three individuals is what these three letters
23 indicate. One is to the person on file with our
24 records, who may be the president of the company or a
25 plant manager or some other title, or he may be the

1 purchasing agent. It varied from customer to
2 customer. And the other two were specifically
3 addressed to the purchasing agent and the plant
4 engineer.

5 Q You stated that normally the letter would be
6 sent to the person on file; is that correct?

7 A That is correct, yes.

8 Q So if we turn to Papageorge Exhibit 5, okay,
9 again, which is a letter dated September 15, 1970?

10 A Correct.

11 Q On the second page, on that customer list
12 that we have, we have Energy Systems, Palo Alto,
13 California, Mrs. Domer?

14 A That's what it indicates, yes.

15 Q And so she would be the person on file that
16 you're referring to?

17 A Correct.

18 Q And so when you testified the letters would
19 go out to customers on file during the course of this
20 deposition, it would be Mrs. Domer who the letter would
21 be sent to; is that correct?

22 MR. SUMMERS: Objection, speculation.

23 A If Mrs. Domer's name appeared on our records,
24 she was the one that received it.

25 Q (By Mr. Centola) Okay. So it was custom and

1 practice, and it was the habit of Monsanto to send the
2 letters that we've been discussing to the person on
3 record; is that correct?

4 A That is correct.

5 Q And, in fact, as of 9/15/1970, Mrs. Domer was
6 the person of record for Energy Systems; is that
7 correct?

8 A At that time, yes.

9 MR. SUMMERS: Objection, speculation.

10 Q (By Mr. Centola) Okay. On the last page of
11 this document, do you see that?

12 A I do.

13 Q What is that, do you know?

14 A This is a copy of the page on which the
15 addressees of the previous three letters were listed.

16 Q Okay. Now, there's only one addressee here.

17 A That is correct.

18 Q And why is that, sir?

19 A Because --

20 MR. SUMMERS: Objection, speculation.

21 MR. CENTOLA: Well, I'll have Counsel, I
22 think it's fair to have Counsel answer this question.

23 MR. CARNEY: Well, I think this witness knows
24 the answer. I could give the answer myself.

25 A We, as a practice, don't divulge the Monsanto

1 customers who are not involved with this particular
2 issue.

3 Q (By Mr. Centola) Okay. So in this, and
4 essentially, the rest of this document has been
5 redacted?

6 A Correct.

7 Q Do you know, sir, you mentioned that this
8 last page relates to the previous three letters. There
9 are four previous letters. Do you know if it relates
10 to that first letter?

11 A I'm sorry, I meant all four in this
12 particular exhibit.

13 Q Okay. Thank you. Why don't we mark this as
14 Papageorge 19.

15 (Papageorge Exhibit No. 19 marked for
16 identification by the court reporter.)

17 MR. CENTOLA: This is in the production.

18 MR. SUMMERS: 19 is?

19 Q (By Mr. Centola) Yes, the one I've just
20 marked. Mr. Papageorge, do you recognize what's been
21 put before you?

22 A I do.

23 Q What is this?

24 A This is the special undertaking requested by
25 Monsanto in early 1972 of purchasers of PCB type

1 dielectric fluids, and it's signed by the president of
2 Energy Systems and Monsanto Company vice president.

3 MR. SUMMERS: I'd object, speculation.

4 Q (By Mr. Centola) Okay. What is the name --
5 let's go to the second, let's go to the second page
6 under Monsanto Company. What is that name?

7 A C.P. Cunningham.

8 Q Who is C.P. Cunningham?

9 A At the time, Mr. Cunningham was the vice
10 president who was the managing director of the Monsanto
11 Industrial Chemicals Company and operating unit of
12 Monsanto.

13 Q Do you know who Mr. George Hoberg is?

14 A I do not.

15 Q Have you ever seen this particular
16 undertaking before, that is, the one that Energy
17 Systems and Aydin Company purported to --

18 A I believe I saw this yesterday for the first
19 time.

20 Q Prior to yesterday, did you see it?

21 A Not this document, no.

22 Q In light of the fact that it became
23 Monsanto's practice and course of business in late 1971
24 and early 1972 to have its customers of dielectric
25 fluids enter into special undertakings as a condition

1 for their continuing to purchase those products, do you
2 have any reason to believe that Aydin or Energy
3 Systems did not enter into this agreement if, in fact,
4 they were purchasing PCB products subsequent to 1972?

5 MR. SUMMERS: Objection, unintelligible.

6 A The fact that they received material after
7 1972 is definitely an indication that they had signed
8 an agreement. Otherwise they would not have received
9 material.

10 Q (By Mr. Centola) Do you have any knowledge of
11 any of your customers after 1972 who were allowed to
12 purchase PCB containing materials without entering into
13 the special undertaking that is before you today as
14 Exhibit 19, as part of Exhibit 19?

15 A I'm not aware of any sales of that type.

16 Q Do you know of any exceptions that were made
17 for any of your customers?

18 A No.

19 Q Would you have known of any exceptions made
20 to any of your customers, Mr. Papageorge?

21 A Eventually, yes, I would have known.

22 Q And none were -- and you knew of none?

23 A None.

24 Q I'll mark this as Papageorge Exhibit 20.
25 It's a six page document, it's in the production, AYD

1 000013 through 000018. The first page is a handwritten
2 memo, appears to be on Energy Systems speed
3 stationery, or memo stationery. The second portion of
4 the document, which is the remaining pages, appear to
5 be minutes of the annual meeting of the Board of
6 Directors of Aydin Corporation held at 100 West Tenth
7 Street, Wilmington, Delaware, at 2:45 p.m. on May 5,
8 1972.

9 (Papageorge Exhibit No. 20 marked for
10 identification by the court reporter.)

11 Q (By Mr. Centola) Have you ever seen that
12 before, Mr. Papageorge?

13 A I have not.

14 Q It says on the first page, "Enclosed is a
15 copy of the minute extract relating to the election of
16 officers on May 5, 1972. If this does not clarify
17 matters, please call me." Do you see that?

18 A I do.

19 Q It's also to Mr. Park. Do you see that?

20 A I see that.

21 Q Who is Mr. Park?

22 A Well, at that time, Mr. Park was a member of
23 Monsanto's Legal Department.

24 Q Okay. Was Mr. Park requiring, do you know,
25 your customers at this period of time to give you

1 assurances that the persons who entered into these
2 special undertakings were, in fact, authorized to do
3 so?

4 A I do not know.

5 Q Do you know if this document that's before
6 you, which is Exhibit 20, came from Monsanto files?

7 A I do not know.

8 Q So you do not know if this was maintained in
9 the files of Monsanto as the regular course of
10 business?

11 A I do not.

12 Q Why don't we mark these in order. These are
13 all from the production in the same stack. This will
14 be Papageorge 21, which is a October 19, 1972, letter,
15 AYD 000024 and 000025.

16 (Papageorge Exhibit No. 21 marked for
17 identification by the court reporter.)

18 MR. CENTOLA: This is a letter dated
19 October 23, 1972, to Howard Bergen from Allan Panitch,
20 P-A-N-I-T-C-H, AYD 000026, and that'll be Papageorge
21 22.

22 (Papageorge Exhibit No. 22 marked for
23 identification by the court reporter.)

24 MR. CENTOLA: This will be a letter,
25 October 23, 1972 -- right, October 31, 1972, to Mr.

1 Allan Panitch from Howard S. Bergen, AYD 000027, and
2 that would be Papageorge 23. 24 is a letter dated
3 November 30, 1972, to Mr. Aykan Hakimagnu,
4 H-A-K-I-M-A-G-N-U, first name is A-Y-K-A-N, and it's
5 from H.S. Bergen. And I've marked as Papageorge
6 Exhibit 25 a two page document which is a letter dated
7 3 January '73 to Monsanto Industrial Chemicals Co. from
8 Allan Panitch, and the attachment is a Certificate of
9 Insurance dated December 18, 1972.

10 (Papageorge Exhibits No. 23, 24, and 25
11 marked for identification by the court reporter.)

12 MR. CENTOLA: And the rest I'm going to do
13 collectively. It's a number of letters, but I'm going
14 to identify them collectively. It's from the
15 production. Just to save time. And they're all in the
16 same series of documents, and we'll mark them
17 collectively as Papageorge 26, and they bear the date
18 stamp numbers AYD 000031 through 38. And they are a
19 series of letters going back and forth between Monsanto
20 and Energy Systems Company, a division of Aydin
21 Corporation.

22 MR. SUMMERS: You mean they purport to be?

23 MR. CENTOLA: They purport to be that.

24 (Papageorge Exhibit No. 26 marked for
25 identification by the court reporter.)

1 MR. CENTOLA: And finally, I'm going to mark
2 what purports to be a, Certificates of Insurance with
3 an insuring agreement attached. It's five pages long
4 and it bears the date stamps AYD 000019. This will be
5 Papageorge 27.

6 MR. CARNEY: Did you not mark the January 4,
7 '77? Is that part of the group exhibit?

8 MR. CENTOLA: Yeah. That's part of that.
9 (Papageorge Exhibit No. 27 marked for
10 identification by the court reporter.)

11 MR. CENTOLA: Exhibit 26, I think you're
12 referring to, which is the series of letters, it begins
13 with AYD 000031 through AYD 000039. If I said
14 something else, I apologize. It goes 31 through 39
15 inclusive.

16 MR. SUMMERS: I don't seem to have 39. Oh,
17 sorry. I do. Okay. I've got that, I'm talking about
18 27.

19 MR. CENTOLA: 27 begins with 19 and ends with
20 23. I'm going to ask if I can have somebody's copies
21 so I can look on, because I'm short a copy.

22 MR. CARNEY: You can have mine.

23 MR. CENTOLA: Okay. Mr. Papageorge, let's
24 take them one at a time.

25 MR. CARNEY: Starting with 21?

1 Q (By Mr. Centola) Yeah. Thanks. 21 is the,
2 what purports to be a letter dated October 19, 1972,
3 airmailed to Mr. Aykan Hakimagnu, prepared by Howard S.
4 Bergen, Jr., okay?

5 A Yes.

6 Q Have you ever seen this letter before?

7 A I have not.

8 Q Okay. On the top, it says, "Note to Carole
9 Sandifer." Do you know who that is?

10 A At the time, she was a secretary to Mr.
11 Benignus.

12 Q Do you know who Joyce is?

13 A Joyce is Mr. Bergen's secretary.

14 Q Do you know who Mister -- I shouldn't say
15 Mister -- do you know who C. Paton is?

16 A Yes, Dr. Paton reported to Mr. Benignus.

17 Q What kind of doctor was he?

18 A Chemical doctor, chemistry.

19 Q How about C. Sandifer?

20 A Well, that's the same person that this
21 notice is addressed to. Carole. She is a secretary to
22 Mr. Benignus and Mr. Paton.

23 Q And Mr. Park, is that the, a lawyer in Legal
24 Department?

25 A Yes.

1 Q And we know who Mr. Gossage is?

2 A Yes.

3 Q Now, do you see there's a handwritten note on
4 the top right hand corner of that letter?

5 A I do see something here, yes.

6 Q Do you recognize the hand?

7 A I do not.

8 Q Did you ever hear the name Panitch before,
9 P-A-N-I-T-C-H?

10 A No.

11 Q Does the name Aykan Hakimagnu ring a bell?

12 A No, it doesn't.

13 Q Do you know if this letter came from the
14 files maintained by Monsanto?

15 A I don't know, really. I can only surmise
16 from the information on it.

17 Q Okay. All right. If you go to Exhibit 22,
18 have you ever seen this letter before?

19 A You have not.

20 Q This is a letter, October 23, 1972,
21 Attention: Howard Bergen, from Allan Panitch. Was Mr.
22 Bergen the person in charge of making sure that these,
23 these special undertakings were, in fact, endorsed?

24 A He had the ultimate responsibility, and I
25 don't know if he had delegated any portion of it to

1 someone else or not.

2 Q Okay. In this -- well, strike that. Again,
3 you don't know who George Hoberg is?

4 A I do not.

5 Q Okay. Take the next letter, Exhibit 23,
6 which is dated October 31, 1972, to Mr. Allan Panitch
7 from a Howard S. Bergen, Jr. On the top right hand
8 corner it's a bcc, which I assume is a blind copy; is
9 that correct?

10 A That is correct.

11 Q What is the BS -- does the B2SH represent?

12 A Oh, that's the building, the floor of the
13 building, and the mailing area in that building.

14 Q Does it reference, which says, "for Redbook
15 file," what does that indicate to you?

16 A I do not know.

17 Q Again, have you ever seen this letter before?

18 A No, I have not.

19 Q Exhibit 24, which is a letter dated
20 November 30, 1972, to Mr. Hakimagnu?

21 A I see it.

22 Q From H.S. Bergen, have you ever seen this
23 letter before?

24 A I have not.

25 Q Who is Mr. Hansen? We're referring now to

1 the top right hand corner.

2 A Doug Hansen was, he's a field salesman.

3 Q Who is C. Paton?

4 A He's the Dr. Paton we talked about earlier.

5 Q Right. Who is W.N. Maddox, M-A-D-D-O-X?

6 A Mr. Maddox is a member of a Customer Service
7 Department.

8 Q Do you have any idea why so many people who
9 have been blind copied on this particular letter?

10 A I do not.

11 Q And again, you don't know if this came from
12 Monsanto files, do you?

13 A That is correct.

14 Q Okay. Let's go to Exhibit 25, which purports
15 to be a letter on Energy Systems letterhead dated
16 3 January 1973 addressed to Monsanto Industrial
17 Chemicals Co., Attention: H.S. Bergen, from Allan
18 Panitch, Manager Contract Administration. And the
19 second page being, what purports to be a Certificate of
20 Insurance from Employers Commercial Union Companies
21 dated December 18, 1972. Have you seen any portions of
22 this document before?

23 A I have not.

24 Q Okay. Were you familiar with a practice put
25 in place by Monsanto requiring that Certificates of

1 Insurance be issued to Monsanto from its customers?

2 MR. SUMMERS: Objection, assumes that there
3 was such a practice.

4 MR. CENTOLA: I asked if there was such a
5 practice. Was there such a practice?

6 MR. SUMMERS: You said, "are you familiar."

7 Q (By Mr. Centola) Okay. Was there such a
8 practice put into place?

9 A There was a requirement, to my understanding,
10 that those who signed the agreement --

11 Q The special undertaking?

12 A The special undertaking, had to demonstrate a
13 financial capability to make the agreement worthwhile,
14 or have any meaning. They could do that by submitting
15 a Certificate of Insurance, if that was the method that
16 they chose.

17 Q So along with the special undertaking, they
18 had to submit some kind of financial assurance that
19 would give that hold harmless agreement substance?

20 A That is correct.

21 Q Okay. After 1972, were you aware of any
22 customer of dielectric fluids that was provided with,
23 continued to be provided with dielectric fluids
24 containing PCB's that did not give such financial
25 insurances?

1 A I am not aware of any such sales.

2 Q Would you have been made aware sometime if
3 such as exception had been made?

4 A Eventually I would have been made aware, yes.

5 Q And you are aware of no exception?

6 A That is correct.

7 Q Indeed, that was the custom and habit and as
8 a part of the regular course of Monsanto's business
9 that kind of financial assurance was required of all
10 customers of date; is that correct? All customers of
11 dielectric fluids who wanted to continue to do so post-
12 1972?

13 A I'm aware of two exceptions.

14 Q Okay.

15 A Westinghouse and General Electric were deemed
16 to be of sufficient financial strength they did not
17 need to demonstrate it in this fashion.

18 Q Other than those two companies, are you aware
19 of any exceptions?

20 A Not that I know of.

21 Q But to answer my question, however -- why
22 don't we read it back.

23 (Indicated question read back by the court
24 reporter.)

25 Q (By Mr. Centola) Is the answer to your

1 question yes, except for Westinghouse and General
2 Electric?

3 A That was my answer, yes, sir.

4 Q Okay. Let's take a look at Exhibit 26.
5 First page of that exhibit is a letter purporting to be
6 from Howard Bergen to Aykan Hakimagnu dated January 9,
7 1973. Do you see the handwriting on that letter?

8 A I do.

9 Q "Carole P-L-S-E," which I assume means
10 please, "issue memo," do you see that?

11 A I do.

12 Q Do you recognize that handwriting?

13 A I do not.

14 Q On the bottom, it's a cc to Panitch, do you
15 see that?

16 A Yes.

17 Q Do you recognize that hand?

18 A I do not.

19 Q Okay. And again, have you ever seen this
20 letter before?

21 A No, I have not.

22 Q And you do not know if this came from
23 Monsanto's files?

24 A That is correct.

25 Q Let's go to the next page. Why don't we do

1 this to save time. No, wait. I saw something
2 different. The next letter is November 28, 1973, to
3 Mr. Hakimagnu from Howard S. Bergen. Again, do you
4 rec -- have you ever seen this letter before?

5 A I have not.

6 Q And you don't know if it came from Monsanto's
7 files, do you?

8 A No.

9 Q Okay. The next letter, November 27, 1974,
10 dated to Mr. Hakimagnu?

11 A I see it.

12 Q From H.S. Bergen, do you see that?

13 A I do.

14 Q Okay. Do you see a signature at the bottom
15 of that page?

16 A Yes.

17 Q And again, have you ever seen Mr. Bergen's
18 signature in the past?

19 A Yes, I have.

20 Q And Mr. Bergen is who?

21 A He was the director of the business group
22 that sold dielectric fluids that contained PCB's.

23 Q And is he also the person who was
24 responsible, who had the ultimate responsibility for
25 making sure that the special undertakings were endorsed

1 by purchasers of PCB's?

2 A That is correct.

3 Q And have you seen his signature in the past?

4 A I have.

5 Q And is that, in fact, his signature?

6 A Doesn't look like it.

7 Q Okay. Do you know if his secretary would
8 sign his name to things on occasion?

9 A That is possible when Mr. Bergen is
10 traveling, yes.

11 MR. SUMMERS: Objection, speculation, move to
12 strike.

13 Q (By Mr. Centola) Okay, the next, let's take
14 the next three letters collectively. December 27, '74,
15 December 1, '75, and December -- I mean November 30,
16 1976. And have you ever seen any of these letters
17 before?

18 A I have not.

19 Q And do you know if they, in fact, came from
20 Monsanto's files?

21 A Do I know personally? No.

22 Q Okay. By the way, on the last letter, the
23 November 30, 1976, letter, there's a name on the top of
24 it in hand, Carol Jordan, do you see that? November
25 30, 1976?

1 A November 30, 1976?

2 Q Do you recognize that handwriting?

3 A I do not, no.

4 Q On the next page, which is a letter dated
5 December 1, '75, to Mr. Brad Vanders, V-A-N-D-E-R-S?

6 A I see it.

7 Q Okay. Do you recognize the handwriting on
8 that?

9 A I do not.

10 Q Have you ever seen this letter before?

11 A I have not.

12 Q The next letter, November 30, 1976, same
13 question. Have you ever seen this before?

14 A I have not.

15 Q The next letter, January 4, 1977. Have you
16 ever seen this letter before?

17 A I have not.

18 Q Do you know who David Dry is?

19 A I do not know.

20 Q And the last document which purports to be a
21 Certificate of Insurance and an insurance policy, have
22 you ever seen that before?

23 A I have not.

24 Q I would like to have you go back, just for a
25 moment, to Exhibit 15, if I can find it. Why don't you

1 look through there, Mr. Papageorge. Why don't we go
2 off for a moment.

3 (A brief recess was taken at this point in
4 time.)

5 Q (By Mr. Centola) Mr. Papageorge, you have in
6 front of you what has already been marked as Exhibit
7 15, and which you've already identified as something
8 you prepared during the course of your business at
9 Monsanto. You also testified that you, in fact, sent
10 it to a number of customers. Do you remember that,
11 sir?

12 A I did.

13 Q Do you recall if you, in fact, sent that to
14 the office of the president of your customers?

15 A I don't recall whether it was the president
16 or the person on our records. I don't remember.

17 Q Okay. On occasion, would you, in fact,
18 endorse something to go to the office of the president
19 of any of your customers?

20 A On occasion, yes. As best I can recall, the
21 letters that I sent out was to the person on record.

22 Q Okay.

23 A I don't recall any letters that I, that came
24 out of my office that were addressed only to the
25 president.

1 Q Okay. Thank you. We're done with that.
2 Let's mark this as Papageorge 28.

3 (Papageorge Exhibit No. 28 marked for
4 identification by the court reporter.)

5 Q (By Mr. Centola) I don't think this came from
6 your production, to tell you the truth. I believe it
7 came from a Brobeck production, actually. Okay. What
8 I've given to you is a letter dated February 4, 1972,
9 directed to Mrs. Irene Domer from a Clifford Boutin,
10 B-O-U-T-I-N, and attached thereto is a, a second letter
11 to Dear Sir endorsed by Howard Bergen, and attached
12 thereto is what appears to be the special undertaking
13 we've been talking about. And these documents bear the
14 date stamp numbers AY004986 through 990, okay?

15 A Yes.

16 Q Let's take them one at a time. Have you ever
17 seen this first page before, which is the letter to
18 Irene Domer?

19 A I have not.

20 Q Do you know who Clifford Boutin is?

21 A Yes, he at that time was the Monsanto sales
22 representative located in California.

23 Q Okay. How do you say his last name?

24 A Boutin.

25 Q Boutin. And are you familiar with Mr.

1 Boutin's signature?

2 A I haven't seen it often.

3 Q Would you be able to recognize it if you saw
4 it?

5 A I don't think so.

6 Q Okay. Have you ever seen this letter before?

7 A No, not this letter, no.

8 MR. CARNEY: You're talking about the Boutin?

9 Q (By Mr. Centola) The Boutin letter. Do you,
10 in fact, recall any conversations with Mr. Boutin about
11 Energy Systems Company or Aydin?

12 A I do not.

13 Q Aside from your one conversation, or your
14 conversation with, I believe it was with Mr. Benignus
15 concerning Energy Systems and his visit thereto, do
16 you recall any other conversations with anyone at
17 Monsanto or reading any other documents or any other
18 things about Energy Systems or Aydin during the course
19 of your employment at Monsanto?

20 A I do not.

21 Q Okay. There is a second letter, okay, do you
22 see that?

23 A I do.

24 Q And on the second page, there's a signature.

25 A Yes.

1 Q Do you recognize the signature?

2 A I do not.

3 Q Okay. And it's very unlegible, but on the
4 first page of that second letter to Dear Sir, the
5 undated letter on AY004987, there's some handwriting or
6 markings on the first page.

7 MR. SUMMERS: Scribbling, you mean?

8 Q (By Mr. Centola) Right, it does appear to be
9 scribbling. Do you recognize it?

10 A I do not.

11 Q And again, the last document, I think we've
12 been through this, but let me ask you, do you recognize
13 what this is?

14 A I do.

15 Q And that is what?

16 A It's a copy of the special undertaking for
17 purchasers of PCB's.

18 Q Right. And that's the same undertaking that
19 was identified earlier on in this deposition?

20 A Yes.

21 Q And in particular, in Exhibit 19 and in
22 Exhibit 18?

23 A Yes.

24 Q Okay. Why don't we mark this as Papageorge
25 29.

1 (Papageorge Exhibit No. 29 marked for
2 identification by the court reporter.)

3 Q (By Mr. Centola) This is a one page letter on
4 Monsanto stationery by Howard S. Bergen. First of all,
5 is that, in fact, Monsanto stationery, sir?

6 A This looks like a copy of the Monsanto
7 stationery, yes.

8 Q Have you ever seen this letter before?

9 A Yes, I have.

10 Q Okay. Do you recognize the signature?

11 A Well, it's like the others I've seen here, I
12 don't know whose penmanship that is.

13 Q Okay. When did you first see this letter?

14 A 19 -- about 1972, as best I recall.

15 Q Okay. In this letter, the first paragraph
16 reads, in the second -- well, the first sentence
17 reads, "As we have previously notified you by way of
18 correspondence since early 1970, the material described
19 on the attached acknowledgment of your order contains
20 polychlorinated biphenyls," okay? It goes on to say,
21 "Polychlorinated biphenyls are highly stable chemical
22 compounds and are not readily biodegradable.
23 Therefore, when placed in the environment they must be
24 considered contaminants and may adversely affect some
25 species of animals and marine life." Do you see that?

1 A I do. I think you used the word "must be
2 considered," it's "may be considered contaminants."

3 Q Okay, may be considered, I'm sorry. Then it
4 goes on to say, "You must take every precaution to
5 prevent any entry of polychlorinated biphenyls into the
6 environment through spills, usage, leakage, disposal,
7 vaporization or otherwise." Do you see that?

8 A I do.

9 Q That looks awful similar to the warnings we
10 had on the labels and invoices, is it not?

11 A It is, yes.

12 Q Okay. Did you participate in preparing this
13 particular letter?

14 A Yes.

15 Q Okay. What was your participation in
16 preparing this letter?

17 A I saw a proposed draft, and it agreed with
18 everything we had been putting out up to that point,
19 and I concurred.

20 Q So Howard Bergen ran this by you during the
21 normal course of his employment?

22 A Yes.

23 Q And did he, in fact, prepare this during and
24 in furtherance of his employment at Monsanto?

25 A Yes.

1 Q And you reviewed and concurred during and in
2 furtherance of your employment at Monsanto; is that
3 correct?

4 A That is correct.

5 Q And you both received the information
6 contained in this letter during the furtherance of your
7 employment at Monsanto; is that correct?

8 A That is correct.

9 Q And, in fact, this letter was prepared in
10 furtherance of that employment?

11 A Yes.

12 Q And was a copy of this letter maintained as a
13 regular course of business in the business files at
14 Monsanto?

15 A Yes.

16 Q And, in fact, was this letter sent out by
17 Monsanto?

18 MR. SUMMERS: Objection, speculation.

19 Q (By Mr. Centola) You can answer it.

20 A Yes.

21 Q Was it your -- did you speak to Mr. Bergen
22 about this letter?

23 A Certainly.

24 Q And what would, did you talk about whether or
25 not this letter was going to be sent out?

1 A Yes, we did.

2 Q And who did you decide to send this letter
3 out to?

4 A This letter was attached to all order
5 acknowledgments by the Customer Service Department.

6 Q That's what I was going to ask you. What do
7 you mean by, that's the first sentence we're talking
8 about right here, ". . . the material described on the
9 attached acknowledgment of your order contains
10 polychlorinated biphenyls." Do you see that?

11 A Yes.

12 Q Okay. What do you mean it was attached,
13 order of acknowledgments?

14 A There was a form that Monsanto used at the
15 time on which the appropriate information regarding the
16 customer and what he ordered and when he ordered it and
17 the expected date of delivery are typed on.

18 Q Okay.

19 A And to that acknowledgment which was mailed
20 to the customer, a copy of this was attached.

21 Q So as a matter of the regular course and
22 custom and habit of Monsanto, this order was sent to
23 your customers of dielectric fluids?

24 A This information, this document was sent.

25 Q Right. And that was sent along with the

1 order that was sent as a --

2 A Acknowledgment of the order.

3 Q Acknowledgment of the order.

4 A Prior to shipment.

5 Q Okay. And that was all done as part of the
6 custom and habit and during the regular course of
7 business at Monsanto?

8 A That is true.

9 Q Okay. And that would have been done with
10 respect to any customer who made an order for
11 polychlorinated biphenyls?

12 A At that time, yes.

13 Q And that time being in the --

14 A Starting in the, late '72.

15 Q Is there any reason to believe that this
16 information was not attached to any orders that went
17 out?

18 A I have no reason to believe so, no.

19 Q In fact, that was the charge that you and Mr.
20 Bergen had at this point in time, was it not?

21 A Yes.

22 Q Okay. This will be Papageorge Exhibit 30.
23 (Papageorge Exhibit No. 30 marked for
24 identification by the court reporter.)

25 Q (By Mr. Centola) Would you please take a look

1 at this document? While you're looking, I'll describe
2 it for the record. This is a letter dated January 15,
3 1974, on Monsanto stationery. It's three pages, and it
4 appears to be prepared by a T.L. Gossage.

5 A I have read it, or reviewed it.

6 Q Have you ever seen this letter before, sir?

7 A Yes, I have.

8 Q And when did you first see this letter?

9 A Well, I composed it.

10 Q Oh, you did. And I see that it was, it
11 appears to be from T.L. Gossage, Marketing Director?

12 A He asked me to write it for him and for his
13 signature.

14 Q Okay. Is that, in fact, his signature?

15 A It is.

16 Q And are you familiar with his signature?

17 A Yes.

18 Q And you've seen it in the past?

19 A Yes.

20 Q And that's his signature?

21 A It looks like it, yes.

22 Q And, now, you said he asked you to compose
23 it. Why is it Mr. Gossage came to you to ask you to
24 compose this?

25 A Well, I was the person in Monsanto that had

1 the contacts with the governmental agencies, so he
2 asked me to prepare the document based on my knowledge
3 of the situation, and that's, that's what I did.

4 Q Okay. Now, did you prepare this letter
5 during and in furtherance of your course of employment
6 at, regular course of employment at Monsanto?

7 A I did.

8 Q And did you obtain the information that is
9 contained in this letter during and in furtherance of
10 your employment, course of your regular course of your
11 employment at Monsanto?

12 A Yes.

13 Q And did you put that information into this
14 letter when received on or about January 15, 1974?

15 A Yes.

16 Q And was a copy of this letter maintained as a
17 business record in the files as a regular course of
18 business at Monsanto?

19 A Yes.

20 Q And, in fact, was this letter sent out, sir?

21 A Yes.

22 Q And who was this letter sent out to?

23 A To Monsanto customers who, in January, 1974,
24 were listed as purchasing dielectric fluid containing
25 PCB's.

1 Q And in fact, this letter identifies Aroclor,
2 Inerteen, and Pyranol; is that correct?

3 A It does.

4 Q So as a matter of custom and habit and during
5 the regular course of Monsanto's activities and in
6 furtherance of that business, Monsanto sent this letter
7 out to its purchasers of dielectric fluids that were on
8 record as of January of 1974?

9 A That is correct.

10 Q Now, I think we spoke about this earlier, and
11 that it was also your charge to keep your customers
12 informed of governmental regulations that were
13 affecting PCB's?

14 A Yes.

15 Q And, in fact, this is an example of you doing
16 that; is that correct, sir?

17 A Yes.

18 Q In fact, you mention the EPA Federal
19 Register, do you see that? July of 1973?

20 A Yes.

21 Q Were, in fact, do you know -- you identify
22 four things. The EPA published in the Federal Register
23 a proposed list of toxics and pollutants, PCB's were
24 included on that list?

25 A Correct.

1 Q And public hearings were held by the Effluent
2 Standards and Water Quality Information Advisory
3 Committee?

4 A Yes.

5 Q And there was a September 7, 1973, toxic
6 pollutants list was published without change?

7 A Yes.

8 Q And there's a December 27, 1973, the EPA
9 published proposed Effluent Standards for toxic
10 pollutants, do you see that?

11 A Yes.

12 Q Were all of these things, by the way --
13 strike that. It says on the last page of this letter
14 that there were attachments. Do you see that?

15 A Correct.

16 Q What were the attachments?

17 A You'll see on Page 2 at the top, the first
18 complete sentence, referring to copies of the Federal
19 Register notices.

20 Q Okay. So copies of the Federal Register
21 notices which pertain to these --

22 A Pertain to these activities that were listed
23 above.

24 Q Okay. And those, in fact, were sent to
25 customers as you just described?

1 A Yes.

2 Q Mark this as Papageorge 31.

3 (Papageorge Exhibit No. 31 marked for
4 identification by the court reporter.)

5 Q (By Mr. Centola) I'm marking as Papageorge 31
6 portions of the, various portions of the Federal
7 Register, it's ten pages long. Now, the best way to
8 answer these questions that I'm going to ask you is to
9 keep 30 in front of you, sir. Exhibit 30. Now, I've
10 just put before you Papageorge Exhibit 31. Do you
11 recognize what that is?

12 A Yes. This is a collection of copies of
13 portions of several issues of the Federal Register.

14 Q Are you familiar with what the Federal
15 Register looks like?

16 A Yes.

17 Q And that, in fact, is portions of the Federal
18 Register, sir?

19 A This is it, yes.

20 Q Okay. Now, on the bottom page of each of
21 those pages, there are dates. Do you see that, sir?

22 A I do.

23 Q Okay. Do those dates correspond with any of
24 the dates on the first page of Exhibit 30?

25 MR. SUMMERS: Objection, vague and

1 ambiguous.

2 A Well, I see a reference on the second page of
3 Exhibit 31 to July 6, 1973, which is also referred to
4 on Paragraph No. 1 on the first page of Exhibit 30.

5 Q (By Mr. Centola) So is it your understanding,
6 or is it your testimony that, in fact, when you stated
7 that copies of the Register were sent to the customers,
8 then, in fact, the second page of 31 was sent along
9 with Exhibit 30?

10 A Yes. Exactly.

11 Q Okay. Go to the next page of 30.

12 A The Federal Register notice dated July 17,
13 1973, lists dates of meetings that were scheduled to
14 discuss the Effluent Standards which are described in
15 Paragraph 2 of Exhibit 30.

16 Q And so was this, was the fourth page, then,
17 of Exhibit 31 sent along with Exhibit 30?

18 A Yes.

19 Q And would the fifth page have been sent along
20 as well?

21 A The fifth page contains the concluding
22 portions of the information on the fourth page.

23 Q So that would have been sent, at least that
24 portion?

25 A Together, yes.

1 Q Okay. Now, take a look at the sixth page of
2 -- I'm sorry?

3 A I haven't spotted the first page yet here.
4 The first page of Exhibit 31 refers to the meeting held
5 by the Advisory Committee on November 29, which is also
6 included in Paragraph 2 of Exhibit 30.

7 Q So the first page of 31 would have been sent
8 along with 30 as well?

9 A Yes. Now, getting over to, I believe it's
10 the sixth page?

11 Q Right.

12 A The sixth page, the sixth, seventh, eighth
13 page refers to the reissuance of the toxic pollutant
14 standards described in Paragraph 3 of Exhibit 30.

15 Q And would that have been sent along?

16 A And this would have been attached to Exhibit
17 30. And the final page refers to the meeting scheduled
18 for July 16 of 1973, which is covered in Paragraph 2 of
19 the first page of Exhibit 30, and would have been
20 attached to Exhibit 30.

21 Q So we have established, have we not, that all
22 of the items that are contained in 31, Exhibit 31,
23 were, in fact, sent as a matter of course with Exhibit
24 30 as you described earlier?

25 A Yes.

1 Q Okay. And this would have represented the
2 attachment that you referred to in this exhibit?

3 A Yes.

4 Q Thank you. For the record, Exhibit 31 would
5 represent the, represents the attachment that you
6 referred to in Exhibit 30?

7 A Correct.

8 Q In fact, by 1973, the Federal Register had
9 proposed a list of toxic pollutants, and PCB's were
10 included on that list, were they not?

11 A That is correct.

12 Q And in January of 1974, at the very least,
13 you were giving your clients information that the EPA's
14 Federal Register had, in fact, proposed a list of toxic
15 pollutants, and PCB's were, in fact, one of those toxic
16 pollutants; is that correct?

17 A That is correct.

18 Q Had you imparted that particular information
19 to them prior to January, '74, in addition to the other
20 information you gave to them prior?

21 A Not in a formal fashion. Some of the
22 activity was described to representatives of the
23 industry in group discussions and the like, and plant
24 visits and so on.

25 Q Right.

1 A This is the first time they attempted to put
2 it all together in one document.

3 Q That is the regulatory scheme?

4 A The regulatory activity, yes.

5 Q Right. This is from the production, and it's
6 AYD 000106, 107, 108, 109, 110, and 111. Let's mark it
7 collectively as Papageorge 32.

8 (Papageorge Exhibit No. 32 marked for
9 identification by the court reporter.)

10 Q (By Mr. Centola) Okay. I have put before the
11 witness what appears to be a series of Material Safety
12 Data Sheets, form numbers OSHA, O-S-H-A, 20. Have you
13 ever seen these before, sir?

14 A Yes, I have.

15 Q What are these?

16 A These are copies of Material Safety Data
17 Sheets prepared according to the guidelines of the
18 Occupational Safety and Health Administration.

19 Q That's OSHA?

20 A OSHA.

21 Q O-S-H-A. Go ahead.

22 A For three products, Inerteen 70-30,
23 Inerteen PPO, and Pyranol A13B3B.

24 Q And were Inerteen and Pyranol used to
25 manufacture transformers?

1 A Yes.

2 Q And Inerteen, you identified as the same
3 Inerteen that was on invoice, on the invoice in Exhibit
4 13?

5 A That is correct.

6 Q Inerteen 70-30?

7 A Correct.

8 Q And it's the same Inerteen that was on the
9 invoice that is marked Papageorge 12?

10 A Yes.

11 Q The invoice that was sent to Energy Systems,
12 Inc.?

13 A Yes.

14 Q Okay. What was the purpose of these Material
15 Safety Data Sheets?

16 MR. SUMMERS: Objection, vague and ambiguous,
17 speculation.

18 Q (By Mr. Centola) Well, you said you
19 recognized these sheets.

20 A I do.

21 Q How do you recognize these sheets?

22 A Well --

23 Q Strike that. During the course of your
24 employment, did you come across these types of sheets?

25 A Yes. In fact, I helped prepare them. My

1 initials appear on the second page in that grouping of
2 initials.

3 Q Which page are you talking about?

4 A Second page of each document has at the
5 bottom of the page --

6 Q So on, let's see. On date stamp AYD 000107,
7 on the left hand portion, you have initials JAG; HOH;
8 JTG; and WBP?

9 A Correct.

10 Q WBP is you?

11 A That's me.

12 Q And that indicates that you helped prepare
13 this document?

14 A Correct.

15 Q And that is true with respect to each of
16 these Material Data Sheets that have been marked
17 collectively as Papageorge 32?

18 A That is correct.

19 Q You helped prepare each one of those?

20 A Yes.

21 Q Okay. And when, in fact, did you prepare
22 these documents?

23 A These were prepared -- they were in
24 preparation the last quarter of 1971. Last three
25 months of 1971.

1 Q Now, at the top, it says, "Form No. OSHA-20,
2 May, 1971." Is that the date that the form was
3 actually created?

4 A No. This form was in existence prior to the
5 formation of OSHA, and as I understand it, it was used
6 in the shipbuilding industry. When OSHA was looking
7 for a form, they adopted this particular form in May of
8 1971.

9 Q And, now, you said you helped prepare this
10 form, okay?

11 A Yes.

12 Q What, for what reason did you -- what was the
13 purpose of preparing this form?

14 A Well, as I remember, this was not limited
15 just to PCB's. This was for all chemicals that were
16 produced by chemical manufacturers for shipment, and
17 this is part of a company-wide program.

18 Q And did OSHA, in fact, require you to prepare
19 these forms?

20 A Yes, sir.

21 Q When it came into existence?

22 A That is correct.

23 Q When did OSHA come into existence, do you
24 recall?

25 A As I remember, they were about 1970 or so.

1 Q But even before OSHA, these forms were
2 prepared and sent out by Monsanto as custom and
3 practice?

4 A No.

5 Q Okay.

6 A It's only when OSHA adopted the form and made
7 it acceptable for the use of chemicals in general that
8 Monsanto filled out the sheets as appropriate and sent
9 them out.

10 Q Okay. And let's take the first sheet, which
11 is date stamp 000106, okay?

12 A I have it.

13 Q Okay. You said that this Material Safety
14 Data Sheet would be sent out with respect to any
15 chemical that you sold; is that correct?

16 A That's right.

17 Q Okay. And what would be the purpose of
18 sending the information that's on this sheet to the
19 customer?

20 A To share with the customer the information
21 requested in each of those sections.

22 Q What is OSHA?

23 A It's the part of the Department of Labor that
24 concerns itself with work-related safety and health.

25 Q Okay. So, for instance, on the second page,

1 it says, "Health Hazard Data," correct?

2 A Let me find that. Second page?

3 Q Right at the top.

4 A Oh, yes, I see it.

5 Q And you would fill in information concerning
6 what kind of health hazards a particular chemical would
7 cause if exposed to it; is that correct?

8 A Correct.

9 Q And that's, in fact, what you did here with
10 respect to Pyranol?

11 A This particular document, yes.

12 Q And if we went through each of these
13 documents, you would be providing information to the
14 customer with respect to the materials sold to him in
15 terms of fire and explosion hazards, health hazards, et
16 cetera, as put forth by these documents?

17 A Correct.

18 Q And Monsanto is, in fact, was required to,
19 and therefore it is custom and habit and during the
20 regular course of its business, would issue these
21 Material Safety Data Sheets to its customers when they
22 would purchase chemicals from Monsanto; is that
23 correct?

24 A Yes.

25 Q And is it a fact that you could not purchase

1 a chemical from Monsanto prior, subsequent to 1971
2 without receiving a Material Safety Data Sheet?

3 MR. SUMMERS: Objection, speculation.

4 A That's true.

5 Q (By Mr. Centola) Well, in fact, you know
6 that, sir, because you, in fact, filled out these
7 sheets; is that correct?

8 A I filled them out and made certain that the
9 salesmen got their supply with specific instructions to
10 drop them off at all the customers of each particular
11 chemical.

12 Q That was part of your job at Monsanto, was it
13 not?

14 A That's correct.

15 Q Let me give you one more thing before we
16 break for the day.

17 (A brief off the record discussion was held
18 at this point.)

19 Q (By Mr. Centola) This is from the production,
20 and this is a letter dated July 31, 1975, on Monsanto
21 stationery from Douglas R. Hansen to Ralph Murphy of
22 Aydin Energy Systems, and it's date stamps AYD 000101
23 and 102.

24 (Papageorge Exhibit No. 33 marked for
25 identification by the court reporter.)

1 Q (By Mr. Centola) Have you ever seen this
2 before, sir?

3 A I saw this yesterday.

4 Q Have you seen it prior to yesterday?

5 A I don't recall it.

6 Q Okay. Do you know who Douglas R. Hansen is?

7 A Yes, I do.

8 Q Who is he?

9 A He was the sales manager located in
10 California. Monsanto sales manager.

11 Q Let me just try to get the structure straight
12 with the salespeople. You had Mr. Olson, Benignus,
13 Bryant, and now Hansen; is that correct?

14 A Yes.

15 Q Were they all in sales and marketing?

16 A Well, strictly speaking, Mr. Olson, Mr.
17 Benignus, and Mr. Bryant would be considered part of
18 the marketing team.

19 Q Okay.

20 A Mr. Hansen and Mr. Boutin that we talked
21 about earlier and Mr. Randy Graham, they were part of
22 the sales force.

23 Q Can you tell me the distinction between the
24 two?

25 A Well, marketing is, is, includes sales, but

1 it also involves itself with developing new markets,
2 determining the potential size of the market, the
3 search for new products to introduce to the market, so
4 it's a broader approach to the introduction of
5 chemicals into commerce. Whereas sales, the salesman
6 is given a list of the chemicals that are available,
7 the cost per pound, the suggested uses, and he's asked
8 to go out and see if he can find a customer.

9 Q Right. Okay, that makes sense. And Hansen
10 was one of those guys, as was Boutin, the last of the
11 two, which is the salesperson?

12 A Mr. Hansen, you'll note, is a manager. He
13 has salesmen reporting to him. So he's the
14 administrative head of an office located at that time
15 in Santa Clara, California, and reporting to him were
16 many salesmen. One of them, Mr. Boutin at the time,
17 sold PCB's. Others sold agricultural chemicals and
18 plasticizers and a host of other products.

19 Q Understood. Now, who is Mister -- there's a
20 bcc: David Wood. Who is that?

21 A David Wood, at that time in 1975, was doing
22 roughly the kinds of things that Mr. Benignus had been
23 doing. Mr. Benignus had retired by now.

24 Q Oh, I see. When did -- so did Wood take over
25 for Mr. Benignus?

1 A Mr. Benignus' job plus other PCB kinds of
2 activities. A little broader assignment.

3 Q And what was the scope of Benignus' job?

4 A Mr. Benignus was limited to dielectric
5 applications. When Mr. Wood took over, he, of course,
6 assumed the dielectric applications which were still
7 ongoing, but he also became involved with the past uses
8 that were discontinued for which customers were still
9 asking questions, like heat transfer and hydraulic
10 fluids and so on.

11 Q Backing up just a little bit while I have you
12 on the subject, there did come, in fact, a time when
13 1016 was, replaced 1242; do you recall that?

14 A Yes.

15 Q And that was sometime in the '71 time frame?

16 A Yes.

17 Q After 1971, other than Aroclor 1016, what
18 other kind of Aroclors were sold to customers, if you
19 recall?

20 A We had Aroclor 1221, Aroclor 1232, Aroclor
21 1254, and a small amount of Aroclor 1242 was still
22 available to the transformer manufacturer.

23 Q What was the 1254 normally used for?

24 A As an ingredient in the transformer fluids,
25 the Inerteens and the Pyranols.

1 Q Okay. And how about 1016?

2 A 1016 was exclusive as the fluid in
3 capacitors.

4 Q Was that ever used for transformers?

5 A Not to my knowledge.

6 Q 1060 -- I mean 1260?

7 A 1260 was discontinued in 1970.

8 Q Why was it discontinued in 1970?

9 A Because it was the most resistant in the
10 environment of all the mixtures, and Aroclor 1254 was
11 a, an available alternative.

12 Q And 1254 was sold as a mixture in Inerteen
13 and Pyranol right up until 1977 when you discontinued
14 sales of PCB's?

15 A That's correct.

16 Q Despite the fact that you transferred to 1016
17 as opposed to 1242, and despite the fact that 1254 was
18 available as opposed to 1260, did you ever suggest to
19 your clients that it was okay to give any of those
20 items into the environment?

21 A Oh, never. No, no.

22 Q They were still treated the same way, were
23 they not?

24 A Certainly. Yes.

25 Q Okay. I'm sorry, you mentioned 1222; is that

1 correct?

2 A 1221.

3 Q 1221. What was that used for, sir?

4 A In some capacitors.

5 Q Not transformers?

6 A That is correct.

7 Q So essentially, the kind of Aroclor you're
8 going to find in Pyranol and Inerteen would be 1254?

9 A Most likely. General Electric had a Pyranol
10 which contained Aroclor 1242.

11 Q Now, going back to our letter here, July 31,
12 '75, although you've never seen this letter before, are
13 you familiar with the problems which seem to be
14 indicated in this letter?

15 A Oh, yes.

16 MR. SUMMERS: Objection, move to strike,
17 vague and ambiguous, speculation.

18 Q (By Mr. Centola) Well, the letter says,
19 number one, some -- strike that. The number starts out
20 by saying, "We wish to bring to your attention problems
21 associated with disposal of waste chlorinated biphenyl
22 products in our incinerator in Sauget, Illinois."

23 A Yes.

24 Q In fact, that is where your incinerator was?

25 A Correct.

1 Q That's the incinerator we spoke to earlier,
2 about earlier today?

3 A Yes.

4 Q And it goes on to state in Paragraph No. 1,
5 "Some recent returns have been in completely unsuitable
6 drums which have been severely corroded and unsealed."
7 Do you see that?

8 A Yes.

9 Q Were you familiar with that taking place?

10 A Yes.

11 Q And, in fact, were you familiar with the
12 other items that were in this letter taking place from
13 various customers?

14 A Yes.

15 Q When this, when a customer -- strike that.
16 Was it your understanding that if you were experiencing
17 problems with customers' returns -- strike that. If
18 you were experiencing problems with the returns of
19 customers, was it your understanding that a letter or
20 some notification would go out to the customer
21 concerning Monsanto's concerns?

22 MR. SUMMERS: Objection, speculation, vague
23 and ambiguous.

24 A In those situations where we could definitely
25 associate a particular shipment from a customer?

1 Q (By Mr. Centola) Right.

2 A We, of course, would get on the telephone and
3 talk to them right away --

4 Q Right.

5 A -- about the faults that we found with the
6 shipment and the problems it created. After a while,
7 it became a case where perhaps it would be appropriate
8 to list the kinds of problems we have and share it with
9 all of our customers.

10 Q Right.

11 A This did not mean that the, that all of the
12 customers were guilty of these discrepancies in
13 shipping requirements. So this is an example of a kind
14 of letter that was sent out to share with the customer
15 the kinds of problems that were possible, and to also
16 remind them that we had a label that they could use and
17 should use to use our service.

18 Q Just one other thing about this. So that, as
19 a custom and habit and during the regular course of
20 Monsanto's business, that kind of list of problems
21 would be sent to customers as, on record?

22 A Certainly.

23 Q Now, and this will be my last few questions.
24 On the first page of this exhibit, and we're going to
25 get to this on Thursday, there is the paragraph

1 numbered one, and then there's a paragraph under that
2 saying, "Truck cleaning at Sauget increases the risk of
3 escape," do you see that?

4 A Yes.

5 Q And it says, "It would indeed be distressing
6 if these instances led to the inability of the industry
7 to use chlorinated biphenyl in spite of industry
8 efforts on ANSI," A-N-S-I, "C-107 and EIA ad hoc
9 committees." Do you see that?

10 A Yes, I see that.

11 Q The ANSI C-107, is that the committee that
12 drafted standards with respect to the handling of
13 Aroclors?

14 A To the handling of --

15 Q PCB's.

16 A Dielectric fluids containing PCB's.

17 Q And ANSI represents what?

18 A The American National Standards Institute.

19 Q And within that American National Standards
20 Institute was this committee which was labeled C-107
21 which had the responsibility of drafting standards; is
22 that correct?

23 A That is correct.

24 Q And those standards pertained to the handling
25 of Aroclor containing products?

1 A Correct.

2 Q And the EIA represents what?

3 A That's the Edison -- I'm sorry, Electronic
4 Industries Association.

5 Q And the Electronic Industries Association,
6 did it not, formed a PCB ad hoc committee?

7 A Yes, they did.

8 Q And when was that, sir?

9 A 1973, '74 period.

10 Q Okay. Why don't we end there, sir, for
11 today. Thank you.

12 MR. CARNEY: Just so we have some record of
13 what we're saying, we'll start up at, on Thursday, and
14 we'll finish Mr. Papageorge, and would you estimate a
15 couple of hours?

16 MR. CENTOLA: Yeah, two or three hours.

17 MR. CARNEY: I will have the custodian, and
18 I'm trying to think, I don't want to have somebody
19 sitting around.

20 MR. CENTOLA: I'll do him first, I'll take
21 them out of order, if that's okay.

22 MR. CARNEY: How long would you estimate?

23 MR. CENTOLA: If you gave him the documents
24 to look at ahead of time, it shouldn't take more than
25 ten minutes.

1 MR. CARNEY: Does everybody agree that that's
2 a ten minute depo?

3 MR. CENTOLA: Yeah.

4 MR. SUMMERS: Yeah.

5 MR. CARNEY: So we'll start at nine with the
6 custodian first, and then we'll have Mr. Papageorge
7 ready and we should conclude sometime in the morning.

8 MR. CENTOLA: Right. Terrific.

9 MR. CARNEY: And the only other thing I need
10 is, there are about seven or eight exhibits I need, if
11 you could get copies before Thursday.

12 MR. CENTOLA: Well, I'll tell you what, I'll
13 make a copy of the entire set before Thursday with the
14 actual exhibit tag on it.

15 MR. CARNEY: That would probably help.

16 MR. CENTOLA: Okay. That's it.

17

18 (Wherein the proceedings were adjourned, to
19 be continued on Thursday, December 19, 1991.)

20

21

22

23

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25

1 CONTINUED DIRECT EXAMINATION

2 QUESTIONS BY MR. CENTOLA:

3 Q Good morning, Mr. Papageorge.

4 A Good morning.

5 Q Again, my name is Gary Centola, and I'd like
6 to remind you that you're still under oath.

7 A I understand.

8 Q Mr. Papageorge, I just want for a moment to
9 show you what has already been marked as Exhibit 17, I
10 believe it's already in front of you.

11 A Yes.

12 Q And it's a letter dated February 4, 1972, and
13 it's signed by Howard Bergen?

14 A I have it here.

15 Q Right. Now, the other day you testified that
16 it was your understanding that this letter was sent out
17 to various customers of Monsanto. Do you recall that?

18 A Yes.

19 Q Now, this, this letter makes reference to an
20 article by Carl G. Gustafson of the Federal Water
21 Quality Administration?

22 A It does.

23 Q Okay. And I think the other day we
24 established through your testimony that, in fact,
25 that article is part of what has been marked as

1 Papageorge 18; is that correct?

2 A That is correct.

3 Q Now, if we can turn to Page 2 of that article
4 by Carl G. Gustafson, which is in Exhibit 18, it's got
5 a picture of two little, of a little chick on it?

6 A I see it, yes.

7 Q Okay. Now, there's a subheading in that
8 article that says "Chronic Toxicity," do you see that?

9 A I do.

10 Q And on the last column, the last paragraph --
11 I'm sorry, the last column, the first full paragraph
12 states that "Another chronic effect of PCB's is related
13 in waterfowl. The accumulation of high concentrations
14 of chlorinated hydrocarbons in birds resulted in
15 disruption of normal breeding behavior and in the
16 formation of thin-shelled eggs." Do you see that?

17 A I do. I believe you said waterfowl.

18 Q I'm sorry, it should be wildfowl.

19 A Yes, sir, I see that.

20 Q And it goes on to talk about the thin-shelled
21 eggs in that particular article, do you see that?

22 A Yes, I do.

23 Q This is, in fact, the kind of information
24 that you were giving to customers in this time frame
25 when you would receive it?

1 A Yes.

2 Q Okay. Also in Exhibit 18 is the special
3 undertaking. Do you see that?

4 A I do.

5 Q And this special undertaking was an
6 undertaking that Monsanto required his customers of
7 dielectric fluids to engage in; is that correct?

8 A That is correct.

9 Q And, in fact, the last paragraph on the first
10 page of that special undertaking maps out why the
11 special undertaking was, in fact, required; is that
12 correct?

13 MR. SUMMERS: I'll object, vague and
14 ambiguous, calls for speculation.

15 A That is correct.

16 Q (By Mr. Centola) Okay. And, in fact, that
17 last paragraph reads that, "Accordingly, the Buyer
18 hereby covenants and agrees that, with respect to any
19 and all PCB's sold or delivered by or on behalf of
20 Monsanto to Buyer on or after the date hereof," and it
21 goes on to say, "Buyer shall defend, indemnify and hold
22 harmless Monsanto, its present, past and future
23 directors, et cetera, from and against any and all
24 liabilities, claims, damages, penalties, actions,
25 suits, losses, costs and expenses arising out of or in

1 connection with the receipt, purchase, possession,
2 handling, use, sale or disposition of such PCB's by,
3 through or under Buyer," and it goes on to say,
4 "without implied limitation any contamination of or
5 adverse effect on humans, marine, and wildlife, food,
6 animal feed or the environment by reason of such
7 PCB's." Do you see that?

8 A I do.

9 Q Okay. And that, in fact, was the substance
10 of -- strike that. Liability caused by the use and
11 handling of PCB's was the concern that Monsanto had in
12 this time frame?

13 MR. SUMMERS: I'll object, vague and
14 ambiguous, calls for speculation.

15 MR. CARNEY: I'll join in that.

16 Q (By Mr. Centola) Strike that. I'll
17 withdraw the question. Now, would you please look at
18 Exhibit 31?

19 A I have it.

20 Q Okay. Yesterday, I should say two days ago,
21 you identified this as a portion of the Federal
22 Register that was sent with a letter to customers; is
23 that correct?

24 A That is correct.

25 Q Okay. Would you please, for the record, if

1 you know, tell us what the Federal Register is?

2 A The Federal Register, as I understand it, is
3 a Federal Government publication in which the agencies
4 of the Federal Government publish various announcements
5 that pertain to their activities.

6 Q Okay. Now, in this particular portion of the
7 Federal Register, which is Papageorge 31, and the first
8 page is dated Tuesday, November 6, 1973, this
9 particular entry refers to the Environment Protection
10 Agency and its Effluent Standards and Water Quality
11 Information Advisory Committee; is that correct?

12 A Well, that's one of the articles on that
13 page, yes.

14 Q Right. And that article, in fact, discusses
15 the establishment of effluent limitations for items of
16 toxic substances. Do you see that? That would be the
17 second paragraph in the first column on the left.

18 A If I understood your statement, you said this
19 article establishes effluent limitations. If I
20 understand it correctly, this refers to an agenda which
21 is put together in hopes of the establishment, eventual
22 establishment of effluent limitations.

23 Q Right. And on the second page of this, this
24 exhibit, under, in the middle column it says
25 "Environmental Protection Agency, Water Pollution

1 Prevention and Control." Do you see that?

2 A I do.

3 Q And it says here, "Notice is hereby given
4 that the Acting Administrator, Environmental Protection
5 Agency, proposes to establish a list of toxic
6 pollutants in accordance with section 307(a)(1) of the
7 Federal Water Pollution Control Act." Do you see that?

8 A I do.

9 Q And then under that, it lists a number of
10 toxic pollutants. Do you see that?

11 A I do.

12 Q And, in fact, No. 8 is, are polychlorinated
13 biphenyls, do you see that?

14 A That is correct.

15 Q Okay. If we go over to the seventh page of
16 this exhibit, which is Exhibit 31?

17 A I believe I have it.

18 Q Okay. And in the right column, okay, first
19 of all, in the middle column under Roman numeral two,
20 it says "The Pollutants Selected." Do you see that?

21 A I do.

22 Q And then in the right hand column, it has
23 polychlorinated biphenyls one, two, three, four
24 paragraphs down. Do you see that?

25 A I do.

1 Q And it says, "Polychlorinated biphenyls are
2 on the list because of their high order of toxicity to
3 man and aquatic organisms and because of their
4 bioaccumulative potential." Do you see that?

5 A I do.

6 Q This, in fact, this information, was it not,
7 was imparted to your customers in that letter we talked
8 about the other day, was it not?

9 A It was.

10 Q Okay. Thank you. Now, we talked the other
11 day about a trip that Mr. Benignus made to Energy
12 Systems. Do you recall that?

13 A I do.

14 Q Do you know what a Call Report is?

15 A Yes, sir.

16 Q What is a Call Report, C-A-L-L?

17 A It's a report that is issued after an
18 individual -- and I'm speaking of Monsanto's procedure
19 -- an individual makes a trip, whether it be a customer
20 or any other audience that they visited, and attempts
21 to summarize in that report the highlights of the
22 meeting and discussion.

23 Q Okay. I'd like to mark as Papageorge 34 what
24 appears to be a Call Report. This is from the
25 production, by the way. AYD 000007 through 10.

1 (Papageorge Exhibit No. 34 marked for
2 identification by the court reporter.)

3 Q (By Mr. Centola) This is a, the first page is
4 on Monsanto's letterhead or stationery dated December
5 24, 1970, entitled "Call Report." The second page is
6 dated February 16, 1970, "Subject: Transformer
7 Askarels, Calls in the San Francisco area," and it's
8 signed by P.G. Benignus. Have you ever seen this
9 document before, Mr. Papageorge?

10 A Yes, I have.

11 Q When did you first see this document or any
12 portions of this document?

13 A I saw both of them at about the time of the
14 date on each document.

15 Q Okay. So is it fair to say that you saw the
16 first page of this document on or about December 24,
17 1970?

18 A That is correct.

19 Q And that you saw the second page in the
20 following, the second page with following pages on or
21 about February 16, 1970?

22 A That is correct.

23 Q Okay. Now, do you see the name at the bottom
24 of the first page?

25 A I do.

1 Q Who is, again, just for the record, who is
2 J.G. Bryant?

3 A Mr. Bryant at that time was the technical
4 person located in St. Louis in Monsanto's marketing
5 group that sold dielectric fluids that contained
6 PCB's. Mr. Bryant reported to Mr. Benignus who was the
7 marketing, excuse me, marketing manager for that group
8 of products.

9 Q Now, are you familiar with Mr. Bryant's
10 signature?

11 A Yes, sir.

12 Q Do you recognize the signature at the bottom
13 of this page?

14 A That looks like it, yes.

15 Q Okay. Now, do you know if Mr. Bryant made a
16 visit to Energy Systems?

17 A Yes.

18 Q And did he?

19 A Yes.

20 Q And that is indicated by this Call Report; is
21 that correct?

22 A Yes, it does.

23 Q Okay. By the way, was this, when a call, I
24 think you testified earlier that when someone would
25 make a visit to a customer, they would prepare such a

1 report; is that correct?

2 A It's the option of the person that made the
3 call. He may prepare a report or he may choose not to.

4 Q Now, you said that you saw this on or about
5 December 24, 1970. Do you see that?

6 A Yes.

7 Q Remember that?

8 A Yes.

9 Q Did you see this -- was it -- strike that.
10 Was this report sent to you, or under what
11 circumstances did you see this report?

12 A It was sent to me, a copy was sent to me.

13 Q Was this report prepared by Mr. Bryant?

14 A Yes.

15 Q Was it prepared by him during the course of
16 his regular employment and in furtherance of that
17 employment at Monsanto?

18 A Yes.

19 Q And was the information that is contained in
20 the report retrieved by Mr. Bryant in the furtherance
21 of his employment at Monsanto?

22 A It was.

23 Q And was that information put onto this
24 document during and in furtherance of his employment at
25 Monsanto?

1 A Yes.

2 Q And was a copy of this report maintained
3 during the regular course of business at Monsanto in
4 its files, sir?

5 A Yes.

6 Q By the way, do you know who Charles "Red"
7 McCulley is?

8 A No, I have not met the man.

9 Q Okay. Do you remember discussing Mr.
10 Bryant's visit with, to Energy Systems with him?

11 A Yes. That's when he gave me a copy of this.

12 Q Okay. Now, on this, on this -- so it was
13 your understanding, then, through conversations with
14 Bryant and through this document that, in fact, Mr.
15 Bryant went to Energy Systems?

16 A Yes.

17 Q Do you recall if Mr. Bryant discussed with
18 you whether he spoke about pollution concerns at the
19 plant?

20 A He did.

21 Q Okay. And did he discuss that with Energy
22 Systems?

23 A Yes.

24 Q Okay. Was it your understanding at that time
25 that Mr. Bryant as well as Mr. Benignus informed people

1 at Energy Systems that it was imperative to keep PCB's
2 out of the environment?

3 MR. SUMMERS: Objection, vague and ambiguous,
4 calls for speculation.

5 A Yes, he did.

6 Q (By Mr. Centola) Okay. Was that -- did you
7 obtain that information through direct conversations
8 with Mr. Bryant and Mr. Benignus?

9 A Certainly, yes.

10 Q And, in fact, wasn't that not your charge to
11 make sure that information was imparted by your sales
12 people and technical people to your customers?

13 A That is true.

14 Q Okay. Now, and let's go to the second
15 document in this exhibit.

16 MR. CARNEY: You mean the second exhibit?

17 MR. CENTOLA: It's one exhibit, I marked it
18 as a single exhibit.

19 MR. CARNEY: You were just talking about
20 Exhibit 34?

21 MR. CENTOLA: Yeah, I was talking about
22 Exhibit 34, just the first page.

23 MR. CARNEY: Okay.

24 MR. CENTOLA: The second page and thereafter
25 is the second, is the second document. You know what?

1 Maybe we should, for, it might be simpler to mark it as
2 two separate documents.

3 MR. CARNEY: I think that might be a good
4 idea.

5 MR. CENTOLA: Okay. So why don't we mark
6 the, what I've already identified as AYD 000008 through
7 10 not as a portion of 34, but as its own Exhibit 35.

8 (Papageorge Exhibit No. 35 marked for
9 identification by the court reporter.)

10 Q (By Mr. Centola) Now, you've already
11 testified that you saw this particular document on or
12 about February 16, 1970, do you recall that?

13 A I do, that's correct.

14 Q Okay. Now, would you turn to the last page
15 of this document? Do you see the name?

16 A I do.

17 Q What name is that?

18 A That's P.G. Benignus.

19 Q Okay. And do you recognize the initials
20 above the name?

21 A I do.

22 Q Are those his initials?

23 A Yes.

24 Q And you're familiar with those initials?

25 A Yes.

1 Q And you've seen those initials in the past?

2 A Many times, yes.

3 Q Okay. Now, was this, was a copy of this
4 report sent to you, sir?

5 A Yes.

6 Q And it was also sent to Mr. E.P. Wheeler. Do
7 you see that?

8 A I do.

9 Q Okay. Again, for the record, who is E.P.
10 Wheeler?

11 A Mr. Wheeler at that time was the Manager of
12 Environmental Health in at Monsanto's corporate Medical
13 Department.

14 Q Okay. Now, was this report made by Mr.
15 Benignus during the regular course of his business and
16 in furtherance of his business at Monsanto?

17 A It was.

18 Q And was the information that was, that is
19 contained in this report acquired by Mr. Benignus
20 during the course of his regular course of employment
21 at Monsanto and in furtherance of that employment, sir?

22 A It was.

23 Q And was that information put into this
24 document on or about the time it was accumulated under
25 the same circumstances, Your Honor? I mean, Mr.

1 Papageorge?

2 A It was.

3 Q And was a copy of this document maintained as
4 a regular course of business at Monsanto in its files,
5 sir?

6 A It was.

7 Q Okay. Now, this report on the front page
8 says, "For simplicity," and this report is dated
9 February 16, 1970, "For simplicity this can be reported
10 together and in summary. None of these people had any
11 technical problems. When they do -- they call us at
12 St. Louis. All are well satisfied with our service.
13 Therefore, this report will deal primarily with the PCB
14 Pollution situation." Do you see that?

15 A I do.

16 Q Okay. And is it fair to say, from reading
17 this report, that Mr. Benignus, when he visited Energy
18 Systems, discussed the disposal of scrap Askarel with
19 Energy Systems?

20 MR. SUMMERS: Objection, calls for
21 speculation.

22 Q (By Mr. Centola) All right, I won't go any
23 further than that. In fact, this Call Report does
24 indicate that Benignus did discuss disposal of Askarels
25 with Energy Systems, does it not?

1 A It does.

2 Q Okay. Thank you, Mr. Papageorge. Let's mark
3 this as Papageorge 36 and Papageorge 37. These are
4 from the production, AYD 000040 through 50 would be
5 Papageorge 36; and AYD 000068 through 91 will be
6 Papageorge 37.

7 MR. CARNEY: The first one was 40 through
8 60?

9 MR. CENTOLA: 50. The second one was 68
10 through 91.

11 (Papageorge Exhibits No. 36 and 37 marked for
12 identification by the court reporter.)

13 Q (By Mr. Centola) I've just put before the
14 witness a document entitled "Sales Summary, All PCB
15 Containing Products, Energy Systems, Inc., Palo Alto,
16 California, 1954 through 1977," that's Exhibit 36. On
17 the second document is "Sales Summary, All PCB
18 Containing Products, Aydin Energy Systems, Palo Alto,
19 California, 1954 through 1977." Have you ever seen
20 either of these documents before, Mr. Papageorge?

21 A Yes, I have.

22 Q When have you seen them? When was the first
23 time you saw them, I should say?

24 A I saw them earlier this week.

25 Q Okay. Prior to that, have you seen those

1 documents?

2 A Not these specific documents, no.

3 Q Okay. Have you seen documents in this format
4 before at Monsanto?

5 A Yes, many times.

6 Q Okay. What is, what are these documents?
7 Let's take the first page of the document.

8 A The first page is a summary by year, or
9 years, of the type of PCB product and the amounts sold
10 to the customer at the heading.

11 Q All right. And would these kind of summaries
12 be made -- were they made during the regular course of
13 business at Monsanto?

14 A Not the summaries.

15 Q Okay. What were made as a regular course of
16 business?

17 A The pages attached, there are copies of
18 records that are maintained.

19 Q Okay. Let's take the second page of, let's
20 take them in order. 36. Okay, the second page of that
21 is a sales -- what is that?

22 A This is -- it's rather difficult to read, but
23 it shows -- I can't read that first word.

24 Q Well, is this a Sales Summary Sheet?

25 A Oh, the title of this whole sheet is Sales

1 Summary Sheet.

2 Q All right. And is this a form that was
3 maintained by, at Monsanto?

4 A Yes.

5 Q And in this form, it appears that there was,
6 down at a portion of it, it has the name Energy
7 Systems. Do you see that?

8 A I do.

9 Q And then in the column it has 12,150; do you
10 see that?

11 A I do.

12 Q And then in another column it has 2,864; do
13 you see that?

14 A I see that.

15 Q All right. And then it has a date on this,
16 it's December, 1966. Do you see that?

17 A I do.

18 Q Have you seen these types of forms before?

19 A Yes.

20 Q Okay. And what do these types of forms --
21 what did, what was recorded in these types of forms by
22 Monsanto?

23 A The product referred to in the document.

24 Q Right.

25 A The name of the customer.

1 Q Mm-hmm.

2 A The amount of material, and the selling price
3 of that material.

4 Q Right. And were these documents, these
5 Summary Sheets, kept as a matter of regular course of
6 business at Monsanto?

7 A Oh, yes.

8 Q Okay. So when a sale would be made, a sheet
9 like this would automatically be generated?

10 A Yes.

11 Q And is that true with respect to this entire
12 document, which is Exhibit 36?

13 MR. SUMMERS: Objection, I believe that
14 mischaracterizes as to the first page of it.

15 MR. CENTOLA: Okay. Well, let's go through
16 the first page a little more carefully. You mean --

17 MR. SUMMERS: I mean the first page of the
18 exhibit.

19 Q (By Mr. Centola) Okay, let's start with the
20 second page of the exhibit. This has a printed block,
21 do you see that?

22 A Yes.

23 Q And under that in writing, it has some
24 writing. What does that say there?

25 A That's referring to the product ventures for

1 this page, and it's Transformer -- I can't make out
2 that second word, but the product is Pyranol A13B3B.

3 Q And that's a PCB containing product; is it
4 not?

5 A It is.

6 Q And we already identified Energy Systems,
7 Inc., as the buyer; is that correct?

8 A That is correct.

9 Q And in the next column, it's 12,150, which
10 would refer to pounds of the product, would it not?

11 A It's the next column with an entry in it.

12 Q Right.

13 A Those are the, that's the amount.

14 Q And the column after that, sir?

15 A Is the cost of that material.

16 Q And that's 2,864; is that correct?

17 A That's correct.

18 Q And the date it was sold was December, 1966;
19 do you see that?

20 A As of December, 1966. I can't tell from this
21 just when it was shipped.

22 Q Okay. And on each page after in the
23 document, the setup is essentially the same, is it not?

24 A It appears, it is, yes.

25 Q Identifying the purchaser and the amount and

1 the price as well as the product?

2 A Right, and it's all at year end.

3 Q Okay. Is the same true with respect to the
4 second, third, fourth, and fifth page of Exhibit 37?

5 A I don't see a reference, unless I'm
6 misreading this, a reference to dollars.

7 Q Okay.

8 A I see reference to pounds.

9 Q But it identifies everything but the dollars
10 in those pages?

11 A As best I can make out at this moment.

12 Q And again, those pages were filled out as a
13 regular course and as part of custom and habit of
14 Monsanto when the product was at year end, year end --
15 can we strike that please -- at year end for each
16 customer; is that correct?

17 A That is correct.

18 Q So we would have, if we put these two, and
19 these are documents that were made during the regular
20 course of business at Monsanto, were they not?

21 A Yes.

22 Q And copies of these documents were, in fact,
23 maintained in the files as part of that business at
24 Monsanto, were they not?

25 A Yes.

1 MR. SUMMERS: I object and move to strike
2 only if you mean by "these documents," you're including
3 the first pages of Exhibits 36 and 37.

4 Q (By Mr. Centola) Fine, I'm not including the
5 first page. I was just referring to the summary forms
6 we've been discussing; is that correct?

7 A Yes.

8 Q Now, do you know who prepared those first
9 pages on 36 and 37?

10 A The top page of each?

11 Q Yes.

12 A I do not.

13 Q Okay. Now, if, in fact, Energy Systems,
14 which later became known as Aydin Energy Systems,
15 Energy Systems, received polychlorinated biphenyl
16 containing products beginning in 1966 through 1976, do
17 you see that, this customer would have been, would it
18 not, on the mailing list at Monsanto as a regular
19 course, would it not?

20 A Oh, yes.

21 Q Okay. And therefore, all of the previous
22 letters we've discussed that you stated were sent out
23 to customers that were maintained on the list as of
24 date, okay, would have been sent to Aydin Energy
25 Systems and Energy Systems, Inc., would it not, during

1 those time periods?

2 MR. SUMMERS: Objection, calls for
3 speculation.

4 A Yes.

5 Q (By Mr. Centola) And that would have been
6 done as a matter of custom and habit at Monsanto during
7 the regular course of its business, would it not?

8 A Yes.

9 Q Okay. Let's go on. Can we go off the record
10 for a moment, and the camera?

11 (An off the record discussion was held at
12 this point.)

13 (Papageorge Exhibit No. 38 marked for
14 identification by the court reporter.)

15 Q (By Mr. Centola) Okay. I've just put before
16 you, Mr. Papageorge, three letters which I've marked
17 collectively as Exhibit 38. The first is dated
18 December 27, 1974, to Mr. Hakimagnu from H.S. Bergen;
19 the second is November 28, 1973, to Mr. Hakimagnu from
20 Howard S. Bergen; and the third is to Mr. Brad Vanders,
21 V-A-N-D-E-R-S, Energy Systems Company, dated
22 December 1, 1975, from R.J. Porter, Potter, I'm sorry.
23 Have you ever seen these letters before other than the
24 other day when you were testifying?

25 A No.

1 Q Do you recognize any of the hand on any of
2 these three letters, the handwriting?

3 A The handwriting, I do on the third one, Mr.
4 Potter's signature.

5 Q Now, have you seen Mr. Potter's signature in
6 the past?

7 A Yes, I have.

8 Q And are you familiar with that signature?

9 A Yes.

10 Q And do you recognize the signature on the
11 third page of that document?

12 A I do.

13 Q And was it Mr. Potter's custom to sign
14 documents that he prepared on Monsanto stationery in
15 the course of furtherance of his business at Monsanto?

16 A Yes.

17 Q And is there any reason to believe that he
18 did not sign this and prepare this letter during the
19 course of his business at Monsanto?

20 A I have no reason to believe so, right.

21 Q Okay. You have no reason to believe not?

22 A To believe not, I'm sorry.

23 Q And is it your understanding that a copy of
24 this document was maintained during the regular course
25 of business in Monsanto's files?

1 A It is.

2 Q Okay. And do you have any reason to believe
3 that this document was not sent to Brad Vanders at
4 Energy Systems Company?

5 A I do not.

6 Q Okay. Thank you, Mr. Papageorge.

7 MR. SUMMERS: Do you have another copy of
8 those signed versions? Thanks.

9 MR. CENTOLA: Let's mark this collectively.

10 (Papageorge Exhibit No. 39 marked for
11 identification by the court reporter.)

12 Q (By Mr. Centola) This is part of the
13 production. Actually, the first page is AYD 000005,
14 second page is 6, and then the third page and
15 thereafter is 1 through 4. Let's take them a page at a
16 time, Mr. Papageorge. The first page is, purports to
17 be a letter dated October 4, 1976, to Mr. David N. Dry,
18 President, Aydin Energy Systems. Do you see that?

19 A I do.

20 Q And it's purported to be prepared by R.G.
21 Potter. Do you see that?

22 A I do.

23 Q Again, you testified a moment ago that you
24 are familiar with Mr. Potter's signature?

25 A I am.

1 Q Is that his signature?

2 A It doesn't look like it.

3 Q It doesn't, okay. Was it his practice to
4 have other people sign his name for him, too?

5 MR. SUMMERS: Objection, calls for
6 speculation.

7 A I don't, I don't know whether it was his
8 practice or not.

9 Q (By Mr. Centola) Okay. Now, have you ever
10 seen this letter before?

11 A I saw it in preparation for this deposition.

12 Q Okay. But prior to today, you had not?

13 A That is correct.

14 Q And with respect to the next page, which is a
15 December 28, 1977, letter to Dave Wood at Monsanto, do
16 you see that?

17 A I do, yes.

18 Q Okay. And signed by Charles L. Robertson, do
19 you see that?

20 A I do.

21 Q Executive Vice President of Energy Systems?

22 A I do.

23 Q Have you ever seen this before?

24 A No.

25 Q Going back to the first page of this exhibit,

1 did, in fact, Monsanto cease manufacture of
2 polychlorinated biphenyls used as dielectrics,
3 dielectrics in 1977?

4 A Yes.

5 Q And after that date, sir, were they sold,
6 were they -- were all sales discontinued to customers?

7 A That is right.

8 Q Okay. And were all of your customers, as a
9 matter of course, custom, and habit at Monsanto,
10 notified in or about 1976 that Monsanto would, in fact,
11 cease manufacture and sale of PCB containing
12 materials?

13 MR. SUMMERS: Objection, calls for
14 speculation.

15 A Yes.

16 Q (By Mr. Centola) Okay.

17 MR. CARNEY: Let me object, too, I didn't get
18 a chance to object. By in or about, do you mean on or
19 before?

20 MR. CENTOLA: Okay, let me, let me rephrase
21 it.

22 MR. CARNEY: That's a little vague.

23 Q (By Mr. Centola) You testified, sir, that as
24 part of your employment at Monsanto, you were to be
25 kept, you kept abreast of all the developments with

1 respect to PCB's and the environment as of 1970 when
2 you began your position back in St. Louis; is that
3 correct?

4 A That is correct.

5 Q Okay. And during the course of that time,
6 sir, you kept yourself abreast of the methodologies,
7 toxicity studies, and all studies made to effectively
8 replace PCB's in use in capacitors and transformers; is
9 that correct?

10 A That is correct.

11 Q So it was part of your job to keep informed
12 of what was taking place in terms of replacing PCB's in
13 terms of a dielectric fluid?

14 A That is correct.

15 Q Okay. And did you learn, did there come a
16 time when you learned during the course of your
17 employment that, in fact, Monsanto had made a decision
18 to cease manufacturing PCB containing materials and to
19 cease selling those materials?

20 A Yes, I did.

21 Q Okay. And when was that, sir?

22 MR. CARNEY: Let me just for the record
23 indicate that I think there's some documentation that
24 might be of assistance in giving the witness a more
25 exact date, but if you can give an estimate, feel free

1 to do so.

2 A Yes. I was aware of this decision before the
3 documents were prepared.

4 Q (By Mr. Centola) Well, there are some dates
5 on that letter there. Does that refresh your
6 recollection?

7 A Yes. It was in the early summer of 1977 that
8 I was made aware by the managers of the business that
9 they were going to inform customers of the decision to
10 terminate manufacture and sales in 1977.

11 Q Okay. And did they, in fact, inform
12 customers of that, sir?

13 A Yes, they did.

14 Q And did they do that as part of the custom,
15 habit, and regular course of business of Monsanto to
16 inform all of their purchasers of dielectric fluids
17 containing PCB's that they would no longer be producing
18 those after 1977?

19 MR. SUMMERS: Objection, calls for
20 speculation.

21 A They did.

22 Q (By Mr. Centola) And, in fact, did Monsanto
23 stop the manufacture and sale of those products?

24 A Yes.

25 Q Okay. Now, if you could turn to page AYD

1 000002 of the same exhibit, which is Exhibit 39, we
2 have what purports to be a letter dated September 13,
3 1976, to Gentlemen from David Wood. But before we get
4 to this, Mr. Papageorge, did there come a time when
5 your position changed after you became involved in the
6 position that you took as of January 1, 1977? I
7 believe it was an Environmental -- what was your
8 position title?

9 MR. CARNEY: I think you misspoke on the
10 year.

11 Q (By Mr. Centola) 1970, I should say.

12 A Initially the title of that position was
13 Manager of Environmental Control.

14 Q Right. Then it changed a couple of times
15 during the course of your employ?

16 A That is correct.

17 Q Now, did there come a time when your job
18 ceased as described when you told me what you did in
19 1970?

20 A My assignment to that job --

21 Q Yeah.

22 A -- was terminated in February of 1976.

23 Q Okay. What happened in February of 1976?

24 A There was a reorganization within Monsanto,
25 the product groupings were revised, and the PCB's were

1 assigned to another individual.

2 Q And who was that?

3 A A J.C. Weber.

4 Q What position did you take?

5 A I had the same title.

6 Q Right.

7 A Manager of Product Acceptability for an

8 entirely different set of products produced by

9 Monsanto.

10 Q What products were those?

11 A As I remember, they were called chemical
12 intermediates or process chemicals or, I'm a little bit
13 vague on that, but they did not include the PCB's.

14 Q After February of 1976, did you still,
15 however, maintain -- strike that. After February of
16 1976, did you still make an effort to remain familiar
17 with the developments of PCB's?

18 A Yes. I served as a sort of unofficial
19 consultant to my, the person who replaced me.

20 Q That was Mr. Weber?

21 A Mr. Weber, yes, sir.

22 Q When, in fact, did you leave Monsanto?

23 A When did I --

24 Q Retire from Monsanto?

25 A The end of 1986.

1 Q And from February of 1976 to the end of 1986,
2 did you maintain the same position?

3 A No.

4 Q Okay. Tell me what, if anything, happened?

5 A In -- let me get my dates close to accurate
6 here. As I remember, in the latter part of '76, I was
7 appointed Director of Environmental Operations for an
8 operating unit of Monsanto referred to as Monsanto
9 Intermediate Chemicals Company. And I had that
10 position until 19 -- about, about 1983. At that time,
11 there was another reorganization that took place, and I
12 maintained the same title of Director of Environmental
13 Operations for an operating unit in Monsanto referred
14 to as the Monsanto Industrial Chemicals Company. And I
15 held that position until the end of 1985. At that
16 time, another reorganization took place, and I was
17 appointed Manager of Occupational Health for a new unit
18 in Monsanto referred to as the Monsanto Chemical
19 Company until I retired.

20 Q Okay. Now, thank you. Let's go back to that
21 document, that September 13, 1976, letter. This will
22 now put it in more perspective in light of your
23 employment. Do you see the second page of that, of
24 that letter?

25 A I do. The second page of the October 4?

1 Q No, the September 13, 1976, letter.

2 A September 13, I see that.

3 MR. CARNEY: Which are the last two pages of
4 Exhibit 39.

5 MR. CENTOLA: The last --

6 MR. CARNEY: Or last page.

7 MR. SUMMERS: I think there's one more.

8 MR. CENTOLA: There's one more.

9 A My last page is dated October 29.

10 Q (By Mr. Centola) Yeah, there is one more.
11 I'll give you that page. Do you see the name David
12 Wood?

13 A Yes.

14 Q Who is David Wood?

15 A He's a Monsanto employee, and at the time of
16 this letter, he was the Manager of Dielectric Fluids,
17 similar in assignment to the one Mr. Benignus held up
18 until 1974.

19 Q Did he take over Mr. Benignus' position?

20 A Eventually he did. I don't recall whether he
21 did immediately or not.

22 Q Okay. But as of '76, he had taken over his
23 responsibilities?

24 A That is correct.

25 Q Are you familiar with David Wood's

1 signature?

2 A Yes.

3 Q Have you seen it in the past?

4 A Yes.

5 Q Is this, in fact, his signature?

6 A That's his.

7 Q Okay. Have you seen this letter before?

8 A Yes, I have.

9 Q When did you see this letter?

10 A I believe the earliest I recall seeing this
11 was about early part of 1977.

12 Q Okay. Do you know how --

13 A Several months after it was issued.

14 Q Under what circumstances did you see this
15 letter?

16 A I was having a discussion with Mr. Wood, sort
17 of an update on activities and what had transpired in
18 the past six to twelve month period. At that time, he
19 showed me several documents that he had, and this was
20 one of them.

21 Q Okay. Was it your understanding that this
22 letter was made during the furtherance and during the
23 course of regular business of Mr. Wood at Monsanto?

24 A Yes.

25 Q And was it your understanding that this --

1 strike that. Did you, did you come to an understanding
2 as to who this letter was sent to?

3 A Yes.

4 Q Who was it sent to?

5 A Let's see --

6 MR. SUMMERS: Objection, calls for
7 speculation.

8 Q (By Mr. Centola) Strike that. During the
9 course of your employment at Monsanto, you told me you
10 had conversations with David Wood?

11 A Yes, sir.

12 Q And during the course of your employment and
13 during those conversations, did you come to an
14 understanding as to who this was sent to?

15 A Yes.

16 Q And who was it sent to?

17 A This was sent to transformer manufacturers
18 still purchasing dielectric fluids from Monsanto that
19 contained PCB's.

20 Q Okay. And that was sent out to them as a
21 matter of custom and habit and during the regular
22 course of business at Monsanto?

23 MR. SUMMERS: Same objection.

24 A Yes, sir.

25 Q (By Mr. Centola) And customers of dielectric

1 fluids who were still purchasing received this; is that
2 correct?

3 MR. SUMMERS: Same objection.

4 A That's correct.

5 Q (By Mr. Centola) And this letter essentially,
6 this third paragraph says, "Since a number of changes
7 in recent months have impacted the manufacture and
8 future of Askarel transformers, we would like to take
9 this opportunity to update the status of Askarel
10 transformer manufacture at each of our accounts.
11 Therefore, would you please advise when you expect to
12 announce the termination of Askarel transformer
13 manufacture and the effective date of such action." Do
14 you see that?

15 A Yes.

16 Q What was he asking for from customers there,
17 sir?

18 MR. SUMMERS: Objection, calls for
19 speculation, too general.

20 Q (By Mr. Centola) Did you understand, during
21 the course of your conversations with him and during
22 the course of your employment, what was being asked
23 from customers?

24 A Yes, sir.

25 Q Okay, and what was that?

1 A We were asking for a date which they had
2 targeted for the termination of transformers they were
3 manufacturing which contained PCB type electrical
4 fluids.

5 Q And why were you asking that from your
6 customers, sir?

7 A Because we wanted to use that information in
8 our planning regarding the exact dates in which we
9 could terminate production, make the proper shipments,
10 and eventually stop selling altogether.

11 Q Okay. Thank you. Just the last letter, last
12 page of the document, have you ever seen this before?

13 A I saw it for the first time the other day,
14 early part of this week.

15 Q Do you know who Thomas H. Lafferre is?

16 A Yes, I know.

17 Q Who is Mr. Lafferre?

18 A At that time, Mr. Lafferre was the marketing
19 director for a series of products including the PCB
20 type dielectric fluids.

21 Q Thank you. Mark this collectively as
22 Papageorge 40.

23 (Papageorge Exhibit No. 40 marked for
24 identification by the court reporter.)

25 Q (By Mr. Centola) What I've marked is a number

1 of letters. First letter is a September 29, 1976,
2 letter to customers advising a phase out and shut down
3 dates. Second letter is October 4, 1976, to Dear Sir
4 from R.G. Potter stating, "We are writing to advise you
5 that Monsanto will cease manufacture at Sauget,
6 Illinois, of all polychlorinated biphenyl products
7 used as dielectrics, effective October 31, 1977." Next
8 page is a blank page that says, "Domestic Customers,
9 User Location, Corporate Headquarters." The next page
10 is a letter from Mike Petrilli, P-E-T-R-I-L-L-I. The
11 next page is a blank form page that says, "User
12 Location, Corporate Headquarters." The next page is an
13 October 4, 1976, letter, Dear Sir, from Mr. Potter; and
14 the last page is a letter to Dear Customer from James
15 Alley. Have you seen any of these documents before,
16 sir?

17 A Yes, I have.

18 Q Let's start with the first page, sir. Have
19 you seen this page before?

20 A No.

21 Q Okay. Do you know who David Wood is?

22 A Yes, sir.

23 Q Okay, we've already, do you recognize the
24 signature here?

25 A Yeah, he used to also sign it with just his

1 last name like that, yes.

2 Q Okay. Is that, in fact, his signature?

3 A Yes.

4 Q Have you seen, the second letter is
5 October 4, 1976. Do you see that?

6 A I saw that.

7 Q And do you recognize the signature on that
8 page?

9 A I do.

10 Q Okay. Whose signature is that?

11 A That's Mr. Bob, Robert Potter's signature.

12 Q And, in fact -- let's go back to the first
13 page. Sir, was this page, was this document prepared
14 during the regular course and in furtherance of
15 business by David Wood?

16 A As I understand it, yes.

17 Q Okay. And given the custom and practice and
18 habit of Monsanto, was this, was this document
19 maintained in the regular course of business in
20 Monsanto's files?

21 A Yes.

22 Q And, in fact, was this letter, this
23 memorandum -- strike that. Second page. Was, in fact,
24 this October 4, 1976, letter prepared during the course
25 of the regular business and in furtherance of the

1 regular, regular business of Mr. Potter at Monsanto?

2 A Yes.

3 Q And that is, in fact, his signature?

4 A Yes.

5 Q And was a copy of this letter maintained
6 during the regular course of business in the files of
7 Monsanto?

8 A Yes.

9 Q Now, the third page is a, says, "Domestic
10 Customers, User Location," and then a column, and then
11 "Corporate Headquarters" under that. Do you see that?

12 A I do.

13 Q Have you ever seen this form before?

14 A I have not.

15 Q Okay. Go to the next page of the document,
16 which is a letter -- strike that. Which is a one page
17 document on what appears to be Monsanto stationery from
18 a Mike Petrilli. Do you know who Mike Petrilli is?

19 A I know the man, yes.

20 Q Have you ever seen this document before?

21 A No.

22 Q What is the Electronic Industries, Industries
23 Association?

24 A It is a trade association consisting of
25 members of industries that manufacture electronic

1 equipment or supply parts to the manufacturers of that
2 equipment.

3 Q Okay. Is it also referred to as EIA?

4 A Yes.

5 Q Did you ever hear of the "EIA Spill
6 Notification and Control Plan for Polychlorinated
7 Biphenyls"?

8 A I have, yes, I have.

9 Q When did you first hear of that plan? Let's
10 start with the decade, Mr. Papageorge.

11 A I believe 1976, as best I can recall.

12 Q Okay. Did you partake in preparing that
13 plan?

14 A I participated with that committee in EIA in
15 gathering the basic information. I did not participate
16 in the final drafting of the document.

17 Q Was there, in fact, a final drafting of that
18 document?

19 A Yes, sir.

20 Q And to the best of your recollection, can you
21 give me the approximate date of that?

22 A About, best I can, 1976.

23 Q And did you review, in fact, read over that
24 document, sir?

25 A Yes, I recall seeing it.

1 Q Okay. Essentially, what was the purpose of
2 that document, sir?

3 MR. SUMMERS: Objection, calls for
4 speculation.

5 A The purpose was to inform those industries or
6 representatives of those industries that use PCB
7 dielectric fluids on how to properly handle, use, and
8 dispose of PCB containing wastes and products.

9 Q (By Mr. Centola) When did you first become
10 associated, if at all, with EIA?

11 A As best I recall, it was about 1974.

12 Q Okay. How did you become involved with the
13 EIA in 1974?

14 A One of Monsanto's customers, representatives,
15 was appointed a chairman of what they called a PCB ad
16 hoc committee, if I remember that correctly. He called
17 me and asked me to attend a meeting and review with
18 those present at that meeting the PCB environmental
19 story, if I can call it that.

20 Q Okay.

21 A So I recall bringing a group up to date
22 regarding PCB's and the environment.

23 Q The "group" meaning the ad hoc PCB committee
24 of the EIA?

25 A That's the best of my recollection, yes.

1 Q And that's approximately in 1974?

2 A I believe so, yes.

3 Q And where did that meeting, where did that
4 meeting take place?

5 A I don't recall exactly which was the first
6 one. There were several meetings I attended with a
7 group. I remember one in California, I just don't
8 remember the first one.

9 Q Okay. You mentioned there were several
10 meetings you attended of the EIA ad hoc PCB --

11 A At least three.

12 Q Each time you attended, what did you do?

13 A I brought the group up to date on where the
14 PCB environmental issue stood.

15 Q Were you aware that the group, at some time,
16 was preparing a Spill Notification and Control Plan for
17 Polychlorinated Biphenyls?

18 A Yes, sir.

19 Q And did you give them information so they
20 were able to prepare, make that plan?

21 A I gave them information regarding Monsanto's
22 understanding of better ways to control, yes. I shared
23 all that with them.

24 Q And during the course of your meetings with
25 them, did you come to an understanding as to what the

1 purpose was of the Spill Notification and Control Plan?

2 A Yes.

3 Q And you just testified to what that purpose
4 was; is that correct?

5 A Yes.

6 Q And that was, in fact, to advise customers
7 how to take care of spills of polychlorinated biphenyls
8 in the environment; is that correct?

9 A Spills as well as usage, storage, shipping,
10 and so on.

11 Q Okay. Thank you. Was, in fact, that plan
12 passed on to Monsanto's customers of dielectric
13 fluids?

14 MR. SUMMERS: Objection, calls for
15 speculation.

16 Q (By Mr. Centola) Okay. When the plan was
17 completed, sir, was it part of your duty and
18 responsibilities at Monsanto in your position to have
19 the plan sent to customers at Monsanto?

20 A I don't recall if I was still actively
21 involved at the time. The dates escape me at the
22 moment.

23 Q Did you come to, did you achieve an
24 understanding as to whether that plan was sent to
25 Monsanto's customers?

1 A Oh, yes, certainly.

2 Q How did you come about that information?

3 A In my periodic updates with individuals like
4 Mr. Wood and Dr. Paton and Mr. Potter.

5 Q And that was part of the course of your
6 business at Monsanto, was it not?

7 A Yes, sir.

8 Q And during the course of that business, did
9 you come to an understanding that, come to an
10 understanding that, in fact -- as a regular course of
11 Monsanto's business and as custom and habit there --
12 that, in fact, the Notification Control Plan for
13 Polychlorinated Biphenyls was sent to all of
14 Monsanto's customers of dielectric fluids including
15 PCB's?

16 A Yes.

17 Q On the last page of this exhibit, sir, it's a
18 letter from James A. Alley. Do you see that?

19 A I do.

20 Q This exhibit being Exhibit 40. Who is James
21 A. Alley?

22 A Well, at the time, and this was about 1976 or
23 so, Mr. Alley was the technical person located in St.
24 Louis that worked with the marketing group that sold
25 dielectric fluids containing PCB's. He was the man

1 that, in essence, replaced Mr. Bryant in that type of
2 activity.

3 Q Of course, he was a Monsanto employee?

4 A Yes.

5 Q Okay. Now, are you familiar with his
6 signature?

7 A No.

8 Q Did there come a time, this letter states --
9 well, strike that. Did there come a time when Monsanto
10 stopped accepting polychlorinated biphenyl waste
11 returns from its customers?

12 A Yes.

13 Q And do you have a recollection as to when
14 that was?

15 A As best I can recall, it was about the end of
16 July of 1977.

17 Q Why did Monsanto stop accepting waste returns
18 of polychlorinated biphenyls, do you recall?

19 MR. SUMMERS: Objection, speculation.

20 Q (By Mr. Centola) Well, during the course of
21 your employment, did you come to an understanding as to
22 why Monsanto stopped accepting polychlorinated
23 biphenyl wastes?

24 A Well, there were several factors that entered
25 that decision. One was that --

1 Q First, Mr. Papageorge, please, answer my
2 question. During the course of your employment at
3 Monsanto, did you come to an understanding during and
4 in furtherance of your employment as to why Monsanto
5 stopped accepting PCB wastes?

6 A I did come to an understanding.

7 Q Okay. And what were the factors involved in
8 that, sir?

9 A All right. Monsanto had terminated the sale
10 of PCB's -- I'm sorry. Monsanto had terminated the
11 manufacture of PCB's in July of 1977. Following that
12 termination, there was considerable inventory of PCB's
13 to be destroyed in the Monsanto incinerator. The unit
14 was, by that time, at least six years old and badly in
15 need of replacement. Since Monsanto was no longer
16 going to be in the PCB business, it was determined that
17 the unit would not be replaced. This was supported,
18 really, by the fact that there were now commercial
19 units of bigger capacities that could handle the
20 destruction of PCB's, and that seemed to be the wise
21 way to go in terms of destroying any other PCB's that
22 would be generated. Those thoughts entered into that
23 decision.

24 Q Thank you. By the way, Mr. Papageorge, when
25 -- we're done with that exhibit. You testified earlier

1 that, in fact, there came a point in time when Monsanto
2 ceased the manufacture of PCB's altogether, correct?

3 A Yes.

4 Q And you participated in the evolving
5 decisions of Monsanto, did you not, in ceasing that,
6 the manufacture and sale of those PCB's, did you not?

7 A To a degree, yes.

8 Q And is it fair to say that the reason why,
9 one of the reasons why Monsanto ceased the manufacture
10 and sale was because of its concerns with PCB's in the
11 environment during that time frame?

12 MR. SUMMERS: Objection, vague and ambiguous,
13 calls for speculation.

14 A Yes.

15 Q (By Mr. Centola) And did you, in fact, impart
16 that information to your clients, sir?

17 MR. SUMMERS: Same objection.

18 A Yes.

19 Q (By Mr. Centola) Now, did you ever hear, I
20 think we spoke about this briefly the other day, of an
21 agency called NEMA, N-E-M-A?

22 A Yes.

23 Q And what is NEMA, sir?

24 A NEMA is a trade organization consisting of
25 representatives of companies that manufacture

1 electrical equipment.

2 Q Okay. And did you, when was the first time
3 you became aware of NEMA?

4 A Gosh, ever since I started practicing
5 engineering.

6 Q Okay. Did there ever come a time when you
7 became associated with NEMA vis-a-vis your position
8 with PCB's at Monsanto?

9 A Yes.

10 Q And when was that?

11 A About 19 -- latter part of 1970, early '71.

12 Q And what was your first involvement with NEMA
13 and PCB's?

14 A My first involvement, I was, I recall being
15 invited to speak to a group of representatives of the
16 transformer and capacitor industries under the auspices
17 of NEMA.

18 Q Okay. Who attended that meeting?

19 A Representatives of the capacitor and
20 transformer manufacturing industries.

21 Q When you say representatives of
22 representatives of that, those industries, do you mean
23 actual manufacturers of capacitors and transformers
24 attended that meeting?

25 A Yes, the people that work for these

1 companies.

2 Q Do you know how invitations were made by
3 NEMA?

4 A I can share with you my understanding.

5 Q Okay.

6 A The executive administrator, Mr. Salazar, of
7 NEMA, called the meeting, to the best of my
8 recollection. I personally don't know whether he did
9 it by telephone or by mail.

10 Q Are you aware if all members of NEMA were
11 invited to the meeting or not?

12 A I do not know.

13 Q And what was discussed at the meeting, do you
14 recall?

15 A I can only share with you the part where I
16 was present where I shared with them the latest --
17 well, I gave them some, a brief history of PCB's and
18 the use in dielectrics, then I brought them up to date
19 on the environmental issue and shared with them
20 Monsanto's programs.

21 Q Okay. And this essentially was an open
22 meeting for anybody who was a member of NEMA, which
23 would be manufacturers of capacitors and transformers?

24 A Yes.

25 Q Okay. Do you recall if your speech was

1 reduced to minutes or writing?

2 A I do not.

3 Q Okay. Did you, you mentioned that one
4 meeting at NEMA. Did you attend any other meetings at
5 NEMA where you discussed or were involved with PCB's?

6 A I hesitate because the future meetings held
7 were under the auspices of the American National
8 Standards Institute.

9 Q Okay. Let's talk about that. What is the
10 American National Standards Institute?

11 A This is an industry organization that is,
12 whose objective is to provide opportunity for
13 industries of all kinds to establish and distribute
14 standards that apply to each industry as each industry
15 saw fit.

16 Q What type of standards are you talking about?

17 A Oh, standards regarding dimensions of, say,
18 nuts and bolts.

19 Q Right.

20 A Standards regarding the composition of metal
21 or plastic. Standards regarding how to handle
22 material.

23 Q Right. Okay.

24 A Any, any standard that a particular industry
25 felt would be helpful to the industry would be

1 processed under the auspices of the American National
2 Standards Institute.

3 Q Was this also referred to as ANSI?

4 A Yes.

5 Q Now, you said ANSI came under the auspices of
6 NEMA? Strike that. Okay. When I asked you if you
7 attended any other meetings of NEMA, you said you're
8 not sure if they were really NEMA or ANSI. Why is
9 there a confusion in your mind?

10 A Well, many of the individuals involved with
11 the ANSI activity --

12 Q Right.

13 A -- were members of NEMA. In fact, the
14 executive administrator of NEMA served as the secretary
15 of the ANSI committee.

16 Q Was that Mr. Salazar?

17 A Mr. Salazar. So many of the notices of
18 meetings and minutes of meetings went out under the
19 letterhead of NEMA, but referred to the ANSI committee.

20 Q And was the ANSI committee in the business,
21 so to speak, of promulgating standards?

22 A Yes.

23 Q Okay. And did the ANSI committee develop a,
24 develop and promulgate standards with respect to the
25 use, handling, and disposing of polychlorinated

1 biphenyls?

2 A Yes.

3 Q And did you participate in that effort?

4 A I did.

5 Q And in what capacity did you participate and
6 to what extent?

7 A I was appointed as chairman of the committee.

8 Q And what, approximately what time frame was
9 that?

10 A 1971 through the early part of, through the
11 latter part of '75.

12 Q And did, in fact, ANSI promulgate those
13 standards with respect to PCB's?

14 A I'm sorry?

15 Q Did, in fact, ANSI promulgate standards with
16 regard to PCB's?

17 A Yes, they did.

18 Q I'd like to mark as Papageorge 41 what
19 appears to be American National Standard Guidelines for
20 Handling and Disposing of Capacitor and Transformer
21 Grade Askarels Containing Polychlorinated Biphenyls.
22 It's a multiple page document, and if you will allow me
23 not to, I'm not going to count to tell you the pages
24 right now.

25 (Papageorge Exhibit No. 41 marked for

1 identification by the court reporter.)

2 Q (By Mr. Centola) Mr. Papageorge, I have just
3 put before you what we have just marked, I have just
4 marked as Papageorge Exhibit 41, which purports to be
5 the ANSI standards regarding polychlorinated
6 biphenyls. If you would just briefly look at that,
7 keeping in mind that I am going to ask you whether you
8 recognize this document or not.

9 A I have briefly reviewed it.

10 Q Are these the standards that we were
11 discussing earlier, sir?

12 A They -- yes.

13 Q Okay. In fact, it states on the second page
14 of this document, does it not, that these were approved
15 on January 9, 1974? Second page.

16 A It does.

17 Q And up on the top right hand page is C107.
18 Do you see that?

19 A I do.

20 Q And that is the designation of the committee
21 that prepared this standard?

22 A It is.

23 Q Okay. And on Page 4 of this document,
24 there's a foreword, and at the bottom of the foreword,
25 it has W.P. Papageorge, Chairman?

1 A It does.

2 Q And A.M. Salazar, Secretary?

3 A It does.

4 Q Did you, in fact, prepare that foreword?

5 A Mr. Salazar wrote the initial draft, and I
6 revised it slightly and, so I was involved.

7 Q Okay. And, in fact, you were involved in the
8 preparation of this entire document, were you not?

9 A Yes.

10 Q And you did that during the course of your
11 dealings with the ANSI C107 committee, which would have
12 the charge of, in fact, promulgating these standards,
13 sir?

14 A Yes.

15 Q And after these standards were finalized and,
16 in fact, they were copyrighted, were they not? 1974?

17 A Yes.

18 Q What was done with these standards, to your
19 knowledge?

20 A Copies were distributed as widely as we
21 could. I don't know how to describe it. It was a big
22 distribution activity that took place.

23 Q From where?

24 A From the members of the committee itself,
25 C107, NEMA as an organization took a very active role

1 and distributed copies, and Monsanto, in turn, made
2 sure that its customers got copies.

3 Q Let me talk about Monsanto. So is it fair to
4 say that during the course of your employment,
5 furtherance of your employment at Monsanto, in your
6 capacity with respect to keeping customers abreast of
7 developments in PCB's, that as part of your custom and
8 practice and as a regular course of your business at
9 Monsanto, you made sure that this document was
10 distributed to Monsanto's customers of record who
11 purchased dielectric fluids containing PCB's as of this
12 date?

13 A Yes.

14 Q And, in fact, that was done, sir?

15 A Yes.

16 Q Who else, other than yourself -- were
17 scientists and chemists involved in the preparation of
18 this document, sir?

19 A Oh, yes.

20 Q Okay. Give me an idea of some of the people
21 who were involved in the preparation of this document.
22 Could you identify some of them?

23 A Well, on the, starting on the fourth page at
24 the bottom, you will see a listing of organizations
25 represented on this committee as well as the names of

1 the representatives.

2 Q Okay. We have people who participated. Was
3 a Louis Wagner from Chem-Trol Pollution Services, Inc.?

4 A Yes, sir.

5 Q And the Doble Engineering Company? What is
6 the Doble Engineering Company?

7 A They were a company that was in the business
8 of servicing, repairing, overhauling, if you will, of
9 transformers throughout the country.

10 Q Okay. And I won't read the entire list, but
11 also I see here is a Kenneth H. -- Kenneth J. Hood from
12 the Environmental Protection Agency?

13 A Yes, sir.

14 Q So he was involved in the preparation of
15 these standards?

16 A Yes, sir.

17 Q And Rollins-Purle, Inc., do you see that,
18 sir?

19 A I do.

20 Q And were they in the business of disposing of
21 wastes, sir?

22 A Yes.

23 Q Okay. And if we turn to, we go to the actual
24 body of the document, we turn to Page 16, which is the
25 numbered Page 16, not necessarily the 16th page of the

1 document.

2 A I've found it.

3 Q Okay, it says "Caution" in the right hand
4 column. Do you see it?

5 A I see it, under 4.2.2.

6 Q It says, "Caution," yes, "The insulating
7 liquid in this transformer contains polychlorinated
8 biphenyls (PCB's). Care should be taken to prevent
9 entry into the environment." Do you see that?

10 A I do.

11 Q So this document again, is it not fair to
12 say, stressed once more the imperative that PCB's
13 should not be allowed to escape into the environment?

14 A They do.

15 MR. SUMMERS: Objection, vague and ambiguous,
16 calls for speculation.

17 Q (By Mr. Centola) Did your involvement with
18 ANSI discontinue after the promulgation of these
19 standards, sir?

20 A No, I continued as Chairman until I was
21 assigned chemicals other than PCB types in 1975, late
22 '75.

23 Q Is it fair to say that there were a few
24 people more knowledgeable about -- strike that. Mark
25 this as Papageorge 42.

1 (Papageorge Exhibit No. 42 marked for
2 identification by the court reporter.)

3 Q (By Mr. Centola) Okay. What I've marked as
4 42 is a document entitled "The Disposal of Scrap
5 Askarel and Solid Waste Contaminated with Askarel,
6 presented by W.B. Papageorge at the 1972 Doble Client
7 Conference." Do you see that?

8 A I do.

9 Q Okay. Do you, in fact, recognize this
10 document, sir?

11 A I do.

12 Q Was this document, in fact, prepared by you,
13 sir?

14 A Yes.

15 Q And was this prepared by you while you were
16 working at Monsanto, sir?

17 A Yes.

18 Q Okay. What is the, I'm sorry, I know I asked
19 you this already, but what again is Doble?

20 A Doble is a company that services
21 transformers.

22 Q Okay. What was the Doble Client Conference?

23 A The Doble Company called a meeting of some of
24 its customers and invited me to attend and make a
25 presentation.

1 Q Who -- why did they contact you, sir? Do you
2 recall how it was presented to you, the invitation?

3 A Well, I had been talking, I forget the name
4 of the gentleman, with a representative of the Doble
5 Engineering Company regarding the proper handling of
6 PCB's and where do they stand regarding the
7 understanding PCB's and the environment, this type of
8 discussion. And as a result of that personal contact,
9 he got the idea that he should hold a conference of his
10 key customers and invite me to at least make a
11 presentation. And I was not the only person on the
12 agenda, he had other matters to discuss, but my role
13 was to present what's in this document.

14 Q Was, was attending conferences of this nature
15 part of your job at Monsanto?

16 A Yes.

17 Q Okay. And so as part of your job, you would
18 attend, when requested by the industry that was using
19 PCB's, you would, in fact, go to conferences, make
20 speeches, make presentations?

21 A Yes.

22 Q And this, in fact, then, this speech was
23 prepared during the course of and in furtherance of
24 your position at Monsanto?

25 A Yes.

1 Q And do you know if a copy of this speech was
2 kept in the file of Monsanto during the regular course
3 of business there?

4 A Yes, it was.

5 Q Now, sir, do you remember how well attended
6 this meeting was?

7 A Oh, I don't know how to describe it. I
8 remember it was a room full of people, best I recall,
9 about thirty.

10 Q Okay. Were the people there expressing their
11 concern with the developments they had heard about
12 concerning PCB's entering the environment and the
13 potential problems thereto?

14 MR. SUMMERS: Objection, vague and
15 ambiguous.

16 A Certainly.

17 Q (By Mr. Centola) Okay. And, in fact, did you
18 address those concerns in this speech, sir?

19 A I tried to, yes.

20 Q Okay. Do you know if this speech was
21 distributed to people other than at the Doble Client
22 Conference?

23 A I do not know.

24 Q Okay. Thank you. Do you recall if, in 1974,
25 Monsanto conducted a symposium on dielectric fluid for

1 capacitors and transformers?

2 A Yes.

3 Q Where was that symposium held; do you recall?

4 A In St. Louis.

5 Q And who was invited to that symposium,
6 please?

7 A Customers of Monsanto who purchased PCB type
8 dielectric fluids.

9 Q Do you know if invitations were sent out to
10 those customers?

11 A Yes.

12 Q And were, in fact, invitations sent out to
13 all of Monsanto's customers of dielectric fluids
14 containing PCB's for the manufacture of capacitors and
15 transformers as of 1974?

16 A Yes.

17 MR. SUMMERS: Objection, speculation.

18 Q (By Mr. Centola) Okay. So was it your charge
19 as part of your duties as Monsanto to make sure that
20 those customers were, in fact, invited?

21 A Not to me personally.

22 Q Okay. Was it part of -- who -- let's do it,
23 let me ask you this. Who organized the symposium at
24 Monsanto?

25 A As best I recall, it was organized by Mr.

1 Benignus and his team.

2 Q Were you involved, did he involve you in the
3 organization of the symposium?

4 A Oh, yes, in the structuring, the agenda,
5 items to be discussed and speakers and the like.

6 Q Did they work with you in deciding who should
7 be invited to that symposium?

8 A Very briefly. It was automatically those who
9 we sell to.

10 Q Okay. So was it your understanding through
11 the information you acquired at your, in your position
12 at Monsanto that Monsanto, as a matter of custom and
13 habit and during the regular course of its business,
14 invited its dielectric fluid customers that used PCB's
15 to that symposium?

16 A Yes, definitely.

17 Q And what was the, through your involvement
18 with Mr. Benignus in going through the structure of the
19 symposium, what, in fact, were you -- what was, in
20 fact, the purpose of the symposium?

21 A The purpose was primarily an update of where
22 the environmental issue relating to PCB's stood.

23 Q In this symposium, again, did you stress the
24 imperative of keeping PCB's out of the environment?

25 MR. SUMMERS: Objection, vague and ambiguous.

1 A Yes.

2 Q (By Mr. Centola) And do you know that, in
3 fact, through your personal knowledge in setting this
4 symposium up, sir?

5 A Yes, sir. In fact, I personally used those
6 very words.

7 Q Okay. In fact, is it fair to say that the
8 theme of your job throughout the 1970's was to, one of
9 the major themes of your job was to convince customers
10 that they should take every precaution possible to keep
11 PCB's out of the environment because of the growing
12 concerns of PCB's in the environment?

13 MR. SUMMERS: Objection, vague and ambiguous.

14 A Yes.

15 Q (By Mr. Centola) Would you mark this as
16 Papageorge 43?

17 (Papageorge Exhibit No. 43 marked for
18 identification by the court reporter.)

19 MR. CARNEY: You want to take a break?

20 MR. SUMMERS: Maybe we should take a short
21 break.

22 (A brief recess was taken at this point in
23 time.)

24 Q (By Mr. Centola) Mr. Papageorge, I have just
25 placed before you a document which I have marked as

1 Exhibit 4, Papageorge Exhibit 43, and it says
2 "Polychlorinated Biphenyl (PCB), A Presentation to the
3 Effluent Standards and Water Quality Information
4 Advisory Committee, by Monsanto Industrial Chemicals
5 Company, November 29, 1973." Have you ever seen this
6 document before?

7 A I have.

8 Q Okay. When was the first time you saw this
9 document?

10 A Well, I prepared it back in '73.

11 Q And did you prepare this document during and
12 in furtherance of your regular course of employment at
13 Monsanto?

14 A Yes.

15 Q And did you acquire the information that is
16 contained in that document during and in furtherance of
17 the regular course of your employment at Monsanto?

18 A I did.

19 Q And was a copy of this maintained in the file
20 as a regular course of business at Monsanto?

21 A Yes.

22 Q And Mr. Papageorge, can you tell me the
23 circumstances under which you prepared this document?

24 A We were aware that the Advisory Committee to
25 the Effluent Standards of Water Quality for EPA was

1 going to hold public meetings at which the public was
2 asked to participate. And since PCB's were one of the
3 chemicals under consideration, we asked and were
4 accepted as participants. And I prepared this report
5 to share with members of that committee on the date of
6 the meeting, November 29, 1973.

7 Q Okay. And was this, in fact, presented to
8 the EPA?

9 A Yes, to the, to the committee, an advisory
10 committee to the EPA.

11 Q Right. And this was part of a process to
12 educate the public with respect to the --

13 A That was part of Monsanto's purpose here,
14 yes.

15 Q And on the second page of this document,
16 there's a subheading called "What has industry done to
17 keep PCB out of the environment," do you see that?
18 Actually it's the first page of the writing, second
19 page of the document altogether.

20 A Oh, at the bottom. I see it.

21 Q Okay. And you mention there that researchers
22 discovered that PCB could possibly be affecting certain
23 forms of wildlife. Do you see that?

24 A I do.

25 Q And thereafter, on the next page, you go

1 through the program, some of the things that Monsanto
2 has done to help limit the, to help keep the product
3 out of the environment. Is that correct?

4 A That is correct.

5 Q That's not an exhaustive list, is it?

6 A Oh, no.

7 Q Okay. Do you know if this document was
8 distributed to anyone other than the advisory committee
9 at the EPA?

10 A Yes.

11 Q Who was this document distributed to?

12 A It was shared with customers.

13 Q And was it therefore custom and habit and as
14 a regular course of business at Monsanto to, in fact,
15 distribute this document to the customers of record at
16 Monsanto in November of 1973 who purchased dielectric
17 fluids containing PCB's?

18 A It was.

19 (Papageorge Exhibit No. 44 marked for
20 identification by the court reporter.)

21 Q I will, you have before you another document
22 that would be marked as Papageorge, I've just marked as
23 the next exhibit in order, Papageorge 44, which is a
24 presentation to the Interdepartmental Task Force on
25 PCB's, Washington, DC, May 15, 1972, by Monsanto

1 Company. Okay, sir. Are you familiar with this
2 document?

3 A I am.

4 Q And how are you familiar with it?

5 A I was personally involved in its preparation.

6 Q Who else was involved in its preparation?

7 A Dr. Paton, Dr. Ralph Munch, and Dr. E. Scott
8 Tucker.

9 Q Are the people you just named, were they, in
10 fact, employees of Monsanto?

11 A Yes.

12 Q Can you tell me what areas they were doctors
13 in?

14 A They were all doctors in chemistry.

15 Q And what is the Interdepartmental Task Force
16 on PCB's? Or what was it, I should say?

17 A It was a group of representatives of
18 governmental administrations, agencies, and departments
19 who were in some way involved with PCB's. This group
20 met to share all kinds of information relating to
21 PCB's.

22 Q And did you and the good doctors prepare this
23 document during and in furtherance of your regular
24 course of business at Monsanto?

25 A Yes.

1 Q And did you and the others acquire the
2 information that is contained in this document during
3 and in furtherance of their ordinary course of business
4 at Monsanto?

5 A Yes.

6 Q And is this, in fact, a copy of the final
7 form of that document, sir?

8 A Yes.

9 Q Okay. And was a copy of this document
10 maintained during the regular course of business in the
11 business files of Monsanto as a business record?

12 A Yes.

13 Q There are, in this document -- strike that.
14 Was part of the, was, in fact, an oral presentation
15 made to the Interdepartmental Task Force on PCB's? Was
16 an oral presentation made to that Task Force by
17 Monsanto?

18 A This was oral.

19 Q Okay.

20 A There were other meetings also oral.

21 Q But, in fact, it was reduced to writing?

22 A Yes.

23 Q Okay. Now, on the back of this document,
24 there are pages that look like this. Can you turn to
25 those pages?

1 A I see, yes.

2 Q Can you hold them up?

3 A Here's an example of one.

4 Q Okay. Were those, in fact, slides that were
5 prepared?

6 A Yes. They were. They were slides used and
7 projected on a screen for the audience to see.

8 Q Okay. And some of the areas you discussed
9 were degree of biodegradation of PCB's?

10 A That was one of the principal topics of this
11 discussion, yes.

12 Q Was the, was there, the effect of the phase
13 out policy discussed?

14 A Yes.

15 Q Was the issue of keeping PCB's out of the
16 environment discussed?

17 A Yes.

18 Q And was Monsanto's present program to prevent
19 environmental pollution by PCB's discussed?

20 A Yes.

21 Q Was this document shared with others, people
22 other than those that were in the Interdepartmental
23 Task Force on PCB's?

24 A To a degree, yes.

25 Q Okay. What degree?

1 A Copies were made available to Monsanto
2 individuals who called on customers.

3 Q Right.

4 A And if the customer had the interest and the
5 scientific staff to understand this kind of report,
6 they would generally ask for a copy, and the copy would
7 be given to them.

8 Q Did you make it, was it part of your charge
9 to make sure that this document was made available to
10 your sales and marketing force?

11 A Yes.

12 Q And was it part of your job to inform them
13 that if a customer wanted this information, it would be
14 made available to them?

15 A Certainly.

16 Q Do you know if, in fact, this type, this
17 document was passed out to customers?

18 A Oh, yes.

19 Q Okay. Can we turn off for a second?

20 (A brief off the record discussion was held
21 at this point.)

22 Q (By Mr. Centola) Mr. Papageorge, did you ever
23 hear of a PCB ad hoc sampling program?

24 A Yes.

25 Q What is a PCB ad hoc sampling program, or

1 what was it?

2 A The Electronic Industries Association that we
3 referred to earlier, the EIA?

4 Q Right.

5 A The PCB ad hoc committee proposed a program
6 amongst its members that use PCB's in their
7 manufacturing sites to participate in a group program
8 for determining how much, if any, PCB's were in their
9 water effluence from their plants. That's the
10 beginning of that particular program.

11 Q When did that begin?

12 A About 1973. I don't remember the exact
13 year. '72, '73 period.

14 Q And did Monsanto, in that time period, invite
15 its customers to send samples of its, of their
16 effluence to you?

17 A I don't know that I'd call it so much an
18 invitation. It's better to describe it as we were
19 asked by the EIA ad hoc committee if we would assist in
20 that program.

21 Q Okay.

22 A And we were happy to do so, and we said our
23 laboratory services are available for this program.

24 Q Now, did Monsanto customers, were Monsanto
25 customers informed of this program, do you know?

1 A Yes, through the EIA.

2 Q Okay. And did Monsanto customers, in fact,
3 begin to send effluence to Monsanto to be sampled?

4 A Yes.

5 Q Do you know if Energy Systems did?

6 A I do not know.

7 Q So is it fair to say that at least by 1973,
8 Monsanto's customers were aware, made aware of a
9 program in which Monsanto was assisting in testing
10 effluence?

11 MR. SUMMERS: Objection, vague and ambiguous,
12 speculation.

13 A Yes.

14 Q (By Mr. Centola) In your preparation of your
15 reports, the various reports, and in particular, those
16 reports concerning the spills concerning PCB's, did it
17 come to your attention that a frequent source of spills
18 of PCB's would be at the loading and unloading of bulk
19 deliveries?

20 MR. SUMMERS: Objection, vague and ambiguous.

21 Q (By Mr. Centola) For instance, where trucks
22 would deliver the PCB's in platforms and so on? Do you
23 have a recollection?

24 A I have a recollection of the potential for
25 such leakage to occur. I never did get the impression

1 that it was a principal source of spills.

2 Q Right. But are these, you said you had the
3 impression that this was a potential source; is that
4 correct?

5 A That it was occurring, it was always a
6 potential for a big problem to occur.

7 Q And do you recall Monsanto making
8 recommendations to customers that where PCB's are
9 delivered, they should use concrete platforms that were
10 not porous, not gravel?

11 A Yes, I made those personally.

12 Q Okay. And did you make other recommendations
13 to customers during the '72, '73 time frame with
14 respect to curbing?

15 A Yes.

16 Q Curbing being used to restrict the spills of
17 PCB's?

18 A Correct.

19 Q And did you make recommendations to
20 customers, Mr. Papageorge, with respect to keeping the
21 PCB's out of sumps that could, in fact, be discharged
22 into the environment or to sewers?

23 A Yes.

24 Q Okay. And you did this as a matter of custom
25 and habit and as the course of your ordinary business

1 to make customers of aware of these suggestions that
2 you developed; is that correct?

3 A Yes.

4 Q Do you remember making suggestions to
5 customers that if they were to wash down areas with
6 hoses or water, that they should be careful not to let
7 that water that may contain PCB to get into sumps or
8 drains that would lead into sewer systems?

9 A I do remember that, yes.

10 Q What time frame was that, sir?

11 A Oh, from the very beginning. 1970 and on.

12 Q And that was part of your charge and part of
13 your custom and habit and during the regular course of
14 your business to inform your customers of record of
15 that kind of thing?

16 A Yes.

17 MR. CARNEY: Seems to me we're getting a
18 little repetitive on some of these questions, and I
19 only say that because I'd like to get this concluded
20 before noon when I have a meeting.

21 MR. SUMMERS: I'll join that.

22 MR. CENTOLA: Thank you for your time, Mr.
23 Papageorge.

24 THE WITNESS: Thank you.

25 MR. SUMMERS: Do you have anything?

1 MR. CARNEY: No, I don't have anything and
2 don't intend to.

3 MR. SUMMERS: If we could maybe just go off
4 for a second, it shouldn't be much.

5 (A brief off the record discussion was held
6 at this point.)

7 CROSS EXAMINATION

8 QUESTIONS BY MR. SUMMERS:

9 Q Hello, Mr. Papageorge, my name is Harry
10 Summers, as you probably remember.

11 A Yes.

12 Q I represent Aydin in this action, and I have
13 just a couple of quick questions, couple of follow up.
14 If you would please refer to Exhibit 33 which has been
15 marked as Exhibit 33 to your deposition?

16 A I have it.

17 Q And I believe you reviewed and discussed this
18 document on Tuesday. Do you remember that?

19 A I do.

20 Q Okay. And I believe, if I recall correctly,
21 you stated that this was a, the form of this letter was
22 a general letter sent to customers of Monsanto; is that
23 correct?

24 A General in terms of the topics discussed,
25 yes.

1 Q Okay. So what I'm, what I'm driving at is
2 that the fact that a particular customer such as Aydin
3 Energy Systems would have received, or -- let me
4 rephrase. Strike that. The fact that a particular
5 customer would have been the addressee of this letter,
6 that fact would not indicate that a particular, that
7 particular customer, in fact, had any of the problems,
8 potential problems discussed in this letter, would it?

9 A No, it did not indicate whether it had or did
10 not have.

11 Q Okay. So based on Exhibit 33, you would have
12 no reason to think that Aydin or Energy Systems had any
13 of those potential problems; is that correct?

14 A Not from this letter, no.

15 MR. SUMMERS: Okay. That's it. That's all I
16 have. Thank you.

17 MR. CENTOLA: Let's go off the record for a
18 moment.

19 (A brief off the record discussion was held
20 at this point in time.)

21 MR. CENTOLA: According to, we've had a brief
22 discussion off the record, and we've agreed that Mr.
23 Papageorge will receive a copy of the transcript with
24 exhibits to have an opportunity to review and sign
25 pursuant to the applicable rules. Thank you.

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(Wherein the deposition was concluded.)

(Deposition to be read and signed by the
witness.)

1 ALL CORRECTIONS THAT I HAVE SEEN FIT TO MAKE APPEAR
2 ON THE FOLLOWING CORRECTION SHEETS.
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12

13 William B Papageorge

14 William Papageorge
15

16 Subscribed and sworn to before me on this

17 17th day of January, 1992
18

19 JOSEPHINE S. NIBLOCK
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY

20 My Commission expires: MY COMMISSION EXP. JAN. 15, 1995

21 Josephine S. Niblock
22

23 Notary Public
24
25

NOTARIAL CERTIFICATE

STATE OF MISSOURI)
)
CITY OF ST. LOUIS)

I, TARA R. RILEY, a Shorthand Reporter and a
duly commissioned Notary Public within and for the
State of Illinois, do hereby certify that there came
before me at the offices of Kohn, Shands, Elbert,
Gianoulakis & Giljum, One Mercantile Center, St. Louis,
Missouri, on December 17 and the offices of Husch &
Eppenberger, 100 North Broadway, St. Louis, Missouri,
on December 19,

WILLIAM B. PAPAGEORGE,

who was by me first duly sworn to testify to the truth
and nothing but the truth of all knowledge touching and
concerning the matters in controversy in this cause;
that the witness was thereupon carefully examined under
oath and said examination was reduced to writing by me;
and that this deposition is a true and correct record
of the testimony given by the witness.

I further certify that I am neither attorney
nor counsel for nor related nor employed by any of the
parties to the action in which this deposition is
taken; further, that I am not a relative or employee of
any attorney or counsel employed by the parties hereto
or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this 19th day of December, 1991.

(Notary Public)

DEPOSITION CORRECTION SHEET

In Re: Aydin Corporation vs. Commercial Union Ins. Co., et al.Upon reading the deposition and before subscribing thereto,
the deponent indicated the following changes should be made:

Page	Line	Should read
43	14 and 15	- - - a Monsanto General Manager - - -
Reason assigned for change:		Incorrect title

Page	Line	Should read
50	8	Monsanto's programs and its approaches - - -
Reason assigned for change:		Punctuation and spelling

Page	Line	Should read
54	11	- - - to Mr. Bergen - - -
Reason assigned for change:		Spelling

Page	Line	Should read
67	10	of record of Monsanto's PCB - - -
Reason assigned for change:		Incorrect word

Page	Line	Should read
97	17	respect to Exhibit 4 - - -
Reason assigned for change:		Incorrect number

Page	Line	Should read
106	11	materials containing PCBs.
Reason assigned for change:		Incorrect word

Page	Line	Should read
140	11	- - - Chemicals Company an operating - - -
Reason assigned for change:		Spelling

Page	Line	Should read
147	19	I have not
Reason assigned for change:		Incorrect word

Page	Line	Should read
Reason assigned for change:		

Page	Line	Should read
Reason assigned for change:		

William B Papageorge

Deponent